New Brunswick Housing Authority, New Brunswick, NJ

Public Housing Operating Fund and Capital Fund Programs

Office of Audit, Region 2
New York – New Jersey

Audit Report Number: 2017-NY-1013
September 28, 2017

To: Theresa Arce, Director, Office of Public Housing, Newark Field Office, 2FPH

//SIGNED//

From: Kimberly S. Dahl, Regional Inspector General for Audit, 2AGA

Subject: The New Brunswick Housing Authority, NJ, Did Not Always Administer Its Operating and Capital Funds in Accordance With HUD Requirements

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 New Brunswick Housing Authority's administration of operating and capital funds.

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 8M, requires that OIG post its publicly available reports on the OIG website. 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 212-264-4174.

Audit Report Number: 2017-NY-1013
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The New Brunswick Housing Authority, NJ, Did Not Always Administer Its Operating and Capital Funds in Accordance With HUD Requirements

Highlights

What We Audited and Why

We audited the New Brunswick Housing Authority because it was classified as a troubled public housing agency and based on our risk analysis of public housing agencies located in the State of New Jersey. The objective of the audit was to determine whether the Authority administered its operating and capital funds in accordance with U.S. Department of Housing and Urban Development (HUD) requirements.

What We Found

The Authority did not always administer its operating and capital funds in accordance with HUD requirements. Specifically, it (1) did not properly procure goods and services totaling more than $1 million; (2) did not support more than $187,000 in capital fund obligations; (3) did not meet obligation deadlines for more than $704,000 in replacement housing factor funds and disbursed more than $139,000 after the expenditure deadline; (4) charged its project more than $87,000 in excessive management fees; and (5) did not ensure that its budget, financial reports, and accounting data were accurate and up to date. This condition occurred because the Authority did not fully understand HUD's requirements and did not have adequate controls to ensure compliance with all requirements. As a result, HUD did not have assurance that the prices paid for capital improvements and professional services were reasonable, capital funds were used for eligible activities in a timely manner, operating funds were available for the operations of the Authority's project, and it had accurate information for evaluating the Authority.

What We Recommend

We recommend that HUD require the Authority to (1) provide documentation to show that more than $1 million paid for goods and services was reasonable; (2) provide procurement training to its staff; (3) provide documentation to support more than $187,000 in 2013 and 2014 capital fund obligations; (4) reimburse HUD $139,423 in replacement housing factor funds disbursed after the expenditure deadline; (5) improve its controls to ensure that funds are obligated and spent in a timely manner; (6) reimburse its project more than $87,000 for excessive management fees; (7) submit a request to revise its budget to reflect expenditures; and (8) improve its controls to ensure that its budget, financial reports, and accounting data are accurate and up to date. Further, we recommend that HUD reduce the Authority's future capital funds as a penalty for obligating its replacement housing factor funds after the deadline.

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Background and Objective

The U.S. Department of Housing and Urban Development's (HUD) public housing program was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Operating funds and capital funds are two major components of HUD's public housing program. Operating funds provide annual operating subsidies to public housing agencies to assist in funding the operating and maintenance expenses of low-income housing units. Capital funds provide annual formula grants to public housing agencies for the development, financing, and modernization of public housing developments and management improvements. Replacement housing factor funds are a special type of capital funds that are awarded to public housing agencies that have removed units from inventory for the purpose of developing new public housing units.

The New Brunswick Housing Authority was established in 1947 to manage, build, own, and operate assisted and affordable housing for eligible families as they move to achieve self-sufficiency. It is under the supervision of HUD and the New Jersey Department of Community Affairs and is governed by a seven-member board of commissioners that appoints an executive director to manage the Authority's day-to-day operations. The Authority administers 429 low-income public housing units and 868 housing choice vouchers. Between 2014 and 2016, the Authority received more than $1.7 million in operating funds and approximately $500,000 in capital funds annually. During this same period, it disbursed more than $704,000 in replacement housing factor funds related to 246 demolished units, which it received from 2009 to 2011.

The Authority was designated as a troubled public housing agency by HUD based on a failing Public Housing Assessment System[1] score of 41 out of 100 for the fiscal year ending June 30, 2015. HUD later conducted a public housing agency recovery and sustainability assessment in August 2016, during which it noted weaknesses in the Authority's governance, management, and operations. The Authority entered into a recovery agreement with HUD on February 21, 2017, which required the Authority to submit to HUD a monthly report for activities and comments until it had completed all items listed in the action plan, even if HUD had removed the Authority's troubled-substandard designation.

Our objective was to determine whether the Authority administered its operating and capital funds in accordance with HUD requirements.

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1 The Public Housing Assessment System is used by HUD to assess a public housing agency's performance in managing its low-rent public housing programs. The system uses a 100-point scoring system based on 4 categories of indicators – physical assessment, financial assessment, management assessment, and Public Housing Capital Fund programing. Public housing agencies that score below 60 out of 100 points are designated as troubled.

Results of Audit

Finding: The Authority Did Not Always Administer Its Operating and Capital Funds in Accordance With HUD Requirements

The Authority did not always administer its operating and capital funds in accordance with HUD requirements. Specifically, it (1) did not properly procure goods and services with related disbursements totaling more than $1 million; (2) did not provide support for more than $187,000 in capital fund obligations; (3) did not meet obligation deadlines for more than $700,000 in replacement housing factor capital funds and disbursed more than $139,000 of these funds after an expenditure deadline; (4) charged one of its projects more than $87,000 in excessive management fees; and (5) did not ensure that its budget, financial reports, and accounting data were accurate and up to date. This condition occurred because the Authority did not fully understand HUD requirements and did not have adequate controls to ensure compliance with all requirements. As a result, HUD did not have assurance that the prices paid for capital improvements and professional services were reasonable, capital funds were used for eligible activities in a timely manner, operating funds were available for the operations of the Authority's project, and it had accurate information for evaluating the Authority. Further, the Authority may incur reductions to future capital funds as a penalty for delayed obligations.

Goods and Services Were Not Properly Procured

Contrary to the regulations at 24 CFR (Code of Federal Regulations) 85.36, 2 CFR Part 200, and HUD Handbook 7460.8, REV-2, the Authority did not properly procure goods and services for 19 of 24 contracts reviewed, with related disbursements totaling more than $1 million. Specifically, it did not properly use an intergovernmental agreement for 10 capital improvement contracts, and did not prepare cost estimates and cost analyses for nine professional services contracts.

An Intergovernmental Agreement Was Not Properly Used

The Authority did not properly use an intergovernmental agreement when procuring 10 capital improvement contracts with related disbursements totaling $800,439. The Authority awarded the 10 contracts to 3 vendors approved by the Middlesex Regional Educational Services Commission,[2] a local government purchasing entity that provided public agencies access to its list of preapproved vendors. Regulations at 24 CFR 85.36(b)(5) and 2 CFR 200.318(e) allowed public housing agencies to enter into State and local intergovernmental agreements when appropriate for procurement or use of common goods and services. While HUD Handbook 7460.8, REV-2, section 14.2, further stated that a public housing agency may enter into intergovernmental or interagency purchasing agreements without competitive procurement if

[2] The Commission changed its name to the Educational Services Commission of New Jersey in 2016.

certain conditions are met, the Authority did not always meet these conditions for 10 contracts reviewed. Specifically,

- *The Agreement Was Used for Uncommon Supplies and Nonroutine Services*
  Paragraph 14.2.A.2 of HUD Handbook 7460.8, REV-2, required the agreement to be used only for common supplies and services of a routine nature. However, the Authority used the agreement for six contracts totaling $702,198 that were not for common or routine purposes. For example, the Authority used $274,021 in 2014 to replace a power generator and $277,956 in 2015 to replace and repair a roof. These items do not have short lifespans and are not considered routine.

- *A Cost and Availability Evaluation Was Not Performed*
  Paragraph 14.2.A.1 of HUD Handbook 7460.8, REV-2, required the agreement to provide for greater economy and efficiency and result in cost savings. Before using an intergovernmental agreement for procurement, the Authority needed to compare the cost and availability of the supplies or services on the open market with the cost of purchasing them through another unit of government to determine whether it was the most economical and efficient method. Paragraph 14.2.A.4 further required that the Authority maintain documentation showing that cost and availability were evaluated before the agreement was executed and that these factors were reviewed and compared at least annually thereafter. While the Authority stated that it believed that using the agreement allowed it to obtain better deals and time savings, it did not conduct a cost and availability evaluation and document that using the agreement would result in cost savings before executing the 10 contracts with related disbursements totaling $800,439.

- *Procurements Did Not Comply With 24 CFR 85.36*
  Paragraph 14.2.A.3 of HUD Handbook 7460.8, REV-2, required the Authority to take steps to ensure that procurements complied with 24 CFR 85.36. However, the Authority was not able to explain how the Commission selected the vendors and did not obtain or evaluate all of the bidding documentation to ensure that it complied with 24 CFR 85.36 before executing the 10 contracts with related disbursements totaling $800,439. Based on a review of documentation obtained from the Commission, we determined that it did not follow applicable procurement requirements. For example, the vendor used to replace the power generator was the only vendor that bid for electrical services, and neither the Commission nor the Authority provided a cost analysis to justify the vendor's selection as required by 24 CFR 85.36(f)(1). Further, the vendor used for the Authority's roof replacement and repair project was selected without full and open competition because it was limited to vendors that had licenses to work in at least 20 States. This was an unreasonable requirement to be placed on firms as defined by 24 CFR 85.36(c)(1) because the work would be performed in only one State. Further, for 8 of the 10 contracts reviewed, the Commission did not provide documentation to support the reasonableness of prices in its price catalog, which it required vendors to bid against. The Authority stated that it relied on the Commission's claim that it complied with the procurement regulations of the State of New Jersey and believed that these regulations would satisfy HUD requirements.

These deficiencies occurred because the Authority did not fully understand requirements for the use of intergovernmental purchasing agreements. As a result, HUD and the Authority did not have assurance that $800,439 in capital funds spent for capital improvements was reasonable.

<u>Cost Estimates and Cost Analyses Were Not Prepared</u>

The Authority did not prepare independent cost estimates before receiving bids and cost or price analyses before awarding nine contracts for general legal, fee accounting, management consulting, and auditing services. Regulations at 24 CFR 85.36(f), 2 CFR 200.323(a), and HUD Handbook 7460.8, REV-2, sections 3.2 and 10.3, required the Authority to perform independent cost estimates and perform a cost or price analysis for every procurement to determine whether the price was reasonable. The Handbook specifically required a cost analysis in cases in which only one offer was received and a cost analysis or alternative method of determining price reasonableness in other cases when it did not receive an adequate number of offers. However, the Authority did not prepare independent cost estimates before receiving bids or proposals or price or cost analyses before awarding these contracts. Further, the Authority did not prepare a cost analysis, despite having received only one bid for eight of the contracts and only two bids for the ninth contract. The only documentation in the Authority's procurement files related to establishing price reasonableness was internal emails saying that Authority officials had discussed the prices from prior contracts with the same vendors it was selecting. For example, the Authority's legal services had been contracted to the same firm since 2007, and it only compared the firm's prices for the annual contracts against its prior-year prices. This condition occurred because the Authority did not fully understand HUD requirements for cost estimates and cost analyses. As a result, HUD and the Authority did not have assurance that $217,403 in capital funds and operating funds spent for professional services was reasonable.

Obligations of Capital Fund Grants Were Not Adequately Supported

The Authority did not maintain adequate documentation to support more than $187,000 in capital fund obligations. Regulations at 24 CFR 905.326 required that the Authority maintain complete records of the history of each Public Housing Capital Fund grant, including records to support obligations and expenditures. According to 24 CFR 905.108, an obligation is a binding agreement for work or financing that will result in immediate or future outlays, and all obligations were required to be incorporated into the Authority's approved 5-year action plan. While the Authority had obligated and disbursed more than $1.1 million in capital funds from its 2013 and 2014 grants, its records supported only approximately $900,000 in obligations for operations, administration, capital fund financing repayments, and contracts. The Authority did not maintain support for the remaining $94,940 and $92,552 in obligations for 2013 and 2014, despite having disbursed the funds. This condition occurred because the Authority believed that obligations were effective once it intended to spend the funds. As a result, HUD did not have assurance that the capital funds were obligated and used for eligible activities in a timely manner.

Replacement Housing Factor Funds Were Not Obligated and Used in a Timely Manner

The Authority did not obligate more than $704,000 and spend $139,423 in replacement housing factor grant capital funds received in 2009, 2010, and 2011 in a timely manner. Regulations at 24 CFR 905.306 required it to obligate at least 90 percent of the funds within 24 months from when the funds became available and spend all funds within 48 months. While HUD extended the obligation and expenditure deadlines for 12 months due to Hurricane Sandy, the Authority did not start obligating more than $704,000 in 2009, 2010, and 2011 funds until after the respective obligation deadlines. The table below shows the obligation deadline approved by HUD and the dates on which the Authority began obligating funds and completed obligating them.

Grant year	Grant amount	Obligation deadline approved by HUD	Actual obligation start date	Actual obligation end date
2009	$139,423	9/14/2012	8/28/2014	1/28/2015
2010	309,336	7/14/2013	1/30/2015	6/30/2015
2011	255,469	8/2/2014	8/28/2014	7/8/2015

Further, it did not meet the expenditure deadline for the $139,423 in 2009 funds. The Authority stated that this condition occurred because it had difficulty finding contractors to do the work after Hurricane Sandy. However, it did not request additional extensions to its deadlines or provide documentation supporting this claim. As a result, HUD did not have assurance that more than $704,000 was obligated and used in a timely manner for necessary development and acquisition of the Authority's public housing units.

Excessive Management Fees Were Charged for Units Undergoing Demolition

The Authority improperly charged its project $87,116 for management fees related to units undergoing demolition. According to an April 2007 supplement to HUD Handbook 7475.1, the Authority's central office cost could earn only a portion of the normal management fee from projects for units undergoing demolition. Specifically, it could earn 75 percent of the normal fee in the first year, 50 percent in the second year, and 25 percent in the third year. Since 2014 was the third year of demolition for 60 units, the Authority should have charged its project only $12,116 of the normal $48,463 fee for these units. However, it charged its project $99,232, which exceeded the 25 percent limit by $87,116.[3] This condition occurred because the Authority was not familiar with HUD requirements for units undergoing demolition. As a result, these funds were defederalized and were no longer available for the operations of the Authority's project.

Records and Reports Were Not Always Accurate

Contrary to requirements at 24 CFR 85.20(b)(2), HUD's Capital Fund Guidebook, and a HUD Real Estate Assessment Center reporting brief, the Authority did not ensure that its budget, financial reports, and accounting data were accurate and up to date.

The Budget Was Not Accurate

The Authority's 2014 Capital Fund budget did not match expenditures as required. Chapter 7 of the Capital Fund Guidebook required the Authority to amend its budget when there was a change in the amount spent to reflect its actual expenditures. However, the Authority disbursed $31,022 more for operations than it had budgeted and did not revise its budget, and HUD's Line of Credit

[3] The Authority did not overcharge its project during the first and second years.

Control System[4] (LOCCS) still showed that only the original budgeted amount had been obligated and disbursed for operations. This condition occurred because the Authority did not have adequate policies and procedures to ensure that funds were spent in accordance with the budget and the budget was revised in compliance with the HUD requirement. As a result, HUD was not provided accurate information related to the Authority's use of capital funds and could not properly evaluate the Authority's use of the funds.

Financial Reports Submitted to HUD Were Not Accurate
The Authority did not properly report financial information to HUD. HUD Real Estate Assessment Center reporting brief 3 required the Authority to report Public Housing Operating Fund subsidies paid to mixed-finance developers on line 96200 as other general expenses.[5] However, the Authority incorrectly reported on its 2014 and 2015 financial data schedules that approximately $715,000 in Operating Fund subsidies paid to mixed-finance project developers was for management fees. This condition occurred because the Authority was not familiar with the financial data reporting requirements and did not have adequate policies and procedures to ensure compliance with requirements. As a result, HUD was not provided accurate information related to the Authority's use of operating funds and could not properly evaluate the Authority's operations.

Accounting Records Were Not Accurate
The Authority did not ensure that its general ledger data were accurate for 2013 and 2014 capital funds. Regulations at 24 CFR 85.20(b)(2) state that grantees and subgrantees must maintain records, which adequately identify the source and application of funds provided for financially assisted activities. However, the Authority incorrectly recorded a management fee as revenue, did not record two capital fund drawdowns in its general ledger, and made multiple errors when recording reclassification and adjustment entries. This condition occurred because the Authority did not perform reconciliations between its general ledger and its LOCCS data and did not have adequate policies and procedures to ensure that data were properly recorded. As a result, there was an increased risk of inaccurate financial reporting to HUD.

Conclusion

The Authority did not always administer its operating and capital funds in accordance with HUD requirements. This condition occurred because the Authority did not fully understand HUD requirements and did not have adequate controls to ensure compliance with all requirements. As a result, HUD did not have assurance that the prices paid for capital improvements and professional services were reasonable, capital funds were used for eligible activities in a timely manner, operating funds were available for the operations of the Authority's project, and it had accurate information for evaluating the Authority. Further, the Authority may incur reductions to future capital funds as a penalty for delayed obligations.

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4 LOCCS is HUD's primary grant disbursement system and handles disbursements for most HUD programs, including its Public Housing Operating Fund and Capital Fund programs.

5 HUD's Real Estate Assessment Center issued this brief on January 30, 2009, to clarify the financial reporting requirements for mixed-finance transactions where the project is not a component unit of the public housing agency.

Recommendations

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

1A. Provide documentation to show that the $800,439 paid for supplies and services purchased under the intergovernmental agreement for capital improvement projects was reasonable or reimburse its Capital Fund from non-Federal funds for any amount that it cannot support or that is not considered reasonable.

1B. Provide documentation to show that the $217,403 paid for legal, fee accounting, management consulting, and auditing services was reasonable or reimburse its Capital Fund or Operating Fund from non-Federal funds for any amount that it cannot support or that is not considered reasonable.

1C. Provide training to its staff related to HUD and Federal procurement requirements, including the requirements for using intergovernmental agreements and preparing independent cost estimates and cost analyses.

1D. Provide documentation to show that $187,492 in 2013 and 2014 capital fund obligations or reimburse HUD from non-Federal funds for any amount that it cannot support.

1E. Reimburse HUD $139,423 in replacement housing factor funds not disbursed by the expenditure deadline from its replacement housing factor funds or reduce its future capital funds.

1F. Improve its policies and procedures to ensure that capital funds, including replacement housing factor funds, are obligated and spent for eligible activities in a timely manner.

1G. Reimburse its project from non-Federal funds for $87,116 in excessive management fees charged for units undergoing demolition.

1H. Submit a request to the HUD field office to revise its budget so that it reflects actual expenditures for 2014 capital funds.

1I. Improve its policies and procedures to ensure that its budget, financial reports, and accounting data are accurate and up to date.

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

1J. Consider reducing future capital funds as a penalty for the Authority's obligating its 2009, 2010, and 2011 replacement housing factor funds after the deadline.

Scope and Methodology

We conducted the audit from January through August 2017 at the Authority's office located at 7 Van Dyke Avenue, New Brunswick, NJ, and our office located in Newark, NJ. The audit initially covered the period October 1, 2014, through September 30, 2016, and was expanded as detailed below.

To accomplish our objective, we reviewed

- relevant background information;
- applicable laws, regulations, HUD guidance, and Authority policies and procedures;
- 5-year plans and annual action plans covering our review period;
- audited financial statements covering our review period;
- budgets, financial reports, bank statements, bank reconciliations, check registers, invoices, receipts, vouchers, and general ledgers;
- relevant data contained in HUD's LOCCS, Financial Assessment Subsystem – Public Housing System, and Public and Indian Housing Information Center system; and
- contracts, agreements, and related procurement files.

We also interviewed HUD staff located in Newark, NJ, and the Authority's staff and fee accountant located in New Brunswick, NJ.

The Authority disbursed 1,718 checks to 177 vendors totaling more than $5.5 million during our audit period, October 1, 2014, to September 30, 2016. We summarized the data to determine how much was disbursed to each vendor. To perform our initial procurement testing, we selected the eight vendors that had received the highest disbursement totals during our audit period and were associated with contracts (excluding one vendor contract we reviewed as part of a prior audit). The total amount disbursed to the eight vendors was $1.75 million, or 32 percent of the $5.5 million paid to vendors during our audit period. In the audit phase, we reviewed additional contracts awarded between 2013 and 2016 to three of the eight vendors. These three vendors included a legal services vendor, because the Authority had contracted with it since 2007, and two capital improvement vendors that had additional contracts. We also reviewed contracts awarded between 2013 and 2016 for the only architecture-engineering and auditing firms awarded contracts during that period. In total, we reviewed 24 contracts related to 10 vendors to determine whether the Authority procured goods and services in accordance with applicable regulations. Although this approach did not allow us to make a projection to the entire population of contracts or the full $5.5 million disbursed for checks, it was sufficient to accomplish our objective.

Further, to determine whether expenditures for the contracts reviewed were eligible and adequately supported, we selected the largest checks to the eight vendors in our initial procurement sample. We also selected two checks for the water department, two checks for conference reimbursement, and two checks related to staff fringe benefits, including the executive director's personal vehicle allowance and eye glass cost reimbursement for employees. In addition, we reviewed all 14 checks to the Authority's Easton Ave. Trustee account during our audit period to determine whether the Authority used HUD funds for this non-HUD redevelopment activity. In total, we reviewed 28 checks totaling $801,850, or 14.5 percent of the $5.5 million paid to vendors during our audit period. Although this approach did not allow us to make a projection to the full $5.5 million disbursed for checks, it was sufficient to accomplish our objective.

In addition to the above samples, we reviewed the Authority's capital fund obligations and expenditures and its calculations for Operating Fund subsidies. For its capital funds, we selected its 2013 and 2014 grants because they had passed the obligation deadlines and its 2009 through 2011 replacement factor housing grants because they had disbursements during our audit period. We reviewed the obligations for timeliness and support. We then reviewed the related expenditures for timeliness. For its operating funds, we reviewed the calculations made for asset management projects 3 and 4 because they were the Authority's only mixed-finance projects.

To achieve our objective, we relied in part on computer-processed data from HUD's Financial Assessment Subsystem, Public and Indian Housing Information Center system, and LOCCS, as well as Authority's check register and general ledger. We used the data as background information and to select contracts and checks for review. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data to be adequate for our purposes. The testing included comparing information from these systems for the sampled items to the Authority's records. We based our conclusions on source documentation obtained from HUD and the Authority.

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

Internal Controls

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

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

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

Relevant Internal Controls

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

- 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.

- Safeguarding resources - Policies and procedures that management has implemented to reasonably ensure that resources are safeguarded against waste, loss, and misuse.

We assessed the relevant controls identified above.

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

Significant Deficiency

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

- The Authority did not have adequate policies and procedures to ensure that it followed applicable requirements.

Appendixes

Appendix A

Schedule of Questioned Costs

Recommendation number	Ineligible 1/	Unsupported 2/
1A		$800,439
1B		217,403
1D		187,492
1E	$139,423	
1G	87,116	
Totals	226,539	1,205,334

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

COMMISSIONERS
Yirgu Wolde
Kevin Jones
Anthony Giorgianni
Dale Caldwell
Cesar Ovando
Edna Otero

CITY OF NEW BRUNSWICK NEW JERSEY HOUSING AUTHORITY

EXECUTIVE DIRECTOR
John Clarke, P.H.M.

September 14, 2017

EQUAL HOUSING
EQUAL EMPLOYMENT
OPPORTUNITY

VIA ELECTRONIC AND CERTIFIED MAIL
Ms. Kimberly S. Dahl, Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Office of Inspector General, Office or Audit
New York/New Jersey Region 2
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New York, New York 10278

Re: Comments and Response to OIG Audit Report – PH Operating Fund & Capital Fund Programs New Brunswick Housing Authority

Dear Ms. Dahl:

Comment 1

In accordance with your department's request, below please find the New Brunswick Housing Authority's (NBHA) written response to the draft audit report of the NBHA's administration of the Public Housing Operating Fund and Capital Fund Programs. Specifically, as a result of the audit conducted by [redacted] and [redacted] of your office, a draft report was issued on August 29, 2017 containing nine (9) overall recommendations for improvement including one (1) tentative finding. In response, the NBHA agrees to provide the HUD field office with all required additional support and documentation substantiating the questioned costs in the tentative finding and to work with the Director of the New Jersey Office of Public Housing to immediately implement an action plan addressing all of the proposed recommendations.

Tentative Finding:

The report contained one (1) tentative finding that indicated that the Authority did not always administer its operating and capital funds in accordance with HUD Requirements. Specifically, the report indicated that: 1) $139,423 in replacement housing factor funds were disbursed after the expenditure deadline; and 2) more than $87,116 in excessive management fees were charged for units undergoing demolition.

Response:

Tentative Finding (Part 1): The initial part of the finding references $139,423 in replacement housing factor funds which the report indicates were expended after the HUD expenditure deadline. The finding was based upon a HUD obligation deadline of 9/14/2012 for the funds and an expenditure deadline of 9/14/2014. The report found that the funds were not expended/disbursed until January 28, 2015 was expended in excess of the approved budget. As a result, the report asks for the Authority to reimburse HUD the $139,423 expended.

"Working Together, We Can Make a Better Future"

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Ref to OIG Evaluation	Auditee Comments

Comment 2

Response: As HUD is aware, many of the issues raised in the OIG report were originally bred from the substantial damage which the Housing Authority endured as a result of Superstorm Sandy in late October/early November of 2012. While not rehashing this in detail, the Housing Authority took severe damage to its properties resulting not only in substantial monetary damages, but in the loss of considerable time and effort which was expended from all of the staff to ensure that its residents were safe and adequately protected during this trying time and in the efforts that followed to address the damages caused by the storm. With regard to its replacement housing factor funds, the NBHA applied to HUD for a waiver on both the timeframes and use of these funds so that the funds could be expended where they were needed most – to repair the infrastructure of the Authority and ensure that all of its residents had safe and quality housing moving forward. In 2013, HUD approved this request, albeit only in part, by providing a one (1) year extension to the obligation deadlines for Grant years 2009, 2010 and 2011.

While the Authority had requested a two (2) to three (3) year extension due to the various complications involved in procuring qualified and available contractors to perform the needed work, it nonetheless sought to meet such deadlines and procured the work required accordingly. Specifically, with regard to the $139,423 in question, after considerable efforts to procure a contractor for installing a new emergency site generator at the Schwartz-Robeson Complex, which was vital following Superstorm Sandy, the Authority procured a qualified contractor through a state approved, regional cooperative for the total cost of $274,021.36 on August 28, 2014 (See Exhibit A). As required by the contract, the contractor provided an initial invoice of $127,621.36 including mobilization and equipment costs shortly thereafter which was approved by the Authority's Architect on September 10, 2014 (See Exhibit B). Thereafter, on September 12, 2014, the NBHA invoiced the NBHA-COCC for the RHF management fee of $18,183.00 in accordance with PIH 2007-09 for oversight and development work (which was 10% of the total development activity authorized for RHF use). Critically, however, despite the contractor's issuing of its invoice and the Architect's certification of said amount, the Authority was not going to release said funds until the materials were marked for delivery. In this case, since the contractor was not able to confirm this given the scarcity of such generators in the area due to work at area hospitals, schools and municipalities as a result of the Superstorm, the Authority did not release said funds, and request disbursement of the $139,423, until January 28, 2015 (See Exhibit C). Therefore, this delay was not a result of the Authority being either unaware of the HUD deadline or any conscious failure to comply, but instead a result of the circumstances outside of the Authority's control due to the unprecedented storm which hit the entire Northeast.

As a result of the above, we would ask that the Authority is not required to pay back such funds. The funds were properly utilized for an improvement project which was vital to the Authority's residents and was ready for disbursement prior to the expenditure deadline. But for the unprecedented demand for this equipment throughout our area at the time, which was entirely outside of the Authority's control, both the contract and the work would have been procured and completed well before the expenditure deadline.

Tentative Finding (Part 2): The second part of the finding indicates that the Authority improperly charged its project $87,116 in excess management fees related to units undergoing demolition. Specifically, the report indicates that only a portion of the normal management fee could be earned for units undergoing demolition and that the Authority exceeded this limit by $87,116. It further surmises that this condition occurred because the Authority was not familiar with HUD requirements for units undergoing demolition. As a result, the report asks for the Authority to reimburse HUD the excessive fee of $87,116.

Comment 3

Response: The "excess" management fees were not an oversight of the Authority but were fees which were authorized and issued by HUD in order to allow the Authority to wind down the remaining tasks necessary to complete all of the demolition and remediation activities. Specifically, in order to properly complete the demolition and remediation of the site, the Housing Authority used its COCC staff and charged allowable management fees to complete the tasks required for the demolition and remediation. These actions were required and necessary as the site was entirely vacated and the staff were either reassigned or terminated – therefore, there were not any remaining site staff to complete these tasks. As a result, and given that HUD specifically authorized

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and issued said funds, it is the Authority's position that the management fees were not excessive and that the work to complete the site wind down could not have been completed by any other staff. Therefore, we would ask that the Authority is not required to pay back such funds.

Recommendations:

In addition to the above, the report recommended an additional seven recommendations that includes providing the field office with additional documentation that various funds used for various capital improvements and services were reasonable, undergoing staff procurement training, improving its controls to ensure funds are obligated and spent in a timely manner, revising its budget to reflect expenditures and improving controls to ensure its budget, financial reports and accounting data are accurate and up to date. Finally, it also recommends the reduction in the Authority's future capital funds as a penalty for obligating the replacement housing factor funds after the deadline.

Response:

Comment 1

The NBHA fully concurs with the vast majority of the OIG recommendations and shall immediately implement efforts to ensure that such recommendations are incorporated accordingly. Specifically, the NBHA looks forward to undertaking further staff procurement training and a complete review of its budget, financial reporting and internal controls to ensure that our reports are complete and precise. In addition, we look forward to having the opportunity to work with the HUD area office to provide any additional documentation they may need with regard to our procurement of various essential goods and services for our residents and to substantiate the process the Authority went through to reach these goals.

Comment 4

However, with regard to the recommendation of a reduction of future capital funding, we would request that this recommendation be removed given the extraordinary circumstances regarding the Authority's obligation and use of its replacement housing factor funds in light of Superstorm Sandy. With this said, the Authority takes all of these recommendations seriously and shall ensure that proper protocols will be introduced immediately so that, regardless of the circumstances, all funding will be properly obligated and expended going forward.

Finally, on behalf of the NBHA, I want to personally thank [redacted] and [redacted] from your office for their hard work and professionalism on this review and for their patience with our staff throughout this process. Thank you.

Sincerely,

John Clarke
Executive Director

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Comment 1 The Authority indicated that it would provide HUD all required additional support and documentation substantiating the questioned costs identified in the report and will work with HUD to implement a plan to address the recommendations. The Authority's planned actions are generally responsive to OIG's recommendations. However, as part of the normal audit resolution process, HUD will need to assess any documentation provided by the Authority and require the Authority to repay any funds that it cannot support or that are otherwise ineligible.

Comment 2 The Authority acknowledged that it exceeded the extended obligation and expenditure deadlines granted by HUD for its replacement housing factor funds. While it was aware of the deadlines, the Authority explained the hardship that it experienced after Superstorm Sandy and stated that the delayed obligation and disbursement of $139,423 in 2009 replacement housing factor funds was the result of the circumstances outside of the Authority's control due to the storm. We acknowledge that HUD provided a 1-year extension to the Authority's obligation and expenditure deadlines for its 2009, 2010, and 2011 housing replacement factor funds due to Superstorm Sandy. However, we disagree with the Authority's assertion that it would have met the 2009 obligation deadline had the storm not occurred. We found that the original obligation deadlines for the $139,423 in 2009 funds and $309,336 in 2010 funds had already passed when Superstorm Sandy hit the area in October 2012. Further, while the Authority indicated that it had worked to meet the deadlines provided by HUD, it did not provide documentation to show the efforts it made prior to the extended deadlines, or to show that it had reached out to HUD once it realized that it would not meet the extended deadlines.

Last, the Authority noted that it had chosen not to disburse the 2009 funds until the materials were marked for delivery and requested that it not be required to pay back such funds. While we understand the desire not to disburse funds until materials are marked for delivery, we believe that the underlying reason that the Authority missed its expenditure deadline was that it missed its obligation deadline and did not procure the needed goods and services until a few days before expenditure deadline. As a result, there was no opportunity for the materials to be marked for delivery before the expenditure deadline. Regulations at 24 CFR 905.306 specifically require funds be recaptured by HUD if they are not disbursed by the deadline, so we maintain our position that the $139,423 in replacement housing factor funds should be reimbursed to HUD.

Comment 3 The Authority contended that the $87,116 in excess management fees were authorized and issued by HUD in order to allow the Authority to complete all demolition and remediation activities, and noted that the management fees were necessary to use its central office cost center employees to wind down the remaining activities because the site was entirely vacated and site staff were either reassigned or terminated. However, the management fees limits for units undergoing demolition are not related to which employees perform the work, and the Authority did not provide any documentation to support its assertion that HUD had authorized the excess fees. Further, if the central office cost center staff were performing certain types of work directly on behalf of the project, the Authority could have charged the costs as the project's front-line[6] expenses at a fee-for service basis instead of charging as management fees. Therefore, we maintain our position that the Authority improperly charged its project $87,116 in excessive management fees and should reimburse this amount to its project.

Comment 4 The Authority requested that we remove the recommendation discussing a reduction of future capital funding given the extraordinary circumstances of Superstorm Sandy, indicated that it takes all of the recommendations seriously, and noted that it will ensure that proper protocols are put into place so that future funded will be obligated and expended properly regardless of circumstances in the future. We commend the Authority for its plan to implement controls to ensure that it complies with requirements in the future. However, based on HUD guidance related to obligation deadlines, we maintain our position that HUD should consider reducing future capital funds as a penalty for the Authority's late obligations.

[6] Front-line expenses are the direct costs of a public housing project such as maintenance, protective services and costs related to the relocation of residents that previously lived in the units being demolished.