



**Hammond Housing Authority
Hammond, IN**

**American Recovery and Reinvestment Act Public
Housing Capital Fund Grant**

**The Authority Did Not Administer Its Grants in
Accordance With Recovery Act, HUD's, and Its
Own Requirements**



Issue Date: August 3, 2012

Audit Report Number: 2012-CH-1009

TO: Forrest Jones, Program Center Coordinator, Office of Public Housing, 5HPH

//signed//

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

SUBJECT: The Hammond Housing Authority, Hammond, IN, Did Not Administer Its Recovery Act Grants in Accordance With Recovery Act, HUD's, and Its Own Requirements

Enclosed are the U.S. Department of Housing and Urban Development (HUD) Office of Inspector General's (OIG) final results of the audit of the Hammond Housing Authority's American Recovery and Reinvestment Act Public Housing Capital Fund stimulus formula and competitive grants.

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

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

If you have any questions or comments about this report, please do not hesitate to call me at (312) 913-8684.



August 3, 2012

The Hammond Housing Authority, Hammond, IN, Did Not Administer Its Recovery Act Grants in Accordance With Recovery Act, HUD's, and Its Own Requirements

Highlights

Audit Report 2012-CH-1009

What We Audited and Why

We audited the Authority's Recovery Act formula and competitive grants. The audit was part of the activities in our fiscal year 2012 annual audit plan. We selected the Authority based upon our analysis of risk factors related to the housing agencies in Region V's¹ jurisdiction. Our objective was to determine whether the Authority administered its grants in accordance with Recovery Act, HUD's, and its own requirements.

What We Recommend

We recommend that the program coordinator of the Office of Public Housing require the Authority to (1) provide documentation or reimburse HUD \$174,471 from non-Federal funds for transmission to the U.S. Treasury for inappropriate change orders, (2) support or reimburse HUD more than \$106,000 from non-Federal funds for transmission to the U.S. Treasury, (3) pursue collection of \$7,000 from its mixed finance development partner from non-Federal funds, and (4) implement adequate procedures and controls to address the findings cited in this audit report.

¹ Region V includes the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

What We Found

The Authority did not administer its grants in accordance with Recovery Act, HUD's, and its own requirements. While the Authority generally obligated and expended its Recovery Act funds in accordance with Recovery Act rules and regulations, it did not ensure small purchases or contracts above its small purchase threshold were properly procured and executed in accordance with HUD's requirements and its own procurement policies. Further, it did not ensure Federal and its own procurement requirements were followed when change orders were approved for work items that were outside the scope of work for the construction contracts.

The Authority also did not ensure that Recovery Act grant funds were (1) disbursed within HUD's required timeframe, (2) properly allocated and drawn from appropriate budget line items, and (3) spent on eligible items.

The Authority did not ensure that its contractors complied with buy-American requirements of the Recovery Act, the Davis-Bacon Act, and HUD's Section 3 Act of 1968. It also did not accurately report its Recovery Act information for all three Recovery Act grants in FederalReporting.gov.

These deficiencies resulted in \$1,625 in ineligible costs, \$281,049 in unsupported costs, and \$7,000 in funds to be put to better use. Additionally, the public did not have access to accurate information relating to the Authority's expenditures of the Recovery Act funds.

TABLE OF CONTENTS

Background and Objective	3
Results of Audit	
Finding 1: The Authority Did Not Comply With HUD's and Its Own Procurement Requirements	5
Finding 2: The Authority Did Not Always Administer Its Grant Funds Appropriately	10
Finding 3: The Authority Did Not Ensure That Its Contractors Complied with Buy-American, Davis-Bacon, and HUD's Section 3 Requirements	13
Finding 4: The Authority Did Not Accurately Report Recovery Act Information	17
Scope and Methodology	21
Internal Controls	24
Appendixes	
A. Schedule of Questioned Costs and Funds To Be Put to Better Use	26
B. Auditee Comments and OIG's Evaluation	27
C. Federal and the Authority's Requirements	31

BACKGROUND AND OBJECTIVE

The Hammond Housing Authority was established by the State Housing Board of Indiana in May 1938 under the laws of the State of Indiana to provide decent, safe, and sanitary housing. The Authority is governed by a seven-member board of commissioners. The mayor of Hammond appoints the commissioners to serve a 4-year or less staggered term. As of October 11, 2011, the Authority had seven commissioners on its board. The board's responsibilities include overseeing the administration of the Authority and approving policies. The board appoints the executive director, who is responsible for ensuring that the policies are followed and providing oversight of the Authority's programs.

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 the 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 accordance with the Recovery Act, HUD provided grants funded competitively to public housing authorities to carry out priority capital and management activities in public housing through four funding categories to include (1) improvements addressing the needs of the elderly and/or persons with disabilities, (2) public housing transformation, (3) gap financing for projects that were stalled due to financing issues, and (4) creation of energy efficient green communities.

In March 2009, the Authority received a formula grant for more than \$1.6 million. In September 2009, the Authority received a competitive grant of \$10 million for public housing transformation and another competitive grant totaling \$572,000 for improvements addressing the needs of the elderly and person with disabilities (senior grant). The Authority 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. The Authority had obligated and expended all of its formula and competitive transformation grant as of December 21, 2010, and October 19, 2011, respectively. As of February 27, 2012, the Authority had obligated and expended nearly 84 percent of its competitive senior Recovery Act grant.

The Authority loaned the competitive transformation grant of \$10 million to its for-profit entity for a mixed-finance development as approved by HUD. The Authority's nonprofit organization was responsible for developing this mixed-finance development. In addition, the for-profit entity, American Heartland Homes One, Limited Liability Corporation, which was established by the Authority's nonprofit organization, is the owner and the Authority is the property manager. The Authority was responsible for ensuring the for-profit entity followed HUD's regulations.

In addition, according to an Authority employee, who is also the American Heartland Homes property manager, the Authority's procurement policy applies to the American Heartland Homes One since the Authority is its contracted property manager.

Our objective was to determine whether the Authority administered its grants in accordance with Recovery Act, HUD's, and its own requirements. Specifically, we wanted to determine whether

the Authority (1) appropriately procured contracts for grant projects; (2) appropriately administered its Recovery Act grant funds; (3) ensured that its contractors followed Recovery Act, HUD's, and its own requirements; and (4) correctly reported its expenditures of Recovery Act grant funds in FederalReporting.gov.

RESULTS OF AUDIT

Finding 1: The Authority Did Not Comply With HUD's and Its Own Procurement Requirements

The Authority procured and executed small purchases or contracts above its small purchase threshold contrary to HUD's and its own procurement requirements. Additionally, it (1) incorrectly disposed of housing units for less than the assessed values and (2) inappropriately approved change orders. This condition occurred because the Authority lacked an understanding of Federal and its own procurement requirements. It also lacked adequate controls to ensure compliance with HUD's and its own requirements. As a result, HUD and the Authority lacked assurance that services were procured at the best price and competition was open.

Small Purchases Were Not Properly Administered

The Authority's small purchase threshold was \$75,000 for the purchase of goods and construction contracts. It used small purchase contracts to procure services using funds from its Recovery Act competitive transformation grant. For both of the work items we reviewed, the Authority failed to ensure that required documentation was obtained and maintained in accordance with HUD's requirements and its own policies and procedures. The two items reviewed totaling more than \$39,000 were for (1) phase I environmental site assessment with liability insurance clause and (2) asbestos air clearance testing. Documentation was not maintained to support

- Quotes were solicited for both of the work items, and
- Independent cost estimates were completed for one work item.

For the procurement of the environmental assessment, the Authority's modernization director stated, review of available time and cost constraints led to a determination that it would be advantageous to negotiate a contract with the company, Amereco to prepare a new phase I report with the required insurance clauses as opposed to reprocurring. The environmental site assessment was completed three times in total by two companies and was paid for accordingly. Also, the need for a company conducting the review to have specific insurance clauses and the time period of having the report completed constituted as a new scope, for which the small purchases requirements should have been followed. Further, HUD's regulations require solicitation of quotes from at least three companies even by telephone. However, there was no documentation to support quotes were solicited for the environmental site assessment. Recovery Act funds totaling \$12,300 were paid for the environmental site assessment.

For the removal of asbestos, the Authority contracted with a company that it had used previously instead of following its procurement policies and Federal

requirements. Recovery Act transformation grant funds totaling \$26,875 were paid for the inappropriately procured service.

Procurement Documents for Above Small Purchase Threshold Contracts Were Not Consistently Maintained

The Authority executed three contracts above its small purchase threshold for its formula and competitive senior grants. In addition, the Authority's nonprofit or for-profit entity executed four contracts above its small purchase threshold for the competitive transformation grant. We reviewed the contract files and procurement documentation for all three contracts for the formula and senior grants and two contracts for the transformation grant. The Authority failed to ensure that

- A public notice was issued in accordance with its procurement policy for all five contracts reviewed,
- A public bid opening was identified for two sealed bid contracts,
- The statement of award was included in the public notice and the solicitation for two sealed bid contracts,
- Accurate bid tabulation was conducted or bid forms were maintained on file to match the bid tabulation for two contracts,
- An addendum was issued to the request for proposal for one contract,
- The effective date of two contracts was accurate,
- An independent cost estimate was prepared before the issuance of the solicitation for one contract, and
- Board approval was obtained before the contract award was made for one contract.

According to the Authority's procurement policy, purchases over \$75,000 must be approved by the board of commissioners. For one contract, involving the procurement of a consultant for the mixed-finance development, the board approved the contract on October 22, 2008, and the award notification was issued on October 23, 2008. However, the rejection letters to the unsuccessful firms were dated August 26, 2008, which was before the board's approval.

Units Were Sold at Less Than the Assessed Value

For the mixed-finance development, the Authority was required to sell a portion of its existing project to the for-profit entity. HUD's Special Applications Center approved the Authority's request to dispose of 112 units. According to the warranty deed, the Authority sold 112 housing units for \$940,000. However as of May 1, 2010, the appraiser determined that the assessed value was \$940,000 for 110 units, instead of 112 units. Regulations at 24 CFR (Code of Federal Regulations)

970.19(a) state that when HUD approves the disposition of real property of a development, in whole or in part, the Authority must dispose of the property promptly for not less than fair market value.

Using the methodology applied by the appraiser, we determined that the two additional units, for which the Authority did not obtain cash or which it did not include under the terms of the promissory note, would be assessed at approximately \$7,000.

The Approval of Change Orders Limited Competition

The Authority approved change orders that were outside the general scope of work for two of its Recovery Act-funded contracts. Specifically, for the construction contract for its highrise project, the Authority inappropriately approved 6 of the 17 change orders totaling \$24,950 (\$6,859 from the Recovery Act formula grant + \$8,753 from the Recovery Act competitive senior grant + \$9,338 from the annual Capital Fund grant). For the townhomes project, the Authority inappropriately approved three change orders totaling \$6,529 (\$5,542 from the Recovery Act formula grant + \$987 from the annual Capital Fund grant). Further, the Authority's for-profit entity approved change orders that were outside the general scope of work for one construction contract. Specifically, for the Authority's American Heartland Homes One project, the Authority's nonprofit or for-profit entity inappropriately approved seven change orders totaling \$265,882 (\$153,318 from the Recovery Act competitive transformation grant + \$112,564 from the annual Capital Fund grant). The inappropriate change orders totaled \$297,361, of which \$174,471 was from the Recovery Act grants.

HUD's regulations provide that the contracting officer may at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes in (1) the specifications (including drawings and designs); (2) the method or manner of performance of the work; (3) Authority-furnished facilities, equipment, materials, services, or site; or (4) directing the acceleration in the performance of the work. All three of these contracts were procured using either sealed bidding or a request for proposal. However, since the Authority approved 16 change orders that were outside the general scope of the original contracts, it should have procured the services competitively in accordance with HUD's requirements.

The Authority or its for-profit entity lacked documentation to support that the installation of remote readers and water meters was denied by the city's water department, causing the for-profit entity to install the readers and meters using Recovery Act funds totaling \$20,575.

The Authority Lacked an Understanding of Federal and Its Own Procurement Requirements

The Authority lacked an understanding of Federal and its own procurement requirements. It also lacked adequate controls to ensure compliance with HUD's requirements. According to the Authority, the changes to the scope of work for the three contracts were for the betterment of the projects and were the result of time and cost constraints. Therefore, it believed that these modifications were necessary.

Conclusion

The Authority procured and executed small purchases or contracts above its small purchase threshold contrary to HUD's and its own procurement requirements. Additionally, it (1) incorrectly disposed of housing units for less than the assessed values and (2) inappropriately approved change orders. As a result, HUD and the Authority lacked assurance that contracts were properly procured and executed.

Recommendations

We recommend that the program center coordinator of HUD's Office of Public and Indian Housing require the Authority to

- 1A. Provide documentation to show that the contract costs for its phase I environmental site assessment were reasonable or reimburse HUD \$12,300 from non-Federal funds for transmission to the U.S. Treasury.
- 1B. Provide documentation to show that the contract costs for the testing of asbestos were reasonable or reimburse HUD \$26,875 from non-Federal funds for transmission to the U.S. Treasury.
- 1C. Implement adequate quality controls to ensure that contracts are procured and executed in accordance with Federal requirements and its own policies and procedures.
- 1D. Negotiate with its for-profit entity an amendment to the promissory note to reflect the appropriate fair market value of 112 units and pursue collection of the funds owed, which are estimated to be \$7,000.
- 1E. Provide documentation or reimburse HUD \$174,471 from non-Federal funds for transmission to the U.S. Treasury for the Recovery Act grants funds used for inappropriate change orders cited in this finding.

- 1F. Provide documentation or reimburse HUD \$20,575 from non-Federal funds for transmission to the U.S. Treasury for the ineligible change orders cited in this finding.
- 1G. Implement adequate quality control procedures to ensure that its for-profit's contracts are procured and executed in accordance with Federal requirements.

Finding 2: The Authority Did Not Always Administer Its Grant Funds Appropriately

The Authority did not always administer its grant funds appropriately. Specifically, it did not ensure that Recovery Act funds were disbursed within the required timeframe or allocated and drawn from appropriate budget line items. Additionally, the Authority used the grant funds to purchase an ineligible item. This condition occurred because the Authority lacked quality control procedures for its program grant disbursements. As a result, the U.S. Treasury paid \$1,625 in interest, and HUD and the Authority lacked assurance that the Authority's books of record were accurate.

Recovery Act Grant Funds Were Not Disbursed in a Timely Manner

We reviewed 100 percent of the Authority's funds drawn from HUD's Line of Credit Control System for the Recovery Act formula and competitive transformation grants. Also, we reviewed 100 percent of the funds drawn from the Authority's competitive senior grant as of February 27, 2012. The draws were reviewed to determine whether disbursements to vendors were timely and eligible items were purchased and correctly recorded on its general ledger. Our review was limited to the information available in HUD's system and documents provided by the Authority.

According to HUD's regulations for a mixed-finance development, the Authority must release funds to its for-profit mixed-finance partner, American Heartland Homes One, within 2 working days of receiving the funds from HUD. Further, American Heartland Homes One was required to distribute funds within 2 working days of receipt from the Authority. Contrary to HUD's requirements, for the competitive transformation grant totaling \$10 million, the Authority released 13 requested payments totaling more than \$5.3 million (54 percent) to American Heartland Homes One in 3 to 11 days of receipt from HUD. Additionally, American Heartland Homes did not distribute nearly \$839,000 (8 percent) of the grant funds to vendors in a timely manner. The number of days that elapsed before the vendors were paid ranged from 3 to 305 days.

In addition, according to HUD's regulations for Recovery Act competitive grants, the Authority must distribute the grant funds within 3 working days of receipt of the funds. However for its competitive senior grant, the Authority took 14 days to distribute one payment totaling \$2,772 in grant funds.

Funds Were Not Allocated or Withdrawn From Appropriate Budget Line Items

For the Authority's \$10 million competitive transformation grant, contrary to its approved summary budget, which included budget line items 1460 (dwelling structure), 1450 (site improvement), 1430 (fees and costs), and 1495 (relocation cost), it allocated and drew down all of its funds from budget line item 1499 (development activities). According to the Authority's mixed-finance amendment to its consolidated annual contributions contract, the project should be developed in accordance with the HUD-approved budget and sources and uses set forth in exhibit F of the mixed-finance annual contributions contract amendment. In addition, according to the Authority, HUD now requires it to identify and separate the funds among the appropriate approved budget line items as a result of its review.

Grant Funds Were Used For an Ineligible Item

According to Federal regulations, Recovery Act grants cannot be used for the purchase of operational items. However, when we reviewed the Authority's invoices and payments, we determined that it purchased an operational item, a backup device for an electrical power outlet, using \$80 from its Recovery Act competitive senior grant.

The Authority's Invoice Payment Procedure Lacked Quality Controls

The Authority lacked quality control procedures for its program grant disbursements. According to the Authority's procedures, its modernization director codes invoices to be paid by specific grants, and the accounts payable manager records the journal entries and then issues checks once they both are approved by the finance administrator. However, the finance administrator does not receive the coded invoices or review the accounts used for payment of the invoices when approving the journal entries for issuance of the checks.

Consequently, funds from the Authority's competitive transformation grant totaling \$15,626 were used to pay for activities not related to the mixed-finance development. Although the Authority discovered the error and attempted to correct it, the Authority incorrectly reversed a charge of \$8,775, which had been correctly paid from the Recovery Act competitive transformation grant.

In addition, for the Recovery Act formula grant, the Authority did not record a charge of nearly \$3,072 that it incurred in June 2010 on its books of record.

According to the Authority's finance administrator, the expenses were not recorded due to an oversight. Therefore, the accounts payable manager made a correcting journal entry on December 16, 2011, to record the expenses.

Conclusion

The Authority did not ensure that funds were disbursed and paid within HUD's required timeframe, records adequately identifying the source and application of funds provided for financially assisted activities were maintained, and only eligible items were purchased. This condition occurred because the Authority lacked quality control procedures for its program grant disbursements to ensure that the Authority and its for-profit entity administered the Recovery Act grants in accordance with HUD's requirements. As a result, the Authority caused the U.S. Treasury to pay \$1,625 in interest². In addition, HUD and the Authority lacked assurance that the Authority's books of record were accurate.

Since the Authority's Recovery Act grant funds are fully or almost fully disbursed, we do not make a recommendation for developing and implementing adequate procedures and controls to ensure it accurately allocates funds to appropriate budget line items, and funds are used for eligible activities.

Recommendations

We recommend that the program center coordinator of HUD's Office of Public and Indian Housing require the Authority to

- 2A. Reimburse HUD \$1,625 from non-Federal funds for transmission to the U.S. Treasury for interest incurred due to its untimely disbursement of funds.
- 2B. Maintain adequate books of record that identify the sources and applications of funds provided for financially assisted activities.

² Our determination of the interest amount paid by the U.S. Treasury is included in the Scope and Methodology section of this report.

Finding 3: The Authority Did Not Ensure That Its Contractors Complied With Buy-American, Davis-Bacon, and HUD's Section 3 Requirements

The Authority did not ensure its contractors complied with buy-American, Davis-Bacon Act, and HUD's Section 3 Act of 1968 requirements. This condition occurred because the Authority lacked an understanding of Federal requirements and adequate quality control procedures to ensure that its contractors and its for-profit entity's contractors followed Federal requirements. As a result, one of its contractors purchased products totaling \$46,828 that did not meet buy-American requirements, and 22 of the weekly payroll reports reviewed did not identify the payment method of fringe benefits. In addition, the Section 3 clause was not included in 12 of the contracts reviewed.

The Authority Did Not Follow the Buy-American Requirements of the Recovery Act

According to Federal regulations, the Authority was required to ensure that its contractors purchased iron, steel, and manufactured goods for the project that were produced in the United States. The Authority executed two construction contracts, and the Authority's for-profit entity executed one construction contract, for which the Recovery Act formula, competitive senior, and competitive transformation grants funds were used.

We randomly reviewed 16 of at least 1,781 items purchased in completing the three projects. We reviewed the items to determine whether the goods were manufactured in the United States. Our review was limited to the invoices provided by the Authority, contractors, an online search of the manufacturers of the products, direct contact with the manufacturers, and physical examination of the products.

Contrary to Federal regulations, the Authority did not ensure that its heating, ventilation, and air conditioning equipment totaling \$2,973 and ceramic floor tiles totaling \$2,060 were manufactured in the United States. In addition, it did not ensure that tankless water heaters totaling \$84,514, thermostats totaling \$2,519 (\$1,926 of which was from the Recovery Act funds), refrigerators totaling \$44,856, and hardware cloth totaling \$46 used by the Authority's for-profit entity were manufactured in the United States.

According to the Authority's modernization director, the Authority was aware that the air conditioning units, floor tiles, and the tankless water heaters were not manufactured in the United States. The Authority submitted to HUD a request for an exemption from the buy-American requirements for the air conditioning units in August 2010. However, it did not receive any correspondence from HUD at the

time and did not follow up on its exemption request until 1 year later in October 2011, following the audit team's inquiry. For the floor tiles and water heaters, the modernization director said that the Authority or its for-profit entity did not need an exemption approved by HUD since the United States has a world trade agreement with the countries³ in which these products were manufactured. However, Federal regulations provide that the world trade agreements apply only if the Authority was a party to the international agreement and listed on the appendix of Federal Register Volume 74, Number 77, issued on April 23, 2009. Since the Authority was not included on the appendix of this register, a HUD exemption from the buy-American requirement was necessary.

The Authority's modernization director said that the U.S. Department of Energy granted a waiver of the buy-American requirements for the air conditioning units and tankless water heaters and, therefore, the Authority was not required to seek an exemption of the requirements from HUD. However, HUD's regulations stated that the Authority did not need a waiver from HUD if another Federal agency had issued a waiver, except when a public housing project was involved. The waiver granted by the Department of Energy did not identify whether a public housing project was involved.

As of July 2012, the Authority had submitted a waiver to HUD for all of the items identified as not having been manufactured in the United States. The Authority later received a waiver from HUD to use the air conditioning units, tankless water heaters, and ceramic floor tiles.

The Davis-Bacon Act Was Not Followed

We reviewed 258 randomly selected certified payroll reports to determine whether reports were maintained on file, wage payments included in the reports matched the actual payments, and the method of payment for fringe benefits was identified. Our review was limited to the information provided by the Authority and contractors. Of the 258 weekly reports, 45 (17 percent) were not maintained on file, and the method of payment for fringe benefits was not identified in 22 of the weekly reports. In addition, neither the Authority nor its for-profit entity obtained copies of pay stubs or paychecks to ensure that employees received the wages reported on the payroll documents received.

The modernization director said that the Authority was not required to obtain copies of pay stubs or paychecks. However, the employee interview form, a standard and mandatory form to be completed by the Authority, included a field on pay stubs. Therefore, the pay stubs field should have been checked by the interviewer. Further, a periodic sample review of pay stubs or paychecks would provide assurance that the

³ Italy, Portugal and Mexico, Canada, the Netherlands, the Republic of Korea, the United Kingdom, Israel, and Japan

wages included on the payroll reports were accurate and the same as the paycheck amount.

During our audit, the Authority or its contractors were able to obtain and provide us copies of the payroll reports cited as missing. In addition, the Authority provided documentation to support the method used for the payment of fringe benefits for the employees identified in all payroll reports cited in this finding.

The Section 3 Clause Was Not Included in the Contracts

Federal regulations require the Authority's and its for-profit entity's contractors to include the Section 3 clause in every subcontract. We reviewed 17 randomly selected contracts for subcontractors to determine whether the Section 3 clause was included in those contracts. Contrary to HUD's regulations, one contract did not include the Section 3 clause, and 12 (71 percent) of the 17 contracts did not specifically include the Section 3 clause.

The Authority Lacked an Understanding of Federal Requirements and Quality Controls

The Authority lacked an understanding of Federal requirements. It also lacked adequate controls to ensure contractors follow Federal requirements. The Authority believed waiver approvals from HUD were not necessary for the usage of products not manufactured in the United States, contrary to the Federal requirements.

Conclusion

The Authority failed to ensure that its contractors met the buy-American requirements of the Recovery Act and requirements of the Davis-Bacon Act and the Section 3 Act of 1968. This condition occurred because the Authority lacked an understanding of Federal requirements and adequate quality control procedures to ensure that its contractors and for-profit entity's contractors met these requirements. As a result, products totaling \$46,828 (\$44,856 for refrigerators + \$1,926 for thermostats + \$46 for hardware cloth) that did not meet the buy-American requirements of the Recovery Act were purchased using Recovery Act grant funds. In addition, HUD and the Authority lacked assurance that the contractors met Federal requirements in carrying out construction contracts.

Recommendations

We recommend that the program center coordinator of HUD's Office of Public and Indian Housing require the Authority to

- 3A. Provide documentation to support HUD's approval of its waiver requests or reimburse HUD \$46,828 from non-Federal funds for transmission to the U.S. Treasury for the Recovery Act grant funds used to purchase materials manufactured outside the United States.
- 3B. Ensure that its staff is adequately trained and familiar with Federal contracting requirements.
- 3C. Conduct a sample review of the remaining at least 1,765 items used in three construction projects to ensure compliance with the Recovery Act and obtain waivers of the buy-American requirements from HUD or reimburse HUD the costs from non-Federal funds for transmission to the U.S. Treasury as applicable.
- 3D. Implement adequate procedures and controls to ensure that contractors follow Federal requirements.

Finding 4: The Authority Did Not Accurately Report Recovery Act Information

The Authority did not accurately report Recovery Act grant information in FederalReporting.gov. This condition occurred because the Authority lacked an understanding of Federal requirements and sufficient quality control procedures to ensure accurate reporting of required information. As a result, the public did not have access to accurate information related to the Authority's expenditures of the Recovery Act funds, and its use of Recovery Act funds was not transparent.

The Authority Did Not Accurately Report Required Information

The Authority did not accurately report information for all three Recovery Act grants in FederalReporting.gov. Recovery Act grant recipients were required to report the following information in FederalReporting.gov:

- Amount of the Recovery Act grant award,
- Project information for use of the grant funds,
- Number of jobs created or retained with the Recovery Act grant,
- Funds invoiced,
- Funds received,
- Expenditure amount,
- Listing of vendors receiving Recovery Act funds, and
- Vendor transactions and payments.

We reviewed the Authority's reporting of funds received, funds expended, number of vendors, amount of vendor payments of less than \$25,000, and amount of vendor payments of greater than \$25,000 for the Recovery Act formula, competitive senior, and competitive transformation grants for 11 quarters beginning with the quarter ending September 30, 2009, through the quarter ending December 31, 2011. We reviewed the information to determine whether it was accurately reported. Our review was limited to the quarterly reports provided by the Authority.

Cumulative amounts to the award are required to be reported under the funds received and expended field, ensuring that the funds expended cannot exceed the amount received. Also, cumulative amounts for the award are required to be reported for the vendor payments of less than \$25,000 field. In addition, the cumulative amount for the award and aggregated amount for each vendor are required to be reported for the number of vendor payments and payment amounts of more than \$25,000.

However, the Authority did not accurately report Recovery Act information. Specifically, it generally underreported the funds received, number of vendors, and vendor payments of greater than \$25,000. In addition, it generally overreported the funds expended and vendor payments of less than \$25,000.

The following three tables list the amounts overreported and underreported for each of the five fields reviewed by grants.

Recovery Act <u>formula grant</u> information over/(under)reported in FederalReporting.gov					
Quarter end date	Funds received	Funds expended	Number of vendors	Vendor payments of less than \$25,000	Vendor payments of greater than \$25,000
9/30/09	\$0	\$3,072	2	\$3,072	\$0
12/31/09	0	3,072	2	11,248	(11,248)
3/31/10	0	(152)	2	9,532	(104,261)
6/30/10	0	0	0	14,585	(548,916)
9/30/10	0	0	(1)	(904)	(697,880)
12/31/10	0	0	0	22,681	(1,326,328)

Recovery Act <u>competitive transformation grant</u> information over/(under)reported in FederalReporting.gov					
Quarter end date	Funds received	Funds expended	Number of vendors	Vendor payments of less than \$25,000	Vendor payments of greater than \$25,000
9/30/10	\$0	\$15,105	(6)	\$(64,935)	\$80,040
12/31/10	0	24,572	(6)	(62,985)	(878,805)
3/31/11	0	25,847	(18)	(97,721)	(2,830,729)
6/30/11	0	(4,264)	(24)	(113,454)	(5,392,010)
9/30/11	0	(2,376)	(39)	(112,091)	(7,916,062)
12/31/11	0	0.70	(41)	(146,316)	(9,632,040)

Recovery Act <u>competitive senior grant</u> information over/(under)reported in FederalReporting.gov					
Quarter end date	Funds received	Funds expended	Number of vendors	Vendor payments of less than \$25,000	Vendor payments of greater than \$25,000
3/31/10	\$0	\$0	1	\$2,699	(2,699)
6/30/10	(2,772)	0	2	5,511	(33,561)
9/30/10	(36,333)	(36,333)	3	11,316	(44,877)
12/31/10	3,715	3,715	1	413	(151,941)
3/31/11	0	0	0	(128)	(281,831)
6/30/11	0	0	1	25,731	(309,910)
9/30/11	0	0	(2)	(2,348)	(309,910)
12/31/11	406	406	(2)	(3,227)	(406,902)

The Authority Did Not Have Sufficient Controls

Since the Authority loaned its Recovery Act competitive transformation grant to its for-profit affiliate for the mixed-finance development as approved by HUD, the Authority considered its for-profit affiliate as its vendor. The Authority's financial administrator said that the for-profit affiliate was the Authority's vendor since the Authority provided the Recovery Act competitive transformation grant funds to it under its mixed-finance agreement. This for-profit affiliate was established by the Authority's nonprofit instrumentality, and the president of the for-profit affiliate was the Authority's executive director. In addition, according to Federal regulations, a vendor is a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. Consequently, the vendor payment information for the Recovery Act competitive transformation grant was reported incorrectly.

Further, the Authority lacked sufficient quality control procedures to ensure that reporting of the required information was accurate. The Authority's compliance director said that the Authority could not make changes to previously reported information. However, according to the Office of Management and Budget, the recipient or the Federal agency may initiate a change to a prior reporting process if it deems the change to be appropriate. The only field that cannot be edited is the jobs created field in FederalReporting.gov. The Authority could have made changes to previously reported quarters at least since September 24, 2010. However, it did not do so.

The Recovery Act formula and competitive transformation grants were closed as of December 2010, and March 2012, respectively. However, the Recovery Act competitive senior grant remained open as of July 5, 2012.

Conclusion

The Authority did not accurately report vendor payments on the FederalReporting.gov Web site for all three of the Recovery Act grants it received. This condition occurred because the Authority lacked an understanding of Federal requirements and sufficient quality control procedures to ensure accurate reporting of required information. As a result, the public did not have access to accurate information relating to the Authority's expenditures of the Recovery Act funds, and the Authority's use of Recovery Act funds was not transparent.

Recommendations

We recommend that the program center coordinator of HUD's Office of Public and Indian Housing require the Authority to

- 4A. Ensure that appropriate corrections are made to the amount and number of expenditures reported on the FederalReporting.gov Web site for the Recovery Act competitive senior grant.

SCOPE AND METHODOLOGY

To accomplish our objectives, we reviewed

- Applicable laws and regulations; the Recovery Act; Office of Management and Budget Memorandum M-10-34; Federal Register Volume 74, Number 77, issued on April 23, 2009; HUD's program requirements at 24 CFR Parts 85, 135, 905, 941, and 970; 29 CFR Part 5; HUD's Office of Public and Indian Housing notices; HUD Handbook 7460.8, REV-2; Recipient Reporting Data Model V4.0; form HUD-5370 (11/2006); and interest rates published by the U.S. Treasury.
- The Authority's accounting records and bank statements; annual audited financial statements for fiscal years 2008, 2009, and 2010; contract files; policies and procedures; board meeting minutes for March 2009 through September 2011; organization chart; program annual contributions contract with HUD; 5-year and annual plans; Line of Credit Control System information and requests for payment; specifications and drawings; and other documents related to the mixed-finance structure.
- Documents relating to the mixed-finance structure provided by the Authority's consultant.
- Contractors' invoices, change order logs, payroll reports, listing of subcontractors, and contracts with subcontractors.
- Architect and engineer's field meeting minutes, invoices, and change order logs.
- HUD's files for the Authority.

We also interviewed the Authority's employees, contractor, architect and engineer, and consultant and HUD's staff.

Finding 1

We reviewed six randomly selected work items to determine whether the Authority conducted small purchases procurement in accordance with HUD's requirements and its own policies and procedures. Four of the six work items were paid for from the Authority's Public Housing Capital Fund program. The Recovery Act grants funds were used for the payment of the remaining two work items. The deficiencies noted in the procurement of the four items are disclosed in a separate memorandum. In addition, we reviewed five contracts that were procured through above small purchases procedures to determine whether the Authority procured and executed the contracts in accordance with HUD's requirements and its policies and procedures.

Also, we reviewed 100 percent of the change orders for all three construction contracts relating to the Recovery Act program grants. We reviewed the change orders to ensure that documents were maintained to support the change order amount requested, change order items were not out of the scope of the contract, and change orders were approved before the work was completed.

Finding 2

We reviewed the Authority's Recovery Act program grant expenditures in their entirety as of February 27, 2012. We reviewed the dates on which the Authority and its for-profit affiliate received the funds and the dates of disbursements. We also reviewed the items purchased and services acquired to determine whether eligible items or services were acquired. We determined the interest amount the U.S. Treasury was caused to pay as a result of the late disbursements of payments either by the Authority or its for-profit affiliate. To determine the interest amount, we used the 10-year daily interest rate published by the U.S. Treasury. We determined the cumulative funds on hand by subtracting the amount of funds expended from the cumulative total amount of funds received. Using the daily interest rate, we determined the interest amount of the cumulative total funds on hand.

We reviewed the Authority's mixed-finance amendment to the consolidated annual contributions contract to ensure that the development sources and funds use were within the HUD-approved specifications. In addition, we reviewed the Authority's general ledger to determine whether supporting invoices, check payments, and deposits were maintained.

Further we reviewed the pay applications submitted by the construction contractors to ensure that proper retainage from the payment was withheld and the payment amount did not exceed the authorized amount in the executed contracts. In addition, we reviewed the invoices submitted by the architect and engineer to determine whether the total payment amount was made in accordance with the executed contracts.

Finding 3

We reviewed 16 of at least 1,781 products randomly selected to determine whether the products were manufactured in the United States and if not, appropriate waivers were received from HUD. To determine whether products were manufacture in the United States, we reviewed the invoices for exact specifications of the products and conducted online searches on the product and manufacturer, directly contacted the manufacturer, or physically inspected the product. Specifically, we physically inspected the manufacturer's label on the refrigerator to determine whether it was made in the United States.

We reviewed 258 randomly selected certified payroll reports to determine whether reports were maintained on file, wage payments included on the weekly reports matched the actual payments, and the method of fringe benefits was identified on the weekly reports. We selected our sample of 258 payroll reports based on 33 specific employees, also randomly selected. To select the 33 employees, we obtained a listing of all employees who worked on the construction projects, which totaled 506 for each contractor and subcontractor. We then identified the payroll reports on which the 33 employees were listed, which resulted in 258 payroll reports. We reviewed the payroll reports and pay stubs to determine whether the Authority ensured that its contractors and the Authority's for-profit affiliate's contractor paid prevailing wages in accordance with the Davis-Bacon Act. We compared the payroll reports to the pay stubs provided by the contractors to determine the amounts paid to the employees. We compared the wages paid to the employees with the applicable prevailing wages.

In addition, of the 45 subcontractors, we randomly selected contracts for 17 to determine whether the Section 3 clause was included in those contracts.

Finding 4

We reviewed all of the information reported in FederalReporting.gov as of February 27, 2012, which was for 11 quarters from quarter ending date September 30, 2009, through quarter ending date December 31, 2011. We reviewed the information reported to ensure that the public had access to accurate information relating to the Authority's expenditures of the Recovery Act program grant funds.

We relied in part on data maintained by the Authority 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.

We performed onsite audit work between October 2011 and April 2012 at the Authority's offices located at 1402 173rd Street, Hammond, IN. The audit covered the period March 18, 2009, through September 30, 2011, but was expanded as determined necessary.

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 objectives:

- Effectiveness and efficiency of operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Reliability of financial reporting – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with applicable 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 Deficiencies

Based on our review, we believe that the following items are significant deficiencies:

- The Authority lacked an understanding of Federal and its own procurement requirements, and adequate procedures and controls to ensure that procurements were conducted in accordance with HUD's requirements and the Authority's policies and procedures (see finding 1).
- The Authority lacked quality control procedures for its program grant disbursements to ensure that it and its for-profit entity administered the Recovery Act program grant funds in accordance with HUD's requirements (see finding 2).
- The Authority lacked an understanding of Federal requirements and adequate procedures and controls to ensure that Recovery Act program contractors purchased products that met Federal buy-American requirements of the Recovery Act, provided all payroll reports and identified the payment method of fringe benefits on all weekly payroll reports, and included the Section 3 clause in its contracts with subcontractors (see finding 3).
- The Authority lacked an understanding of Federal requirements and sufficient quality control procedures to ensure the accurate reporting of required information (see finding 4).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Ineligible 1/	Unsupported 2/	Funds to be put to better use 3/
1A		\$12,300	
1B		26,875	
1D			<u>\$7,000</u>
1E		174,471	
1F		20,575	
2A	<u>\$1,625</u>		
3A		<u>46,828</u>	
Total	<u>\$1,625</u>	<u>\$281,049</u>	<u>\$7,000</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.
- 3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments⁴

HAMMOND HOUSING AUTHORITY
1402 - 173rd Street, Hammond, Indiana 46324
Phone (219) 989-3265 Fax (219) 989-3275
TDD (800) 743-3333

To: Kelly Anderson
Regional inspector General for Audit, SAGA

From: Carmen Paniagua
Executive Director

Date: July 11, 2012

Subject: Response to Audit Findings

FINDING 1

Comment 1

Small Purchases Were Not Properly Administered – A Phase I environmental was needed for the LIHTC application, the one submitted was a year old from a prior attempt in submitting application. At the request of the investor we had to update Phase I environmental, this time the investor required a change in the contractor's insurance clause which contractor refused to comply with. Due to the time constraints and the severity of the problem; the Housing Authority believed it was reasonable to use Amereco to perform the Phase I environmental. This was because Amereco has extensive experience in doing Phase I reports, and had all pertinent information on file from previous work performed on our site. At the same time the Housing Authority did not consider it would be feasible to re-procure another contractor while it could jeopardize the tax credit application.

Comment 2

Procurement Documents for Above Small Purchase Threshold Contracts Were Not Consistently Maintained - The Authority concedes with the finding, the board minutes have been ratified (Attachment 1) and in the future the authority will implement adequate quality control procedures to ensure that its contracts are procured and executed in accordance with Federal requirements.

As a proactive measure Carmen Paniagua, Executive Director and Brian McKerrall, Director of Modernization attended a NAHRO Procurement Training on May 7-9, 2012.

Comment 3

Units Were Sold at Less Than the Assessed Value – The Authority disposed of 112 units for a mixed finance development, attached find the letters from U.S. Department of Housing and Urban Development Special Application Center(Attachment 2) approving the disposal of units for the price of \$940,000; price did not change due to the decline in real estate market.

Comment 4

The Approval of Change Orders Limited Competition - The Authority feels all change orders were reasonable and done within the scope of the contracts and a couple at the insistence of the investor for the mixed finance/LIHTC American Heartland Homes One Project.

⁴ This excludes 44 pages of documentation that was not necessary for understanding the Authority's comments.

Ref to OIG Evaluation

Auditee Comments

Comment 5

FINDING 2

Recovery Act Grant Funds Were Not Disbursed in a Timely Manner – The Authority did not profit from any interest from these funds and most were done within a reasonable time. The vast majority were done within three (3) days. For future mixed finance projects we will change our procedure to comply with CFR 941.612 (b) (1).

Comment 6

FINDING 3

The Authority Did Not Follow the Buy-American Requirements of the Recovery Act – The Authority has received waivers from HUD for the tankless water heaters and Mini-Splits HVAC units (Attachment 3); we are currently waiting on the response from HUD on the submitted waivers for floor tile, wire mesh, thermostats and refrigerators (Attachment 4).

The Davis Bacon Act Was Not Followed – The Authority has contacted the general contractor regarding corrections needed on the certified payrolls; of the seventeen (17) payrolls in question fifteen (15) have been successfully corrected.

The Section 3 Clause Was Not Included in the Contracts – The HUD Handbook No. 7460.8 Rev. 2, Section 10.5 D gives three (3) methods of incorporation of required clauses which includes “by reference”. The Hammond Housing Authority believes a clause that reference the project manual (includes all required clauses) meets the requirements of Section 37(d) of HUD 5370. For future projects, the HHA will make sure that all required clauses are incorporated into the subcontracts. The Authority will make the necessary changes to include Section 3 clause on future contracts.

The Authority Lacked and Understanding of Federal Requirements and Quality Controls – The Authority concedes with the finding and has implemented a corrective action plan for future projects.

Comment 7

FINDING 4

The Authority Did Not Accurately Report Required Information – The Authority attempted to remediate the finding but was unable to change previous reports already submitted; however the change was made in current report. (Attachment 5)

OIG's Evaluation of Auditee Comments

- Comment 1** The Authority stated it did not consider it would be feasible to re-procure another contractor due to time constraints and the possibility of its tax credit application being jeopardized. However, the Authority was unable to provide documentation to show that it did not have to follow its small purchase procurement policies. In addition, the Authority was unable to provide documentation that following its small purchase procurement policies for procuring services for its Phase I environmental assessment in June 2010 would jeopardize its low income housing tax credit program for which it applied in January 2009 and received in April 2009.
- Comment 2** We acknowledge the Authority's future plans to implement adequate quality control procedures to ensure contracts are procured and executed in accordance with Federal requirements.
- Comment 3** According to the Authority, it disposed of 112 housing units based on the amount of \$940,000 included in its application, which was approved by HUD's Special Application Center. As cited in finding 1 of this report, the Authority sold the 112 units at the assessed value for 110 units only. HUD requires the Authority to dispose of property for not less than fair market value, when HUD approves the disposition of the real property. According to HUD's Special Application Center, the Authority's disposition application did not provide any details as to why the appraisal was only for 110 units instead of 112. Further, the correction should have been reflected in the amendment requests from the Authority. HUD approved the disposition request based on the limited information supplied by the Authority at the time.
- Comment 4** The Authority feels all change orders were reasonable, within the scope of the contracts, and completed at the insistence of its mixed-finance development investor. However, it did not provide any documentation to support the approved change orders were reasonable and within the scope of the contracts. The Authority was required to follow Federal regulations requiring full and open competition in all procurement transactions. However, contrary to HUD requirements, the Authority completed additional work as change orders to contracts procured through sealed bidding or request for proposal, based on its investor's insistence and because each of the subcontractors were still on site.
- Comment 5** According to the Authority, it did not profit from any interest from the Recovery Act grant funds due to delayed disbursements. While this may be true, it caused the United States Treasury to pay interest. Further, the Authority lacked quality controls to ensure Federal requirements were followed. We acknowledge the Authority's future plans to change its procedures to ensure it complies with HUD requirements.

Comment 6 Based on the documentation provided by the Authority and further consideration, we revised finding 3 and recommendations accordingly. We acknowledge the waiver that the Authority received from HUD for the ceramic floor tiles totaling \$1,297; therefore, we reduced the questioned costs from \$48,125 to \$46,828.

Comment 7 The Authority stated it changed the current report concerning finding 4. However, it did not provide documentation to support its revisions in the current report in the FederalReporting.gov Web site. Further, the category of total number of vendors is not cumulative and aggregated in the quarterly report for the second quarter of 2012.

Appendix C

FEDERAL AND THE AUTHORITY'S REQUIREMENTS

Finding 1

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.

The Authority's procurement policy, section III(B)(4), states that for small purchases in excess of \$2,000 but not exceeding \$75,000, no fewer than three offerors should be solicited.

HUD Handbook 7460.8, REV-2, paragraph 3.2(D), states that the independent cost estimate must be prepared before the solicitation of offers.

HUD Handbook 7460.8, REV-2, paragraph 5.4, states that quotations for small purchases may be obtained in writing (hard copy or email), orally, by fax, via catalogs, by letter, through electronic means, e.g., the Internet, through paid advertisement, or by displaying the solicitation in a public place. The method should be appropriate to the purchase (e.g., obtaining price quotes by phone for a commercially available supply item). Public housing agencies may establish in their Procurement Policies dollar thresholds or other requirements for the use of written and oral solicitations. Written solicitations are used when it is necessary to provide vendors with detailed information that cannot be conveyed orally (e.g., by phone), or with detailed quotation evaluation information. The Contracting Officer should determine the best method, given the situation.

HUD Handbook 7460.8, REV-2, paragraph 10.8(C)(2), states that contracts must not exceed a period of 5 years, including options for renewal or extension.

The Authority's procurement policy, section II(B)(6), states that the executive director or his or her designee must ensure that unsuccessful firms are notified within 10 days after contract award.

The Authority's procurement policy, section II(B)(3), states that the executive director or his or her designee must ensure that for procurements other than small purchases, public notice is given of each upcoming procurement at least 10 days before a solicitation is issued.

HUD regulations at 24 CFR 85.36(d)(2)(ii)(c) state that all bids will be publicly opened at the time and place prescribed in the invitation for bids.

The Authority's procurement policy, section III(C)(2), states that an invitation for bid must include a statement that award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the invitation for bids.

The Authority's request for qualifications, issued on February 10, 2009, General Conditions (2), states that in the event that there are changes or clarifications to this request for qualifications, the Authority should issue an addendum.

The Authority's procurement policy, section II(c)(2), states that purchases over \$75,000 must be approved by the board of commissioners.

HUD regulations at 24 CFR 970.19(a) state that when HUD approves the disposition of real property of a development, in whole or in part, the housing authority must dispose of the property promptly for not less than fair market value (in which case there is no showing of commensurate public benefit required), unless it authorizes a negotiated sale for reasons found to be in the best interest of the authority or the Federal Government, or dispose of the property for sale for less than fair market value (where permitted by State law), based on commensurate public benefits to the community, the authority, or the Federal Government justifying such an exception.

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 section 85.36.

HUD Handbook 7460.8, REV-2, paragraph 2.4, states that regardless of the authority delegated, it is the responsibility of the contracting officer to seek the best value and greatest overall benefit for the housing authority in response to the needs desired.

HUD Handbook 7460.8, REV-2, paragraph 1.9 (Change Order) states that all change orders must be within the scope of the contract.

General conditions for construction contracts found on form HUD-5370 (11/2006), 29(a), state that the contracting officer may at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes in (1) the specifications (including drawings and designs); (2) the method or manner of performance of the work; (3) housing authority-furnished facilities, equipment, materials, services, or site; or (4) directing the acceleration in the performance of the work.

General conditions for construction contracts found on form HUD-5370 (11/2006), 29(b), state that any other written order or oral order (which as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the contracting officer that causes a change must be treated as a change order under this clause, provided that the contractor gives the contracting officer written notice stating (1) the date, circumstances, and source of the order and (2) that the contractor regards the order as a change order.

General conditions for construction contracts found on form HUD-5370 (11/2006), 29(d), state that if any change under this clause causes an increase or decrease in the contractor's cost of or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the contracting officer must make an equitable adjustment and

modify the contract in writing. However, except for an adjustment based on defective specifications, no proposal for any change under form HUD-5370 (11/2006), 29(b), must be allowed for any costs incurred more than 20 days (5 days for oral orders) before the contractor gives written notice as required in the case of defective specifications for which the housing authority is responsible; the equitable adjustment must include any increased cost reasonably incurred by the contractor in attempting to comply with the defective specifications.

Finding 2

The declaration of restrictive covenants, executed on June 29, 2010, between the Authority and its for-profit entity, section 4, states that the Authority should cause the for-profit entity to and the for-profit entity must develop the project in compliance with the applicable public housing requirements.

The declaration of restrictive covenants, executed on June 29, 2010, between the Authority and its for-profit entity, states that the Authority and its for-profit entity have entered into a regulatory and operating agreement and other agreements, whereby the Authority has agreed to provide its for-profit entity with assistance obtained under the mixed-finance annual contributions contract amendment (that is, Recovery Act competitive transformation grant of \$10 million) to pay a portion of the development cost of the project and with operating fund assistance to assist in operating and maintaining the low-income character of the public housing units in the project. In return for the receipt of such assistance, the Authority's for-profit entity has agreed to develop, operate, and maintain the project in accordance with all requirements applicable to public housing, including without limitation the Act; HUD regulations hereunder; the annual contributions contract; the mixed-finance annual contributions contract amendment; this declaration [declaration of restrictive covenants]; and all pertinent Federal statutory, executive order, and regulatory requirements, as those requirements may be amended from time to time (all such requirements hereafter collectively referred to as the "applicable public housing requirements").

Regulations at 24 CFR 941.612(b)(1) state that the housing authority must release funds to its [mixed-finance] partner promptly, normally within 2 working days of receipt of the funds from HUD, and only in accordance with the ratio approved by HUD. The authority's [mixed-finance] partner must take prompt action to distribute the funds, normally within 2 working days of receipt of the funds from the authority.

HUD's Public and Indian Housing Notice 2009-12, section VII, states that the housing authority must requisition funds only when payment is due and after inspection and acceptance of the work and must distribute the funds within 3 working days of receipt of the funds.

The mixed-finance amendment to the consolidated annual contributions contract, executed between HUD and the Authority, dated June 29, 2010, section 6(4), states that the project will be developed in accordance with the HUD-approved budget and sources and uses set forth in exhibit F of this mixed-finance annual contributions contract amendment.

Regulations at 24 CFR 85.20(b)(2) state that grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to the grant or subgrant award and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

Regulations at 24 CFR 85.20(b)(3) state that effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property.

Finding 3

The American Recovery and Reinvestment Act of 2009, section 1605(a), states that none of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

Federal Register Volume 74, No. 175, issued September 11, 2009, states, “The exceptions determined applicable, without the necessity of a grantee to seek an individual exception determination, are as follows: (1) If another Federal agency has determined that an exception to the Buy American requirement is applicable under section 1605(b), for a project including public housing, HUD will accept that agency’s determination and permit the public housing agency to apply that exception for the remainder of HUD-assisted work in that project. (2) If another HUD Program Office has determined that an exception to the Buy American requirement is applicable under section 1605(b) for a project, and an analysis supports its application to another request, HUD’s Office of Public and Indian Housing may accept that determination and permit the authority to apply that exception to the remainder of the Recovery Act competitive grant work in that project. (3) Where the size of the Recovery Act competitive grant is less than \$100,000, the Buy American requirement is not applicable. (4) Where the size of a contract funded with Recovery Act competitive grant assistance is less than \$100,000, regardless of the size of the authority, the Buy American requirement is not applicable. (5) For any project substantially under contract or under way prior to acceptance of Recovery Act competitive grant funds, the Buy American requirement is not applicable.”

U.S. Department of Labor regulations at 29 CFR 5.5(a)(3)(ii) require contractors to submit weekly a copy of the payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed “statement of compliance” indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed.

The “statement of compliance,” item (4), requires identification of payment method for fringe benefits.

Regulations at 24 CFR 135.32(b) state that each recipient has the responsibility to comply with Section 3 in its own operations and ensure compliance in the operations of its contractors and subcontractors. This responsibility includes but may not be necessary limited to notifying

potential contractors for Section 3-covered projects of the requirements of this part and incorporating the Section 3 clause set forth in section 135.38 in all solicitations and contracts.

Regulations at 24 CFR 135.38(d) state that the contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135.

Finding 4

Recipient Reporting Data Model, Version 4, Total Federal Amount of Recovery Act Expenditure, states that it is the cumulative total for the amount of Federal fund expenditures and it should not exceed the amount of award.

Recipient Reporting Data Model, Version 4, Total Number of Payments to Vendors Less Than \$25,000/Award, states that it is the total number of payments by prime recipient to vendors less than \$25,000.

Recipient Reporting Data Model, Version 4, Total Amount of Payments to Vendors Less Than \$25,000/Award, states that the amounts reported are cumulative for the award.

Recipient Reporting Data Model, Version 4, Vendor Data Element, Payment Amount, states that it is the amount invoiced to the vendor (aggregated) that will be paid with the Recovery Act funds. In addition, payments exceeding \$25,000 for the quarter are reported in this field when the amount reported is cumulative and aggregated by vendor.

Office of Management and Budget Memorandum M-10-34(8) states that the recipient or the Federal agency may initiate the change to a prior reporting process if it deems the change to be appropriate. In either scenario, the recipient must provide the agency with documentation to support the requested change. The Federal agency must determine that the change is “material.” If so, it may be submitted as a requested change.

The FederalReporting.gov Web site’s general frequently asked questions (12) states that vendors provide products or services in support of the mission.

Office of Management and Budget Memorandum M-09-21, section 2.2, states that the prime recipient is responsible for reporting data on payments made to both subrecipients and vendors.

Office of Management and Budget Memorandum M-09-21, section 2.2, states that a vendor is a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program.