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TO: Willie C. Garrett, Director of Public Housing, 5FPH

//signed//

FROM: Kelly Anderson, Regional Inspector General for Audit, 5AGA

SUBJECT: The Saginaw Housing Commission, Saginaw, MI, Did Not Administer Its Grant in Accordance With Recovery Act, HUD's, and Its Requirements

HIGHLIGHTS

What We Audited and Why

We audited the Saginaw Housing Commission's American Recovery and Reinvestment Act of 2009 Public Housing Capital Fund Stimulus formula grant. The audit was part of the activities in our fiscal year 2011 annual audit plan. We selected the Commission based upon our previous audits of the Commission's use of Federal funds and a request to perform a comprehensive review of its programs from the U.S. Department of Housing and Urban Development's (HUD) management. Our objective was to determine whether the Commission followed Recovery Act and HUD requirements regarding the administration of its Recovery Act grant.

What We Found

The Commission did not administer its grant in accordance with Recovery Act, HUD's, and its requirements. Specifically, it (1) inappropriately procured contracts, did not maintain documentation to show that contracts were correctly procured and that Davis-Bacon Act wages were correctly paid, and did not accurately report the number of rehabilitated units in HUD's Recovery Act Management and Performance System (RAMPS); (2) spent more than \$112,000 and obligated nearly \$9,200 in Recovery Act funds for activities that were not included in its 5-year action plans or annual statements of performance and evaluation for the years 2009, 2010, and 2011; (3) did not ensure that

opportunities to become employed or to receive employment training were provided to eligible Section 3 participants, failed to accurately report the number of its Section 3 new hires in FederalReporting.gov and did not ensure that more than \$79,000 from its Recovery Act contracts was collected and remitted to its Section 3 training fund; (4) did not maintain adequate accounting records to support its administrative draws and expenditures; (5) incorrectly spent nearly \$48,000 when it did not have a valid contract for architectural services because it amended an expired contract with its architect without competition; (6) overpaid more than \$11,000 when it awarded a contract for floor tile replacement without full and open competition; and (7) used nearly \$142,000 for the replacement of appliances without documenting the need for new appliances and incorrectly disposed of the appliances that were replaced.

What We Recommend

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to (1) provide documentation or reimburse \$530,536 from non-Federal funds to HUD for transmission to the U.S. Treasury, (2) reimburse \$205,815 from non-Federal funds to HUD for transmission to the U.S. Treasury, (3) correct its Recovery Act overreporting of jobs in RAMPS and FederalReporting.gov, and (4) implement adequate procedures and controls to address the findings cited in this audit report.

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

Auditee's Response

We provided our review results and supporting schedules to the Director of HUD's Detroit Office of Public Housing and the Commission's executive director during the audit. We provided our discussion draft audit report to the Commission's executive director, its board chairman, and HUD's staff during the audit. We held an exit conference with the executive director on January 19, 2011.

We asked the executive director to provide comments on our discussion draft audit report by January 20, 2011. The executive director provided written comments, dated January 12, 2011. The executive director generally agreed with the report findings. The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVE

The Saginaw Housing Commission was established in July 1947 by the City of Saginaw to provide safe, decent, sanitary, and affordable housing and create opportunities of self-sufficiency and economic independence to low- and moderate-income residents of Saginaw. The Commission's primary funding source is the U.S. Department of Housing and Urban Development (HUD) under the regulation of the State of Michigan's Act 18 of 1933, MCL 125.651-709e. The mayor of Saginaw appoints all housing commission board members to serve a 5-year term, and the city council ratifies the appointments with a majority vote. Residents of the Commission's housing developments are eligible for appointment. The Commission's board is a five-member volunteer board. The Commission's executive director is appointed by the board of commissioners and is responsible for coordinating established policy and carrying out the Commission's day-to-day operations.

The Public Housing Capital Fund Stimulus (formula) Recovery Act-funded grant is administered by HUD's Office of Public Housing. The grant funds are available for capital and management activities, including development, financing, and modernization of public housing projects.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act. The Recovery Act provided an additional \$4 billion to public housing agencies to carry out capital and management activities, including modernization and development of public housing. The Recovery Act required that \$3 billion of these funds be distributed as formula grants and the remaining \$1 billion be distributed through a competitive process. In March 2009, the Commission received a formula grant for more than \$1.2 million.

According to the Recovery Act, the Commission was required to obligate 100 percent of its grant funds within 1 year, expend 60 percent of the funds within 2 years, and fully expend the funds within 3 years. As of December 2011, the Commission had obligated 100 percent of its formula grant funds and expended 95 percent of the funds.

Our objective was to determine whether the Commission followed Federal and its requirements regarding the administration of its Recovery Act grant to include determining whether the Commission (1) properly procured contracts and ensured that Davis-Bacon Act requirements were met, (2) properly listed the use of its Recovery Act grant funds on its public housing agency 5-year annual plan and statements of performance and evaluation, (3) complied with Section 3 requirements, (4) appropriately used and accounted for its Recovery Act administrative fees, (5) entered into an appropriate contract with its architect, (6) took necessary affirmative steps to ensure that minority firms were used when possible, and (7) appropriately replaced and maintained inventory for items purchased with Recovery Act grant funds.

RESULTS OF AUDIT

Finding 1: The Commission Did Not Follow Recovery Act, HUD's, or Its Requirements for Procurement and the Davis-Bacon Act

The Commission did not follow Recovery Act, HUD's, or its procurement and Davis-Bacon Act requirements. Specifically, it (1) inappropriately procured contracts, (2) did not maintain documentation to show that contracts were procured appropriately, (3) did not maintain documentation to ensure that Davis-Bacon Act wages were paid appropriately, and (4) did not accurately report the number of rehabilitated public housing units in HUD's Recovery Act Management and Performance System (RAMPS). The weakness occurred because the Commission lacked the appropriate procedures and controls to ensure that it adequately managed its Recovery Act grant. As a result, HUD and the Commission lacked assurance that the Commission properly procured contractors and ensured that more than \$258,000 in wages was paid in accordance with the Davis-Bacon Act.

Procurement Documentation Was Not Maintained

We reviewed 100 percent of the Commission's procurement documentation related to projects funded by the Recovery Act grant to determine whether procurements were conducted in accordance with HUD's and the Commission's requirements during the period March 1, 2009, through July 31, 2011. The Commission did not maintain documentation showing that it properly procured nine projects that included three small purchases, five sealed bids,¹ and one architectural services agreement. After reviewing the Commission's documentation, we contacted the Commission's architect to determine whether he maintained documentation pertinent to the Commission's Recovery Act grant projects. We reviewed 100 percent of the procurement documentation maintained by the architect. We also determined that the Commission's architect did not maintain documentation showing that the Commission properly procured contractors for its Recovery Act grant projects.

The Commission did not use the appropriate wording when procuring its appliance replacement contractor. It called the procurement a request for proposal but treated it as a sealed bid. The procurement documentation did not indicate how proposals would be evaluated. A firm fixed price contract was awarded to the lowest responsive bidder based on price.

The Commission did not properly procure its tile replacement contract. It awarded a contract to the contractor 2 days before the contractor submitted its

¹ See appendix C for the definition of all procurement terms used in this finding.

quote. Therefore, the contract was awarded without competition. The Commission solicited a total of three quotes 5 months before awarding a contract for tile removal and replacement. A comparison of the quote from the contractor that was awarded the contract to the quotations previously received showed that the Commission did not select the contractor that provided the lowest price. In addition, the contractor that offered the lowest price was a minority contractor (see finding 6).

The Commission did not appropriately award its elevator upgrade contract. It originally received quotes from two elevator companies in June and July of 2009. The quotes were valid for 90 days and 30 days, respectively. A contract agreement between the Commission and the winning contractor was not executed until December 3, 2009, after both quotes were no longer valid. On November 18, 2009, one of the elevator companies that previously submitted a quote provided an updated quote that was based on the one previously provided to the Commission. The Commission did not maintain documentation showing that it solicited other quotations around the time the winning elevator company submitted an updated quote. Therefore, a contract was awarded without competition. However, the elevator upgrade was completed for less than the independent cost estimate.

The Commission's project specifications, provided to bidders as part of the invitation for bid package, restricted competition. The project specifications for four of the invitations for bids included statements requiring that certain brand name goods and materials be used. HUD Handbook 7460.8, REV-2, paragraph 9-3(B)(3), states that references to brand names must be followed by the words "or equal" and a description of the item's essential characteristics so that competition is not restricted.

The Commission retained the services of its architect for work on the Recovery Act grant projects. It did not procure the architect's services for the Recovery Act grant. Instead, it amended a contract, dated July 6, 2005, to include the Recovery Act grant projects. In accordance with its annual contributions contract with HUD, the July 6, 2005, contract with the architect would have been invalid after 2 years. The Commission effectively amended an invalid contract for architectural services for its Recovery Act grant project (see finding 5).

Of the eight procurements conducted, the Commission and the architect were missing the following documentation:

- Six procurements were missing documentation showing that the winning bidders or contractors were responsible;
- Five procurements that were completed did not have 11-month warranty inspections conducted;
- Five procurements did not have progress inspection reports indicating that work being done met the project specifications;

- Five procurements were missing documentation showing that bids were tabulated in public;
- Four completed procurements did not have final inspection reports;
- Four procurements were missing documentation showing that bids were opened in public;
- Four procurements that had a change order to the contract agreement did not have a modification register;
- Four procurements were missing documentation showing that a cost analysis of the cost breakdowns submitted by bidders was conducted;
- Three procurements did not have a certificate of contractor completion;
- Two Federal small purchase procurements for construction projects did not have a purchase order or contract agreement containing all mandatory clauses from form HUD-5370-EZ;
- Two procurements did not have a copy of the contractor's release form;
- One procurement for a nonconstruction project did not have a contract agreement containing all of the mandatory clauses from section I of form HUD-5370-C;
- One sealed bid procurement was missing documentation showing that a preconstruction conference was held between the Commission, architect, and winning bidder;
- One procurement was missing an independent cost estimate;
- One Federal small purchase procurement for the purchase of supplies did not have a purchase order or contract agreement containing all mandatory clauses in accordance with HUD Handbook 7460.8, REV-2; and
- One procurement was missing performance and payment bonds from the contractor.

**Documentation To Support
Davis-Bacon Act Compliance
Was Missing**

We reviewed 100 percent of the Commission's project files to determine whether the Commission maintained documentation to support that it ensured that its contractors paid the appropriate Federal prevailing wages (Davis-Bacon Act). The Commission did not maintain documentation showing that

- Payroll reports were reviewed for six projects covered by Section 1606,
- Laborers and mechanics working on three projects were interviewed by a representative of the Commission or the architect,
- Payroll reports were maintained for one project, and
- Payroll reports were obtained or reviewed for one project.

The table below details the Davis-Bacon wages that the Commission was unable to support.

Project	Wages not supported by source documents	No payroll records maintained	Total wages or payroll not supported
Tile replacement	\$5,321		\$5,321
Bathroom renovation	57,288		57,288
Air conditioning	23,938		23,938
Roof replacement	49,297		49,297
Window replacement	<u>62,448</u>		62,448
Elevator upgrade		<u>\$59,996</u>	<u>59,996</u>
Totals	<u>\$198,292</u>	<u>\$59,996</u>	<u>\$258,288</u>

All laborers and mechanics that worked on the Commission’s Recovery Act grant construction projects were required to be paid at least prevailing wages in accordance with Section 1606 of the Recovery Act. The contractors were required to submit weekly payroll reports to the Commission to be reviewed.

HUD’s Contractor’s Guide to Prevailing Wage Requirements for Federally Assisted Construction Projects, section 2, requires an employee’s payroll records to contain the employee’s name, address, and Social Security number. Further, for a project to comply with the Davis-Bacon Act, every contractor (including every subcontractor) must keep a complete set of its payroll and other basic records, such as time cards, tax records, and evidence of fringe benefit payments, for at least 3 years after the project is completed. The guide also states that the contract administrator must compare the information on the interview forms to the corresponding payrolls to ensure that workers are properly listed on the payrolls regarding days worked, work classification, and rate of pay. HUD Handbook 1344.1, REV-1, Labor Standards Enforcement Handbook, requires public housing agencies to monitor enforcement of labor standards for the payment of prevailing wage rates in all construction contracts over \$2,000 involving Federal funds.

The Number of Housing Units That Benefited From the Recovery Act Grant Was Incorrectly Reported

The Commission overstated the number of housing units that were being rehabilitated at its scattered-site and Town and Garden projects in the Core Activities module of RAMPS. The Core Activities module collects information on the number of units developed or modernized with Recovery Act grant funds. The Commission reported that 68 housing units received air conditioning installations at its scattered-site project starting with the fourth quarter 2010 report. According to the Commission’s files, the actual number of air conditioning installations with Recovery Act funds at its scattered-site project was 62. The Commission also reported that 92 housing units’ bathrooms were

renovated at its Town and Gardens project starting with the fourth quarter 2009 report. According to the Commission's files, the actual number of bathroom renovations with Recovery Act funds at its Town and Gardens project was 74.

The public did not have access to accurate information regarding the number of housing units rehabilitated using Recovery Act grant funds. As a result, the Commission's use of Recovery Act grant funds was not transparent.

The Commission's Procedures and Controls Had Weaknesses

The Commission did not follow Recovery Act, HUD's, or its procurement and Davis-Bacon Act requirements. The weakness occurred because the Commission lacked the appropriate procedures and controls to ensure that it adequately managed its Recovery Act grant. The Commission's executive directors, former and current, and its board of commissioners did not ensure that the Commission's funds were used for their intended purposes. The Commission's executive director said that the documents were missing from its files due to the lack of training and staff turnover.

The Commission's architect said that the Commission's bids were tabulated offsite after the bid envelopes were opened in public. He did not check references for two winning bidders because he had dealt with the contractors since 1989 and 2004, respectively. He said that progress inspections were performed to determine whether the amount requested on applications and certifications for payment by the contractor were accurate based on the percentage of work completed. With the exception of a window replacement project, work that was observed while in progress did not indicate whether work that was done met the specifications of the contract agreement. Not all bathrooms that were part of a renovation project were inspected because there was an argument between the former executive director and the architect during the project and the architect was not part of the project while it was being completed. Warranty inspections that are required to be conducted 11 months after the final inspection were not performed because the architect said that postconstruction activities were not included in his contract.

The Commission's senior property manager said that the extent of her involvement with the Recovery Act grant reporting was to enter the information provided by the Commission and its property managers into RAMPS.

Conclusion

As a result of the conditions described above, HUD and the Commission lacked assurance that the Commission properly procured contractors in accordance with

HUD's and its requirements. The Commission did not ensure that more than \$258,000 in wages was paid correctly to contractors in accordance with the Davis-Bacon Act.

Recommendations

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to

- 1A. Provide supporting documentation or reimburse \$258,288 from non-Federal funds to HUD for transmission to the U.S. Treasury for the Recovery Act grant for the Davis-Bacon wage infractions cited in this finding
- 1B. Correct the number of rehabilitated units reported in the Core Activities module of RAMPS for the Town and Garden Apartment bathroom renovation project and the scattered-site air conditioning installation project.
- 1C. Implement adequate procedures and controls to ensure that its procurement and Davis-Bacon Act policies are complete and accurate and follow HUD's requirements.

Finding 2: The Commission Did Not Include Its Projects in Its 5-Year Action Plans and Annual Statements of Performance and Evaluation

The Commission did not include the replacement of air conditioning sleeves at its Pinewood Manor public housing project and window replacement at its Elmwood Manor project in its 5-year action plans or annual statements of performance and evaluation for the years 2009, 2010, and 2011. This deficiency occurred because the Commission lacked adequate procedures and controls to ensure that it adequately managed its Recovery Act grant. As a result, it inappropriately obligated more than \$121,000 of its Recovery Act grant funds for projects that were not listed on its 5-year action plans or annual statements of performance and evaluation. The Commission expended more than \$112,000 for these projects and had a balance of nearly \$9,200 obligated to complete the inappropriate projects.

The Commission's Plans and Statements Did Not Contain Required Information

We reviewed the Commission's plans and statements for the years 2009, 2010, and 2011 to determine whether its Recovery Act grant projects were identified. HUD's Public and Indian Housing (PIH) Notice 2009-12, section VI, states that public housing agencies must use Recovery Act grant funds on eligible activities currently identified in either their plan or statement.

The Commission's window replacement project included the replacement of the air conditioning sleeves at its Pinewood Manor public housing project and window replacement in its Elmwood Manor project, neither of which was included in its 5-year action plans and annual statements of performance and evaluation for the years 2009, 2010, and 2011. The contract totaled nearly \$400,000, of which \$121,000 (\$109,950 + \$11,506, respectively) was allocated for the air conditioning sleeve and window replacements. The Commission owed the contractor \$9,156 (\$11,506 - \$2,350 already paid to the contractor) for the balance of the work to be completed at the Elmwood Manor project.

The Commission's Procedures and Controls Had Weaknesses

The Commission lacked adequate procedures and controls to ensure that it adequately managed its Recovery Act grant. The Commission's former and current executive directors and its board of commissioners did not ensure that the Recovery Act grant funds were used for their intended purposes. The executive director said that the Commission was under pressure to obligate and expend the Recovery Act grant funds and that it must have overlooked the

fact that these projects were not included in its plans and statements for the years 2009, 2010, and 2011.

Conclusion

As a result of the conditions cited above, the Commission inappropriately obligated more than \$121,000 of its Recovery Act grant funds for projects that were not listed on its 5-year action plans or annual statements of performance and evaluation. The Commission had expended more than \$112,000 for these projects and had a balance of nearly \$9,200 obligated to complete the inappropriate project.

HUD lacked assurance that the Commission used its Recovery Act grant funds appropriately because it did not provide HUD with the necessary information to outline its intended use of its Recovery Act grant.

Recommendations

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to

- 2A. Reimburse \$112,300 (\$121,456 - \$9,156) from non-Federal funds to HUD for transmission to the U.S. Treasury for the projects not listed on its 5-year annual plans and annual statements of performance and evaluation for the years 2009, 2010, and 2011.
- 2B. Deobligate the \$9,156 in Recovery Act funds to ensure that the Commission does not use the funds inappropriately and transmit the funds to the U.S. Treasury for the projects not listed on its 5-year action plans and annual statements of performance and evaluation for the years 2009, 2010, and 2011.
- 2C. Implement adequate procedures and controls to ensure that its 5-year action plans and annual statements of performance and evaluation are complete and accurate and follow HUD's requirements.

Finding 3: The Commission Did Not Comply With HUD's or Its Section 3 Requirements

The Commission did not comply with HUD's or its Section 3 requirements. Specifically, it (1) did not enforce the Section 3 requirements in its contracts, (2) did not require contractors to hire Section 3-eligible employees or contribute to its Section 3 training fund, (3) did not submit the required form HUD-60002, and (4) did not appropriately report the number of Section 3 new hires in FederalReporting.gov. The weaknesses occurred because the Commission lacked adequate procedures and controls to ensure that it adequately managed its Recovery Act grant and Section 3 program. As a result, HUD had no assurance that the Commission followed HUD's or its requirements regarding Section 3. The Commission did not ensure that opportunities to become employed or to receive employment training were provided to eligible Section 3 participants. It failed to collect and remit \$57,035 to its Section 3 training fund and failed to ensure that \$22,430 included in its Recovery Act grant contracts was remitted to its Section 3 training fund.

The Commission Did Not Enforce Its Section 3 Policies

We reviewed the Commission's Section 3 policy regarding the hiring of its residents and other low-income eligible persons. We also reviewed 100 percent of the Commission's Recovery Act grant contracts to determine whether the Commission's Section 3 requirements were included as an appendix to the contracts. While the Commission did include the required Section 3 policy as an appendix in its contracts, it did not ensure that contractors complied with its Section 3 policy.

The Commission's Section 3 policy states that if a contractor does not need to hire employees to complete its Recovery Act grant contract, it will make a contribution based on a sliding scale to the Commission's Section 3 training fund. The Commission included the Section 3 requirements in its invitation for bids and requests for proposals. Its policy also states that it will use the bidder's commitment to satisfy the resident hiring requirements as a factor to use in determining whether the bidder is responsible. The Commission did not include the commitment to satisfy resident hiring requirements in its determinations of bidder responsibility. It did not ensure that the bidders included the sliding scale contributions in their bids. The Commission included its Section 3 policy in its Recovery Act grant contracts but did not enforce its Section 3 policy as part of the contract.

The Commission and Its Contractors Did Not Comply With Section 3 Requirements

The Commission's window replacement project file included information showing that employees were hired to complete the Recovery Act grant contract work. The Commission did not maintain documentation showing that the new hires were eligible to be categorized as Section 3 employees. We reviewed the information in HUD's Public and Indian Housing Information Center, which houses information regarding public housing tenant records, to determine whether any of the new hires were residents of the Commission's public housing projects. We determined that four of the new hires were Section 3-eligible employees.

The Commission did not require contractors to comply with its Section 3 policy regarding hiring Section 3-eligible employees or providing funds to the Commission's Section 3 training fund for the following six Recovery Act grant projects as evidenced below. See appendix C for the table containing the sliding scale to determine the applicable percentages.

1. The Commission's appliance replacement contract totaled \$141,842. According to its Section 3 policy, the contractor should have provided a total of \$12,766 ($\$141,842 * 9$ percent or up to \$16,000, whichever is lower) to its Section 3 training fund.
2. The Commission's tile replacement contract totaled \$33,638. According to its Section 3 policy, the contractor should have provided a total of \$3,364 ($\$33,637.50 * 10$ percent or \$9,000, whichever is lower) to its Section 3 training fund.
3. The Commission's bathroom renovation contract totaled \$95,948. According to its Section 3 policy, the contractor should have provided a total of \$9,000 ($\$95,948 * 10$ percent ($\$9,594.80$) or \$9,000, whichever is lower) to its Section 3 training fund.
4. The Commission's elevator upgrade contract totaled \$59,996. According to its Section 3 policy, the contractor should have provided a total of \$6,000 ($\$59,996 * 10$ percent or \$9,000, whichever is lower) to its Section 3 training fund.
5. The Commission's air conditioning installation contract totaled \$181,496. Section 4.4 of the contract added in the allowance for Section 3 funds totaling \$16,335, increasing the contract amount to \$197,831. Based on the contractor's bid, the total contract price did not include the amount for Section 3. According to the Commission's Section 3 policy, the Section 3 funds should have been included in the contractor's bid. Therefore, the Commission

increased the bid to include the Section 3 funds. However, since the bid did not include the Section 3 funds, the Commission overpaid the contractor by \$16,335. It should have paid \$165,161 (\$181,496 - \$16,335) for the contract. The Commission paid the contractor a total of \$181,496. According to its Section 3 policy, the contractor should have provided a total of \$16,000 (\$181,496 * 9 percent (\$16,335) or \$16,000, whichever is lower) to its Section 3 training fund.

6. The Commission's roof replacement contract totaled \$193,887. The contractor issued a change order reducing the contract price by \$8,595, of which \$6,095 was attributed to Section 3. The Commission should have placed the \$6,095 into its Section 3 training fund. The Commission did not receive the balance of \$9,905 (16,000 - 6,095). According to its Section 3 policy, the contractor should have provided a total of \$16,000 (\$193,887 * 9 percent or \$16,000, whichever is lower) to its Section 3 training fund.

The Commission's finance manager provided the detail general ledger for its Section 3 fund. The detail general ledger showed that the Commission had not allocated funds to the Section 3 account since August 21, 2008, before the Recovery Act grant.

The executive director said that the previous administration did not require Section 3 compliance and that he was following what had been done previously. He agreed that because the Commission was not collecting the training funds from the contractors, it could not put money into its Section 3 training fund.

The Required Form HUD-60002 Was Not Submitted in Fiscal Year 2010

We reviewed the Commission's submission of form HUD-60002, section 3, Recipient Detail Report, for fiscal years 2009 and 2010 for the Recovery Act grant. The form is used to report the number of Section 3 hires to HUD. The Commission submitted its fiscal year 2009 form HUD-60002 but did not submit its fiscal year 2010 form. Regulations at 24 CFR (Code of Federal Regulations) 135.90 state that the report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier.

Office of Management and Budget (OMB) Circular A-133, Compliance Supplement, addendum #1, Public and Indian Housing, section III(L)(2), states that the prime recipient must submit form HUD-60002.

Jobs Were Overreported in FederalReporting.gov

We reviewed the Commission's contractor employee hire dates to determine whether new Section 3-eligible employees were hired to work on Recovery Act projects and whether the Commission reported the Section 3 new hires appropriately in FederalReporting.gov, the central governmentwide data collection system for Recovery Act grant funds.

The Commission incorrectly reported the number of jobs created with its Recovery Act grant funds in FederalReporting.gov. It reported that it created eight jobs, while it could only support the creation of four jobs. Office of Management and Budget Memorandum M-10-08 states that recipients should be prepared to justify their job estimates.

Section 1512(c) of the Recovery Act states that not later than 10 days after the end of each calendar quarter, each recipient of Recovery Act grant funds must submit a report to HUD that contains an estimate of the number of jobs created or retained by the project. Memorandum M-10-08, part 1, number 5, states that timely, complete, and effective reporting under Section 1512 of the Recovery Act is a term and condition of receiving Recovery Act grant funding.

Because the Commission did not correctly report the number of Section 3 new hires, the public did not have access to accurate information regarding the number of jobs created and retained with formula grant funds. As a result, the Commission's use of formula grant funds was not transparent.

The Commission's Procedures and Controls Had Weaknesses

The weaknesses discussed above occurred because the Commission lacked adequate procedures and controls to ensure that it adequately managed its Recovery Act grant and Section 3 program. The Commission's current and former executive directors and its board of commissioners did not ensure that its grant was used in accordance with HUD's and its own requirements.

The executive director said that he followed what was reported in FederalReporting.gov by the previous interim executive director. However, that statement was not correct. The current executive director became the executive director of the Commission on March 1, 2010, and updated FederalReporting.gov to show him as the reporting official for the October 2011 reporting. The first time the current executive director would have been responsible for reporting in FederalReporting.gov was the April 2010 submission. During that submission, the number of Section 3 new hires changed from five to seven.

The Commission's comprehensive improvements manager said that the four Section 3 new hires was the correct number and she did not know why the creation of eight Section 3 new hires was reported in FederalReporting.gov. The executive director said that he would verify the actual number of new hires and correct the information reported in FederalReporting.gov.

The executive director said that the form HUD-60002 was not completed because of staff turnover and the Commission did not realize that the form was required. He said that the Section 3 policies were created before he began working at the Commission and that a lack of training caused the problem.

Conclusion

As a result of the Commission's lack of adequate Section 3 program knowledge and procedures and controls, HUD had no assurance that the Commission followed HUD's or its requirements regarding Section 3. HUD also had no assurance that opportunities to become employed or to receive employment training were provided to eligible Section 3 participants.

The Commission did not ensure that opportunities to become employed or to receive employment training were provided to eligible Section 3 participants. It did not require its contractors to comply with HUD's or its Section 3 policy. The Commission failed to collect and remit \$57,035 to its Section 3 training fund and failed to ensure that \$22,430 included in its Recovery Act grant contracts was remitted to the Section 3 training fund.

Recommendations

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to

- 3A. Provide supporting documentation or reimburse \$57,035 (\$12,766 + \$3,364 + \$9,000 + \$6,000 + 16,000 + \$9,905) from non-Federal funds to HUD for transmission to the U.S. Treasury for the Recovery Act grant Section 3 funds that should have gone to the Commission's Section 3 training fund.
- 3B. Reimburse \$22,430 (\$16,335 + \$6,095) from non-Federal funds to HUD for transmission to the U.S. Treasury for the projects that had Section 3 funds included but not remitted to the Commission's Section 3 training fund.
- 3C. Correct the Section 3 information reported in FederalReporting.gov in its next quarterly submission.

- 3D. Complete and submit its Section 3 report, form HUD-60002, to HUD for fiscal years 2010 and 2011.
- 3E. Implement adequate procedures and controls to ensure that its Section 3 policies are complete and accurate and follow HUD's requirements.

Finding 4: The Commission Did Not Maintain Sufficient Accounting Records for Its Recovery Act Grant Administrative Fees

The Commission did not maintain accounting records sufficient to support that its Recovery Act grant administrative fees were used in accordance with HUD's and its requirements. These deficiencies occurred because the Commission lacked adequate procedures and controls to ensure that it adequately managed its Recovery Act grant. As a result of the Commission's lack of adequate program knowledge and procedures and controls to ensure that the funds were used appropriately, it could not support its use of more than \$67,000 in Recovery Act grant funds. HUD and the Commission lacked assurance that HUD funds were used according to HUD's and the Commission's requirements.

Sufficient Accounting Records Were Not Maintained

We reviewed the Commission's administrative fee Recovery Act draws from HUD's Line of Credit Control System (LOCCS) and its Recovery Act general ledger and expenditures of Recovery Act funds. LOCCS is HUD's primary disbursement and cash management system. The review was conducted to determine whether the Commission maintained adequate accounting records to support its administrative draws and expenditures. The Commission budgeted and drew down \$67,643 in administrative fees from HUD's system for its Recovery Act grant. It recorded the receipt of only \$60,477 in its Recovery Act grant general ledger. It was unable to provide documentation to show that \$7,166 in Recovery Act administrative fees was recorded in its general ledger or expended for the administration of its Recovery Act grant.

The Commission transferred \$46,239 in Recovery Act grant funds to its central office cost center's income account. HUD's Supplement to HUD Handbook 7475.1, REV, CHG-1, section 5-1, states that Capital Fund program funds cannot be used to directly support the central office cost center.

The Commission also used \$14,238 in Recovery Act grant funds to pay salaries not supported by documentation such as timesheets. Regulations at 24 CFR 85.20(b)(6) state that the financial management systems of grantees and subgrantees must support accounting records by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, and contract and subgrant award documents.

The Commission's Procedures and Controls Had Weaknesses

The Commission lacked adequate procedures and controls to ensure that it adequately managed its Recovery Act grant. The Commission's executive directors, former and current, and its board of commissioners did not ensure that the Commission's funds were used for their intended purposes.

The Commission could not explain why the \$46,239 in Recovery Act grant administrative fees was entered into the center's income account. The finance manager said that once the funds were entered in the center's income account, the Commission was not able to document how the funds were used. The Commission's finance director said that once the funds were entered into the center's income account, the funds became defederalized and could be used for anything the Commission deemed necessary.

During our previous audit, audit report number 2011-CH-1012, we determined that the Commission posted expenses to its central office cost center beginning in fiscal year 2006. During interviews with the Commission on February 24, February 25, March 14, March 15, April 6, and May 5, 2011, the Commission said that it did not maintain a center but planned to implement one as of July 1, 2011. During an interview on June 7, 2011, the executive director said that the Commission had implemented a center for fiscal year 2010. The Commission's 2010 annual audited financial statements supported this statement. However, we could not determine whether the center was fully implemented in fiscal year 2010. The Commission could not explain why costs were posted to the center beginning in fiscal year 2006. The finance director said that possibly the previous finance director had tried to implement a cost center in 2006 and she believed that all costs were removed from the center at the end of fiscal year 2006. She could not explain why the costs continued to be posted to the center after fiscal year 2006. The Commission was unable to provide its general ledger for the center to show that the center had been fully implemented and that the expenses posted to the center in previous years had been corrected.

The Commission considered all of its employees to be salaried employees. It did not require its employees to fill out time sheets that detailed employee time allocations by programs or projects. Contrary to Office of Management and Budget requirements (see appendix C), the Commission had a spreadsheet that it used to allocate employee time to different programs by a percentage developed by the Commission.

On November 5, 2010, HUD issued to the Commission an order to cease and desist from using any Public Housing Capital Fund or Recovery Act funds without prior authorization from HUD's Detroit field office. The Commission was placed on a zero threshold for both of these programs until further notice.

The zero threshold means that any HUD funds requested will not be available for drawdown without supporting documentation and review by HUD. In addition, all contracts must be submitted to HUD for review and approval before execution.

Conclusion

As a result of the Commission's lack of adequate program knowledge and procedures and controls to ensure that the funds were used appropriately, it could not support its use of more than \$67,000 in Recovery Act grant funds. HUD and the Commission lacked assurance that HUD funds were used according to HUD's and the Commission's requirements.

Recommendations

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to

- 4A. Provide supporting documentation or reimburse \$46,239 from non-Federal funds to HUD for transmission to the U.S. Treasury for the Recovery Act grant administrative fees transferred to its center's income account.
- 4B. Provide supporting documentation or reimburse \$14,238 from non-Federal funds to HUD for transmission to the U.S. Treasury for the Recovery Act grant administrative fees used to pay salaries without timesheets.
- 4C. Provide supporting documentation or reimburse \$7,166 from non-Federal funds to HUD for transmission to the U.S. Treasury for the Recovery Act grant administrative fees received by the Commission and not entered into its Recovery Act grant general ledger.
- 4D. Implement adequate procedures and controls to ensure that its administrative expenses are complete and accurate and follow Federal requirements.

Finding 5: The Commission's Architect Contract Did Not Comply With HUD's Requirements

The Commission's architect contract did not comply with Recovery Act and HUD's requirements. Specifically, the Commission's contract with the architect exceeded the 2-year time limit imposed by its annual contributions contract with HUD. The Commission paid the architect in full before the work was complete and without an invoice from the architect. These deficiencies occurred because the Commission lacked the appropriate procedures and controls to ensure that it followed HUD's and its requirements. The Commission placed its projects at risk by paying the architect in full before the work was completed. As a result, nearly \$48,000 of the Commission's Recovery Act grant funds was not available for capital and management improvements.

An Expired Contract Was Amended for the Recovery Act

We reviewed the Commission's contract with its architect and determined that the contract did not comply with Recovery Act and HUD's requirements. The Commission violated its annual contributions contract with HUD when it retained the services of its architect for work on the Recovery Act grant projects. Instead of procuring the architect's services, on January 22, 2010, the Commission amended its expired contract, dated July 6, 2005, to include the Recovery Act grant projects.

The Commission's annual contributions contract states that the local authority should not enter into, execute, or approve any agreement or contract for personal, management, legal, or other services with any person or firm when the initial period or term of the contract exceeds 2 years or when the contract contains a renewal provision for any period without prior written consent of the Government. When an existing contract contains a renewal provision, automatic or otherwise, which extends the term of the contract for any period, the local authority should not act to renew or extend such contract or fail to take any necessary action to forestall automatic renewal or extension without the prior written approval of the Government.

The Commission did not require the architect to submit written invoices for the portion of services completed within each phase of work. It paid the architect \$47,500, the full amount of the amended contract, on April 30, 2010, before the Recovery Act grant work was completed and without an invoice. The check was signed by the Commission's previous executive assistant and the previous board president.

On November 4, 2011, the architect reimbursed the Commission \$47,500 in Recovery Act grant funds that the Commission previously paid in April 2010. The Commission deposited the check into its general fund on November 7, 2011.

The Commission's Procedures and Controls Had Weaknesses

The Commission lacked the appropriate procedures and controls to ensure that it followed HUD's and its requirements. It did not procure the architect's services for the Recovery Act grant. Therefore, HUD and the Commission could not be assured that the Commission retained the architect's services for the best price. The Commission placed its projects at risk by paying the architect in full before the work was completed.

The executive director was in place when the previous executive assistant and board president signed the check to pay the architect. He was unable to explain why the check was signed by the executive assistant and board president.

The Commission's comprehensive improvements manager stated that the Commission had always paid the architect before all of the work items in his contract were complete. She said that the Commission generally paid the architect in full once he had completed the scope of work for the project.

Conclusion

The Commission violated its annual contributions contract by entering into and amending a contract with its architect for more than the 2-year time limit imposed by its annual contributions contract with HUD.

As a result, nearly \$48,000 of the Commission's Recovery Act grant funds was not available for capital and management improvements. The Commission inappropriately used Recovery Act grant funds when it failed to comply with HUD's and its requirements. HUD had no assurance that the Commission used its Recovery Act grant funds only for eligible capital and management improvements.

Recommendations

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to

- 5A. Reimburse the \$47,500 repaid by its architect to HUD for transmission to the U.S. Treasury for the funds used to inappropriately pay its architect.

- 5B. Implement adequate procedures and controls to ensure that its contracts and disbursements are made in accordance with Recovery Act, HUD's, and its requirements.

Finding 6: The Commission Did Not Appropriately Select the Contractor for Its Tile Replacement Contract

The Commission did not appropriately select the contractor for its tile replacement contract. It did not ensure that its procurement was conducted in a manner that provided full and open competition and did not take the necessary affirmative steps to ensure that minority firms were used when possible. This condition occurred because the Commission lacked adequate procedures and controls to ensure that it adequately managed its Recovery Act grant. As a result, HUD lacked assurance that the Commission appropriately procured its Recovery Act contracts, providing full and open competition; took the necessary affirmative steps to ensure that minority firms, women's business enterprises, and labor surplus area firms were used when possible; and used more than \$11,000 in Recovery Act grant funds appropriately.

The Procurement Process Did Not Ensure Full and Open Competition

We reviewed the Commission's tile replacement project file and determined that the Commission obtained three proposals in February and March 2009 for the replacement of flooring tile in units of its Elmwood Manor public housing project.

The Commission determined that it would replace the flooring tile in the common area hallways at the Elmwood Manor project using Recovery Act funds. It signed a contract with a contractor to replace the tile in the hallways on August 17, 2009, before receiving a proposal for the tile replacement. On August 19, 2009, the winning contractor submitted an updated proposal for the replacement of the tile in the hallways, 2 days after the contract was signed. The proposal was for the exact contract amount. The Commission selected this contractor before receiving the proposal.

The Commission did not contact the other two contractors to allow them to submit an updated proposal. It used the two proposals received for floor tile replacement in units to compare to the third proposal received for the tile replacement in the hallways for its cost evaluation. It did not calculate the total pricing in its evaluation or take into consideration that the proposals it was comparing were for two different projects.

We contacted one of the contractors, which was a minority contractor. We asked the president of the company whether his proposal price for the unit floor tile replacement was also applicable to the hallway tile replacement. He said that the price per square foot would be the same as long as the materials were consistent with the previous proposal. The tile replaced in the units and the hallways was vinyl composition tile. We also asked the president of the company whether the

Commission had contacted him to provide an updated proposal. He said that his company was not contacted to provide an updated proposal.

We calculated and compared the minority contractor's price for the hallways (\$22,349) to the winning contractor's price for the hallways (\$33,638) and determined that the winning contractor's price was \$11,289 higher than that of the other contractor.

The Commission violated HUD's regulations at 24 CFR 85.36(c)(1), which state that all procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 24 CFR 85.36. Some of the situations considered to be restrictive of competition include but are not limited to any arbitrary action in the procurement process. The Commission also violated HUD's regulations at 24 CFR 85.36(e)(1), which state that the grantee and subgrantee will take all necessary affirmative steps to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

The Commission's Procedures and Controls Had Weaknesses

The Commission lacked adequate procedures and controls to ensure that it adequately managed its Recovery Act grant. The Commission's former interim executive director and its board of commissioners did not ensure that its grant was used in accordance with HUD's and its requirements.

The current executive director could not explain why the Commission did not select the lowest proposal and did not select the minority contractor. The contract was executed by the previous interim executive director.

Conclusion

As a result of the conditions described above, HUD lacked assurance that the Commission appropriately procured its Recovery Act contracts, providing full and open competition; took the necessary affirmative steps to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible; and used more than \$11,000 in Recovery Act grant funds appropriately.

Recommendations

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to

- 6A. Reimburse \$11,289 (the difference between the contract paid price of \$33,638 and the lesser calculated cost of \$ 22,349) from non-Federal funds to HUD for transmission to the U.S. Treasury for the cost savings cited in this finding.

- 6B. Implement adequate procedures and controls to ensure that its procurement policies are complete and accurate and follow HUD's requirements.

Finding 7: The Commission Did Not Appropriately Acquire and Dispose of Its Equipment

The Commission did not appropriately acquire and dispose of its equipment purchased with Recovery Act funds. It lacked adequate procedures and controls regarding the administration of its Recovery Act grant funds to ensure that more than \$150,000 in expenditures met Recovery Act, HUD's, and its requirements. Specifically, it (1) did not fulfill or amend its contract by selling old refrigerators and ranges to the contractor, (2) did not maintain documentation supporting the need for new appliances, (3) did not receive the best price for the disposal of its old appliances, (4) inappropriately maintained program income, and (5) did not maintain a complete and accurate physical and computerized inventory of the appliances purchased. The weaknesses occurred because the Commission lacked adequate procedures and controls to ensure that it adequately managed its Recovery Act grant. As a result, HUD had no assurance that the Commission replaced only appliances that had surpassed their useful life, maintained an appropriate inventory, received the best price for the disposal of its equipment, and used Recovery Act grant program income appropriately.

Contract Requirements Were Not Met and No Contract Amendment Was Issued

We reviewed the Commission's files for its appliance replacement project and determined that the Commission contracted for \$141,842 with a local appliance company to replace 185 refrigerators and 185 ranges in its Davenport Manor and Elmwood Manor public housing projects. The contract included a provision that the old appliances would be purchased by the company for \$3,700 (185 refrigerators at \$15 each + 185 ranges at \$5 each). The Commission did not sell 28 ranges and 28 refrigerators to the company. Therefore, the company purchased 157 ranges and 157 refrigerators for a total of \$3,140 (157 refrigerators * \$15) + (157 ranges * \$5). The Commission did not issue a contract amendment with the company.

The Commission did not maintain documentation to support the need for new appliances for the two projects to include the original purchase price and original date of purchase. HUD's regulations at 24 CFR Part 85 require the Commission to keep records of the equipment it disposes of for at least 3 years from the date of disposal. Specifically, 24 CFR 85.42(b)(1) states that except as otherwise provided, records must be retained for 3 years from the starting date specified in paragraph (c) of this section. Regulations at 24 CFR 85.42(c)(2) state that the retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

The Disposal Price for Appliances Was Not Maximized

The Commission did not receive the best price for the disposal of its appliances. We contacted the local energy company in Saginaw, MI, and determined that the energy company had an appliance recycling program in place at the time the Commission disposed of its refrigerators. The energy company offered \$30 per refrigerator and free pick up of the refrigerators, or \$4,710 ($\$30 * 157$). We also contacted local scrap yards and determined an average price the Commission could have received if it had scrapped the old ranges. At the time the Commission disposed of its ranges, it could have received \$1,424 for the old ranges; this price includes the reduction for the fee the scrap yard charges for the pickup of the old ranges. Therefore, the Commission received \$3,140 from the company for the 157 refrigerators and 157 ranges when it could have received \$6,134 ($\$4,710 + \$1,424$) using the other methods of disposal described above.

The Commission Inappropriately Retained Program Income

The Commission deposited the \$3,140 it received from the disposition of its appliances into its revolving fund cash account and allocated the funds to the account "other income" for the Elmwood Manor and Davenport Manor projects. According to the following requirements, the sales proceeds should have been used for Recovery Act purposes.

HUD's regulations at 24 CFR 85.25(f) state that proceeds from the sale of real property or equipment will be handled in accordance with the requirements of 24 CFR 85.31 and 85.32. Regulations at 24 CFR 85.25(g) state that program income should be deducted from outlays, which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). When Federal agencies authorize the alternatives in paragraphs (g)(2) and (3) of this section, program income in excess of any limits stipulated should also be deducted from outlays. Regulations at 24 CFR 85.32(c)(4) state that when acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

Physical Inventories Could Not Locate All New Appliances

We conducted a physical inventory at the Davenport Manor and Elmwood Manor projects and the Commission's storage facilities. We were unable to locate

- 1 30-inch range valued at \$340,
- 1 range for the Davenport Manor project valued at \$301,
- 2 refrigerators for the Davenport Manor project valued at \$439 each for a total of \$878,
- 4 ranges for the Elmwood Manor project valued at \$329 each for a total of \$1,316, and
- 12 refrigerators for the Elmwood Manor project valued at \$451 each for a total of \$5,412.

On November 30, 2011, the Commission provided physical inventory listings for its scattered-sites, Pinewood Manor, and Rosien Towers projects. The physical inventory indicated that

- 1 range purchased for the Davenport Manor project was located at the Rosien Towers project,
- 4 ranges purchased for the Elmwood Manor project were located at the Pinewood Manor project, and
- 2 refrigerators purchased for the Elmwood Manor project were located at the Pinewood Manor Project.

Therefore, the number of missing appliances was reduced to the following:

- 1 30-inch range valued at \$340,
- 2 refrigerators for the Davenport Manor project valued at \$439 each for a total of \$878, and
- 10 refrigerators for the Elmwood Manor project valued at \$451 each for a total of \$4,510.

Computerized Inventory Was Not Maintained Appropriately

The Commission maintained inventory of its real property and equipment in a computerized system. We reviewed the computerized inventory to determine whether all of the new appliances were accounted for in the Commission's system and determined that the Commission did not appropriately maintain its inventory for the 185 refrigerators and 185 ranges purchased with Recovery Act grant funds for the Elmwood Manor and Davenport Manor projects. First, the Commission entered the purchases of the refrigerators and ranges as all

ranges in its inventory. Of the 370 items purchased (185 refrigerators and 185 ranges), 354 items were reported in the Commission's inventory as ranges at a cost of \$301 each, and 16 items were not reported in the Commission's inventory. Therefore, the Commission reported 354 of the appliances as ranges and did not record the purchase of any new refrigerators. The Commission then took the cost of the inventory and spread it across the following asset management properties: Pinewood Manor, Maplewood Manor, Rosien Towers, Elmwood Manor, Town and Garden, and its scattered sites. The ranges and refrigerators were installed in the Commission's Davenport and Elmwood projects. No new appliances were reported in the Commission's inventory for Davenport Manor. The Commission did not maintain the serial numbers for the new appliances in its inventory system.

The Commission's Procedures and Controls Had Weaknesses

The Commission lacked adequate procedures and controls to ensure that it adequately managed its Recovery Act grant. The Commission's executive directors, former and current, and its board of commissioners did not ensure that the Commission's funds were used for their intended purposes and in accordance with HUD's and its requirements.

The Commission's executive director could not explain why the Commission did not research for the best price for the disposition of its assets. He questioned how the Commission would know it was receiving the best price.

The executive director said that he believed the Commission was following its disposition policy and that he wasn't employed at the Commission when the decision was made to dispose of the appliances. However, the notice to proceed with the appliance contract was signed February 23, 2010, by the current executive director.

The Commission did not follow its disposition policy. It did not maintain a copy of the survey to identify property to be disposed of and included only the disposition of the appliances in its bid request for new appliances.

The Commission's finance manager said that the previous maintenance contractor did not properly assign asset tags to the appliances and that the information provided to her by the previous maintenance contractor was not correct. She was instructed to enter the information as it was provided into inventory so that the accounts would balance.

The Commission's comprehensive improvements manager said that she didn't know where else to look for the appliances. However, she was having all of the public housing properties complete a physical inventory of refrigerators and

ranges. The executive director said that the people responsible for this project no longer worked at the Commission.

The Commission was unable to explain why it entered the funds received for the disposition of its appliances into the “other income” account for the projects.

The Commission was unable to explain why it did not follow HUD’s regulations at 24 CFR Part 85, which state that it must keep records of the equipment it disposes of for at least 3 years from the date of disposal. However, the executive director said that the Commission could change its policies to require the retention of records as stated in HUD’s regulations.

Conclusion

As a result of the conditions cited above, HUD had no assurance that the Commission replaced only appliances that had surpassed their useful life, maintained an appropriate inventory, received the best price for the disposal of its equipment, and used Recovery Act grant program income appropriately.

Recommendations

We recommend that the Director of HUD’s Detroit Office of Public Housing require the Commission to

- 7A. Provide supporting documentation or reimburse \$141,842 from non-Federal funds to HUD for transmission to the U.S. Treasury for not documenting the need for new appliances at its projects.
- 7B. Provide supporting documentation or reimburse \$5,728 (\$340 plus \$878 plus \$4,510) from non-Federal funds to HUD for transmission to the U.S. Treasury for the missing appliances.
- 7C. Reimburse \$3,140 from non-Federal funds to HUD for transmission to the U.S. Treasury for the inappropriate use of the sales proceeds cited in this finding.
- 7D. Implement adequate procedures and controls to ensure that its inventory system is complete and accurate to support the purchase and disposition of real property and equipment.
- 7E. Implement adequate procedures and controls to ensure that its disposition policies are complete and accurate and follow HUD’s requirements.

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed

- Applicable laws; regulations; Federal Register notices; HUD's program requirements at 24 CFR Part 176; 24 CFR Parts 85 and 135; 29 CFR Part 5; PIH Notices 2009-12, 2009-16, 2009-25, 2009-31, 2010-34, 2010-44, 2011-4, 2011-12, and 2011-37; HUD Handbooks 1344.1, REV-1, 7460.8, REV-2, 7475.1, and Supplement to HUD Handbook 7475.1; the Recovery Act; The United States Housing Act of 1937, as amended; 40 U.S.C. (United States Code) chapter 31, subchapter IV, 3141; OMB Circulars A-87 and A-133; Office of Management and Budget Memorandums M-09-21, M-10-08, and M-10-34; HUD's Making Davis-Bacon Work guide for public housing agencies; and the U.S. Department of Labor's Memorandum Number 207.
- The Commission's annual contributions contract with HUD; accounting records; bank statements; annual audited financial statements for fiscal years 2008, 2009, and 2010; computerized databases; policies and procedures; board meeting minutes pertinent to the program; organizational chart; and Line of Credit Control System (LOCCS) information and requests for payment.
- HUD's files for the Commission.

We also interviewed the Commission's employees and contractors and HUD staff.

Finding 1

We reviewed 100 percent of the Commission's procurement documentation related to projects funded by the Recovery Act grant to determine whether procurements were conducted in accordance with HUD's and the Commission's requirements during the period March 1, 2009 through July 31, 2011. The audit period was expanded when necessary to include other periods. We determined that the Commission did not maintain all of the required documentation. We also contacted the Commission's architect to determine whether he maintained additional documentation pertinent to the Commission's Recovery Act grant projects.

We reviewed 100 percent of the Commission's project files to determine whether the Commission maintained documentation to support that it ensured its contractors were paying the appropriate prevailing wages.

We reviewed 100 percent of the Commission's reporting of core activities in Recovery Act Management and Performance System (RAMPS).

Finding 2

We reviewed the Commission's 5-year public housing agency plans and annual statement of performance and evaluation for the years 2009, 2010, and 2011. We reviewed the plans and

statements to determine whether the Commission's Recovery Act grant projects were identified. HUD's PIH Notice 2009-12, section VI, states that public housing agencies must use Recovery Act grant funds on eligible activities currently identified in either their plan or statement.

Finding 3

We reviewed the Commission's Section 3 policies. We also reviewed 100 percent of the Commission's Recovery Act grant contracts to determine whether the Commission's Section 3 policies were included as an appendix to the contracts.

We reviewed the Commission's submission of form HUD-60002, Section 3 Summary Report, for fiscal years 2009 and 2010 for the Recovery Act grant.

We reviewed the Commission's contractor employee hire dates to determine whether new Section 3-eligible employees were hired to work on Recovery Act projects and whether the Commission reported the Section 3 new hires appropriately in Fedreporting.gov.

Finding 4

We reviewed the Commission's administrative fee Recovery Act draws from LOCCS, the Recovery Act general ledger, and expenditures of Recovery Act funds. The review was conducted to determine whether the Commission maintained adequate accounting records to support its administrative draws and expenditures.

Finding 5

We reviewed the Commission's contract with its architect and determined that the contract was contrary to HUD's requirements.

Finding 6

We reviewed the Commission's tile replacement project file. We then calculated the minority contractor's pricing for the hallways (\$22,349) and compared this amount to the winning contractor's pricing for the hallways (\$33,638). We determined that the winning contractor's price was \$11,289 higher than that of the minority contractor.

Finding 7

We reviewed the Commission's files for its appliance replacement project and determined that the contract included a provision that the old appliances would be purchased by the contracted company for \$3,700 (185 refrigerators at \$15 each plus 185 ranges at \$5 each). The Commission did not sell 28 ranges and 28 refrigerators to the company. Therefore, the company purchased 157 ranges and 157 refrigerators for a total of \$3,140 (157 refrigerators at \$15 each plus 157 ranges at \$5 each). The Commission did not issue a contract amendment with the company. It did not maintain documentation to support the need for new appliances for the two projects to include the original purchase price and date of purchase.

We reviewed the Commission's computerized inventory system to determine whether all of the new appliances were accounted for in the Commission's system.

We performed our onsite audit work from August to November 2011 at the Commission's office located at 1803 Norman Street, Saginaw, MI, and HUD's Detroit field office. The audit covered the period March 1, 2009, through July 31, 2011, but was expanded when necessary to include other periods.

We relied in part on data maintained by the Commission in its systems. 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 adequately reliable for our purposes (see findings 1, 3, 4, and 7 of this audit report).

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 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:

- Effectiveness and efficiency of operations – Policies and procedures that the audited entity has implemented to provide reasonable assurance that a program meets its objectives, while considering cost effectiveness and efficiency.
- Reliability of financial reporting – Policies and procedures that management has implemented to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with generally accepted accounting principles.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

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 items are significant deficiencies:

- The Commission lacked adequate procedures and controls to ensure compliance with Federal and its requirements regarding (1) contractor procurement, the payment of Davis-Bacon Act wages, and the reporting of appropriate information in RAMPS and Fedreporting.gov, (2) ensuring that its plans and statements contained appropriate information, (3) managing its Section 3 program and submitting the required forms to HUD, (4) maintaining appropriate accounting documentation, (5) maintaining appropriate contracts, (6) selecting the lowest bidder while providing full and open competition, ensuring that minority contractors are selected when appropriate, and appropriately amending contracts, and (7) maintaining an appropriate physical and computerized inventory system (see findings 1, 2, 3, 4, 5, 6, and 7).

FOLLOW-UP ON PRIOR AUDITS

Report #2006-CH-1018, Saginaw Housing Commission Improperly Used Public Housing Funds To Purchase Property

The following significant recommendation is still open. The Commission does have a repayment agreement with HUD.

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to

1A. Reimburse its program \$535,903 from non-Federal funds (\$507,860 for the property purchase plus \$28,043 for legal costs) for the improper use of program funds to pay for the property's acquisition costs.

Report #2011-CH-1012, Saginaw Housing Commission Continued To Use Its Public Housing Funds for Ineligible Purchases

The following significant recommendation is still open. The Commission does have a repayment agreement with HUD.

We recommend that the Director of HUD's Detroit Office of Public Housing require the Commission to

2A. Reimburse its Capital Fund \$1,539,629 from non-Federal funds for the ineligible payments cited in this finding.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible 1/	Unsupported 2/
1A		\$258,288
2A	\$112,300	
2B	9,156	
3A		57,035
3B	22,430	
4A		46,239
4B		14,238
4C		7,166
5A	47,500	
6A	11,289	
7A		141,842
7B		<u>5,728</u>
7C	<u>3,140</u>	
7E		
Totals	<u>\$205,815</u>	<u>\$530,536</u>

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



SAGINAW HOUSING COMMISSION

January 12, 2012

Ronald Farrell
Assistant Regional Inspector General for Audit
United States Department of HUD-Office of Inspector General
200 North High Street, Room 334
Columbus, OH 43215-2499

SUBJECT: Saginaw Housing Commission Audit- Audit Report Number 2012-CH-100X
American Recovery and Reinvestment Act of 2009

Dear Mr. Farrell:

The Saginaw Housing Commission would like to submit the following responses to the findings noted in the above-cited audit.

If you have any questions or concerns in this regard, do not hesitate to contact me at (989) 755-8183 ext. 137.

Respectfully,

//Signed//

Peter Chitekwe
Executive Director
Saginaw Housing Commission

Enclosures

Cc: Board of Commissioners



1803 Norman Street ■ P.O. Box 3225 ■ Saginaw, Michigan 48605-3225
Phone: (989) 755-8183 ■ Fax: (989) 755-8161



Ref to OIG Evaluation

Auditee Comments

Saginaw Housing Commission Response –
Audit Report 2012-CH-100X American Recovery and Reinvestment Act of 2009

Comment 1	<p>Finding 1: The Commission Did Not Follow Recovery Act, HUD’s, or Its Requirements for Procurement and the Davis-Bacon Act</p> <p>SHC Response: The Saginaw Housing Commission agrees with this finding. However, Saginaw Housing Commission has taken steps to improve and ensure compliance with its Procurement Policies. More training has been provided to staff to ensure this is achieved.</p>
Comment 2	<p>Finding 2: The Commission Did Not Include Its Projects in Its 5-Year Plans and Annual Statements of Performance and Evaluation</p> <p>SHC Response: The Saginaw Housing Commission agrees with this finding. It is unfortunate that the Saginaw Housing Commission did not include its ARRA projects in its 5-Year Plan and Annual Statements of Performance and Evaluations. This was primarily due to staff misunderstanding of the ARRA Grants requirements and guidelines. The general understanding of the ARRA Grant was that it was supplemental to what was in our 5-Year Plan and Annual Statement of Performance and Evaluations.</p>
Comment 3	<p>Finding 3: The Commission Did Not Comply with HUD’s or Its Section 3 Requirements</p> <p>SHC Response: While the Saginaw Housing Commission agrees with this finding, it is also important to note that the Saginaw Housing Commission was able to hire five (5) full time laborers through its Section 3 Policy. Indeed Saginaw Housing Commission will strive to train staff on Section 3 compliance and full understanding. To that effect, the Saginaw Housing Commission has also corrected its Federalreporting.gov ARRA grant report to reflect the number of full time laborer jobs created. The Section 3 training will need to focus on how Section 3 training works for staff to fully comply.</p>
Comment 4	<p>Finding 4: The Commission Did Not Maintain Sufficient Accounting Records for Its Recovery Act Grant Administrative Fees</p> <p>SHC Response: The Saginaw Housing Commission disagrees with this finding. It was the Saginaw Housing Commission understanding that Housing Commissions were allowed to take 10% of paid invoices for Administration. Thus, the Saginaw Housing Commission budgeted the appropriate Administration fees in COCC simply because that’s where all Administration front line expenses and revenue are recorded. Per Asset Management guidelines all funds in COCC are de-federalized. Appropriate line items were set up in our General Ledger using the Charts of Accounts.</p>

Ref to OIG Evaluation

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Comment 5

Even though Capital Fund Program cannot be used to directly support COCC it was the Saginaw Housing Commission understanding that COCC is allowed to collect 10% of Capital Fund Grant Program. Staff have been given appropriate training in regards to Asset Management guidelines with full understanding now.

Finding 5: The Commission’s Architect Contract Did Not Comply with HUD’s Requirements

Comment 6

SHC Response: The Saginaw Housing Commission agrees with this finding and plans to continue to offer more training. To that effect Saginaw Housing Commission has established a specific department called Comprehensive Improvements in order to ensure both accountability and responsibility and also adherence to HUD’s guidelines and requirements.

Finding 6: The Commission Did Not Appropriately Select the Contractor for Its Tile Replacement Contract

Comment 6

SHC Response: The Saginaw Housing Commission agrees with this finding and current Administration can not speculate as this was done by an Interim Executive Director who is no longer here. Furthermore, as previously indicated the Saginaw Housing Commission has improved accountability, responsibility and efficiency by establishing a separate department to handle the Capital Fund Program

Finding 7: The Commission Did Not Appropriately Acquire and Dispose of Its Equipment

Comment 7

SHC Response: The Saginaw Housing Commission agrees with this finding. Furthermore, the Saginaw Housing Commission did not have prior knowledge of what other agencies were doing in relationship to disposal of appliances. For example, the Saginaw Housing Commission was not aware that a local energy company, called Consumers Energy, had an appliance recycling program.

OIG Evaluation of Auditee Comments

- Comment 1** The Commission's actions should improve its procurement process, if fully implemented. HUD will determine whether the improvements meet its requirements and that the policies are implemented correctly.
- Comment 2** It was unfortunate that the Commission did not include its Recovery Act projects in its 5-year plan and annual statements of performance and evaluation because they had the requirements in their files. HUD's Office of Capital Improvements provided all public housing authorities an announcement for the award of funds for the Capital Fund formula grants. In that announcement, HUD also notified authorities that they would need to submit a Capital Fund Annual Statement form 50075.1 describing the specific activities that they will undertake with the Recovery Act Formula grant funds no later than April 10, 2009. In addition, they will be required to submit a resolution from their governing board with their Capital Fund annual statement for the Recovery Act grant funding.
- Comment 3** We commend the Commission's efforts to hire people using its Section 3 policy. However, we could not verify that it only hired 4 full-time laborers. The Commission did not provide any documentation to support its hiring of a fifth laborer.
- Comment 4** As stated in Finding 4 of this report, the Commission's accounting records were not sufficient enough for us to determine whether its central office cost center was fully implemented in fiscal year 2010.
- Comment 5** While we agree with the Commission's understanding of the use of 10 percent of the formula grant for administrative costs, HUD will determine whether the Commission has fully implemented its central office cost center.
- Comment 6** The Commission established its Comprehensive Improvements department in 2010. As a result, HUD will determine whether the department assists the Commission in meeting HUD's and its contracting requirements are implemented correctly.
- Comment 7** The Commission could have searched the internet for the disposal of used appliances to determine alternative ways to dispose of its used refrigerators and ranges. Any method would have been better than accepting one offer for its used appliances. The Commission is a member of professional organizations for housing authorities, such as the Michigan Housing Directors Association (MHDA) and the Michigan chapter of the National Association of Housing and Redevelopment Officials (NAHRO). These organizations are excellent networking opportunities to determine better or alternative methods of operations.

Appendix C

FEDERAL AND THE COMMISSION'S REQUIREMENTS

Finding 1

The United States Housing Act of 1937, as amended, section 12(a), states that any contract for loans, contributions, sale, or lease pursuant to this Act must contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the HUD Secretary, should be paid to all architects, technical engineers, draftsmen, and technicians employed in the development and all maintenance laborers and mechanics employed in the operation of the low-income housing project involved and should also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, should be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under Section 8 of this Act, when the public housing agency or the HUD Secretary and the builder or sponsor enter into an agreement for such use before construction or rehabilitation is commenced), and the HUD Secretary should require certification as to compliance with the provisions of this section before making any payment under such contract.

Requirements at 40 U.S.C. 3141 provide that prevailing wages are paid to laborers and mechanics working on contracts in excess of \$2,000 that specify the construction, alteration, or repair, including painting and decorating, of public buildings.

HUD's Office of Public Housing's reporting guidance for RAMPS states that for unit counts related to modernization, one should count all units that are impacted by the modernization activity.

The Commission's annual contributions contract with HUD, part 2, section 315, states that the local authority must not enter into, execute, or approve any agreement or contract for personal, management, legal, or other services with any person or firm when the initial period or term of the contract is in excess of 2 years or when the contract contains a renewal provision for any period without prior written consent of the Government. When an existing contract contains a renewal provision, automatic or otherwise, which extends the term of the contract for any period, the local authority must not act to renew or extend such contract or fail to take any necessary action to forestall automatic renewal or extension without the prior written approval of the Government.

The Commission's annual contributions contract with HUD, part 1, section 14(C)(8), states that notwithstanding any other provision of this contract, (1) the books of account and records of the local authority should be maintained in such manner as will at all times show the operating receipts, operating expenditures, reserves, and residual receipts for the projects separate and distinct from all other projects under this contract, and (2) all annual contributions received by

the local authority in connection with the project should constitute operating receipts of the project.

Regulations at 29 CFR 3.4(a) state that each weekly statement required under 24 CFR 3.3 must be delivered by the contractor or subcontractor, within 7 days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work or if there is no representative of a Federal or State agency at the site of the building or work, the statement must be mailed by the contractor or subcontractor within such time to a Federal or State agency contracting for or financing the building or work. After such examination and check as may be made, such statement or a copy thereof should be kept available or should be transmitted, together with a report of any violation, in accordance with applicable procedures prescribed by the U.S. Department of Labor.

Regulations at 29 CFR 3.4(b) state that each contractor or subcontractor must preserve his weekly payroll records for a period of 3 years from the date of completion of the contract. The payroll records should set out accurately and completely the name and address of each laborer and mechanic and his correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Such payroll records should be made available at all times for inspection by the contracting officer or his authorized representative and by authorized representatives of the U.S. Department of Labor.

Regulations at 29 CFR 5.5(a)(3)(ii)(A) state that the contractor must submit weekly, for each week in which any contract work is performed, a copy of all payrolls to HUD if the agency is a party to the contract.

The U.S. Department of Labor's Memorandum Number 207 states that Federal contracting or assistance-administering agencies have the primary responsibility for the enforcement of Davis-Bacon and related acts to ensure that laborers and mechanics are paid at least the prevailing wage rates required by covered contracts.

HUD's Labor Relations Desk Guide LR04.DG, Making Davis-Bacon Work, a guide for public housing agencies, Key Labor Standards Objectives III, states that the local agency is responsible to perform reviews of certified payroll submissions and other information to help ensure contractor compliance with labor standards provisions and the payment of prevailing wages to workers. Local Agency Responsibilities number 6 states that the local agency is responsible to review certified payroll reports and related documentation, identify any discrepancies or violations, and ensure that any needed corrections are made promptly.

Local Agency Responsibilities number 7 states that the local agency is responsible to maintain full documentation of Federal labor standards administration and enforcement activities. Labor Standards Enforcement number 2 states that the contract administrator or a designee must periodically conduct interviews with the construction workers on the job site. Labor Standards Enforcement number 3 states that in addition to comparing forms HUD-11 to the certified payroll reports, the contract administrator reviews the payroll reports generally to ensure that all laborers and mechanics are being paid no less than the wage rates contained on the applicable Davis-Bacon wage decision for the type of work they perform. Contract administrators should

be particularly alert for indications of payroll falsification—misinformation on payrolls to conceal underpayments. Falsification on payrolls indicates that an employer (contractor or subcontractor) is aware of its obligations, is knowingly underpaying its employees, and is attempting to avoid detection of the violations.

The Desk Guide's Ten Steps to Streamlining Davis-Bacon number 5 states that HUD believes that local contracting agencies can best determine how to maintain their files provided that certain minimum requirements are met. The minimum requirements include compliance with U.S. Department of Labor regulations that certified payrolls and basic records relating to the payrolls are preserved not less than 3 years after completion of the project and the resolution of any enforcement actions which may carry over after completion. In addition, the files must be maintained in such a way that the local contracting agency can use them to demonstrate its compliance with its labor standards administration and enforcement responsibilities. For example, the local contracting agency must be able to demonstrate to a HUD monitor where it is documented that the eligibility of the prime contractor was verified for each contract.

Regulations at 24 CFR 85.36(b)(8) state that grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Paragraph 85.36(b)(9) states that grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement.

Regulations at 24 CFR 85.36(c)(1) state that all procurement transactions will be conducted in a manner providing full and open competition. Paragraph 85.36(d)(1) states that if small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

Regulations at 24 CFR 85.36(d)(2) state that bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph 85.36(d)(2)(i) apply.

- “(i) In order for sealed bidding to be feasible, the following conditions should be present:
 - (A) A complete, adequate, and realistic specification or purchase description is available;
 - (B) Two or more responsible bidders are willing and able to compete effectively and for the business; and
 - (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- (ii) If sealed bids are used, the following requirements apply:
 - (A) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing then sufficient time prior to the date set for opening the bids;
 - (B) The invitation for bids, which will include any specifications and pertinent attachments, should define the items or services in order for the bidder to properly respond;

- (C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- (D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder.”

Regulations at 24 CFR 85.36(f)(1) state that grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make an independent cost analysis before receiving bids or proposals. A cost analysis will be necessary when adequate price competition is lacking and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

Regulations at 24 CFR 85.42(b)(1) state that except as otherwise provided, records must be retained for 3 years from the starting date specified in paragraph (c) of this section. Paragraph (c)(1) states that the retention period for documentation starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

HUD Handbook 7460.8, REV-2, paragraph 3-2(D), states that the contracting officer should prepare or have prepared an independent cost estimate commensurate with the purchase requirement. Paragraph 5.10(A) states that except in the case of bid specifications and contracts for construction or maintenance work in excess of \$2,000, small purchases, including purchase orders, are subject to mandatory clauses contained in table 5.1. Paragraph 5.10(B) states that construction contracts greater than \$2,000 but less than \$100,000 must incorporate clauses contained in form HUD-5370-EZ.

HUD Handbook 7460.8, REV-2, paragraph 6-9(C), states that as bids are publicly opened and read aloud, a tabulation of all bids is prepared showing the name of each bidder and its bid prices including alternates if any. Paragraph 6.11(A) states that in sealed bid construction contracts, three types of bonds or guarantees are required: a bid bond or guarantee, a performance bond, and a payment bond. Paragraph 6.12(B)(2) states that after determining the responsiveness of the low bid, the contracting officer must determine whether the bidder is responsible.

HUD Handbook 7460.8, REV-2, paragraph 9-3(B)(3), states that references to brand names must be followed by the words “or equal” and a description of the item’s essential characteristics so that competition is not restricted. Paragraph 10.9(E)(2) states that the agency is responsible for conducting interviews with the laborers and mechanics on the jobsite to determine whether the work performed and wages received are consistent with the job classifications and wage rates contained in the applicable wage determination and the classifications and wages reported by the employer on certified payrolls.

HUD Handbook 7460.8, REV-2, paragraph 11-2(G)(2), states that the contractor should provide prompt written notification to the agency when all work is completed and that a final inspection

of completed work should then be conducted. Paragraph 11.2(I)(1) states that the agency is responsible for performing required warranty inspections, including the 11-month inspection. Paragraph 11.4(D) states that the public housing agency should maintain accurate records and documentation regarding contract modifications by including a modification register or other record in each contract file. This register is required to provide a permanent record of all actions taken in connection with each contract.

Clause 20(a)(2) of form HUD-5370 defines inspection as examining and testing the work performed under the contract to determine whether it conforms to contract requirements.

Paragraph II(B)(11) of the Commission's procurement policy states that work is inspected before payment to the contractor.

Finding 2

The Commission's Recovery Act procurement policy states that the Commission is permitted to substitute any work item from the latest approved 5-year action plan to any previously approved Capital Fund budget or Capital Fund annual statement and to move work items among approved budgets without prior HUD approval. The Commission can only substitute work items in the annual or 5-year plans to the Recovery Act grant that are not obligated to an open Capital Fund grant.

Section 7i of the Recovery Act grant annual contributions contract amendment states that the public housing agency should prioritize capital projects that are already underway or included in the 5-year Capital Fund plan.

PIH Notice 2009-12, section V, states that by signing the annual contributions contract amendment, the public housing agency is agreeing that capital and management activities will be carried out in accordance with all HUD regulations, including 24 CFR Parts 905, 941, and 968, and other requirements applicable to the Capital Fund program, with the public housing agency's current 5-year Capital Fund action plan as well as the Recovery Act requirements. This includes but is not limited to the environmental review requirements under 24 CFR Parts 50 and 58.

PIH Notice 2009-12, section VI, states that public housing agencies must use these funds on Capital Fund-eligible activities currently identified in either their annual statement (a component of the public housing agency annual plan or the moving to work annual plan) or 5-year action plan. (Note: Revisions to the 5-year plan may be required if the public housing agency has insufficient work items for the amount of funding being provided.). When contemplating use of these additional funds,

- Agencies must give priority consideration to the rehabilitation of vacant rental units;
- Agencies must prioritize capital projects that are already underway and require additional funds or are included in the 5-year Capital Fund action plan;
- Agencies must use the funds provided in this grant to supplement expenditures, not to supplant expenditures from other Federal, State, or local sources or funds independently generated; and

- The agencies will be required to provide a physical needs assessment (PNA), as specified by HUD, using funds from this Recovery Act grant or other capital funds. (Note: Agencies are not required to complete the PNA before commencing modernization work using the Recovery Act grant funds.)

Finding 3

The Recovery Act, Title XV, Department of Housing and Urban Development, section 1512(c), states that not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency must submit a report to HUD that contains

- “1. the total amount of recovery act funds received from the agency;
2. the amount of recovery funds received that were expended or obligated to projects or activities; and
3. a detailed list of all projects or activities for which recovery funds were expended or obligated, including:
 - A. the name of the project or activity;
 - B. a description of the project or activity;
 - C. an evaluation of the completion status of the project or activity; and
 - D. an estimate of the number of jobs created and the number of jobs retained by the project or activity.”

OMB Memorandum M-10-08, part 1, number 5, states that as further promulgated in OMB M-10-05, OMB M-09-21, and OMB M-09-15, timely, complete, and effective reporting under Section 1512 of the Recovery is a term and condition of receiving Recovery Act funding. As a result, Federal agencies will be required to continuously evaluate recipient and subrecipient efforts to meet Section 1512 requirements as well as the requirements of OMB implementing guidance and any relevant Federal program regulations. In particular, Federal agencies will work to identify and remediate instances in which

- Recipients that demonstrate systemic or chronic reporting problems or otherwise fail to correct such problems as identified by the Federal agency,
- Subrecipients under grants and loans that demonstrate systemic or chronic reporting problems or otherwise fail to correct such problems as identified by the recipient or Federal agency, and
- Recipients that demonstrate systemic or chronic deficiencies in meeting their responsibilities to review and identify data quality problems of subrecipients consistent with the requirements of this guidance.

On a case-by-case basis, such findings of a Federal agency can result in termination of Federal funding. Further, in some cases, intentional reporting of false information can result in civil or criminal penalties. Recipients who have failed to submit a Section 1512 report as required by the terms of their award are considered to be noncompliant. Noncompliant recipients, including those who are persistently late or negligent in their reporting obligations, are subject to Federal action up to and including the termination of Federal funding or the ability to receive Federal funds in the future. Federal departments and agencies are reminded that these terms and

conditions of Recovery Act awards, when coupled with other existing policies and procedures, provide a robust mix of actions available to address noncompliance.

OMB Memorandum M-10-08, part 2, section 5.2, number 10, states that this guidance does not establish specific requirements for documentation or other written proof to support reported estimates on jobs created or retained; however, recipients should be prepared to justify their estimates. Recipients must use reasonable judgment in determining how best to estimate the job impact of Recovery Act dollars, including the appropriate sources of information used to generate such estimate. When such written evidence exists, it can be an important resource for validating the job estimates reported.

OMB Circular A-133 Compliance Supplement, addendum #1 - Public and Indian Housing, section III(L)(2), states that for each public and Indian housing grant that involves development, operating, or modernization assistance, the prime recipient *must* submit form HUD-60002 (24 CFR 135.3(a) and 135.90).

Regulations at 24 CFR 135.5 state that a Section 3-covered contract means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3-covered assistance or for work arising in connection with a Section 3-covered project. Section 3-covered contracts do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR chapter 1). Section 3-covered contracts also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3-covered contract. For example, a contract for the purchase and installation of a furnace would be a Section 3-covered contract because the contract is for work (for example, the installation of the furnace) and, thus, is covered by Section 3.

Regulations at 24 CFR 135.5 state that a Section 3-covered project means the construction, reconstruction, conversion, or rehabilitation of housing (including reduction and abatement of lead-based paint hazards) or other public construction, which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Regulations at 24 CFR 135.90 state that each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part must submit to the Assistant Secretary for Public and Indian Housing an annual report, in such form and with such information as the Assistant Secretary may request, for the purpose of determining the effectiveness of Section 3. When the program providing the Section 3-covered assistance requires submission of an annual performance report, the Section 3 report will be submitted with that annual performance report. If the program providing the Section 3-covered assistance does not require an annual performance report, the Section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier. All reports submitted to HUD in accordance with the requirements of this part will be made available to the public.

Regulations at 24 CFR 135.92 state that HUD should have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part or that are maintained in accordance with the regulations governing the specific HUD program under which Section 3-covered assistance is provided or otherwise made available to the recipient or contractor.

HUD's technical assistance for form HUD-60002 states that each recipient (and its covered contractors, subcontractors, or subrecipients) is required to comply with the requirements of Section 3 for new employment, training, or contracting opportunities resulting from the expenditure of covered funding. This responsibility includes

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3-covered assistance;
2. Notifying potential contractors working on Section 3-covered projects of their responsibilities;
3. Incorporating the Section 3 clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
4. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
5. Assisting and actively cooperating with HUD in making contractors and subcontractors comply;
6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
7. Documenting actions taken to comply with Section 3; and
8. Submitting Section 3 annual summary reports (form HUD-60002) in accordance with 24 CFR 135.90.

Section VIII.A.3. of the Commission's procurement policy states that the Commission must comply with all Section 3 requirements and follow all policies and procedures outlined in the Section 3 policy.

Part I of the Commission's Section 3 policy states that contractors will include the contractor's commitment to meet the Commission's resident hiring requirements as one of the ranked criteria in all requests for proposals not to exceed either 20 percent of the total points assigned or 25 points, whichever methodology generates fewer points overall. For invitations for bids in which awards are made to the lowest responsive and responsible bidder, the bidder's commitment to satisfy the Commission's resident hiring requirements will be a factor to use in determining whether the bidder is "responsible." For both requests for proposals and invitations for bids, the contractor should be required to detail the cost of the bid or proposal by separately categorizing contract cost by labor (person hours and dollar amounts) and materials.

Part II of the Commission's Section 3 policy states that the amounts the Commission will require for Section 3 compliance are as follows:

Lowest responsive bid is	Section 3 contribution is the lower of
Less than \$100,000	10% or \$9,000
At least \$100,000 but less than \$200,000	9% or \$16,000
\$200,000 but less than \$300,000	8% or \$21,000
\$300,000 but less than \$400,000	7% or \$24,000
\$400,000 but less than \$500,000	6% or \$25,000
\$500,000 but less than \$ 1 million	5% or \$40,000
\$1 million or more	Minimum \$85,000 or 4% of lowest responsive bid

Part III of the Commission’s Section 3 policy states that there may be situations when the Commission in its best interest may need to award a contract to a business entity that would not be able to directly meet the resident hiring requirements. Accordingly, specific means to enable the contractor to indirectly meet the resident hiring requirements have been drafted. Application of the indirect means should be followed in this order of progression:

- a. Incur the cost of providing skilled training for residents in an amount commensurate with the above sliding scale. Such training should be determined after consultation with the Commission.
- b. In consultation with the Commission, provide economic opportunities to establish, stabilize, or expand resident-owned business concerns, which should include microenterprises. Such opportunities include but are not limited to the formation of joint ventures with resident-owned businesses, the purchase of supplies and materials from resident-owned businesses, or the establishment of or contribution to a revolving loan fund for resident-owned businesses.
- c. Contribute to the Commission’s Section 3 Educational Fund in an amount commensurate with the Section 3 labor cost sliding scale (above).

If a prime contractor is unable to satisfy the Commission’s resident hiring requirements using these indirect means, the requirements may be satisfied through any subcontractors that may be involved in the project.

Finding 4

Federal Register Notice Volume 71, Number 172, section VIII(A), states that a public housing agency may charge up to a maximum of 10 percent of the annual Capital Fund grant as a management fee. While current program rules at 24 CFR 968.112 allow agencies to charge up to 10 percent of the Capital Fund grant for administration, these administrative costs must be specifically apportioned and documented. Under a fee-for-service system, the agency may charge a management fee of 10 percent, regardless of the actual costs.

The Commission’s annual contributions contract with HUD, part 1, section 14(C)(8), states that notwithstanding any other provision of this contract, (1) the books of account and records of the local authority must be maintained in such manner as will at all times show the operating receipts, operating expenditures, reserves, and residual receipts for the projects separate and distinct from all other projects under this contract and (2) all annual contributions received by the local authority in connection with the project should constitute operating receipts of the project.

Regulations at 24 CFR 85.3 define a local government as a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school district, special district, intrastate district, council of governments, any other regional or interstate government entity, or any agency or instrumentality of a local government.

Regulations at 24 CFR 85.20(b)(2) state that the financial management systems of other grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. Paragraph 85.20(b)(6) states that the financial management systems of other grantees and subgrantees must support accounting records by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, and contract and subgrant award documents.

Regulations at 24 CFR 85.22(b) state that for each kind of organization, there is a set of Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The applicable cost principles for State, local, or Indian tribal government are found in OMB Circular A-87.

Regulations at 24 CFR 990.280(b)(1) state that financial information to be budgeted and accounted for at a project level should include all data needed to complete project-based financial statements in accordance with generally accepted accounting principles in the United States, including revenues, expenses, assets, liabilities, and equity data. The public housing agency should also maintain all records to support those financial transactions. At the time of conversion to project-based accounting, a public housing agency should apportion its assets, liabilities, and equity to its respective projects and HUD-accepted central office cost centers.

OMB Circular A-87, attachment A, paragraph (A)(2)(a), states that the application of these principles is based on the fundamental premises that

- (1) Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.
- (2) Governmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.
- (3) Each governmental unit, in recognition of its own unique combination of staff, facilities, and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to ensure proper and efficient administration of Federal awards.

OMB Circular A-87, attachment A, paragraph (C)(1), states that to be allowable under Federal awards, costs must meet the following general criteria:

- “a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
- b. Be allocable to Federal awards under the provisions of this Circular.
- g. Except as otherwise provided for in this Circular, be determined in accordance with generally accepted accounting principles.
- j. Be adequately documented.”

OMB Circular A-87, attachment A, paragraph (C)(2), states that a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately federally funded.

OMB Circular A-87, attachment B, paragraph (8)(h), states that the standards regarding support of salaries and wages regarding time distribution are in addition to the standards for payroll documentation.

OMB Circular A-87, attachment B, paragraph (8)(h)(1), states that charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit.

OMB Circular A-87, attachment B, paragraph (8)(h)(3), states that when employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semiannually and will be signed by the employee or supervisory official having firsthand knowledge of the work performed by the employee.

OMB Circular A-87, attachment B, paragraph (8)(h)(4), states that when employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5). Such documentary support will be required when employees work on

- (a) More than one Federal award,
- (b) A Federal award and a non-Federal award,
- (c) An indirect cost activity and a direct cost activity,
- (d) Two or more indirect activities which are allocated using different allocation bases, or
- (e) An unallowable activity and a direct or indirect cost activity.

OMB Circular A-87, attachment B, paragraph (8)(h)(5), states that personnel activity reports or equivalent documentation must meet the following standards:

- (a) They must reflect an after-the-fact distribution of the actual activity of each employee,
- (b) They must account for the total activity for which each employee is compensated,
- (c) They must be prepared at least monthly and must coincide with one or more pay periods,
- (d) They must be signed by the employee, and

- (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes.

OMB Circular A-133 Compliance Supplement, addendum #1, Capital Fund and Recovery Act Grant Capital Fund Part II, states that HUD provides approval for specific activities through approving the public housing agency plan, which includes the agency's budget for capital funds (24 CFR 968.315). On an annual basis, the agency also provides HUD with its annual statement component 7 of the agency plan (form HUD-50075, OMB No. 2577-0226) in accordance with 24 CFR 968.325(e), which details the eligible activities to be funded with the current year's grant and the estimated costs. An agency must have an approved 5-year plan to have access to capital funds. The funds are limited to a certain number of budget line items until HUD approves the agency plan. Once HUD approves the agency plan, it allocates capital funds to all of the appropriate budget line items in LOCCS in accordance with the information contained in the agency plan. The agency can then draw down funds as needed on a 3-day turnaround basis to pay for approved work activities.

HUD's Supplement to HUD Handbook 7475.1, REV, CHG-1, Financial Management Handbook, section 5-1, states that as determined in the Operating Fund Program final rule, a fee-for-service method will be put into practice as part of the conversion to asset management, which includes the Capital Fund program. Beyond the Capital Fund management fee, Capital Fund program funds can only be used to directly support the projects and their residents. Except for certain exceptions noted in this section and other than through the use of management fees, Capital Fund program funds cannot be used to directly support the central office cost center.

The Commission's Recovery Act procurement policy states that all expenditures from account 1410 are limited to 10 percent of the total grant. The Commission may draw up to 10 percent of each expenditure reimbursement for administration of the Recovery Act grant, or with field office approval, the Commission may draw beyond 10 percent of the expenditure if it demonstrates that it has already incurred the administrative expense.

Finding 5

The Commission's annual contributions contract with HUD, part 2, section 315, states that the local authority must not enter into, execute, or approve, any agreement or contract for personal, management, legal, or other services with any person or firm when the initial period or term of the contract exceeds 2 years or when the contract contains a renewal provision for any period without prior written consent of the Government. When an existing contract contains a renewal provision, automatic or otherwise, which extends the term of the contract for any period, the local authority must not act to renew or extend such contract or fail to take any necessary action to forestall automatic renewal or extension without the prior written approval of the Government.

HUD Handbook 7460.8, REV-2, paragraph 10-8(C)(2), states that contracts should not exceed a period of 5 years, including options for renewal or extension. However, the Commission is operating under an annual contributions contract (forms HUD-53010 and -53011) with HUD, which states that the maximum contract term is 2 years. Contracts, other than energy

performance contracts, with terms plus extensions that exceed a total of 5 years are viewed as restrictive of competition and in violation of 24 CFR 85.36(c). A field office may approve contracts in excess of 5 years if it determines that there is no practical alternative.

Section B4.1 of the Commission's original contract with the architect, dated July 6, 2005, states that all payments should require a written invoice. Payments for basic services must be in proportion to services completed within each phase of work. When requesting payments, the invoice should identify the phase and portion completed. All invoices should state the services completed and the dates of completion. Section B4.2 states that upon the proper submission of invoices for work performed, the Commission should review and, if the work conforms with the terms of the agreement, make payment within 30 days of the receipt of invoice.

Title XII of the Recovery Act states that the Recovery Act grant is to carry out capital and management activities for public housing agencies as authorized under Section 9 of the United States Housing Act of 1937, as amended.

Finding 6

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

Regulations at 24 CFR 85.36(c)(1) state that all procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 24 CFR 85.36. Some of the situations considered to be restrictive of competition include but are not limited to

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

Regulations at 24 CFR 85.36(e)(1) state that the grantee and subgrantee will take all necessary affirmative steps to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

Regulations at 24 CFR 85.36(e)(2) state that affirmative steps should include

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

- (ii) Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- (iv) Establishing delivery schedules, when the requirement permits, which encourage participation by small and minority businesses and women's business enterprises;
- (v) Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2)(i) through (v) of this section.

HUD Handbook 7460.8, REV-2, paragraph 5-5(A), states that before making an award, the contracting officer must determine that the proposed price is fair and reasonable. For most small purchases, price analysis is sufficient to make that determination. In cases in which the public housing agency purchases services or items of a noncommercial nature (for example, a special training course designed for the public housing agency's employees), submission of cost details and a cost analysis may be needed.

Finding 7

Regulations at 24 CFR 85.25(b) state that program income means gross income received by the grantee or subgrantee directly generated by a grant-supported activity or earned only as a result of the grant agreement during the grant period. During the grant period is the time between the effective date of the award and the ending date of the award reflected in the final financial report.

Regulations at 24 CFR 85.25(f) state that proceeds from the sale of real property or equipment will be handled in accordance with the requirements of 24 CFR 85.31 and 85.32.

Regulations at 24 CFR 85.25(g) state that program income should be deducted from outlays, which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g)(2) and (3) of this section, program income in excess of any limits stipulated should also be deducted from outlays.

Regulations at 24 CFR 85.32(c)(4) state that when acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

Regulations 24 CFR 85.32(d) state that procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

- (1) Property records must be maintained that include a description of the property; a serial number or other identification number; the source of property; who holds title; the acquisition date and cost of the property; the percentage of Federal participation in the cost of the property; the location, use, and condition of the property; and any ultimate disposition data including the date of disposal and sale price of the property.
- (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every 2 years.
- (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
- (4) Adequate maintenance procedures must be developed to keep the property in good condition.
- (5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

Regulations at 24 CFR 85.42(b)(1) state that except as otherwise provided, records must be retained for 3 years from the starting date specified in paragraph (c) of this section. Paragraph 85.42(c)(2) states that the retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

The Commission's disposition policy states that personal property belonging to the Commission must not be sold or exchanged for less than fair value. Any personal property belonging to the Commission that is no longer needed for the Commission's operations should be declared excess.

The Commission's disposition policy states that sales of excess personal property should be conducted in the following manner:

- A. The executive director should declare personal property that is worn out, obsolete, or surplus to the needs of the Commission excess. All such declarations must be documented in writing. A survey to identify such property should be conducted at least once a year following the inventory. The executive director should assign the duty to perform a survey to the Procurement Department.
- B. If the estimated market value of the personal property offered for sale is less than \$1,000, the executive director may negotiate a sale in the open market after such informal inquiry as he or she considers necessary to ensure a fair return to the Commission. The sale must be documented by an appropriate bill of sale.
- C. For sales of excess property valued between \$1,000 and \$10,000, the executive director or his or her designee should solicit informal bids orally, by telephone, or in writing from all known prospective purchasers, and a tabulation of all such bids received should be prepared and retained as part of the permanent record. The sale should be documented by an appropriate bill of sale.