



**Adams County Housing Authority,  
Commerce City, CO**

**Disposition of Low-Income Public Housing Units**



Issue Date: September 26, 2013

Audit Report Number: 2013-DE-1004

TO: Carol Ann Roman, Director, Denver Office of Public Housing, 8APH

//signed//

FROM: Ronald J. Hosking, Regional Inspector General for Audit, 8AGA

SUBJECT: The Adams County Housing Authority, Commerce City, CO Did Not Properly Use its Disposition Sales Proceeds

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Adams County Housing Authority disposition process.

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

The Inspector General Act, Title 5 United States Code, section 8L, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 913-551-5870.



September 26, 2013

## The Adams County Housing Authority, Commerce City, CO, Did Not Properly Use Its Disposition Sales Proceeds

# Highlights

Audit Report 2013-DE-1004

### What We Audited and Why

We audited the Adams County Housing Authority based on concerns that the Authority did not follow U.S. Department of Housing and Urban Development (HUD) regulations in the use of its disposition sales proceeds. The objectives of our audit were to determine whether the Authority placed the required number of Section 8 voucher holders into its Terrace Gardens units and appropriately spent its disposition sales proceeds.

### What We Recommend

We recommend that HUD require the Authority to (1) place a pro rata percentage of Section 8 families into its Terrace Gardens project within a reasonable period, (2) seek a legal opinion on the applicability of 24 CFR (Code of Federal Regulations) Part 941 to disposition proceeds used to purchase vacant land, and (3) ensure that the Authority complies with its regulatory and contractual land acquisition requirements associated with the purchase of the four vacant lots.

### What We Found

The Authority did not place the required number of Section 8 voucher holders into its Terrace Gardens units. The Authority was required to make at least 20 percent, or 36, of its units available to Section 8 families. However, it placed only 15 Section 8 families into Terrace Gardens.

In addition, the Authority inappropriately purchased four vacant lots using its disposition sales proceeds. During 2008 and 2009, the Authority purchased four vacant lots located in Westminster, CO totaling more than \$1.2 million. However, it did not receive HUD approval before acquiring the lots.

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## BACKGROUND AND OBJECTIVES

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The Adams County Housing Authority is a public corporation created and organized under the provisions of the laws of the State of Colorado and the United States of America. The Authority is responsible for its low-income public housing program governed by the U.S. Department of Housing and Urban Development (HUD), which allows it to provide housing assistance to eligible low-income individuals and families. In addition, the Authority is responsible for its Section 8 Housing Choice Voucher program, also governed by HUD, which allows it to provide rental assistance to eligible individuals and families who rent units in the private rental housing market. The Authority has continually entered into annual contributions contracts with HUD since December 10, 1981, to provide low-rent housing to qualified individuals and families.

The Authority’s mission is to work in partnership with diverse communities, to promote economic self-sufficiency, preserve and expand affordable housing opportunities, and enhance the livability of neighborhoods in Adams County. The executive offices of the Authority are located at 7190 Colorado Boulevard, 6th Floor, Commerce City, CO.

The Authority had 42 low-income public housing units and 1,460 Section 8 units as of March 22, 2013. The following table lists the amount of funding awarded by HUD for fiscal years 2007, 2008, 2009, 2010, and 2011.

<b>Year</b>	<b>Public housing program</b>	<b>Public Housing Capital Fund program</b>	<b>Section 8 Housing Choice Voucher program</b>
2007	\$165,538	\$49,509	\$10,664,751
2008	\$103,990	\$437,446	\$10,725,910
2009	\$48,338	\$106,781	\$10,995,685
2010	\$279,090	\$329,003	\$11,479,171
2011	\$164,606	\$222,222	\$11,532,230

On September 20, 2007, the HUD Special Applications Center approved the Authority’s disposition application to dispose of 35 of its low-income public housing units at fair market value. The Authority later requested approval from HUD for revised fair market values. HUD approved the Authority’s request to modify the disposition on September 11, 2008. The Authority sold its 35 low-income units for more than \$3.6 million in net proceeds, with its final unit selling on September 14, 2009.

The objectives of our audit were to determine whether the Authority placed the required number of Section 8 voucher holders into its Terrace Gardens units and appropriately spent its disposition sales proceeds.

## RESULTS OF AUDIT

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### Finding 1: The Authority Did Not Make the Required Number of Units Available to Section 8 Families in its Terrace Gardens Project.

The Authority did not place the required number of Section 8 voucher holders into its Terrace Gardens units. This occurred because the Authority did not correctly interpret HUD regulations. As a result, eligible low-income families were not afforded the opportunity to participate in housing assisted by the Section 8 program.

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#### The Authority Did Not Follow HUD Regulations

The Authority did not place the required number of Section 8 voucher holders into its Terrace Gardens units. The U.S. Housing Act of 1937, Section 18 requires these funds be used towards Section 8 or public housing units. If disposition funds are used to acquire or develop low-income units, HUD has taken the position that the percentage of units reserved for Section 8 families to total units must be at least equal to the percentage of disposition-assisted project costs to total costs.

In 2008, the Authority acquired Terrace Gardens, a 180-unit residential project, for a total cost of more than \$7.3 million. The Authority used more than \$1.4 million of its disposition sales proceeds, or approximately 20 percent of the total acquisition cost, to fund the purchase of Terrace Gardens.

Therefore, the Authority was required to make at least 20 percent, or 36, of its units available to Section 8 families. However, as of May 5, 2013, the Authority placed only 15 Section 8 families and no public housing units in Terrace Gardens.

The following tables show cost and unit information for Terrace Gardens.

Pro rata percentage of disposition assisted project costs		
Total project costs	Disposition assisted costs	Percentage of disposition assisted costs to total costs
\$7,350,558	\$1,476,412	20.7%

<b>Pro rata percentage of Section 8 families</b>		
<b>Number of units</b>	<b>Required number of Section 8 assisted units</b>	<b>Actual number of Section 8 assisted units</b>
180	36	15

**The Authority Did Not Correctly Interpret HUD Regulations**

The Authority did not correctly interpret HUD regulations before using its disposition proceeds. In 2007, the Authority received guidance from HUD that did not clearly reflect HUD regulations on the use of disposition sales proceeds. Authority officials noted that they could have researched HUD regulations more thoroughly to ensure the correct use of its funds.

**The Authority Planned To Add More Section 8 Units**

Twenty-one eligible low-income families were not afforded the opportunity to participate in housing assisted by the Section 8 program. In 2012, the Authority informed HUD of its plans to construct more units at Terrace Gardens that would contain a sufficient number of units for Section 8 families. The Authority plans to complete these additions by 2016.

**Recommendations**

We recommend that the Director of the Denver Office of Public Housing

- 1A. Require the Authority to place a pro rata percentage of Section 8 families into its Terrace Gardens project within a reasonable period.

## RESULTS OF AUDIT

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### Finding 2: The Authority Did Not Obtain Approval From HUD Before Purchasing Vacant Lots

The Authority inappropriately purchased four vacant lots using its disposition sales proceeds. This occurred because the Authority was not aware of its regulatory and contractual land acquisition requirements associated with the purchase of the four vacant lots. As a result, HUD lacked assurance that more than \$1.2 million in disposition sales proceeds would benefit low-income residents in accordance with the U.S. Housing Act of 1937, Section 18.

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#### The Authority Purchased Land Without HUD Approval

The Authority inappropriately purchased four vacant lots using its disposition sales proceeds. During 2008 and 2009, the Authority purchased four vacant lots located in Westminster, CO totaling more than \$1.2 million. However, it did not receive HUD approval before acquiring the lots.

The following table shows location and cost information for the vacant lots.

Properties purchased with disposition sales proceeds	
Property location	Cost
7117 Federal Boulevard, Westminster, Colorado 80030	\$443,562.60
7115 Federal Boulevard, Westminster, Colorado 80030	\$262,008.22
7101 Federal Boulevard, Westminster, Colorado 80030	\$427,054.66
7140 Grove Street, Westminster, Colorado 80030	\$151,209.33
<b>Total</b>	<b>\$1,283,834.81</b>

Regulations at 24 CFR (Code of Federal Regulations) Part 941 require HUD to approve the acquisition of land for development before the acquisition. Part B, Section 1 of the Authority's annual contributions contract with HUD also contains the above requirement. A public housing agency must provide information such as the planned site development, appraisal(s), instituting condemnation proceedings, acquiring title, and options for HUD to consider before the land

acquisition. These measures ensure that the Government's interests are protected during the acquisition process.

### **The Authority Was Not Aware of Land Acquisition Requirements**

The Authority was not aware of its regulatory and contractual land acquisition requirements associated with the purchase of the four vacant lots. Authority officials stated that they were not aware that this regulation applied to their use of disposition proceeds.

### **Disposition Sales Proceeds Were Not Available for Their Intended Purposes**

As a result, HUD lacked assurance that more than \$1.2 million in disposition sales proceeds would benefit low-income residents in accordance with the Act. If the Authority were to change the intended use of the land, HUD's interest would not be protected.

### **Recommendations**

We recommend that the Director of the Denver Office of Public Housing

- 2A. Seek a legal opinion on the applicability of 24 CFR Part 941 to disposition proceeds used to purchase vacant land, regardless of the intended use.
- 2B. If HUD determines that 24 CFR Part 941 applies, ensure that the Authority complies with its regulatory and contractual land acquisition requirements associated with the purchase of the four vacant lots to help protect HUD's interest in the more than \$1.2 million in disposition proceeds used to purchase the lots.

## SCOPE AND METHODOLOGY

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Our audit covered the period January 1, 2007, through March 31, 2013. We performed our onsite work during April and May of 2013 at the Authority's office located at 7190 Colorado Boulevard, 6th Floor, Commerce City, CO.

We interviewed HUD and Authority staff and reviewed pertinent documentation to obtain an understanding of the program and the auditee. This documentation included applicable sections of the U.S. Housing Act of 1937, HUD regulations, the Annual Contributions Contract, the disposition application, the HUD approval letter, official correspondence, and Authority policies related to the disposition of its low-income public housing units.

We selected a sample of 10 of the 34 sales transactions totaling more than \$1.2 of the \$3.6 million in net sales proceeds. We selected the 10 sales transactions with the largest difference between the gross sales price and the net sales proceeds to verify that commissions and other transaction costs were properly associated with the sales as represented by the Authority to HUD. We reviewed all relevant sales documentation to verify that sale transpired as directed by HUD and in accordance with regulations. We confirmed the parties to the sales transactions with public records. We found no indication that the Authority did not follow HUD regulations in the sale of its 10 low-income units in our sample. We did not test the remaining 24 sales transactions (The Authority sold its 35 low-income units in 34 transactions).

We reviewed Authority accounting records, supporting documentation, and project files for the two housing developments assisted by disposition sales proceeds to determine whether the Authority followed HUD regulations in the use of its disposition sales proceeds. We did not select a sample. We reviewed supporting documentation for all relevant legal, consulting, land acquisition, engineering, architectural, materials, financing, and construction costs paid with disposition sales proceeds.

We reviewed the Authority's schedule of work performed on its low-income units that HUD approved to be sold and their associated invoices to determine whether the Authority followed HUD regulations in the use of its capital funds before disposition. We did not select a sample. We reviewed all work performed on these units.

We did not use computer-generated data as audit evidence or to support our audit conclusions. We used source documentation maintained by the Authority in its management and accounting files for background information purposes. All conclusions were based on source documentation reviewed during the audit.

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

# INTERNAL CONTROLS

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

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

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

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## Relevant Internal Controls

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

- Controls to ensure compliance with disposition requirements.
- Controls to ensure compliance with regulatory requirements regarding the use of capital funds before the disposition.

We assessed the relevant controls identified above.

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

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

## Appendix A

# AUDITEE COMMENTS AND OIG'S EVALUATION

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### Ref to OIG Evaluation

### Auditee Comments



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September 16, 2013

Ronald J. Hosking  
Regional Inspector General for Audit  
US Dept of HUD  
Office of Inspector General  
Office of Audit Region 8  
1670 Broadway, 24<sup>th</sup> Floor  
Denver, CO 80202

Dear Mr. Hosking:

ACHA has received the draft report regarding the audit of our use of disposition sale proceeds. ACHA appreciated the opportunity to visit in person with [REDACTED] at the exit conference on Monday, September 9.

Below is our official response to the two findings in the report:

Finding #1

ACHA relied on the original guidance received by HUD in the approval letter dated September 20, 2007: "Therefore, I hereby approve the use of the net proceeds that are generated from this disposition for the construction and/or acquisition of replacement housing units that benefit residents of the Authority; units will be affordable and restricted to families with incomes not exceeding 80 percent of the area median income at initial occupancy."

More than five years later, ACHA received a letter from HUD dated January 3, 2013, informing us that under 24 CFR, expenditures must be allocated according to the proportionate number of Section 8 units at the property. HUD and ACHA discussed the matter during a conference call on February 3, 2013 and agreed to the reallocation of the use of disposition proceeds that will fully comply with 24 CFR, and have identified two current redevelopment projects to which the public housing allocations will apply. ACHA intends to comply with 24 CFR, even though it is much more stringent than the original HUD guidance received in the early stages of the disposition.

### Comment 1

**Ref to OIG Evaluation**

**Auditee Comments**

**Finding #2**

ACHA regrets that it was not aware of HUD's land acquisition requirements per 24 CFR and the 1996 Annual Contributions Contract. However, ACHA is confident that the necessary due diligence was conducted prior to settlement and ACHA looks forward to working with HUD to confirm the classification of this activity upon the receipt of the requested legal opinion.

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ACHA is proud of its commitment to affordable housing and to the responsible use of federal resources. We look forward to continuing our strong and collaborative partnership with HUD throughout our Agency's various housing-related activities.

Sincerely,



Donald May  
Executive Director

## OIG Evaluation of Auditee Comments

The Authority's written response along with its verbal response at the exit conference indicates general agreement with the findings and recommendations.

**Comment 1** As stated on page 5 of this report, "In 2007, the Authority received guidance from HUD that did not clearly reflect HUD regulations on the use of disposition sales proceeds." However, in HUD's September 20, 2007 approval letter to the Authority, HUD informed the Authority to contact its local HUD Regional Office for "any technical assistance necessary for your agency to proceed with the disposition". As stated on page 5 of this report, "Authority officials noted that they could have researched HUD regulations more thoroughly to ensure the correct use of its funds." On January 3, 2013, HUD informed the Authority of the Authority's responsibility to follow statutory program requirements set forth by the U.S. Housing Act of 1937, Section 18. The Authority has since indicated its willingness to work with HUD to address these issues.