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TO: William D. Tamburrino, Director, Baltimore Public Housing Program Hub,
3BPH
//signed//

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

SUBJECT: The Elkton Housing Authority, Elkton, MD, Did Not Comply With HUD
Regulations in Obligating and Disbursing Recovery Act Capital Funds

HIGHLIGHTS

What We Audited and Why

We audited the Elkton Housing Authority (Authority) because it received Public Housing Capital Fund Recovery Act grant (grant) funding as part of the American Recovery and Reinvestment Act of 2009 (Recovery Act). Our objective was to determine whether the Authority obligated and disbursed capital funds received under the Recovery Act according to the requirements of the act and applicable U.S. Department of Housing and Urban Development (HUD) rules and regulations.

What We Found

The Authority did not comply with HUD regulations in obligating and disbursing capital funds. Specifically, it (1) did not award a contract totaling \$124,875 in accordance with its request for proposals, (2) did not ensure that goods used for its Recovery Act project complied with the “buy American” requirement, and (3) improperly drew down \$28,695 for administrative costs before incurring Recovery Act expenditures. It also did not accurately report the number of jobs created as a result of its Recovery Act projects.

What We Recommend

We recommend that the Director, Baltimore Office of Public Housing, require the Authority to provide documentation to support the evaluation of proposals and the selection of the contractor or reimburse HUD \$124,875 from non-Federal funds. We further recommend that the Director require the Authority to provide documentation to support that goods used for its Recovery Act project were produced in the United States. We also recommend that the Director require the Authority to provide documentation to support the administrative cost requested and received or reimburse HUD \$28,695 from non-Federal funds. Lastly, the Authority needs to develop and implement adequate procedures to ensure that Recovery Act activities meet HUD requirements. At a minimum, the procedures should ensure that (1) Recovery Act contracts are awarded according to the request for proposals, (2) goods used for Recovery Act activities meet the “buy American” requirement, and (3) the number of jobs created by the Recovery Act are accurately reported.

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 findings with the Authority during the audit. We provided a copy of the draft report to Authority officials on April 9, 2010, for their comments and discussed the report with the officials at the exit conference on April 22, 2010. The Authority provided its written comments to our draft report on April 23, 2010. In its response, the Authority agreed with the results.

The complete text of the Authority’s response can be found in appendix B of this report.

TABLE OF CONTENTS

Background and Objective	4
Results of Audit	
Finding: The Authority Did Not Comply With HUD Regulations Governing Recovery Act Expenditures	6
Scope and Methodology	12
Internal Controls	13
Appendixes	
A. Schedule of Questioned Costs	15
B. Auditee Comments	16

BACKGROUND AND OBJECTIVE

The American Recovery and Reinvestment Act of 2009 (Recovery Act) became Public Law 111-5 on February 17, 2009. It established supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, State and local fiscal stabilization for the fiscal year ending September 30, 2009, and other purposes.

Authorized under Title XII of the Recovery Act, the U.S. Department of Housing and Urban Development (HUD) allocated \$4 billion in Public Housing Capital Fund program funding to carry out capital and management activities for public housing agencies. Public housing agencies are to give priority to capital projects that can award contracts based on bids within 120 days from the date the funds are made available to the public housing authorities, rehabilitation of vacant rental units, and capital projects that are already underway or included in the 5-year capital fund plan.

Transparency and accountability were critical priorities in the funding and implementation of the Recovery Act. The Recovery Act imposed additional reporting requirements beyond the standard reporting requirements for the Authority's capital fund grants. The Authority was required to obligate 100 percent of its Recovery Act grant by March 17, 2010. On that date, any unobligated funds would be recaptured by HUD. The Authority must spend all of its obligated funds by September 30, 2011.

In 1968, the Town of Elkton established the Elkton Housing Authority (Authority) as a nonprofit organization. The mayor of the town appoints board members to serve a 5-year term, and the town council approves the selections. The Authority's main office is located at 150 East Main Street, Elkton, MD.

The Authority receives capital funds annually via a formula grant from HUD. It may use its capital funds for development, financing, modernization, and management improvements. It received \$226,692 and \$225,508 in capital fund grants in 2008 and 2009, respectively. In addition, as part of the Recovery Act, HUD allocated \$286,947 to the Authority for its capital and management activities. An amendment to the Authority's consolidated annual contributions contract was executed on March 18, 2009, to cover funds received under the Recovery Act. The Authority plans to undertake the following capital activities and also plans to allocate 10 percent of the grant for administration and oversight of the Recovery Act capital funds.

Location of Recovery Act activity	Description of work	Amount
Windsor Village	Water heater and furnace replacement	\$124,875
Rudy Park	Window replacement	80,802
Windsor Village/Rudy Park	Fence replacement and landscaping	30,475
Windsor Village/Rudy Park	Gutters and downspout replacement	22,100
Elkton Housing Authority	Administration and oversight of Recovery Act grant	28,695
Total		\$286,947

As of March 2010, the Authority had obligated 100 percent of its Recovery Act funds and expended \$153,570 of the \$286,947 in Recovery Act funds awarded. It plans to expend its remaining grant balance on activities that were included in its 5-year capital fund action plan.

Our audit objective was to determine whether the Authority obligated and disbursed capital funds provided under the Recovery Act according to the requirements of the act and applicable HUD rules and regulations.

RESULTS OF AUDIT

Finding: The Authority Did Not Comply With HUD Regulations Governing Recovery Act Expenditures

The Authority did not comply with HUD regulations in obligating and disbursing Recovery Act capital funds. Specifically, it (1) did not award a \$124,875 contract in accordance with its request for proposals, (2) did not ensure that goods used for its Recovery Act project complied with the “buy American” requirement, (3) improperly drew down \$28,695 for administrative costs before incurring Recovery Act expenditures, and (4) did not accurately report the number of jobs created as a result of its Recovery Act activity. This condition occurred because the Authority did not fully understand HUD regulations and did not always follow its own procedures. Therefore, there was no assurance that the Authority obtained the best value for the services performed by the contractor or that it met the intent of the Recovery Act.

The Authority Did Not Award a Contract According to Its Request for Proposals

At the time of our review, the Authority had expended \$153,570 (53 percent) of its Recovery Act grant funds received. Specifically, it spent \$124,875 for a project and \$28,695 for administrative costs. We reviewed the expenditures to determine whether they met the requirements of the Recovery Act and other HUD regulations.

The Authority awarded a contract totaling \$124,875 for the replacement of water heaters and furnaces in its Windsor Village public housing development. The contractor was responsible for replacing both furnaces and water heaters in 50 units. The total cost of the contract included the furnishing and installation of materials, supplies, equipment, and labor to complete the furnace and water heater replacement.

We performed site visits to 4 of the 50 units to verify that the furnace and water heaters were replaced and observed that all 4 units contained a newly replaced furnace and water heater. Although, we did not perform site visits to the remaining 46 units, documentation reviewed supports that the units received new furnaces and water heaters. The following pictures show a newly installed furnace and water heater.



New furnaces (left) and water heaters (right) were replaced in units located at the Windsor Park public housing development.

Although we were able to verify that the furnaces and water heaters were replaced and the expenses paid were supported with invoices, payroll records, and other documentation, we found weaknesses with the procurement process for the contract awarded. Specifically, the Authority did not award the contract according to its request for proposals.

We reviewed procurement records for the contract that was awarded. Specifically, we reviewed the request for proposals, the contractor's response to it, and other documentation required by 24 CFR (Code of Federal Regulations) Part 85. The request for proposals prepared by the Authority stated that the Authority was to award the contract based on the proposal that represented the best overall value to the Authority, considering price and other factors, but not solely on the lowest price. Overall, the Authority was to perform a technical evaluation of proposals received. The request for proposals stated that the Authority was to evaluate each proposal based on the following factors and points: (1) the contractor's understanding of the requirement – 20 points, (2) cost – 20 points, (3) warranties – 15 points, (4) experience in heating, ventilating, and air conditioning and plumbing installation – 15 points, (5) schedule of completion – 15 points, and (6) references – 15 points.

The Authority received five proposed bids with quotes ranging from \$117,500 to \$235,153. We requested that the Authority provide documentation to support the technical evaluation of the proposals received and of the contractor selected. However, it did not perform a technical evaluation of the proposals received and did not have documentation to support its selection of the contractor that received the award. The Authority explained that it awarded the contract based on the contractor that had the lowest price and not the evaluation method documented in its request for proposals.

The Recovery Act required public housing agencies to comply with procurement requirements contained in 24 CFR 85.36, which state that grantees are required to maintain records that are sufficient to detail the selection or rejection of a

contractor. Grantees are also required to have a method for conducting technical evaluations of the proposals received and for selecting awardees to ensure that awards are made to the responsible firm with the proposal that is most advantageous to the program, with price and other factors considered.

Although the Authority established a point system to be used when conducting technical evaluations of the proposals received, it disregarded its own requirements and did not conduct the technical evaluations as required by its own request for proposals. Without performing technical evaluations of the proposals received, there was no assurance that the Authority received the best value for services provided.

Products May Not Have Met the “Buy American” Requirement

The Recovery Act imposed a “buy American” requirement on Recovery Act funding. Section 1605 of the Recovery Act required the Authority to only use funds appropriated by the act for projects in which all of the iron, steel, and manufactured goods used in the project are produced in the United States (“buy American” requirement). Additionally, HUD’s Office of Public and Indian Housing (PIH) Notice PIH 2009-31(HA) provided implementation guidance and included the process for applying exceptions to the “buy American” requirement.

The Authority did not ensure that the products used for the newly replaced furnace and water heaters met the “buy American” requirement. We reviewed the contractor’s file and the Authority’s procurement documentation to determine whether the requirement was met. Although the request for proposals for the \$124,875 included a statement requiring the contractor to provide evidence that the products would meet the “buy American” requirement, the Authority failed to ensure that the contractor met the requirement. The Authority explained that it did not follow the requirement because it believed that since the contractor’s offices were within the United States the requirement had been met.

Without maintaining documentation ensuring that goods used for the project complied with the “buy American” requirement, there was no assurance that Recovery Act funds were used for purposes intended.

The Authority Improperly Drew Down \$28,695 for Administrative Costs

HUD regulations at PIH 2009-12 (HA) allowed the Authority to draw up to 10 percent in expenditure reimbursements for the administration of the Recovery Act grant.

We reviewed HUD's Line of Credit Control System for the Authority's Recovery Act funds to determine whether it obligated and disbursed administrative costs according to HUD requirements. As of July 29, 2009, the Authority had drawn down \$28,695 (100 percent) for administrative costs related to Recovery Act expenditures. However, at the time of its drawdown of administrative costs, it had not incurred any Recovery Act expenses. The Authority did not incur Recovery Act expenses until August 20, 2009. We requested that the Authority provide additional documentation to support the \$28,695 that it requested; however, it could not provide adequate documentation. When we asked why it prematurely drew down 100 percent of its administrative costs, it explained that it was not aware that all of the funds could not be requested at one time. The Authority explained that under its regular capital fund program, it had always collected all of its administrative costs at one time. The Authority needs to provide adequate documentation supporting \$28,695 in administrative costs that it received.

The Authority Did Not Properly Account for Jobs Created

We reviewed the Recovery Act Web site to determine whether the Authority complied with the additional reporting requirements associated with the act. We also performed limited testing to determine whether data reported were accurate. Although we determined that the Authority complied with all of the reporting requirements by the required deadlines, the Authority did not accurately account for and report the number of jobs created as a result of its Recovery Act activity.

Office of Management and Budget (OMB) Memorandum 10-08 defines a job created or retained as those jobs funded during the quarter by the Recovery Act. Recipients are required to report an estimate of jobs directly created or retained by project and activity or contract and enter the data into a single numeric field on the FederalReporting.gov Web site. The memorandum also provides guidance as to how to calculate full-time equivalents. Full-time equivalents were to be estimated by dividing the total number of hours worked and funded by the Recovery Act within the reporting period by the quarterly hours in a full-time schedule (520 hours).

For the period October 1 through December 31, 2009, the Authority reported that its completed Recovery Act activities did not create any additional jobs. However, it did not accurately report the number of jobs created. We reviewed payroll timesheets for the Authority's completed Recovery Act activity and determined that 1,864 hours were worked and funded by the Recovery Act. Using the formula provided in OMB Memorandum 10-08, we calculated that the Authority's completed Recovery Act activity had actually created 3.6 full-time equivalents. Thus, the number of jobs created that was reported to the FederalReporting.gov Web site was incorrect. The Authority should have reported that 3.6 jobs had been created.

We asked the Authority why it had not properly calculated and reported the number of jobs created. It explained that it was not aware of the guidance contained in OMB Memorandum 10-08 pertaining to the calculation of full-time equivalents. Also, it explained that since the contractor selected did not hire any additional employees to carry out its Recovery Act activities, it reported that zero jobs had been created.

Conclusion

The Authority did not adequately support its Recovery Act expenditures. Specifically, it did not award its contract according to its request for proposals, did not ensure that goods used met the "buy American" requirement, and prematurely drew down 100 percent of its administrative costs. It also did not properly account for jobs created due to its Recovery Act activities. This condition occurred because the Authority did not fully understand HUD regulations and did not always follow its own procedures. Without adequate documentation to support expenditures totaling \$153,570, there was no assurance that Recovery Act funds were used appropriately.

After the completion of our audit fieldwork, the Authority obligated its remaining Recovery Act funds of \$133,377. It will need to provide adequate documentation to support that it obligated these funds in accordance with the applicable requests for proposals and that it followed "buy American" requirements.

Recommendations

We recommend that the Director of the Baltimore Office of Public Housing require the Authority to

- 1A. Provide adequate documentation to support the technical evaluation of the five proposals received and the selection of the contractor or reimburse HUD \$124,875 from non-Federal funds.

- 1B. Provide adequate documentation to support that goods used for its completed Recovery Act project were produced in the United States.
- 1C. Provide adequate documentation to support the administrative cost requested and received or reimburse HUD \$28,695 from non-Federal funds.
- 1D. Provide adequate documentation to support that it obligated its remaining \$133,377 in Recovery Act funds in accordance with its requests for proposals and that it followed the “buy American” requirements or reimburse HUD from non-Federal funds.
- 1E. Develop and implement adequate procedures to ensure that future Recovery Act activities meet HUD requirements. At a minimum, the procedures should ensure that (1) adequate documentation is maintained for the selection of contractors performing Recovery Act activities, (2) goods used for Recovery Act activities meet the “buy American” requirement, and (3) the Authority accurately reports the number of jobs created according to guidance provided in OMB Memorandum 10-08.

SCOPE AND METHODOLOGY

We performed our audit fieldwork between November 2009 and March 2010 at the Authority's offices located 150 East Main Street, Elkton, MD. Our audit generally covered the period February to October 2009. We expanded our scope as necessary.

To complete our objective, we

- Reviewed Recovery Act program requirements including Federal laws and regulations governing the Recovery Act Public Housing Capital Fund program.
- Reviewed HUD's monitoring reports and funding awarded for the Authority's Recovery Act Public Housing Capital Fund program.
- Reviewed the Authority's policies and procedures, procurement files for Recovery Act activities, and audited financial statements.
- Conducted interviews with the Authority's staff to gain an understanding of the internal controls related to the administration of its Recovery Act Public Housing Capital Fund program.
- Conducted onsite reviews of 4 of 50 units that received items purchased with Recovery Act funds.

To achieve our audit objective, we relied in part on computer-processed data at the Authority. Although we did not perform a detailed assessment of the reliability of the data, we did perform minimal level of testing and found the data to be adequate for our purposes.

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:

- Program operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objective.
- 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.
- 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.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weakness

Based on our review, we believe that the following item is a significant weakness:

- The Authority did not ensure compliance with laws and regulations as it did not demonstrate that activities were supported.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Unsupported 1/
1A	\$124,875
1C	28,695
1D	133,377
Totals	\$286,947

- 1/ 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

Elkton Housing Authority
EQUAL HOUSING OPPORTUNITY

April 23, 2010

John P. Buck, Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Philadelphia Region, 3AGA

Dear Mr. Buck;

Thank you for the opportunity to respond, please accept this reply as formal written comments following the Exit Conference held at our Authority on April 22, 2010.

The purpose of the conference was to review and comment on the Draft Discussion Report issued April 9, 2010, which outlines 1 Finding and 5 Recommendations as they relate to the activity of your recent Audit on the Authority's use of these funds in accordance with the requirements of 2009 American Recovery & Reinvestment Act (Recovery Act) Capital Fund.

In our effort to address the outlined Finding and all Recommendations stated above, the Authority will forward necessary documentation to William D. Tamburrino, Director, Baltimore Public Housing Program HUB, 3BPH.

In closing, we again wish to thank you for your time in attending today's conference and for the support extended during this Audit process. Should you have any questions or desire further information, please do not hesitate to contact me.

Sincerely,

Cynthia A. Osborne

Cynthia A. Osborne-SPHM,
Executive Director-Elkton HA