

OFFICE OF AUDIT
REGION 5
CHICAGO, IL



**Stark Metropolitan Housing Authority,
Canton, OH**

**Public Housing Capital Fund Stimulus (formula)
Recovery Act Grant**



Issue Date: September 27, 2012

Audit Report Number: 2012-CH-1011

TO: Shawn Sweet, Director of Public Housing Hub, 5DPH

//signed//

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

SUBJECT: The Stark Metropolitan Housing Authority, Canton, OH, Did Not Always Administer Its Grant in Accordance With Recovery Act, HUD's, and Its Own Requirements

Enclosed is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final audit report of our audit of the Stark Metropolitan Housing Authority's Public Housing Capital Fund Stimulus (formula) Recovery Act.

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) 353-7832.



September 27, 2012

The Stark Metropolitan Housing Authority, Canton, OH, Did Not Always Administer Its Grant in Accordance With Recovery Act, HUD's, or Its Own Requirements

Highlights

Audit Report 2012-CH-1011

What We Audited and Why

We audited the Stark Metropolitan Housing Authority's American Recovery and Reinvestment Act Public Housing Capital Fund stimulus formula grant as part of the activities in our fiscal year 2012 annual audit plan. We selected the Authority based upon risk factors related to the housing agencies in Region 5's¹ jurisdiction. Our objective was to determine whether the Authority administered its grant in accordance with Recovery Act, the U.S. Department of Housing and Urban Development's (HUD), and its own requirements.

What We Recommend

We recommend that HUD require the Authority to (1) support that employees were paid proper Davis-Bacon wages or reimburse underpaid employees \$6,820 from non-Federal funds, (2) reimburse HUD \$680 from non-Federal funds for transmission to the U.S. Treasury for the appliances that were improperly replaced, and (3) implement adequate procedures and controls to address the findings cited in this audit report.

What We Found

The Authority did not always ensure that its contractors complied with the Davis-Bacon Act and Federal labor standards. For one contractor, the Authority did not (1) conduct a sufficient number of interviews with seven subcontractors' employees to ensure that proper wages were received, (2) investigate complaints of alleged violations of Federal labor standards for two subcontractors, or (3) obtain sufficient documentation from seven subcontractors to determine whether their employees were paid the appropriate prevailing wage rates in accordance with the Davis-Bacon Act.

The Authority did not always comply with Recovery Act, HUD's, or its own procurement procedures. Specifically, it (1) purchased one range and one refrigerator to replace appliances that had remaining useful life, (2) did not perform a cost analysis before soliciting bids for the purchase and installation of video surveillance equipment, and (3) did not ensure that proper procurement procedures were followed for the purchase and installation of 119 furnaces. Further, the Authority did not always ensure that it complied with HUD's and Recovery Act reporting requirements. Specifically, it did not accurately report in FederalReporting.gov the number of jobs created and retained.

As a result, HUD and the Authority lacked assurance that Recovery Act funds were used appropriately, the public did not have access to accurate information regarding the number of jobs created and retained, and the Authority's use of the formula grant was not transparent.

¹ Region 5 includes the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

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BACKGROUND AND OBJECTIVE

The Canton Metropolitan Housing Authority was created in 1939 in accordance with the provisions of the Ohio Revised Code to help fill the need for decent, safe, sanitary, and affordable housing in Stark County, OH. Its name was changed to the Stark Metropolitan Housing Authority in 1970. It is a public nonprofit organization, chartered by the State of Ohio, funded in part through the U.S. Department of Housing and Urban Development (HUD). It operates 2,546 public housing units, 1,492 Section 8 housing units, and 156 special program units.

A five-member board of commissioners oversees the Authority. These members are appointed to a 5-year term and are not compensated for their services. The mayor of Canton, OH, the largest city in Stark County, appoints two members. The Stark County commissioners, the Stark County Court of Common Pleas, and the Stark County Court of Common Pleas Probate Division each appoint one member.

The Public Housing Capital Fund Stimulus Recovery Act-funded grant is administered by HUD's Office of Public Housing. The grant funds are available for capital and management activities, including the 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 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 March of 2009, the Authority received a formula grant of more than \$5.285 million.

Our objective was to determine whether the Authority effectively administered its grant in accordance with Recovery Act, HUD's, and its own requirements. Specifically, we wanted to determine whether the Authority (1) properly obligated and expended its Recovery Act grant funds, (2) followed Recovery Act requirements when procuring contracts for goods and services, and (3) accurately reported its Recovery Act activities. The audit was conducted as part of the Office of Inspector General's (OIG) commitment to ensure the proper use of Recovery Act funds.

RESULTS OF AUDIT

Finding 1: The Authority Did Not Always Ensure Its Contractors Complied With the Davis-Bacon Act and Federal Labor Standards

The Authority did not always ensure its contractors complied with the Davis-Bacon Act and Federal labor standards. For one of its three contractors, the Authority did not (1) conduct a sufficient number of interviews with seven subcontractors' employees to ensure that proper wages were received, (2) investigate complaints of alleged violations of Federal labor standards for two subcontractors, or (3) obtain sufficient documentation from the seven subcontractors to determine whether their employees were paid the appropriate prevailing wage rates in accordance with the Davis-Bacon Act. This condition occurred because the Authority did not effectively monitor its contractors in the enforcement of Federal labor standards. As a result, HUD and the Authority lacked assurance that the Authority complied with the Davis-Bacon Act, and its contractor underpaid employees more than \$7,000 in wages.

The Authority Did Not Conduct a Sufficient Number of Interviews

The Authority did not conduct a sufficient number of interviews with subcontractors' employees to ensure that proper wages were received. One contractor used seven subcontractors, which collectively employed 74 employees, to work on a Recovery Act-funded project. Twenty-four of the employees (33 percent) were interviewed. Of the 24 employees interviewed, (1) 6 employees (25 percent) stated that they were not paid for all hours worked, (2) 17 employees (71 percent) stated that they were not paid at least time and a half for all hours worked in excess of 40 hours per week, and (3) 6 employees (25 percent) stated that they had been threatened or coerced into giving up a part of their pay. According to HUD's guidelines, Making Davis-Bacon Work, HUD does not require that 100 percent of employees are interviewed to meet Davis-Bacon standards. However, agencies are encouraged to focus interviews on projects or workers when violations are suspected or alleged. Due to the responses received from the employees interviewed, the Authority should have interviewed all of the employees who worked under this contract to ensure that they received the appropriate Davis-Bacon wages.

The Authority Did Not Investigate Alleged Violations of Federal Labor Standards

The Authority did not investigate complaints of alleged violations of Federal labor standards. Investigations should have been performed on behalf of the employees who stated that they were not paid for all of their hours worked, were not paid at least time and a half for all hours worked in excess of 40 hours per week, and were threatened or coerced into giving up a part of their pay.

The Authority Did Not Obtain Sufficient Payroll Documentation

The Authority did not obtain sufficient payroll documentation to support that the subcontractors' employees were paid appropriate Davis-Bacon wages. One subcontractor did not provide documentation to support that 11 of its employees received fringe benefits. Therefore, their rate of pay did not comply with the Davis-Bacon Act and resulted in \$4,779 in underpayments. Additionally, according to the certified payroll reports, seven employees worked a total of 41.25 overtime hours and were paid their normal rate of pay instead of one and a half times their rate of basic pay as required under Davis-Bacon. The seven employees were underpaid \$537. Also, the subcontractor classified one employee's job title differently in his interview than was documented on the contractor's certified payroll report. If the employee was correct in his interview regarding his classification, a total of \$83 was underpaid to the employee. Another subcontractor had one employee who stated that he was paid \$9 per hour with no fringe benefits. However, the proper Davis-Bacon wage for labor including fringe benefits was \$15.80. If the employee was paid as stated in his interview, the underpayment was \$1,958.

The Authority Did Not Effectively Monitor Its Contractors

The Authority did not always adequately monitor its contractors to ensure compliance with the Davis-Bacon Act and Federal labor standards. Its contract specialist stated that she did not follow up on employees receiving pay rates below Davis-Bacon wages or not paid time and a half because she overlooked this issue during her review of the payroll reports. She stated that she did not notice that the employee had stated that his job classification was different from the information reported on the certified payroll report. She further stated that if she had noticed, she or another Authority employee would have observed the work of the employee to determine the proper job classification and informed the contractor of the misclassification and underpayment.

The Authority's contract specialist stated that she did not notice that interviewed employees stated that they had not been paid for all hours worked or paid time and a half for hours worked in excess of 40 hours per week or had been threatened

or coerced into giving up a part of their pay due to the department's having been understaffed at the time. She added that if she had noticed, she would have performed follow-up interviews with those employees. However as previously mentioned, of the 24 employees interviewed, six (25 percent) stated that they were not paid for all hours worked, 17 (71 percent) stated that they were not paid time and a half for hours worked in excess of 40 hours per week, and six (25 percent) stated they were threatened or coerced into giving up a part of their pay. Therefore, with a least 70 percent (17 out of 24) of the employees interviewed mentioning that they were not paid correctly; it would have been difficult not to notice. Further, the contract specialist did not perform any follow-up interviews with the employees.

Conclusion

The Authority did not always adequately monitor its contractors to ensure compliance with the Davis-Bacon Act and Federal labor standards. As a result, HUD and the Authority lacked assurance that the Authority complied with the Davis-Bacon Act, and its contractor underpaid employees more than \$7,000.

Recommendations

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

- 1A. Obtain documentation to support that employees were paid in accordance with the Davis-Bacon Act, or reimburse the employees \$6,820 from non-Federal funds for the unsupported wages cited in this report.
- 1B. Pursue collections from the subcontractor and provide support for corrective payments made to its employee or reimburse the contractor's employee \$537 from non-Federal funds.
- 1C. Ensure that its quality control procedures are followed to make certain that it adequately monitors its contractors for compliance with Federal labor standards. These quality control procedures should include but not be limited to obtaining sufficient payroll documentation, reviewing employee interviews, ensuring employees: are paid for all hours worked; are paid time and a half for hours worked in excess of 40 hours per week; and are not threatened or coerced into giving up their pay.

Finding 2: The Authority Did Not Always Ensure That It Complied With Recovery Act, HUD's, or Its Own Procurement Procedures

The Authority did not always ensure that it complied with Recovery Act, HUD's, or its own procurement procedures. Specifically, it (1) purchased one range and one refrigerator to replace appliances that had remaining useful life, (2) did not perform a cost analysis before soliciting bids for the purchase and installation of video surveillance equipment, and (3) did not ensure that proper procurement procedures were followed in the purchase and installation of 119 furnaces. This condition occurred because the Authority lacked adequate oversight and supervision of its procurements. As a result, HUD and the Authority lacked assurance that (1) nearly \$700 in Recovery Act funds was not expended to replace appliances that had useful life, and (2) the cost for the purchase and installation of video surveillance equipment was reasonable at the time of procurement, and (3) proper procurement procedures were followed for the purchase and installation of 119 furnaces.

The Authority Replaced Appliances That Had Useful Life

We reviewed the Authority's expenditure of Recovery Act grant funds for its seven contracts. We determined that the Authority purchased one range and one refrigerator to replace appliances that were less than 8 years old and still had useful life. According to HUD's Public and Indian Housing Notice, PIH-2009-16, with proper preventative maintenance and routine repairs of minor components, refrigerators can be expected to perform from 6 to 10 years. The National Association of Home Builders estimates the life spans of electric ranges and refrigerators to be 14 to 17 years. Using HUD's and the National Association of Home Builders' estimates, we determined that a reasonable estimate for the life span of refrigerators and ranges was 8 years. The Authority purchased one range for \$282, which replaced a range that was 2 years and 77 days old, and one refrigerator for \$398, which replaced a refrigerator that was 3 years and 117 days old. According to the Authority's purchasing agent, these two appliances were moved to the Authority's maintenance shop to be kept as spares. As a result, the Authority improperly used \$680 in Recovery Act funds to replace one range and one refrigerator that still had useful life.

The Authority Did Not Obtain or Prepare a Cost Analysis

The Authority did not follow HUD's or its own requirements when it did not obtain or prepare a cost analysis before soliciting bids to purchase and install video surveillance equipment for its Washington Rehab renovation project. The

Authority advertised for contractors and received one bid, and the contract was awarded to that bidder. Federal procurement policy states that a cost analysis will be necessary when adequate price competition is lacking, unless price reasonableness can be established based on market price.

We performed our own cost reasonableness analysis of this procurement and determined that the costs were reasonable.

The Authority Did Not Ensure That Proper Procurement Procedures Were Followed

The Authority did not ensure that proper procurement procedures were followed for the purchase and installation of 119 furnaces for its Washington Rehab renovation project. The Authority procured the furnaces through a cooperative purchasing program. It entered into a memorandum of understanding with the nonprofit organization Stark County Community Action Agency on April 10, 2010. The memorandum stated that the Authority would pay 70 percent of the cost and the Agency would pay 30 percent of the cost. The Authority's procurement procedures stated that the Authority should maintain records sufficient to detail the significant history of its procurements. This guidance included but was not limited to information pertaining to the rationale for the method of procurement, the selection of contract type, the contractor selection or rejection, and the basis for the cost or price. However, the Authority was unable to provide documentation to support the selection of the contract type, contractor selection, or rejections. The Agency selected the supplier for the purchase and installation of the furnaces. The Authority did not ensure that the Agency properly followed Federal and its own bidding procedures in selecting the supplier.

The Authority Lacked Adequate Oversight and Supervision of Its Procurements

The Authority did not ensure that it complied with Recovery Act, HUD's, or its own procurement procedures. The Authority's executive director stated the one range and one refrigerator replaced with Recovery Act funds that had useful life was missed in the processes used by the maintenance and procurement departments when obtaining the appliances. Also, the ranges and refrigerators were replaced across the board for the Washington Rehab renovation, and the one range and one refrigerator were placed into the warehouse to be recycled to another unit.

The Authority's executive director acknowledged that he approved awarding the video surveillance contract to the sole bidder and that the Authority should have had a cost analysis performed before the purchase and installation of the equipment.

The Authority's executive director stated that the memorandum of understanding was executed with the Agency, which received funding from the U.S. Department of Energy under a weatherization initiative. The Authority and the Agency agreed on the percentages each party would pay for the project. However, since the Agency had its own procurement procedures and the Department of Energy's regulations to follow, the Authority did not believe it was responsible for ensuring that the Agency's selection of the supplier complied with applicable requirements.

Conclusion

The Authority did not ensure that it complied with Recovery Act, HUD's, or its own procurement procedures. As a result, HUD and the Authority lacked assurance that \$680 in Recovery Act funds was properly expended and that proper procurement procedures were followed.

Recommendations

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

- 2A. Reimburse \$680 to HUD from non-Federal funds for transmission to the U.S. Treasury for the one range and one refrigerator that were improperly replaced.
- 2B. Implement adequate procedures and controls to ensure that it complies with its procurement policy as well as Recovery Act and Federal requirements. These procedures and controls should include but not limited to maintaining documentation of the history of its procurements.

Finding 3: The Authority Did Not Always Ensure That It Complied With HUD's and Recovery Act Reporting Requirements

The Authority did not always ensure that it complied with HUD's and Recovery Act Requirements. Specifically, it did not accurately report in FederalReporting.gov the number of jobs created and retained. This condition occurred because the Authority did not effectively oversee its contractors to ensure that they provided accurate information. As a result, the public did not have access to accurate information regarding the number of jobs created and retained, and the Authority's use of the formula grant was not transparent.

The Authority Did Not Accurately Report the Number Of Jobs Created

The Authority did not accurately report in Federaleporting.gov the number of jobs created and retained using Recovery Act funds. The Recovery Act reports submitted by the Authority stated that the total number of jobs created was 10. The Authority could not provide documentation to show how it determined three of the jobs created. Section 1512(c) of the Recovery Act requires recipients of Recovery Act funds to submit quarterly reports. These quarterly reports are submitted in FederalReporting.gov and become available to the public on the Recovery.gov Web site. Office of Management and Budget (OMB) Memorandum 10-08 requires recipients of Recovery Act funds to submit estimates of jobs created and jobs retained for each project or activity in their recipient reports. 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 Authority's use of formula grant funds was not transparent.

The Authority Did Not Effectively Oversee Its Contractors To Ensure Accurate Reporting in FederalReporting.gov

The Authority did not effectively oversee its contractors to ensure accurate reporting in FederalReporting.gov. According to the executive director, the misrepresentation in the number of jobs created was due to contractors' reports not being accurately filled out when submitted to the Authority. Upon review, the Authority agreed that the correct number of jobs created and retained was seven.

Conclusion

The Authority did not ensure that it complied with HUD's and Recovery Act requirements. As a result, the public did not have access to accurate information regarding the number of jobs created and retained, and the Authority's use of the formula grant was not transparent.

Recommendations

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

- 3A. Develop and implement procedures and controls to ensure the accuracy, completeness, and timeliness of the all reports submitted to HUD or other Federal agencies for the Authority's programs.

SCOPE AND METHODOLOGY

To accomplish our objectives, we reviewed

- Applicable laws and regulations; HUD program requirements at 2 CFR (Code of Federal Regulations) Part 176; 24 CFR Parts 50, 58, 85, 135, and 968; and 29 CFR Part 5; HUD Notices PIH-2009-12, PIH-2009-16, PIH-2009-25, PIH-2009-31, PIH-2010-25, PIH-2010-44, PIH-2011-4, PIH-2011-12, and PIH-2011-37; HUD Handbook 7460.8, REV-2; the Recovery Act; the United States Housing Act of 1937 as amended; OMB Circular A-87 and Memorandum 10-08; and HUD's Making Davis-Bacon Work guide for public housing agencies as amended.
- The Authority's annual contributions contract with HUD; accounting records; bank statements; 5-year annual plan; contract files; independent auditors' reports on the Authority for fiscal years 2009, 2010, and 2011; computerized databases; policies and procedures; board meeting minutes pertinent to the program; organizational chart; Line of Credit Control System information; Recovery Act reports submitted to FederalReporting.gov; and HUD's Recovery Act Management and Performance System
- HUD's monitoring reports for the Authority's Recovery Act funds and projects, dated December 1, 2009, and October 10, 2011, and HUD's files for the Authority.

We also interviewed the Authority's employees and HUD staff.

Finding 1

We reviewed the project files for the Authority's three contractors (100 percent) to determine whether the Authority maintained documentation to support that it ensured that its contractors paid the appropriate prevailing wages.

Finding 2

We reviewed the Authority's asset management report to determine whether all of the new appliances were accounted for and appropriately replaced. We reviewed documentation for the seven contracts (100 percent) the Authority procured to determine whether the projects funded by the Recovery Act grant were conducted in accordance with HUD's and the Authority's requirements.

Finding 3

We also reviewed the Recovery Act grant progress reported by the Authority through FederalReporting.gov to determine whether the Authority accurately reported the amount of funds obligated and expended and the number of jobs created and retained.

We performed our onsite audit work at the Authority's office at 400 East Tuscarawas Street, Canton, OH, between February 14 and July 26, 2012, and HUD's Cleveland field office. The audit covered the period March 1, 2009, through December 31, 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(s). 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 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 adequate procedures and controls to ensure compliance with Federal and its own requirements regarding (1) its monitoring of contractors to ensure compliance with the Davis-Bacon Act and Federal labor standards, (2) its purchase of appliances for replacement of appliances that had remaining useful life, (3) failing to have a cost analysis performed before soliciting bids for the purchase and installation of video equipment, (4) ensuring that proper procurement procedures were followed in the purchase and installation of 119 furnaces, and (5) its reporting of the accurate number of jobs reported in FederalReporting.gov (see findings 1, 2, and 3).

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		\$6,820	
1B			<u>\$537</u>
2A	<u>\$680</u>		
2B			
Total	<u>\$680</u>	<u>\$6,820</u>	<u>\$537</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 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 Comments

<p> STARK METROPOLITAN HOUSING AUTHORITY <i>400 East Tuscarawas Street Canton, Ohio 44702-1131</i> Phone: (330) 454-8051 Fax: (330) 454-8065 Relay 1-800-750-0750 Web: www.starkmha.org</p> <hr/> <p>September 21, 2012</p> <p>Julie Piotrowski HUD OIG Auditor 200 North High Street Columbus OH 43215</p> <p>Re: Stark MHA Audit Response</p> <p>Dear Ms. Piotrowski,</p> <p>Thank you again for the opportunity to discuss the three (3) findings resulting from your audit of the Stark Metropolitan Housing Authority (SMHA) ARRA stimulus grant. Please know that we take any and all concerns regarding SMHA's financing, policies and procedures seriously. As a result, SMHA is dedicated to address any and all concerns in a timely manner in order to provide the best services to our residents and the community at large.</p> <p>In line with that dedication, SMHA respectfully submits the following responses regarding the Office of Inspector General's (OIG) findings.</p> <p>Finding 1: The Authority did not conduct a sufficient number of interviews with seven subcontractors' employees to ensure that proper wages were received.</p> <p>Comment 1 SMHA disagrees with this finding. The US Department of Housing and Urban development prescribes that a random sampling of contractors are interviewed, which SMHA did.</p> <hr/> <p> Board of Commissioners: Michael E. Williams, Executive Director Frank L. Beane, Linda Bell, Daniel Fonte Jeffrey S. McDaniels, Marilyn Frazier</p>

Ref to OIG Evaluation**Auditee Comments**

The Authority did not investigate complaints of alleged violations of Federal labor standards for two subcontractors.

SMHA agrees with this finding. Due to understaffing in the Development Department, the SMHA Contracting Officer conducted interviews by mail (see attachment). With enclosed, self-addressed stamped envelopes, subcontracted employees completed and returned the Record of Employee Interview forms without the opportunity to discuss or clarify issues with an SMHA representative. As those forms were not properly processed, the staff person responsible for making sure they are reviewed has been disciplined. Prior to the OIG audit, SMHA evaluated the Development Department's workload and understaffing concerns.

Comment 2

Proactively, a Section 3/Compliance Coordinator position was created and filled to complete the duties and responsibilities related to Section 3 and assist with contract compliance. In addition, a Development Inspector was hired whose responsibilities include conducting face to face interviews, and reporting back any irregularities to the Contracting Officer and Compliance Coordinator. Issues and concerns related to finding #1 shall be managed accordingly for future projects. It should be noted that SMHA did receive a call from one employee indicating he was underpaid. He requested certified payrolls and when requested to send paystubs and additional information so SMHA could investigate, he declined, saying his attorney would be handling it. We also received a formal request from a union for wage information (see attached) but did not hear anything back. Any follow up with the company in question is not possible because the companies are no longer in business.

The Authority did not obtain sufficient documentation from seven subcontractors to determine whether their employees were paid the appropriate prevailing wage rates in accordance with the Davis-Bacon Act.

Comment 3

SMHA disagrees with this finding. We believe this is an assumption on the part of the OIG as the finding is based on information completed by employees, and was not verified by actual payroll stubs or other documentation that would support the finding. Certified payrolls (example attached) indicate fringes were paid in cash for the seven employees and would therefore not be able to be confirmed.



Board of Commissioners:

Michael E. Williams, Executive Director
Frank L. Beane, Linda Bell, Daniel Fonte
Jeffrey S. McDaniels, Marilyn Frazier

Ref to OIG Evaluation**Auditee Comments****Finding 2:**

The Authority purchased one range and one refrigerator to replace appliances that had remaining useful life. As a result, SMHA improperly used \$680 in Recovery Act funds to replace one range and one refrigerator that still had useful life.

Comment 4

SMHA disagrees with this finding. The purchase of one (1) range and one (1) stove followed SMHA's procurement practice and Capitalization policy. According to SMHA's Capitalization policy, appliances have a 5 year useful life. Additionally, it is SMHA's standard practice to change out unit appliances at the same time throughout an entire complex for uniformity and fairness to all Residents. Further, it is SMHA's standard practice that removed appliances with any remaining estimated useful life are restocked for immediate use as needed at other locations.

The Authority did not perform a cost analysis before soliciting bids for the purchase and installation of video surveillance equipment.

Comment 5

SMHA disagrees with this finding. SMHA's procurement policy provides for a waiver in the bid process. In this case, one bid was received. The total amount expended was not unreasonable, and the OIG's own cost analysis determined the cost incurred was reasonable. SMHA considered waiving the requirement and accepting the one bid as a result of the accelerated time frame for obligating and expending ARRA funds.

The Authority did not ensure that proper procurement procedures were followed in the purchase and installation of 119 furnaces.

SMHA disagrees with this finding. Proper procurement procedures were followed pursuant to the Memorandum of Understanding between the Department of Energy and HUD: Coordinating Recovery Act Funds for Home Energy Retrofits. The MOU outlined their desire to revitalize the retrofit energy industry by facilitating the use of weatherization funds in public housing. They discussed offering pathways to resolution of issues that hinder the realization of benefits of this program. In our opinion, SMHA becoming more involved and oversee the procurement policies of a third party vendor in the weatherization program is



Board of Commissioners:

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Ref to OIG Evaluation**Auditee Comments**

inconsistent with intent of the MOU. We have attached another copy of the MOU for your convenience, along with the MOU between SMHA and Stark County Community Action Agency (SCCAA), the SMHA Board resolution, and the letter from SCCAA's Chief Executive Officer stating that their policies were followed.

Finding 3:

The Authority did not accurately report in Federalreporting.gov the number of jobs created and retained using Recovery Act Funds. The Authority could not provide documentation to show how it determined three of the number of jobs created.

Comment 7

SMHA disagrees with this finding. SMHA did provide documentation in the form of Section 3 paperwork supplied to SMHA by the subcontractor indicating 10 jobs were created. SMHA explained the Section 3 reporting requirements in detail at the pre-bid conferences and pre-construction conference, and SHMA relied upon the data contractors supplied. A copy of that form is attached.

Please feel free to contact me for additional information or if there are any questions or concerns.

Sincerely,

Michael E. Williams
Executive Director



Board of Commissioners:

Michael E. Williams, Executive Director
Frank L. Beane, Linda Bell, Daniel Fonte
Jeffrey S. McDaniels, Marilyn Frazier

OIG's Evaluation of Auditee Comments

- Comment 1** The Authority stated that it did complete an appropriate number of interviews. We agree that the number of initial interviews completed by the Authority was sufficient. However, according to HUD's guidelines, Making Davis Bacon Work, public housing agencies are encouraged to focus interviews on projects or workers when violations are suspected or alleged. Further, they are also required to investigate probable violations and complaints alleging underpayments. Due to the responses received from the employees interviewed, the Authority should have interviewed all of the employees who worked under this contract to ensure that they received the appropriate Davis-Bacon wages.
- Comment 2** The Authority's actions should improve its Section 3 and Davis-Bacon compliance processes, if fully implemented. HUD will determine whether the improvements meet its requirements and that the policies are fully implemented.
- Comment 3** The Authority stated that HUD-OIG assumed that employees were not paid fringe benefits. Our review was limited to the documentation maintained by the Authority in its project files. The Authority maintained interviews from employees stating that they were not paid fringe benefits, and certified payroll reports from its contractor stating that fringe benefits were paid. The Authority should have completed follow up interviews with the employees or obtained paystubs from the contractor to support its statements that fringe benefits were paid. U.S. Department of Labor regulations at 29 CFR 5.6(3) state that the Federal agency must cause such investigations to be made as may be necessary to ensure compliance with the labor standards. Such investigations should also include evidence of fringe benefit plans and payments. The Authority was unable to provide sufficient payroll documentation, such as paystubs, to support that the subcontractors' employees were paid appropriate Davis-Bacon wages, including fringe benefits.
- Comment 4** The Authority stated that it followed its capitalization policy when it replaced appliances with remaining useful life. The Authority stated that its capitalization policy states that appliances have a 5-year useful life. The Authority did not provide its capitalization policy for our review. According to HUD's Public and Indian Housing Notice, PIH-2009-16, with proper preventative maintenance and routine repairs of minor components, refrigerators can be expected to perform from 6 to 10 years. The National Association of Home Builders estimates the life spans of electric ranges and refrigerators to be 14 to 17 years. Using HUD's and the National Association of Home Builders' estimates, we determined that a reasonable estimate for the life span of refrigerators and ranges was 8 years. The Authority purchased one range for \$282, which replaced a range that was 2 years and 77 days old, and one refrigerator for \$398, which replaced a refrigerator that was 3 years and 117 days old. As stated previously, the Authority's purchasing

agent said that the two appliances were moved to the Authority's maintenance shop to be kept as spare appliances. Therefore, the Authority did not follow HUD's guidance regarding the useful life of its appliances.

- Comment 5** The Authority stated that it considered obtaining a waiver from its procurement policies and accepting the one bid it received for the purchase and installation of video surveillance equipment. The Authority was unable to provide documentation that a cost estimate was completed before the purchase and installation of video surveillance equipment or documentation that it obtained a waiver from its requirements to complete a cost estimate. Completing a cost estimate before the purchase and installation of the equipment would have insured that the cost was reasonable. We agree that the cost of the purchase and installation of video surveillance equipment was reasonable. However, the Authority needs to perform cost estimates before it procures for goods and services.
- Comment 6** The Authority stated it followed the proper procurement procedures pursuant to the memorandum of understanding between the Department of Energy and HUD. The Authority also stated that it believed that overseeing the procurement would be inconsistent with the intent of the memorandum of understanding. The Authority was unable to provide documentation to support that the Stark County Community Action Agency followed the proper procurement procedures pursuant to the American Recovery and Reinvestment Act. The Authority is still required to ensure the proper disbursement of Recovery Act funds whether it performs the procurement or has a third-party perform the procurement of goods or services.
- Comment 7** The Authority stated that it explained the Section 3 reporting requirements in detail to its contractors and that it relied on the data the contractors provided. The Authority was unable to provide documentation to support the number of jobs it reported as created or retained in FederalReporting.gov. The documentation provided by the Authority showed that three of the ten jobs reported in FederalReporting.gov were not Section 3 eligible. Therefore, the Authority overstated the number of jobs created or retained by three jobs (10 jobs - 7 jobs). The Authority is still required to ensure that it appropriately reported the number of jobs created and retained in Federalreporting.gov whether it performed the calculation or had its contractors perform the calculation.

Appendix C

FEDERAL AND AUTHORITY'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 (after 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. (United States Code) 3142 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 decoration, of public buildings.

Section 1606 of the Recovery Act states that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act must be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code.

U.S. Department of Labor regulations at 29 CFR 5.5(a) state that the agency head must cause or require the contracting officer to insert in full in any contract in excess of \$2,000, which is entered into for the actual construction, alteration, or repair, including painting and decorating, of a public building or public work or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant, or annual contribution and which is subject to the labor standards provisions and the labor standards clauses.

U.S. Department of Labor regulations at 29 CFR 5.6(3) state that the Federal agency must cause such investigations to be made as may be necessary to ensure compliance with the labor standards clauses required by section 5.5. Investigations should be made of all contracts with such frequency as may be necessary to ensure compliance. Such investigations should include interviews with employees, which should be taken in confidence, and examinations of payroll

data and evidence of registration and certification with respect to apprenticeship and training plans. In making such examinations, particular care should be taken to determine the correctness of classifications and to determine whether there is a disproportionate employment of laborers and of apprentices or trainees registered in approved programs. Such investigations should also include evidence of fringe benefit plans and payments thereunder. Complaints of alleged violations must be given priority.

HUD Handbook 7460.8, REV-2, paragraph 10.9(E)(2), states that the Authority 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's Making Davis-Bacon Work guide for public housing agencies: Labor Standards Enforcement, number 2, states that the contract administrator or a designee (such as an agency construction inspector) must periodically conduct interviews with the construction workers on the jobsite. Ten Steps to Streamlining Davis-Bacon, number 6, states that HUD is more interested in using onsite interviews as a proactive enforcement tool than as a means to meet a "representative sampling" quota. Rather than conducting interviews randomly for the sake of assembling a sample, local contracting agencies are encouraged to focus interviews on projects or groups of workers when violations are suspected or alleged. In this way, onsite interviews can be used to support a specific ongoing investigation.

Finding 2

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.

Regulations at 25 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 are 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.

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.

Finding 3

Section 1512(c) of the Recovery Act requires that not later than 10 days after the end of each calendar quarter, each recipient that received Recovery Act funds from a Federal agency must submit a report to that agency that contains a detailed list of all projects or activities for which Recovery Act funds were expended or obligated, including (1) the name of the project or activity, (2) a description of the project or activity, (3) an evaluation of the completion status of the project or activity, and (4) 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 2, section 5.1, number 2, requires that recipients of Recovery Act funds submit estimates of jobs created and jobs retained for each project or activity in their recipient reports. 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.