Mobile Housing Board, Mobile, AL

Public Housing Program

Office of Audit, Region 4
Atlanta, GA

Audit Report Number: 2016-AT-1010
August 4, 2016

To: Robert Kenner, Director, Public and Indian Housing, Birmingham Field Office, 4APH

Craig T. Clemmensen, Director, Departmental Enforcement Center, CACB

//signed//

From: Nikita N. Irons, Regional Inspector General for Audit, 4AGA

Subject: The Mobile Housing Board, Mobile, AL, Did Not Disclose an Apparent Conflict of Interest and Occupy One-Third of Its Public Housing Units

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Mobile Housing Board's financial operations.

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

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG 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 404-331-3369.

Audit Report Number: 2016-AT-1010
Date: August 4, 2016

The Mobile Housing Board Did Not Disclose an Apparent Conflict of Interest and Occupy One-Third of Its Public Housing Units

Highlights

What We Audited and Why

We audited the Mobile Housing Board's financial operations. We selected the Housing Board based on concerns from the U.S. Department of Housing and Urban Development's (HUD) Alabama State Office of Public Housing, following a Real Estate Assessment Center (REAC) financial assessment of the Housing Board for fiscal years 2009 to 2013. The REAC assessment showed that the Housing Board's financial condition had deteriorated over those 5 years. The objective of our audit was to determine whether the Housing Board complied with HUD's financial management requirements for its Low Income Public Housing and Capital Fund programs.

What We Found

The Housing Board did not comply with HUD regulations for its financial operations. Specifically, it did not inform HUD of the instrumentality status of its nonprofit, which prevented HUD from identifying an apparent conflict of interest that led to the potential payment of more than $1.2 million to a related party. Additionally, it did not comply with its Public Housing Capital Fund agreement by failing to use its capital funds to rehabilitate 1,194 of its low-income public housing units and allowing 824 units to remain vacant from 1 to 16 years, including two developments that were 100 and 73 percent vacant. These conditions occurred because the Housing Board's lack of critical oversight prevented it from using funds to renovate its vacant units in a timely manner.

What We Recommend

We recommend that the Director of the Birmingham Office of Public Housing require the Housing Board to (1) provide support showing that a conflict of interest did not exist or reimburse $1,241,958 from non-Federal funds; (2) update its books, records, and policies and procedures to identify Mobile Development Enterprises as an instrumentality per applicable HUD regulations, to prevent a future, actual or apparent conflict of interest; and (3) work with HUD to ensure that it meets the conditions of its RAD approval to ensure that the Housing Board's units are renovated and available to eligible families. We recommend that the Director of the Departmental Enforcement Center, in coordination with the Director of the Birmingham HUD Office of Public Housing, take appropriate enforcement action against the Housing Board's management staff for failing to disclose the instrumentality relationship between the Housing Board and the Mobile Development Enterprises, if a conflict of interest exists.

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Background and Objective

The Mobile Housing Board was incorporated in 1937 under the laws of the State of Alabama. Its mission is to provide decent, safe, and sanitary housing for eligible families to promote serviceability, economy, efficiency, and stability in low-income developments and the economic and social well-being of tenants in Mobile, AL. The Housing Board is responsible for administering 3,409 low-income public housing units in 13 developments.

The Housing Board is governed by a consolidated annual contributions contract between it and the U.S. Department of Housing and Urban Development (HUD). Its oversight is the responsibility of a five-member board of commissioners appointed to a 5-year term by the mayor of Mobile. Board members are responsible for approving the Housing Board's bylaws, mission statements, resolutions, and policies. The board also appoints the Housing Board's executive director, who serves as the board secretary and provides strategic day-to-day leadership, including oversight of Housing Board activities and initiatives.

The Housing Board administers its low-income public housing program with the assistance of its nonprofit the Mobile Development Enterprises. The Mobile Development Enterprises was created in April 2003 to provide business skills to low-income and minority Housing Board tenants. In addition to program management activities, it also participates in the evaluation and selection of Housing Board's contractors for construction involving the renovation of its vacant units. In addition, it works directly with vendors to ensure the quality and completion of task order activities. As entities of the same organization, the Housing Board and Mobile Development Enterprises share office space, bank accounts, and executive staff. The Housing Board's operation and improvement of its developments are funded through its consolidated annual contributions contract. In addition to providing operating funds, the contract provides capital funds for capital and management activities. These funds assist the Housing Board in carrying out development, capital, and management activities at public housing projects and ensuring that the developments are available to low-income families. The Authority is permitted to combine its operating and capital funds and may use its capital funds according to Public Housing Operating Fund requirements. HUD awarded the Housing Board more than $77 million for fiscal years 2011 through 2015, which included more than $51 million in operating subsidies and more than $26 million in capital funds.

HUD's Alabama State Office of Public Housing in Birmingham, AL, is responsible for overseeing the Housing Board. In March 2015, HUD placed the Housing Board's accounts and procurement actions under manual review in its Electronic Line of Credit Control System because of concerns about its transparency and accountability for Federal expenditures.

Our audit objective was to determine whether the Housing Board complied with HUD's financial management requirements for its low-income public housing and Public Housing Capital Fund programs.

Results of Audit

Finding: The Mobile Housing Board Did Not Comply With HUD Regulations for Its Financial Operations

The Housing Board did not comply with HUD regulations for its financial operations. Specifically, it did not inform HUD of the instrumentality status of its nonprofit, or submit a conflict-of-interest waiver to HUD prior to the execution of a contract between itself and a construction company owned by the senior vice president of the nonprofit's half-brother. The Housing Board's failure to inform HUD of the instrumentality prevented HUD from identifying an apparent conflict of interest. Additionally, it did not comply with its Capital Fund agreement by failing to use its capital funds to rehabilitate 1,194 of its low-income public housing units and allowing 824 units to remain vacant from 1 to 16 years. This housing included two developments that were 100 and 73 percent vacant. These conditions occurred because the Housing Board failed to apply applicable regulations regarding affiliate and instrumentality relationships when procuring its nonprofit for services[1]. The Housing Board's failure to apply applicable regulations resulted in it potentially exposing HUD to more than $1.2 million in ineligible costs. Additionally, the Housing Board's lack of critical oversight prevented it from using its funds to renovate its vacant units in a timely manner. As a result, the Housing Board failed to provide decent, safe, and sanitary housing for more than 824 families from 1 to 16 years.

Apparent Conflict of Interest

The Housing Board failed to comply with HUD's conflict-of-interest regulation for public housing authorities and entities identified as instrumentalities[2]. An instrumentality is an entity related to a public housing authority whose assets, operations, and management are legally and effectively controlled by the public housing authority. Instrumentalities utilize public housing funds, or assets for the purpose of carrying out public housing development functions. Entities classified as public housing authority instrumentalities must abide by the same requirements applicable to the public housing authority. The Housing Board identified its nonprofit; Mobile Development Enterprises as an affiliate entity which is treated as an independent third party. However, prior to the procurement of the construction company; Superior Masonry, owned by the nonprofit's senior vice president's half-brother, the Housing Board did not notify HUD of a potential related party. However, it did notify the sitting board chairman at the time of Superior Masonry's procurement. He stated that he was made aware of the relationship between Mobile Development Enterprises' senior vice president and the owner of Superior Masonry and determined that there was no conflict. HUD defines an affiliate entity as an entity, other than an instrumentality, formed by a housing authority under state law in which the housing authority

[1] Notice: PIH-2007-15 (HA)
[2] Notice: PIH-2007-15 (HA), I. Introduction, paragraph D, Program Requirements, and E, Terms, 1 and 2

has a financial or ownership interest or participates in their governance, and is treated like an unrelated third party contractor[3]. The Housing Board did not notify HUD of the relationship that resulted in payments of more than $1.2 million from August 1, 2013, to October 31, 2015, to the owner of a construction contractor who is the half-brother of the senior vice president of the Housing Board's nonprofit. This failure prevented HUD from identifying an apparent or an actual conflict of interest.

In addition, the Housing Board may have violated its consolidated annual contributions contract conflict-of-interest provision[4] when it entered into the contract with the senior vice president of its nonprofit's half-brother. The annual contributions contract states that a Housing Authority may not enter into any contract or arrangement in connection with a project under the annual contributions contract in which any employee of the Housing Authority who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner. The Housing Board created the nonprofit, the Mobile Development Enterprises, in April 2003. The Mobile Development Enterprises provides housing counseling, public relations, strategic planning, resource development, asset management, construction, administration services, and procurement services to the Housing Board. The Mobile Development Enterprises' board consists of a president, vice president, and secretary-treasurer. These positions are held by the board chairman, vice chairman, and executive director of the Housing Board, respectively (see table 1).

Table 1: Relationship Between Housing Board, Board of Commissioners, and Mobile Development Enterprises Board of Directors

Mobile Housing Board Board of Commissioners	Relationship	Mobile Development Enterprises Board of Directors
Board Chairman	Same as	Board President
Vice Chairman	Same as	Board Vice President
Executive Director	Same as	Secretary and Treasurer

In addition to its board, the Housing Board and the Mobile Development Enterprises share executive staff, including the senior vice president, vice president of asset management and compliance, and several managers and directors of the Housing Board's programs (see table 2).

[3] Notice: PIH-2007-15 (HA), I. Introduction, paragraph E. Terms, 1
[4] Consolidated Annual Contributions Contract; Section 19- Conflict of Interest (A)(1)(ii)

Table 2: Relationship Between Housing Board Executive Staff and Mobile Development Enterprises Executive Staff

Mobile Housing Board Executive Staff	Relationship	Mobile Development Enterprises Executive Staff
Executive Director	Same as	President and CEO
Senior Vice President of Business and Community Relations	Same as	Senior Vice President of Business and Community Relations
Senior Vice President and Chief Financial Officer	Same as	Senior Vice President and Chief Financial Officer
Vice President of Asset Management and Compliance	Same as	Vice President of Asset Management and Compliance

Furthermore, the Housing Board and Mobile Development Enterprise offices are both located at the Housing Board's central office. They also share the same bank accounts and executive staff.

In 2013, HUD's Birmingham Office of Public Housing conducted an onsite review of the Housing Board's operations. The review identified concerns regarding its financial operations, vacancies, and governance, including concerns over the Mobile Development Enterprises' role in the Housing Board's activities. As a result, HUD recommended that the Housing Board solicit other vendors for services provided by the Mobile Development Enterprises.
To ensure that the Housing Board addressed HUD's concerns, HUD provided it with a sustainability plan. The plan recommended that the Housing Board conduct formal solicitation for the services provided by the Mobile Development Enterprises to benefit the Housing Board's organizational structure and make reporting relationships more transparent. In response, the Housing Board awarded a contract for program management services to the Mobile Development Enterprises, its nonprofit affiliate, in September 2013. Based on the understanding that the Mobile Development Enterprises was an affiliate entity of the Housing Board, HUD did not dispute its decision to select the Mobile Development Enterprises for services after a formal procurement process.

We reviewed the Housing Board's June 2013 request for proposals, as well as the proposal packet the Mobile Development Enterprises submitted to the Housing Board in July 2013 to comply with HUD's procurement requirements, which required them to allow open competition for all procurement transactions[5]. In the proposal, the Mobile Development Enterprises identified itself as a wholly owned entity whose relationship would cause an apparent or actual conflict of interest with respect to the Housing Board; and not an affiliate as the Housing Board

[5] 24 CFR (Code of Federal Regulations) Part 85, Subpart 36, Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments, (c) and (d)(3)

had stated to HUD. According to HUD regulations an affiliate is treated like an unrelated third party contractor[6]. The Housing Board provided the Mobile Development Enterprises an award acceptance letter, dated September 2013, which was signed by the executive director. The executive director also signed the letter on behalf of the Mobile Development Enterprises as its president. Further, in an attachment to a tax exempt form for the Internal Revenue Service submitted in 2013, the Mobile Development Enterprises identified itself as a wholly owned nonprofit instrumentality of the Housing Board. Therefore, the Housing Board was aware that its nonprofit was not an affiliate to be treated as an independent third party contractor, but did not notify HUD. HUD regulations state that an instrumentality assumes the role of the Housing Board, and must abide by the public housing requirements applicable to the Housing Board including conflict of interest regulations[7]. By identifying its nonprofit as an affiliate, the Housing Board was able to contract with Superior Masonry, which was owned by the half-brother of the senior vice president of the Mobile Development Enterprises, for vacancy reduction and other construction contract services without disclosing the relationship to HUD. Since the Housing Board did not notify HUD of the apparent conflict of interest, it potentially made inappropriate payments of more than $1.2 million to a related party.

Management Failed to Occupy Vacant Units

The Housing Board failed to adequately manage its low-income public housing developments in accordance with its Capital Fund agreement[8]. As a result, as of October 15, 2015, it had 824 units that had extensive renovation needs that caused them to remain vacant from 1 to 16 years. Extensive rehabilitation needs forced the Housing Board to vacate all of its Josephine Allen public housing development and 73 percent of its Roger Williams development. In addition to failing to properly operate two of its public housing developments, it received a substandard management Public Housing Assessment System (PHAS) score for fiscal years 2012 to 2015 and continued to increase its number of vacancies.

> One-third of the Housing Board's low-income public housing units were vacant

On January 13, 2011, the Housing Board had 1,071 vacancies. To reduce the number of vacant units, it submitted a vacancy reduction plan to HUD to decrease its longstanding vacancies. In its plan, the Housing Board stated that its vacancies were a result of a systemic lack of critical oversight and strategy for its housing operations. As a result of this deficiency, the Housing Board lost rental revenue and its ability to generate adequate funding to staff its properties and

[6] Notice: PIH-2007-15 (HA), I. Introduction, paragraph E, Terms, 1
[7] Notice: PIH-2007-15 (HA), I. Introduction, paragraph E, Terms, 2
[8] The Capital Fund program amendment to the consolidated annual contributions contract (form HUD-53012), section 7, states, "The PHA [public housing agency] shall continue to operate public housing projects as low-income housing in compliance with the annual contributions contract, as amended, the Act (United States Housing Act of 1937) and all HUD regulations for a period of twenty years after the last disbursement of Capital Fund amendment assistance for modernization activities for each public housing project or portion thereof and for a period of forty years after the last distribution of Capital Fund Program."

provide resources necessary to maintain a decent, safe, sanitary community. To meet the plan objective, it conducted a needs assessment of its vacant units (appendix C). Based on this assessment, it determined that about $7 million would be needed to meet the plan objective by rehabilitating vacant units. The Housing Board anticipated using capital funds, operational reserves, bond and insurance proceeds, and private funding, along with funds from its central office cost center, to fund this endeavor. It also submitted a request to HUD to use American Recovery and Reinvestment Act funds. Additionally, it requested that HUD approve 542 units for modernization status, which would allow the Housing Board to receive an operating subsidy for these units while they were vacant. The operating subsidy would partially fund the vacancy reduction plan and replenish operating reserves.

HUD approved the Housing Board's plan on January 27, 2011. As a condition of the approval, HUD allowed the Housing Board to use Recovery Act funds to repair units that required repairs substantially greater than would occur during the normal turnover of units. However, HUD did not approve its request to place all 542 units in modernization status. HUD also required the Housing Board to update the plan to account for routine turnover vacancies and include strategies to ensure that sufficient applications would be available to allow the repaired units in the developments to be occupied. The Housing Board resubmitted the plan on June 24, 2011. In the revised plan, it stated that since its January 2011, plan, it had returned 100 units to rentable status. However, as of the June revision, it had identified 1,057 vacant units. Out of 1,057 units, it planned to return 477 back to rentable status with HUD-approved Recovery Act funds, capital funds, operating reserves, and other sources totaling more than $7 million. Additionally, the Housing Board identified 2,432 families on its waiting list, which meant that there were 1,375 more families in need of housing than vacant units. To ensure that families were placed into the units as they became available, it stated that it would implement a unit forecast tracking process that would provide its leasing professionals estimated ready dates for each unit. This process would allow units to be leased 1 to 3 days after a unit was ready.

Since the submission of its June 2011 plan, the Housing Board had increased its vacant units from 1,057 to 1,194 as of October 15, 2015. It had also increased the number of families on its waiting list from 2,432 to 9,987 as of March 2016. Additionally, HUD designated the Housing Board as one with substandard management, based on a failing PHAS audited management score of 63 of 100 for the fiscal year ending December 31, 2012. To address its failing score, HUD provided guidance to the Housing Board to improve its PHAS score and performance for long-term sustainability. HUD's suggestions included that the Housing Board evaluate its waiting list, assess occupancy policies, evaluate turnaround time of vacant units for occupancy, and consider contracting property management of its public housing to another entity. Further, the Housing Board was required to provide a proposed recovery plan to HUD for review. The Housing Board submitted its final recovery plan on August 13, 2014. In its plan, the Housing Board stated that it had instituted a vacancy reduction plan and was engaged in an occupancy initiative. Both plans sought to renovate its least costly long-term vacant units using third-party contractors and its own internal workforce. According to the Housing Board, the plans were not successful because of 1,426 move-outs from 2011 to 2013. However, the Housing Board's March 2016 waiting list contained more than 9,000 names and an average wait time from 2 months to more than 5 years.

Since the Housing Board submitted its 2011 vacancy reduction plan, it had received more than $18.4 million in capital funds plus $3.2 million in Recovery Act funds. It also had access to more than $27 million in Capital Fund revenue bond proceeds starting in 2003. From 2011 to 2015, it paid its nonprofit more than $5.3 million for services directly related to its vacancy reduction plans and paid the half-brother of the nonprofit's senior vice president, who is the owner of Superior Masonry, more than $3.6 million for capital improvement construction services. Although it had received and spent substantial funding for capital improvements, the Housing Board had 1,194 vacant units, or one-third of its 3,409 low-income public housing units. As a result of the Housing Board's failure to renovate its units in a timely manner, it was forced to substantially vacate two of its largest public housing developments so that they could be demolished or sold.

The Housing Board submitted a demolition/disposition application for its 292-unit Josephine Allen development on September 30, 2011. As of the application date, 260 units were vacant, 168 of which had been vacant from 1 to 12 years. The Housing Board did not receive approval of its application until February 13, 2015. The application approval was delayed because it failed to provide HUD with information regarding the potential disposition. Although HUD identified several environmental conditions at the property including an underground river and possible contamination from an adjacent industrial plant, HUD approved the application for demolition or disposition but informed the Housing Board that it must disclose the environmental conditions. The development site is also located in a 100-year or 500-year floodplain. The Housing Board chose to sale the property because it calculated that it would cost more than $1 million to demolish the property but it could potentially receive more than $2 million to sale it. While the application was approved in February 2015, as of October 15, 2015, the Housing Board's mismanagement had prevented it from providing housing for 292 families in its Josephine Allen development from 4 to 16 years.

The Housing Board also submitted a demolition application for its Roger William development on July 7, 2014. As of the application date, 292 of its 452 units were vacant. On August 4, 2015, HUD approved the demolition application. As of October 15, 2015, the Housing Board's mismanagement had prevented it from housing 303 families from 1 to 15 years. The Housing Board's failure to use its funds to renovate its units in a timely manner allowed many units to deteriorate to a condition that required costly and extensive rehabilitation. As a result of its mismanagement, the Housing Board's Josephine Allen and Roger Williams low-income public housing developments were 100 percent and 73 percent vacant, respectively, as of October 15, 2015. This condition occurred because the Housing Board failed to adequately operate these low-income public housing developments as required by section 7 of its Capital Fund agreement to its annual contributions contract. Further, as of October 15, 2015, despite a demolition approval, the Housing Board had not presented HUD a viable plan to demolish or sell the developments.

During the exit conference, the Housing Board informed us that in order to address its vacant units, it plans to use the Rental Assistance Demonstration (RAD) program by converting its low-income public housing into voucher based and mixed-income multifamily housing. The RAD program was created to give public housing authorities a tool to preserve and improve public housing properties and address deferred maintenance.

The Housing Board submitted a RAD application to HUD for approval in October 2013 for all of its 13 low-income public housing developments (see table 3)

Table 3: Housing Developments Approved for Rental Assistance Demonstration (RAD)

Housing development	Number of converting units
Frank W. Boykin Towers	122
Central Plaza Towers	465
Emerson Gardens	94
Gulf Village	200
Josephine Allen	292
Oaklawn Homes	100
Orange Grove	247
Roger Williams Homes	452
RV Taylor	450
Thomas James Place	796
Downtown Renaissance	57
Renaissance Gardens	48
Renaissance Family	87

In response to its application, HUD rejected the Housing Board's request based on its failure to be classified in PHAS as a standard or high performer. At the time of the rejection, the Housing Board was classified as a substandard performer. Additionally, it failed to meet specific requirements of its HUD sustainability plan including increasing occupancy, reducing expenses, and governance compliance. The Housing Board reapplied and received conditional RAD approval in October 2015. However, its approval can be revoked or amended by HUD at any time prior to the closing of the last project included in the RAD award if HUD determines that the Housing Board is not meeting the requirements of its conditions. As of May 2016, the Housing Board has failed to demonstrate to HUD that it can continue to operate its low-income public housing units and improve unit conditions with its capital funds through the implementation of RAD. Additionally, the Housing Board has failed to timely request an extension for modernization status of units at its Thomas James Place development. Furthermore, the Housing Board's total expenses have exceeded its total revenue from 2012 through 2015, which further supports HUD's concern that the Housing Board cannot adequately manage its funds to sustain its low income housing during the completion of the RAD implementation.

Conclusion

The Housing Board did not comply with HUD regulations for its financial operations. It failed to comply with HUD regulations by misrepresenting its nonprofit as an affiliate entity. This action prevented HUD from identifying an apparent conflict of interest, which resulted in payments of more than $1.2 million to the owner of a construction company who was the half-brother of the senior vice president for the Housing Board's nonprofit. Additionally, it did not comply with its Capital Fund amendment to its annual contributions contract. This noncompliance included failing to use its capital funds to lease 1,194 of its low-income public housing units as well as allowing 824 units to remain vacant from 1 to 16 years. The Housing Board's failure to disclose the instrumentality relationship to HUD led to the Housing Board to potentially use more than $1.2 million in Federal funds for ineligible purposes. Additionally, the Housing Board's mismanagement prevented it from providing low-income families with decent, safe, and sanitary housing for many years.

Recommendations

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

1A. Require the Housing Board to provide support showing that a conflict of interest did not exist between the Mobile Development Enterprises and Superior Masonry or reimburse HUD $1,241,958 from non-Federal funds.

1B. Require the Housing Board to update its books, records, and policies and procedures to identify its nonprofit; Mobile Development Enterprises as an instrumentality per applicable HUD regulations, to prevent a future, actual or apparent conflict of interest between the Housing Board, its nonprofit, and other contractors

1C. Require the Housing Board to work with HUD to ensure that it meets the conditions of its RAD approval to ensure that the Housing Board's units are made available for eligible families.

We recommend that the Director of the Departmental Enforcement Center, in coordination with the Director of the Birmingham HUD Office of Public Housing,

1D. Take appropriate enforcement action against the Housing Board's management staff for failing to disclose the instrumentality relationship between the Housing Board and the Mobile Development Enterprises, if a conflict of interest exists.

Scope and Methodology

We performed our audit from September 2015 through January 2016 at the Housing Board, Mobile, AL. Our review generally covered the period October 1, 2013, through August 31, 2015, and was adjusted as necessary.

To accomplish our objective, we

- Reviewed a sample of the Housing Board's expenditures related to low-income public housing and Capital Fund activities, as well as the contracts, invoices and canceled checks, to verify that all expenses were paid for eligible and supported activities.
- Interviewed Housing Board staff to obtain an understanding of the controls significant to the audit objective and assist in our review of its files.
- Reviewed applicable laws, regulations, and relevant HUD program requirements to determine whether the Housing Board complied with financial management requirements.
- Reviewed HUD documents and reports related to the Housing Board's financial operations.
- Reviewed the Housing Board's internal reports to analyze and gain an understanding of the Housing Board's written policies and procedures, relevant laws and regulations, the Housing Board's bylaws and consolidated annual contributions contract with HUD, and HUD guidance.
- Conducted a site visit to the Housing Board's Thomas James development.

Our universe consisted of 3,050 statistically valid transactions related to low-income public housing and capital funds during the period October 1, 2013, through August 31, 2015. The sampling method used would allow the audit team to project on the universe if necessary. During the audit scope, the Housing Board disbursed more than $6.3 million in operating and capital funds. To review the eligibility of each transaction to determine whether the Housing Board used HUD funds in accordance with HUD regulations and its own policies and procedures, we developed a statistical sample of 16 of 121 transactions. The total amount of disbursements reviewed totaled more than $591,000. We also reviewed procurement information and determined whether contracts were awarded in accordance with HUD regulations and Housing Board policies and procedures. We documented the condition of several Thomas James development units that needed extensive renovation.

To achieve our audit objective, we relied in part on computer-processed data. We used the data to select for review a sample of recipients that were awarded grants for infrastructure. 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 generally reliable for our purposes.

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:

- Program operations – Policies and procedures that management has implemented to provide reasonable assurance that a program meets its objectives, while considering cost effectiveness and efficiency.
- Relevance and reliability of information – Policies and procedures that management has implemented to reasonably ensure that operational and financial information used for decision making and reporting externally is relevant, reliable, and fairly disclosed in reports.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that program implementation is consistent with laws and regulations.

We assessed the relevant controls identified above.

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

Significant Deficiency

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

- The Housing Board did not properly manage its financial operations (finding).

Appendixes

Appendix A

Schedule of Questioned Costs

Recommendation number	Unsupported 2/
1A	$ 1,241,958
Totals	**$1,241,958**

2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation | **Auditee Comments**

COMMISSIONERS
DONALD L. LANGHAM
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May 13, 2016

VIA EMAIL (NIrons@hudoig.gov) ONLY

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Re: Response to Draft Audit Survey Report on the Mobile Housing Board's Financial Operations, Procurement of Certain Contracts and Occupancy of Public Housing Units

Dear Ms. Irons:

Thank you for the opportunity to respond to the draft audit survey report examining the Mobile Housing Board's (the "Housing Board" or "MHB") financial operations, procurement of certain contracts and occupancy of public housing units. In the draft audit report provided to the Housing Board on April 29, 2016 ("Draft Audit"), the Office of Inspector General ("OIG") concludes that the Housing Board did not comply with U.S. Department of Housing and Urban Development ("HUD") regulations with regard to one aspect of its financial operations, procurement of one contract and occupancy of public housing units. After analyzing the Draft Audit, and as we communicated at our exit conference with the OIG on May 3, 2016 (the "Exit Conference"), and further detailed in this formal written response to the Draft Audit, the Housing Board **adamantly disagrees** with the scope, content, tone and magnitude of

Comment 1

the Draft Audit's findings and recommendations. Specifically, the Housing Board maintains that the findings are incorrect, skewed and punish the Housing Board for following the regulations and guidance of HUD Program offices. We urge the OIG should reconsider issuing this Draft Audit in its current form given that both findings and the recommendations are based on an incorrect or incomplete understanding of the facts, erroneous legal analysis, and flawed conclusions. We do not believe there is any basis for any of the findings in the Draft Audit.

Comment 2

Further, the OIG completely ignores the fact that the Housing Board is seeking to reposition its entire public housing inventory by undertaking a portfolio conversion pursuant to HUD's Rental Assistance Demonstration ("RAD") program which directly addresses the long-term vacancy issues that the OIG focuses on in the second component of its Draft Audit. If the OIG nevertheless goes forward to publish this Draft

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Ref to OIG Evaluation

Nikita N. Irons
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Audit, we request that our response be published in its entirety, with the OIG's Final Audit.[1]

I. Executive Summary of the Housing Board's Response

Mobile Housing Board believes that the findings and recommendations of the OIG Draft Audit are misplaced and fault the Housing Board for carefully following HUD requirements, HUD Field Office guidance, and pursuing an ambitious redevelopment plan that prioritizes the real needs of the low-income families we serve. Our response to the OIG's Draft Audit will make clear:

Comment 3

- **No Government Money was Misspent.** OIG's audit confirmed that the Housing Board appropriately accounted for and used all public housing capital funds for HUD-eligible purposes, specifically fixing properties and housing units.

Comment 4

- **No Conflict of Interest Exists.** There was no undue influence or unfairness in the award, divisions of the work or payments of the contractor singled out in this report. In addition, the OIG found no indication that any member of the Housing Board, or any affiliate's employee, personally benefited from any contract with the minority vacancy preparation contractor. We demonstrate in our response that, based on the facts, there was absolutely no conflict of interest under any HUD conflict of interest standard. Therefore the Housing Board correctly procured Superior Masonry. This contractor, Superior Masonry, is a well-respected, minority contractor known in the City of Mobile and has been in business since 1978. His work product and pricing are highly competitive and represent the type of quality and craftsmanship that withstands the test of time. This contractor is an example of what the federal government espouses with regard to women and minority business hiring and Section 3 job training opportunities.

Comment 5

- **Vacancies and distressed properties cannot be fixed at the current funding levels.** The Draft Audit advocates that old, vacant, and obsolete units should be constantly renovated at huge costs to the taxpayers, instead of torn down and replaced. The Housing Board has old properties, with sixty one percent (61%) or 2,086 of the Housing Board's units being 50+ years old and with 1,342 (or 39%) being more than 70+ years old. The Housing Board does not receive enough federal dollars to fix and occupy *all* vacant units, especially the units in properties that need to be torn down.

Comment 6

[1] While the OIG took nearly 9 months to conduct their audit of the Housing Board's activities, we were given the Draft Audit on Friday, April 29, 2016, barely two business days in advance of our exit conference on Tuesday, May 3, 2016. Therefore, these Housing Board responses are based on the Draft Audit received from the OIG on April 29, 2016 and the exit conference with the OIG on May 3, 2016.

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In addition, OIG neglects the facts that the funding levels continue to be reduced and have been for years. Here are the facts:

- **The Housing Board has $96 Million in Current Capital Needs,** but only receives about $5 million from HUD for capital needs each year, a mere 5% of the total need.
- **90% of Vacancies are in Properties that Need to be Torn Down.** Two properties contain a substantial numbers of the vacancies and have received official approval from HUD for demolition/disposition. One of those sites is also a current recipient of a CHOICE Neighborhoods Initiative Planning grant which allows for planning and decision making to take place at the local level, not at the national level. The OIG disregards this fact and suggest renovation should still be in effect, which goes against the regulations of HUD demolition/disposition approval.
- **MHB Fixed Units per the HUD Approved Vacancy Approach.** Given the reduced funding, MHB continued to fix and occupy units based on the HUD approved vacancy plan until a greater strategic plan could be implemented. The OIG criticizes MHB for devising an approach to address its housing, receiving HUD approval for that, and then following its plan. The OIG's report seems to argue against itself: OIG wants us to fix and occupy vacancies; yet, they are critical of the plan we used and HUD approved to address the very issue they center their report around.

➢ **The Housing Board is Transforming Affordable Housing Communities in the City of Mobile.** Rather than fix individual, obsolete, WWII designed units that do not have modern amenities or updated infrastructure, as the OIG report is suggesting, The Housing Board has developed a comprehensive *Housing Transformation Plan 2020* that systematically and strategically addresses each of the properties, including those with vacancies, with *real world* solutions and takes advantage of HUD's Rental Assistance Demonstration ("RAD") program.

The Transformation Plan has four prongs and calls for the Housing Board to:

- *Revitalize* 1,368 units (or 40% of the Housing Board's inventory) located on the Southside in vibrant master planned, mixed-income, mixed-use community.
- *Retain* and enhance 1,297 units (or 38% of the Housing Board's inventory) that are virtually brand new, or moderately aged, and can provide good housing if renovated.

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- *Revitalize* 452 units located in Roger Williams into an on-site and off-site, mixed-income, mixed-use and master planned community.
- *Dispose* of 292 units (9% of the Housing Board's inventory) to a third party purchaser.

The Transformation Plan approach will maximize MHB's scarce federal resources and allow MHB to use these resources to build on public-private partnerships in a strategic way that will benefit low-income families, surrounding communities and the entire City of Mobile. In addition, this plan is supplemented by HUD's Rental Assistance Demonstration ("RAD") program, which is a key administration goal for revitalizing distressed public housing.

MHB has taken a proactive approach to addressing its housing issues for the City of Mobile and its citizens. The Transformation Plan was crafted during the time frame OIG is scrutinizing and the OIG's Draft Audit report does not take into account that we are addressing the very concerns that are in their report. We suggest that the Draft Audit report is outdated and should be reconsidered.

The end result of the Housing Board's approach will be additional viable affordable units, safer communities, and an agency better positioned to meet the affordable housing needs of its Mobile community over the long term.

Therefore, we respectfully disagree with the OIG Draft Audit because low-wealth families would not thrive if the OIG's approach was embraced.

II. Introduction to the Housing Board's Response

Before responding on the specific findings and recommendations of the Draft Audit, we first provide an overview of the Housing Board's activities and accomplishments, development plans, and its portfolio award under HUD's RAD program. Given there is no basis for any of the findings in the Draft Audit, as we detailed at the Exit Conference and further detail herein, we strongly believe the OIG should not issue a final audit. If it is issued, the Draft Audit needs substantial correction[2] and needs to be viewed in the context of the Housing Board's accomplishments to date and participation in the RAD program.

The Draft Audit attempts to impose a universal 100% repair requirement on every vacant unit of the Housing Board, including those in FEMA designated flood zones,

[2] We are unclear what findings and recommendations, if any, would remain if the Draft Audit is corrected. This is especially the case given that the current findings and recommendations are based on incorrect or incomplete facts, erroneous legal analysis, and erroneous conclusions.

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those that are obsolete under HUD's regulations, those that cost upwards of $30,000+ to repair, those that continue to be situated in high poverty, high crime, and low opportunity areas, and those that other HUD program departments agree should be demolished. In addition, the approach advocated by the OIG ignores both the undeniable national recognition of the significant dearth of funding at the Federal level for meeting public housing capital needs[3], as well as the Housing Board's participation in HUD's RAD program as the path for implementing the redevelopment envisioned in the Housing Board's *Housing Transformation Plan 2020.*

OIG should defer to HUD and Housing Board's Transformation Plan

Comment 9

The Housing Board believes that the OIG should not substitute its own subjective opinions as to how the Housing Board should reposition its crumbling and aging housing stock, but should rather give due deference to:

(i) the Housing Board's comprehensive approach to transform its entire aging housing stock, taking into account the local conditions on the ground, through its *Housing Transformation Plan 2020* strategy,

(ii) the HUD Field Office's constant technical guidance, regulatory oversight and strategic direction to the Housing Board, and

Comment 9

(iii) the Housing Board's reliance on the plain meaning and language of HUD Notice PIH-2007-15 (HA) – *Applicability of Public Housing Development Requirements to Transactions between Public Housing Agencies and their Related Affiliates and Instrumentalities* (especially Section I(B) and footnote 1, both on Page 2)[4] only to apply to entities engaged in Development

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[3] A 2010 HUD study determined that there are more than $25.6 Billion, in 2010 dollars, in unmet, backlog capital needs for public housing units. The same study estimated annual accrual needs to address depreciation of $3.4 billion or $3,155 per unit. See Abt Associates Inc. study entitled *Capital Needs in the Public Housing Program* at pages iv – v (http://portal.hud.gov/hudportal/documents/huddoc?id=PH_Capital_Needs.pdf). This number continues to grow each year. The annual Congressional appropriations for the public housing capital fund have consistently ranged in the $1.7 – $2 Billion, a mere fraction of the need.

The Housing Board has nearly $189+ Million in unmet capital needs and its annual accrual need for 3,409 units, if these units have average accrual needs, is well over $10 million. At the same time , MHB's annual capital fund allocations from HUD are only about $5 million annually with nearly $2 million of that annual amount going to service CFFP Bond debt originally incurred in 2003. This amount obviously is not sufficient to fund the unmet backlog of capital needs or even close to the amount needed to keep up with new capital needs resulting from depreciation.

Comment 9

[4] This footnote in the Notice states "This notice only covers development activities and activities related thereto." It is clear that the maintenance and make ready activity by one contractor, Superior Masonry, was not for "development" purposes, and therefore the Notice has no applicability and should not have been relied on by the OIG. The Housing Board will highlight additional reasons for its reliance in its further discussion contained in its Response.

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activities and not to Mobile Development Enterprises' engagement in administrative and managerial activities.

The OIG Audit Report states that it conducted its survey review because of a HUD Birmingham Field Office referral request following HUD's Real Estate Assessment Center ("REAC") financial assessment of the Housing Board for fiscal years 2009 to 2013.[5] This is a complete surprise to the Housing Board. In the OIG's September 9, 2015 Entrance Conference ("Entrance Conference"), the OIG stated that it was conducting the survey of the Housing Board's use of CFP Grant funds as "part of its routine audit plan" and that the Housing Board had been "*randomly* selected for the survey, and potential further audit." The Housing Board expressed concern to the OIG.

The Housing Board pointed out that it had been the subject of numerous HUD audits, none of which had suggested the level of concern, to the Housing Board's knowledge, that dictated the current survey by the OIG. In fact, the Housing Board's Financial Assessment Subsystem ("FASS") scores for the last three years have been extremely high, as indicated on Table to the right.

Fiscal Year	Total Possible FASS Points	Housing Board's FASS Points	Housing Board's FASS Percentage
FY2011	25	23	92%
FY2012	25	20	80%
FY2013	25	23	92%
FY2014	25	23	92%
FY2015	25	23	92%

In addition, when the HUD Field Office arrived at the Housing Board for their financial review due to concerns they had on June 15 - 18, 2015, the Housing Board was able to identify and correct erroneous depreciation and other calculations the Field Office added to the Housing Board's financial bottom line, which then demonstrated the Housing Board was in a positive, and not a negative, reserve position. It was due to this meeting that we believed the concerns of our HUD Field Office were no longer an issue. Finally, the Housing Board has also had three (3) straight years where it has received an *unqualified* Independent Public Accountant ("IPA") audit with no findings and no management letter recommendations.

Given these facts, the Housing Board expressed uneasiness about the methodology for its selection at the Entrance Conference and this concern is amplified given the nature of the findings and their portrayal in the Draft Audit. The OIG attempts to use vacancy levels, primarily at older developments slated for demolition, disposition and redevelopment under HUD's Rental Assistance Demonstration ("RAD") program[6]

[5] The Housing Board has never received a copy of the REAC assessment, despite repeated requests, nor has it formally been debriefed as to the REAC assessment's contents, conclusions or recommendations.

[6] One of the few options available to PHAs during this timeframe to bring valuable financial resources to meet some of the capital needs of aging housing stock has been the Rental Assistance Demonstration ("RAD") program. RAD "was created in order to give public housing authorities (PHAs) a powerful tool to preserve and improve public

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as evidence that the Housing Board failed adequately to manage its low-income public housing developments. The Draft Audit ignores the Housing Board's pending portfolio-conversion of all of its public housing in HUD's RAD program which will directly address the difficult long-term vacancy issues that have plagued the agency[7]. Over the past four years, the Housing Board has carefully assessed the strategic use of scarce resources in an attempt to best serve the Mobile community over the long term.[8]

Understanding this potential for leveraging the funds needed to address the Housing Board's extensive public housing capital needs, the Housing Board applied for RAD to address its entire portfolio in 2013. After initially placing the Housing Board on a waitlist for the RAD program and then requiring the Housing Board to submit updated RAD applications and voluminous information not requested of other applicants, HUD finally approved the Housing Board's portfolio-wide RAD application in October 2015. The Housing Board has been working closely with HUD since that time to move forward on this sweeping endeavor.

The OIG's Draft Audit, however, ignores the strategic nature of the RAD program and the Housing Board's contemplated use of RAD as a key development tool for the repositioning of its housing portfolio and addressing the long-term vacancy issues that form the basis of one of the Draft Audit findings. As part of the requirements for participation in the RAD Program, the Housing Board cannot redevelop or otherwise reposition properties contemplated for RAD without the prior approval of HUD. The Draft Audit does not acknowledge the Housing Board's participation HUD's RAD program or its related compliance obligations thereunder. Instead, the OIG seems to

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housing properties and address the $26 billion dollar nationwide backlog of deferred maintenance." (See http://portal.hud.gov/hudportal/HUD?src=/RAD).

[7] The OIG in the Draft Audit does not seem to fully appreciate the RAD program or the significance of the Housing Board's portfolio award under the RAD program. Pursuing a portfolio conversion under the RAD program is the Housing Board's plan to directly address the long-term vacancy issues at certain of its developments. Yet, there is not a single mention in the audit of the Housing Board's participation in the Rental Assistance Demonstration program. When we emphasized the import of the RAD program to the OIG at the Exit Conference, the OIG said it would acknowledge the Housing Board's participation in the program but still did not seem to grasp or appreciate the significance and relevance to the Draft Audit. This is disconcerting and suggests a lack of appreciation on the part of the OIG audit team, especially as it relates to the finding regarding long-term vacancies at certain public housing sites.

[8] The OIG in conducting this survey and producing these findings has disregarded the greater climate that public housing authorities ("PHAs"), including the Housing Board, have been required to operate within during the past 5+ years. PHAs across the country have been facing significant funding challenges following the temporary infusion of resources provided by the stimulus bills in 2008 and 2009. Since 2009, the proration for operating subsidy in the public housing program has fallen so that in 2013 only 81% of the operating needs (as defined by HUD) were funded. Moreover, in 2012, HUD recaptured significant portions of operating reserves further to weaken the ability of PHAs effectively to operate their portfolios. The Housing Board was included in this recapture initiative with HUD recapturing $566,005 from the Housing Board.

Comment 2

suggest that rather than pursue a comprehensive solution like RAD, it would have been wiser for the Housing Board to pursue a partial stopgap measure of pouring scarce public housing capital fund dollars into costly renovations of obsolete units that would need to be demolished in the near future.

III. Summary of the Housing Board's Activities, Accomplishments, Development Plans and Participation in the RAD Program

The Housing Board has taken the concerns raised in the Draft Audit very seriously. While the Housing Board welcomes opportunities to address issues raised and enhance the administration of its programs, there are no suggestions that we can implement in the Draft Audit without violating other HUD regulation or guidance.

Under current Executive Director, Dwayne C. Vaughn,[9] the Housing Board has become a high-functioning public housing authority. Mr. Vaughn inherited an agency during a tumultuous period of its history and quickly recognized the need to professionalize the Housing Board's administration and management, using the Housing Board's related entity, Mobile Development Enterprises ("MDE"),[10] for that very reason. MDE provides assistance to the Housing Board with administrative and management functions and is a charitable organization, characterized as a 501(c)(3) tax-exempt entity by the Internal Revenue Service. This enhanced focus on professionalizing administration and management has resulted in the Housing Board being designated a standard performer by HUD for the past four (4) years.

The Housing Board currently owns or operates some 3,409 affordable apartments for thousands of families located in thirteen (13) different communities throughout the City of Mobile, Alabama. The Housing Board also assists approximately 3,395 families with private rental housing through the Section 8 Housing Choice Voucher Program. Unfortunately, the Housing Board's public housing stock is extremely old (some of the oldest in the State of Alabama), becoming increasingly obsolete and has become less desirable to affordable housing families due to its lack of amenities and marketplace condition.

AGES OF MOBILE HOUSING BOARD COMMUNITIES

Community	Total Units	Date in Service	Current Age
Oaklawn Homes	100	12/1940	75
Orange Grove Homes	247	12/1940	75
Roger Williams Homes	452	3/1954	62
Thomas James	706	1/1943	73
Gulf Village Homes	199	11/1942	74
Josephine Allen Homes	292	8/1965	51
R V Taylor Plaza	450	11/1967	49
Central Plaza Towers	465	6/1972	44
Emerson Gardens	94	12/1985	30
Frank W Boykin Tower	122	9/1983	32
Downtown Renaissance	57	8/2009	6
Renaissance Gardens	48	7/2012	3
The Renaissance	87	5/2011	5
TOTAL UNITS	3,409		
Average Age (all Communities): 44.5 yrs.	Average Age (less Renaissance Communities): 56.5 Years		

Comment 14

[9] Mr. Vaughn became interim director of the Housing Board at the end of 2009 and was appointed permanently in July 2010.

[10] Note the Draft Audit incorrectly refers to *Mobile Development Enterprise* throughout the Report.

The chart above highlights the age of the Housing Board communities and shows some startling realities. Of the Housing Board's 3,049 public housing units, thirty nine percent (39%) or 1,342 units are 73+ years old, sixty one percent (61%) or 2,086 units are over 50 years old and ninety eight percent (98%) or 3,001 units are 44+ years old.

Rather than allowing our housing to crumble from sheer age and use, to the detriment of the families we serve and the City, or waste precious resources on outdated, obsolete and deteriorating properties, the Housing Board believes that several of its communities are past their useful lives and need to be repositioned so that new housing and opportunities can rise in their place. In its *Housing Transformation Plan 2020*, the Housing Board recognizes these facts and sets forth a strategic plan for the repositioning, redevelopment, modernization and enhancement of its housing portfolio. In this manner, the Housing Board will seek to provide vibrant, market quality housing for families in the City of Mobile.

A. Housing Board's *Housing Transformation Plan* 2020 Overview

Early during the OIG's review of the Housing Board's capital fund program grant files, the Housing Board requested the opportunity to present its strategy for raising the level of affordable housing stock and opportunities for low-income families in Mobile. The Housing Board has an ambitious vision. It desires to be a *Catalyst for Community and Family Empowerment*. In this manner, Mobile Housing Board's communities, and the families it is privileged to serve, become even more vital and positive contributors to the fabric of the City of Mobile. The Housing Board believes its housing should be of such high quality it provides a foundation in which a family can have "hope", live in a harmonious community with other families, and obtain and retain lifestyle and economic independence. This goal cannot be achieved without a unified and strategic plan or approach.

The Housing Board sees its *Housing Transformation. Plan 2020* (the "Transformation Plan"), as the dynamic *road map* it will follow to transform the character and impact of affordable housing in the City of Mobile for the foreseeable future. The Housing Board understands that it cannot take this transformational journey alone, and has been forging partnerships, collaborations, alliances, and receiving encouragement, guidance and technical expertise from a broad coalition of stakeholders, City/County leaders, residents and members of the public who are committed to raising, and then preserving, the quality of life and economic opportunity for all the citizens of Mobile, including those *presently* of low wealth. Mobile cannot meet the Mayor of Mobile's vision for the City to become the "safest, most business and family-friendly city in America by 2020" without significant attention given to the seamless induction of all of its families, including low-wealth families, into the vibrant housing, lifestyle and economic marketplace of Mobile.

Mobile is ranked one of the nation's top growing metropolitan areas and best places to live. The low cost of doing business, diverse business base, availability of professional and skilled jobs, intermodal transportation hub and quality lifestyle continue to attract people and business from all over the world. Mobile is attracting many world-class businesses and the thousands of jobs those businesses bring. This allows Mobile to capitalize on the economic attention that such activity brings, including the possibility of raising federal, state and private resources to upgrade housing opportunities. For example, Airbus has its only North American commercial jet liners manufacturing facility, just a short distance from downtown Mobile and adjacent to the Housing Board's Southside Corridor properties that include Thomas James Place, R.V. Taylor Plaza and Frank Boykin Tower.

The Housing Board should capitalize on this new City partnership and the economic energy in the area due to its acreage and housing stock being in close proximity to the Brookley complex. This unique opportunity allows the Housing Board to take advantage of a larger economic driver that could assist in changing the face of the Southside of Mobile beyond any plan known before. However, to set the stage for the evolution of our Transformation Plan, we have listed some of our recent accomplishments:

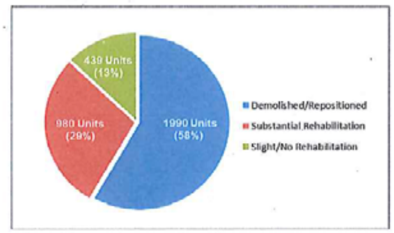
- **2008** – Completed the HOPE VI limited renovations at Central Plaza Towers, which culminated in the establishment of an Assisted Living Facility
- **2008** – Demolition of two pre-HOPE VI properties, consisting of nearly 800 multifamily units
- **2008** – Phase 1 (Homeownership) of the HOPE VI revitalization – closed January 2008, 12 units (6 HOPE VI, 6 market)
- **2008** – Phase 2 (Senior Rental) of the HOPE VI revitalization – closed June 2008, 88 units
- **2009** – Phase 4 (Family) of the HOPE VI revitalization - closed August 2009, 48 units
- **2010** – Phase 3 (Family Rental) of the HOPE VI revitalization – closed July 2010, 87 units
- **2011** - Completion of Major Rehabilitation of Gulf Village Homes, consisting of 199 multi-family apartments with CFFP loan money and other funding.
- **2012** – Completion of Major Rehabilitation of Orange Grove Homes, consisting of 247 multi-family units with CFFP loan money and other funding
- **2013** – Applied for a portfolio-wide RAD application with the assistance of Boulevard Group (BG)

- **2013 –** Completion of Hampton Park, a 19-unit homeownership community with RHF funding.
- ***2014*** – Two FY2014 Choice Neighborhoods Initiative Planning Grants (Note: the only PHA to receive two CNI Planning Grant awards in the same award year)
- ***2015*** **–** A portfolio-wide RAD award for all 3,409 public housing units

This is just the beginning, as our team is working tirelessly to produce many additional meaningful accomplishments.

We have aligned our mission, vision, and core values to provide support and context to the Transformation Plan. We have been using the Transformation Plan as a tool for implementing our repositioning approach over the next six years. In addition, we intend to leverage our resources, build a strong partnership base and take advantage of all financing opportunities available to maximize our opportunity to build first class mixed-income communities and substantially rehabilitated affordable communities. This effort will well position the Housing Board to generate the increasing momentum highlighted by the Transformation Plan. This will lead to an increase in the quality of affordable housing stock in Mobile and provide ample opportunity for residents to improve their lives.

At its heart, the Transformation Plan recognizes that four (4) communities containing nearly 1,890 units (i.e., 58% of the Housing Board's housing stock) should be demolished and repositioned[11], four (4) communities should be substantially rehabilitated, and five (5) communities should be converted to the RAD platform to provide better long-term sustainability.

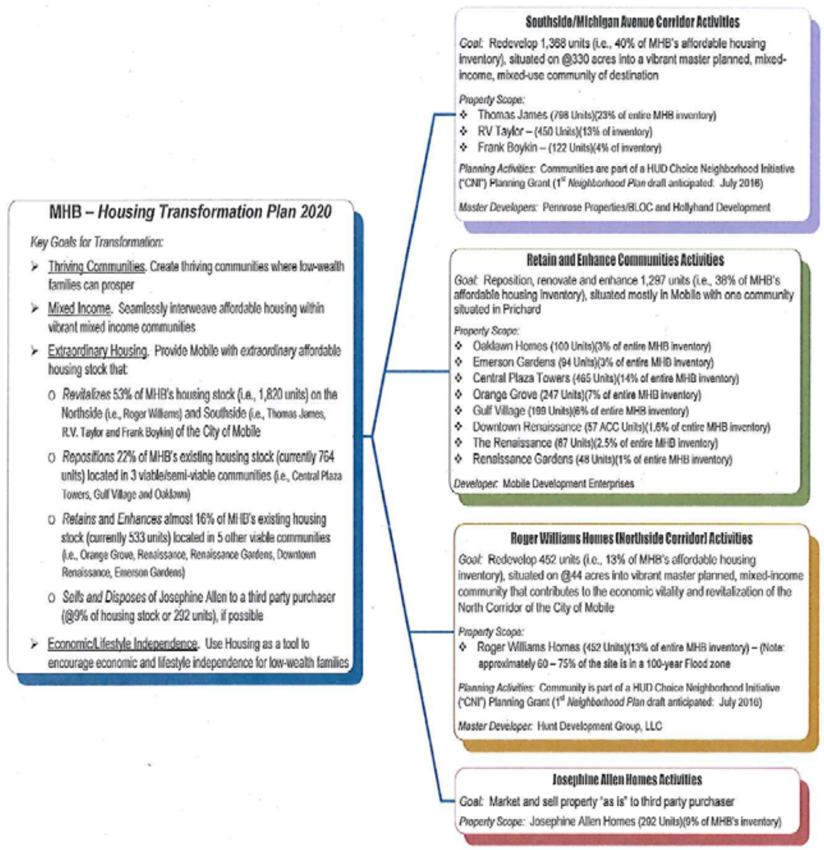


The Transformation Plan is organized around several core principles and categorizing of the properties under four main components. These components are summarized below:

[Transformation Plan Overview on the Next Page]

[11] Note: In addition, these four communities contain a total of 1,095 (i.e., 87.5%) of MHB's 1,194 vacancies as of October 15, 2015. Specifically, Thomas James (348 vacancies), Roger Williams (338 vacancies), Josephine Allen (292 vacancies) R.V. Taylor Plaza (67 vacancies).

Mobile Housing Board – Transformation Plan Overview



It is against this comprehensive backdrop that the Housing Board has approached the repositioning of its housing stock. The Housing Board has presented its plan to the HUD Birmingham Field Office and HUD Headquarters in Washington, DC and has garnered the support for it. The Housing Board's participation in HUD's RAD program now presents the vehicle to implement the Transformation Plan.

B. Housing Board's Participation in HUD's RAD Program

The Housing Board received authorization to participate in the RAD program on October 30, 2015. The Housing Board has been meeting with HUD regularly and made substantial progress with RAD program. Here are the current RAD development plans related to the sites that have substantial vacancies and which MHB believes need to be repositioned:

- Roger Williams. RAD development plans involve demolishing 338 existing public housing units at Roger Williams and rebuilding a 1,014-unit mixed income set of developments that includes not just 338 RAD units, but 338 workforce housing units and 338 market rate units. The preliminary total development cost estimate for this is approximately $85 million but participation in the RAD program will allow the Housing Board to leverage private debt and equity pursuant to the RAD and possibly, LIHTC programs to fund these development costs. As a promising first step, the Housing Board and HUD have agreed on an innovative approach that will allow the Housing Board to receive tenant protection vouchers to relocate current residents and then demolish the entire site, over-coming programmatic barriers to allow the effort to commence economically and expeditiously.
- Thomas James/RV Taylor Plaza. RAD development plans involve demolishing 1,246 existing public housing units at these developments and rebuilding a 2,100 unit mixed income set of developments onsite and additional units offsite which will include RAD or other affordable units. The preliminary on-site total development cost estimate for this is approximately $251 million, but participation in the RAD program will allow the Housing Board to leverage private debt and equity pursuant to the RAD and LIHTC programs to fund these development costs.
- Josephine Allen. Plans currently call for the use of the Josephine Allen RAD rents to be transferred to another site and the property disposed of to a third party purchaser. This will allow the Housing Board to provide more dynamic living opportunities to low-wealth families.

We procured multiple developer partners, negotiated business terms and anticipate executing development agreements with them in the coming weeks.

IV. Housing Board's Evaluation of OIG Findings and Recommendations

Comment 1

The OIG's "Finding" is that "The Mobile Housing Board Did Not Comply With HUD Regulations for Its Financial Operations." The OIG has made this finding sound sweeping, This finding, however, does not correspond to the body of the Draft Audit, which does not relate to financial operations at all. This is clear from the "Finding" subheadings, "Apparent Conflict of Interest" and "Management Failed to Occupy Vacant Units." The Housing Board adamantly objects to the conclusions in both subheadings.

Comment 9

The logic of the OIG's "Apparent Conflict of Interest" argument is hard to follow. The OIG, relying upon an inapplicable HUD PIH notice, states that the Housing Board somehow mislabeled MDE as an affiliated entity in the context of a procurement for program management (i.e., not development) activities, attempts to link that to a Housing Board procurement of a construction and masonry company that did not involve MDE, and then somehow jumps to a conclusion that when taken all together there may be an apparent conflict of interest because a half-brother of an MDE (not MHB) officer has an interest in the masonry company.

Comment 9

As we further explain below, in the context of MDE's activities that were the subject of the Housing Board procurement that the OIG questioned, the applicable regulations are at 24 CFR 943 Subpart C and, based on those regulations, it not inaccurate to call MDE an "affiliate." *This is precisely how HUD refers to such entities in the regulation.* On the conflict of interest issue, the MDE employee at issue played no role whatsoever in the Housing Board's procurement of the contracting and masonry company with which the MDE employee had a familial affiliation and no conflict standard, whether under the annual contributions contract, 24 CFR part 85[12], or even HUD Notice PIH-2007-15 (HA) ("PIH 2007-15"), would deem those facts to constitute a conflict of interest.

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With regard to the second finding, the Draft Audit ignores the Housing Board's portfolio award in the RAD program as an actual solution to the long-term vacancy issues and that HUD approves, in minute detail, the Housing Board's annual capital fund budgets, and instead the OIG substitutes its own judgment to advocate redirecting scarce public housing capital funds from existing units and pouring such funds into rehabilitating old obsolete vacant units. We explain below why the approach being taken by the Housing Board, with the support of HUD, is the far more promising approach. The Draft Audit contains numerous errors in facts, logic, and analysis with regard to the both findings and we detail this in the itemized responses below.

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[12] This was the applicable regulation at the time of the procurement in question. The procurement regulations have since moved to 2 CFR 200.

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A. Housing Board's Response to OIG's "Apparent Conflict of Interest" Discussion

As its basis for making this determination, the OIG relies upon PIH 2007-15 that, by its express terms, does not apply to financial operations and only applies to development activities.[13] The Draft Audit does not even mention Section 13 of the Housing Act of 1937, as amended, or the implementing regulations set forth at 24 CFR 943 Subpart C that are applicable to MDE in the context of the Housing Board's procurement of MDE for program management services.[14] Before analyzing the applicable regulations, we first want to examine PIH 2007-15 because that notice, even though inapplicable to MDE, provides some helpful HUD guidance that was ignored by the OIG in the Draft Audit.

A-1. Mobile Development Enterprises is an Affiliate Performing Administrative and Management Functions for the Mobile Housing Board

HUD issued Notice PIH 2007-15 in response to an OIG Report No. 2004-AT-0001 that alleged violations of annual contributions contracts and regulations in agreements regarding development activities and the relationships between housing authorities and affiliated housing development entities and non-profit organizations. PIH 2007-15 clarifies HUD's policy as encouraging innovative approaches and creation of partnerships to supplement the capacity and experience of PHAs and, "[i]f the PHA determines that the use of an Affiliate or Instrumentality to assist in the development of public housing and to administer and manage PHA programs is in the best interest of the PHA, the Department encourages PHAs to use Affiliates and Instrumentalities, so long as the implementation of the public housing program is consistent with the applicable public housing requirements."[15]

[13] Page 2, HUD PIH Notice 2007-15.

[14] At our Exit Conference, the OIG representatives, in response to our detailed refutation of this finding, stated that they had two legal opinions – one from OIG counsel and another from HUD counsel – in support of the OIG's positions. Our attorneys requested that these legal opinions be shared with our counsel especially given that MHB analyzed this very issue for the OIG in detailed correspondence, dated October 23, 2015. However, the OIG stated that neither legal opinion could be released. Therefore, basically, the OIG is stating that it has legal support for its findings that rely on a clearly inapplicable notice, but that it will not share the rationale. We also asked to simply be able to speak with the OIG's attorney about this and, after saying during the Exit Conference, they would consider this request, [redacted] from the OIG called Mr. Vaughn on May 4, 2016 to state that they would not allow the Housing Board's attorneys to discuss this further with the OIG's attorneys at this time. This does not indicate an OIG interest in clarifying and possibly resolving issues but rather that the OIG is predisposed to just issue its findings from the Draft Audit.

[15] Page 2, HUD Notice PIH-2007-15 (HA).

In addition to reciting HUD's stated policy of encouraging use of related entities, PIH 2007-15 contains a section that makes very clear that it only covers development activities:

> "**Applicability**. This notice applies to public housing development activities pursuant to 24 CFR Part 941. This notice does not apply to development or management of non-public housing programs that are not funded with public housing funds, even if carried out by entities related to the PHA. This notice also does not apply to PHA instrumentalities, affiliates, consortia or joint ventures providing administrative management, supportive or social services pursuant to Section 13 of the Act and its implementing regulations at 24 CFR Part 943. Notwithstanding any provision of this notice, Moving to Work (MTW) participants may continue to operate in accordance with their MTW Agreements with the Department."[16]

If the section entitled "Applicability" was not clear enough, there is also a footnote on that same page stating:

> "[t]his notice only covers development activities and activities related thereto."[17]

Therefore, PIH 2007-15 tells us that HUD's stated policy is to encourage use of related entities in both the development and operation of public housing programs but also that **PIH 2007-15 itself only relates to development activities and not operations**.

PIH Notice 2007-15 only applies to Development Activities

Comment 9

The OIG in the Draft Audit expresses concern that the Housing Board, in conjunction with a procurement for program management services in 2013, awarded a contract to MDE and that HUD did not dispute this award because it understood MDE to be an "affiliate entity" of the Housing Board. Presumably, the OIG is implying that if HUD had viewed MDE as an instrumentality under PIH 2007-15, it would not have permitted the Housing Board to engage MDE. The OIG's logic is erroneous on a number of fronts.

First, MDE was being engaged for program management services which are not development activities and which are therefore not covered by PIH 2007-15. Secondly, even if we were discussing a procurement related to development activities and the

[16] Id. at Page 2.

[17] Id. at Page 2, Footnote 1.

Comment 9

Housing Board had characterized MDE as an instrumentality, PIH 2007-15 does not require procurements for a PHA to engage an instrumentality.[18] Therefore, whether PIH 2007-15 is applied or not to the Housing Board's procurement of MDE, there is no basis in HUD regulations or guidance as to why HUD would have intervened to dispute the engagement of MDE to perform program management services for the Housing Board.

For program management activities, the applicable statutory provision is Section 13 of the Housing Act of 1937, as amended (the "Act"), and the corresponding program management regulations at 24 CFR §943, Subpart C. Section 13(b)(1) of the Act states in relevant part that a PHA may

> "(A) form and operate wholly owned or controlled subsidiaries (which may be nonprofit corporations) and other affiliates, any of which may be directed, managed, or controlled by the same persons who constitute the board of directors or similar governing body of the public housing agency, or who serve as employees or staff of the public housing agency; or
>
> (B) enter into joint ventures, partnerships, or other business arrangements with, or contract with, any person, organization, entity, or governmental unit-- (i) with respect to the administration of the programs of the public housing agency, including any program that is subject to this subchapter; or (ii) for the purpose of providing or arranging for the provision of supportive or social services."[19]

The implementing regulations for Section 13 of the Act are set forth at 24 CFR §943, Subpart C regulations and entitled "Subsidiaries, Affiliates, Joints Ventures in Public Housing". Noticeably absent from the title or the body of those regulations is any usage of the word "instrumentality" in describing entities like MDE that perform administrative and management functions on behalf of public housing authorities. Also, 24 CFR §943.142(a) states "a subsidiary or affiliate may be an organization controlled by the same persons who serve on the governing board of the PHA or who are employees of the PHA."[20]

Comment 9

The Housing Board's 2013 procurement of MDE that the OIG scrutinizes in the Draft Audit was for program management services. Therefore, the applicable statutory provision was Section 13(b)(1) of the Act and the applicable implementing regulations those set forth at 24 CFR §943 Subpart C. The OIG attempts to cast the Housing

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[18] Id. at Page 12. Basically, the Instrumentality is considered the PHA under the public housing program and is required to comply with PHA public housing requirements such as those related to procurement.

[19] Section 13(b)(1) of the U.S. Housing Act of 1937, as amended.

[20] While the Housing Board's procurement of MDE was not sole source, we should note that, under 24 CFR §943.148(b), PHAs may use sole source procurements where the proposed partner has substantial, unique and tangible resources or other benefits that would not otherwise be available to the PHA.

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Board's use of the term "affiliate" in describing MDE as somehow disingenuous or misrepresentative of the nature of MDE's relationship with the Housing Board. However, in the context of program management services, "a subsidiary or affiliate may be an organization controlled by the same persons who serve on the governing board of the PHA or who are employees of the PHA."[21] Given that the MDE board is comprised of people serving on the board of commissioners and/or employees of the PHA, it actually is an "affiliate" under 24 CFR §943 Subpart C.[22] The OIG also attempts to construe reference to the term "instrumentality" in some of MDE's tax reporting to the IRS as somehow further indicative of this scheme to deceive HUD as to the nature of MDE's relationship with the Housing Board. We should not have to point this out to the OIG but different regulatory agencies can define the same term differently. Here, the Internal Revenue Code definition of "instrumentalities"[23] is consistent with an organization like MDE also being an "affiliate" pursuant to HUD's regulations at 24 CFR §943, Subpart C.

The above analysis of PIH 2007-15, 24 CFR §943 Subpart C, and IRS usage of the term "instrumentality" makes clear that the Housing Board actually used the term "affiliate" correctly in the context of the procurement of MDE for program management services.[24]

The fact that the OIG is so confused by the correct terminology to use with regard to related entities only seems to further underscore the point that the OIG should defer to the HUD PIH and the clear language of the controlling authorities and not seek to construct a finding when none clearly exists. If the OIG believes there is some confusion, the OIG should recommend that HUD issue additional clarifying guidance regarding usage of terms such as "affiliate" and "instrumentality" outside the context of development activities.

Lastly, the OIG's unilateral re-characterization of entities like MDE seems to constitute a new regulation or rule without notice to housing authorities, HUD or any

[21] 24 CFR §943.142(a).

[22] This shows the lack of definitional uniformity in HUD regulations since it would be deemed as "instrumentality" under PIH Notice 2007-15 in the context of development activities.

[23] 168(h)(2)(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.— For purposes of this subsection, a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

168(h)(2)(D)(i) all of the activities of such corporation are subject to tax under this chapter, and
168(h)(2)(D)(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

[24] HUD also referred to MDE as an "affiliate" in the Sustainability Plan that HUD prepared and delivered to the Housing Board.

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other interested parties. Such rulemaking is outside the authority of the OIG as it violates the provisions of the Administrative Procedures Act. The Administrative Procedures Act requires such rulemaking, as engaged in by the OIG, in a manner that is transparent and gives all entities that will be governed by the rules an opportunity for notice and comment. See 5 U.S.C. §552(a), *et al.* The bottom line here is that the Housing Board did not mischaracterize MDE to HUD or anyone else.

A-2. No Apparent Conflict of Interest in the Housing Board's Procurement of Superior Masonry Exists

Comment 17

The OIG emphasizes that the Housing Board's alleged misrepresenting of MDE as an "affiliate" rather than an "instrumentality" led to a failure to disclose an alleged apparent conflict-of-interest to HUD. We address above that there was no such misrepresentation. In fact, the Housing Board referred to MDE correctly – that is, as an *affiliate* – in the context of the procurement in question which was for program management services and which are governed by 24 CFR §943, Subpart C. Regardless, that the status of MDE as an affiliate or instrumentality is immaterial to the conflict of interest analysis. There was no conflict of interest here, real or apparent, in the Housing Board's procurement of Superior Masonry and the OIG should withdraw this finding.

Comment 9

Superior Masonry was correctly procured by the Housing Board

On March 10, 2014, the Housing Board advertised Request for Proposal MHB-09-R-2014 for comprehensive vacancy reduction, rehabilitation, modernization, renovation, repair and related construction services (the "Services"). The Housing Board received five proposals and an evaluation panel scored Bradley Construction the highest, Superior Masonry the second highest, and Langan Construction the third-highest, and proposed entering into contracts with each such contractor.

On June 18, 2014, the Housing Board entered into Contract No. 1314 with Superior Masonry, which, when task orders are aggregated, totaled of $1,110,880.30.[25]

[25] The Housing Board issued Task Order No. 1 on July 18, 2014 in the not-to-exceed amount of $326,505.60 (subject to Change Order No. 1 to Task Order No. 1 dated May 4, 2015 in the amount of $1,173.80), Task Order No. 2 on October 17, 2014 in the not-to-exceed amount of $247,014.00 (subject to Change Order No. 1 to Task Order No. 2 dated July 31, 2015 in the amount of $8,200.00), Task Order No. 3 on October 17, 2014, in the not-to-exceed amount of $339,858.00, Task Order No. 4 on December 21, 2014 in the not-to-exceed estimated amount of $75,000.00, Task Order No. 4 – Work Order No. 1 dated January 23, 2015 in the not-to-exceed amount of $14,850.00, Task Order No. 4 – Work Order No. 2 on February 19, 2015 in the not-to-exceed amount of $34,504.00, Task Order No. 4 – Work Order No. 3 on March 2, 2015 in the not-to-exceed amount of $14,450.90, Task Order No. 4 – Work Order No. 4 on May 20, 2015 in the not-to-exceed amount of $10,024.00, Task Order No. 5 on June 24, 2015 in the not-to-exceed amount of $87,000.00, and Task Order No. 6 on May 1, 2015 in the not-to-exceed amount of $27,300.00, all for a total of $1,110,880.30.

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A local owned minority contractor, Superior Masonry, has been in business since 1978. The Housing Board also entered contracts with Bradley Construction and Langan Constructions, two majority firm contractors. Pursuant to Task Order executed for each of these contractors, the Housing Authority paid a total of $1,916,740.58 for the Services performed by Bradley Construction and $157,298.77 for the Services performed by Langan Construction. **None of the contracts or resulting task orders relate to development activities.**

Comment 18

With regard to the apparent conflict of interest cited by the OIG, it focuses on the fact that the Senior Vice President of Business and Community Relations for MDE ("SVP MDE") has a half-brother who owned Superior Masonry. However, the SVP MDE had no role whatsoever in any contracting decision related to Request for Proposal MHB-09-R-2014 pursuant to which the Housing Board selected Superior Masonry along with two other contractors. More generally, the SVP MDE never worked for the Housing Board, was paid solely by MDE, was an at-will employee of MDE, and had no ability to influence policy or decision-making with regard to construction related services such as were at issue with Request for Proposal MHB-09-R-2014.

Comment 18

Comment 19

In addition, the OIG's site visits, extensive interviews of MDE personnel, extensive interviews of the Housing Board's personnel, review of the procurement records, interviews with Superior Masonry, interviews with the SVP MDE and review of the payment records, produced no evidence that the SVP MDE in any way participated in any aspect of the RFP, award or administration of services. In Table 2 of the Draft Audit, the OIG incorrectly characterizes both the Senior Vice President of Business and Community Relations and the Vice President of Asset Management and Compliance as being directly employed by the Housing Board – both are solely employees of MDE and have *never* been employees of the Housing Board.

There was no conflict of interest under any applicable HUD requirements

Comment 9

There was no conflict of interest, real or apparent, pursuant to the applicable conflict of interest standards. The OIG incorrectly applies PIH 2007-15 conflict of interest standards to Request for Proposal MHB-09-R-2014.[26] However, PIH 2007-15 is not applicable here because the procurement is being ***conducted by the Housing Board and its related entity, MDE, had no involvement whatsoever.*** Here, the situation is not that the Housing Board is contracting with a related entity who is then contracting with a company that has a family member, but instead, where an individual who works for an entity related to the Housing Board has a half-sibling who owns a company that is responding to a request for proposals issued directly by the Housing Board.

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[26] 24 CFR part 85 is now addressed in 2 CFR part 200 but 24 CFR part 85 was applicable at the time of this procurement in 2014.

For housing authorities, their annual contributions contracts recite relevant contractual obligations related to their public housing projects. Specifically, Section 19 of the Annual Contributions Contract ("ACC"),[27] states that housing authorities cannot

> "enter into any contract, subcontract, or arrangement in connection with a project under this ACC in which any of the following classes of people has an interest, direct or indirect, during his or her tenure or for one year thereafter ... any employee of the HA who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family or the employee's partner".

Similarly, the applicable HUD regulations at the time with regard to conflict of interest were set forth at 24 CFR Part 85 and recited that:

> "no employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when ... (i) The employee, officer or agent, (ii) Any member of his immediate family, (iii) His or her partner, or (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for the award."

As detailed above, the SVP MDE had no ability, and did not attempt, to formulate policy or influence decision-making with regard to construction related services such as were at issue with Request for Proposal MHB-09-R-2014.[28] The SVP MDE played no role in whatsoever in that selection, award, or administration of any contracts related to that procurement.

Moreover, even if for purposes of analyzing the HUD conflict of interest requirements set forth in PIH 2007-15, we counterfactually assume that MDE, for purposes of the Superior Masonry contracting, is an instrumentality subject to that notice, there would have been no conflict of interest involving the SVP MDE given that the procurement was handled directly by the Housing Board. With regard to the Part 85 conflict of interest regulations, PIH 2007-15 states the following:

> "**Applicability to Instrumentalities.** An Instrumentality is construed as the PHA in conjunction with public housing development activities. As such, there is no inherent conflict of interest regarding transactions between a PHA and its Instrumentality within the sphere of activity. An

[27] Section 19 Part A of the ACC, Form HUD-53012A (7/95).

[28] SVP MDE plays no role with any Housing Board procurements except when they concern community and social services.

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> Instrumentality is required to follow the ACC and Part 85 conflict-of-interest provisions in its contracting with third parties, as though it were the PHA."

There was no MDE contracting with a third party, and thus this provision of PIH 2007-15 is inapplicable.

For the reasons detailed above, there was no conflict of interest here, real or apparent, in the Housing Board's procurement of Superior Masonry and the OIG should withdraw this finding.

B. Housing Board's Response to OIG's " Failure to Occupy Vacant Units"

Comment 2

The OIG attempts to use vacancy levels, primarily at older developments slated for demolition, disposition and redevelopment under HUD's Rental Assistance Demonstration ("RAD") program, as evidence that the Housing Board failed adequately to manage its low-income public housing developments. The Draft Audit ignores the Housing Board's pending portfolio-conversion of all of its public housing in HUD's RAD program which will directly address the difficult long-term vacancy issues that have plagued the agency. Over the past four years, the Housing Board has carefully assessed the strategic use of scarce resources in an attempt to best serve the Mobile community over the long-term. The OIG seems to suggest that rather than seek a comprehensive solution it would have been wiser to pursue a partial stopgap measure of pouring scarce public housing capital fund dollars into costly renovations of obsolete units that would need to be demolished in the near future.

Comment 7

The OIG also ignores the fact that the Housing Board has an obligation to its entire housing portfolio and, as is the case with many larger housing authorities, insufficient public housing capital funds to address all capital needs of the portfolio. The Housing Board's 2011 vacancy reduction plan cited by the OIG emphasized that the long-standing vacancies were the result of environmental factors, deferred maintenance, a less-than-comprehensive portfolio-wide vacancy reduction strategy. It is not hard to second-guess where a housing authority should have spent its capital funds, but the OIG's approach ignores the fact that **HUD approved the Housing Board's public housing capital fund budgets each year** providing validation to the Housing Board's ordering of how to address its portfolio needs with insufficient public housing capital funds. Moreover, the OIG found that **all of the CFP Grant expenditures it reviewed were spent on eligible purposes.** The OIG therefore substitutes its own judgment in place of the policy decisions made by the Housing Board in consultation with and the approval of the HUD Field Office. The OIG alternative view of how public housing capital funds might have been expended is

Comment 2

Comment 20

presented in the Draft Audit in isolation from the local factors on the ground. Before delving into the specific circumstances of the Housing Board, it is also important to contextualize the OIG's analysis.

Comment 21

The period during which the OIG alleges the Housing Board should have done more to address its vacancy issues coincides with a drastic decline in federal funding as a result of the sequestration cuts. Additionally, the OIG attempts to blame the Housing Board for Congressional timing in lifting the unit cap under HUD's RAD program, which the Housing Board identified as a path to systematically and comprehensively address its long-term capital needs and corresponding vacancy problems. From 2011 to 2015, as a result of sequestration cuts, prorations and other budget shortfalls, PHAs nationwide were forced to make very difficult decisions as to agency priorities. Over the past 5 years the Housing Board has seen substantial fluctuations in its resources:

Mobile Housing Board
Schedule of Funds Received

YEAR	Operating Fund	Operating Fund Proration	Capital Fund Program (CFP)	ARRA
2011	$ 12,802,239	100.00%	$ 5,822,922	$ 5,902,560
2012	$ 12,378,786	94.97%	$ 5,040,828	
2013	$ 10,815,597	81.86%	$ 3,796,453	
2014	$ 9,502,425	88.79%	$ 5,961,717	
2015	$ 9,109,459	85.36%	$ 5,145,416	
Totals	$ 54,608,506		$ 25,767,336	$ 5,902,560

Comment 7

The Housing Board should not be blamed by the OIG for not receiving more funds from HUD. Such a position makes housing authorities vulnerable for activities far outside of their control.

Over the past 5 years, the Housing Board received some $31.7 Million in CFP and ARRA Grant funds to address vacancies and modernization needs. The primary use of the CFP funds during the time in question involved the following:

- Approximately $9.4 Million for the repayment of the 2003 CFFP Bond debt
- As detailed on the chart to the right,

Grant	Line	Amount
ARRA Grant	146000	$ 2,993,056.00
CFP 2009	N/A	$ 1,257,000.00
CFP 2010	N/A	$ 2,607,307.00
CFP 2011	146000	$ 2,091,729.67
CFP 2012	146000	$ 1,227,359.52
CFP 2013	146000	$ 652,499.49
CFP 2014	146000	$ 1,037,606.00
Total		$11,866,551.68

some $11.9 Million spent on vacancy reduction program/occupancy initiatives ("VRP/OI") including the following from HUD approved public housing capital fund program ("CFP") Grants

These expenditures were reasonable, HUD-approved, and appropriate uses for CFP grants. Using the total CFP funds received by the Housing Board for the period in question (i.e., $31.7 million), this left a balance of $10.4 Million for all the other capital needs of the Housing Board including, but not limited to, vacancy reduction, elevator repairs, floor repairs, tornado related repairs, capital needs in various communities, and other authorized CFP uses.

Comment 7

The Housing Board's Physical Needs Assessments ("PNAs") in 2010 listed more than $96 Million in short term capital needs and an additional $93 Million in mid-term and long-term capital needs.

No.	Development name	2010 PNA Critical & Modernization Needs (Years 0-5)	2010 PNA Long Term Needs (Years 6-20)	2010 Estimated Total Needs
AL 2-1	Oaklawn Homes	$ 1,091,300.00	$ 6,300,128.00	$ 7,391,428.00
AL 2-2	Orange Grove Homes	$ 1,022,627.00	$ 3,897,738.00	$ 4,920,365.00
AL 2-3	Roger Williams Homes	$ 16,789,070.00	$ 8,929,686.00	$ 25,718,756.00
AL 2-5	Thomas James Place	$ 41,264,311.00	$ 30,531,074.00	$ 71,795,385.00
AL 2-6	Gulf Village Homes	$ 1,917,238.00	$ 5,690,349.00	$ 7,607,587.00
AL 2-8	Josephine Allen Homes	$ 2,211,127.00	$ 8,230,972.00	$ 10,442,099.00
AL 2-10	R.V. Taylor Plaza	$ 15,354,671.00	$ 13,346,812.00	$ 28,701,483.00
AL 2-12	Central Plaza Towers	$ 13,158,476.00	$ 7,492,754.00	$ 20,651,230.00
AL 2-13	Emerson Gardens	$ 878,851.00	$ 2,933,817.00	$ 3,812,668.00
AL 2-16	Boykin Tower	$ 2,260,250.00	$ 2,842,039.00	$ 5,102,289.00
AL 2-19	Downtown Renaissance	$ 99,877.00	$ 2,935,815.00	$ 3,035,692.00
AL 2-20	Renaissance Gardens[3]	N/A	N/A	N/A
AL 2-21	The Renaissance[4]	N/A	N/A	N/A
	Totals	**$ 96,047,798.00**	**$ 93,131,184.00**	**$ 189,178,982.00**

The combination of these needs totaled $189.2 Million at that time. In addition, capital needs accrue nationally at a rate of about 10% per year. The Housing Board was never in receipt or possession of anywhere near the level of funding necessary to keep pace with need. Further, the Housing Board should not be subject to an audit finding when:

1) The Housing Board used its Capital funds as authorized by the regulations and as approved by HUD,
2) the Housing Board actually made ready and renovated some 2,000+ units from 2011 through 10/1/2015, and
3) the Housing Board did not have necessary funding to turn 100% of the vacant and attrition units.

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Certainly, the annual public housing capital fund levels were not sufficient to meet 100% of the capital needs at occupied units and address the long-term vacancy issues so the Housing Board quite reasonably prioritized ensuring that occupied units were safe, decent, and sanitary and that vacant units needing the least amount of work at a reasonable cost were made ready and re-rented. During the period in question, the Housing Board made ready some 2,002 units as indicated.

All Vacant Units Comparison					
Community	Totals Vacant Units	Totals Vacant Units	Totals Leased Units	Totals Move Outs	Totals Delta During
	1/13/2011	10/1/2015	VRP/OI	Assessed Period	Assessed Period
Oaklawn	10	11	117	121	-4
Orange Grove	276	14	335	277	58
Roger Williams - Demo/Dispo	176	333	31	189	-158
Thomas James - Planned Development	159	350	280	460	-180
Gulf Village	79	18	196	185	11
Josephine Allen - Disposition	141	292	1	114	-113
RV Taylor - Planned Development	98	62	375	355	20
Central Plaza	102	87	354	341	13
Emerson	4	0	44	41	3
Boykin Tower - Planned Development	25	2	106	83	23
Downtown Renaissance	N/A	0	31	32	-1
Renaissance Gardens	N/A	1	24	25	-1
The Renaissance	N/A	4	108	112	-4
Totals	1071	1174	2002	2335	-333

Comment 22

Within the assessed period, the Housing Board was encouraged by the HUD Field Office to focus on units that were more easily made-ready to increase occupancy rates at a faster rate. This methodology turned the focus away from the costly long-standing vacant units that are the subject of the Draft Audit. The Housing Board agreed with HUD on this approach and focused on more recent move outs related to attrition. Additionally, realizing the age and obsolescence of Roger Williams and Josephine Allen, the Housing Board adjusted its approach to apply and receive HUD demolition/disposition approvals for these communities. In addition, the Housing Board applied and received Choice Neighborhood Initiative Planning Grants for its south side properties, which include Thomas James, R.V. Taylor, and Boykin Tower and one for its north side corridor, which covers Roger Williams Homes. In order to receive these awards, MHB had to demonstrate to HUD's satisfaction that the communities were obsolete and in need of revitalization.

Unfortunately, the Housing Board's attrition rates during the period of the Vacancy Reduction Plan (i.e., FY2011 – FY2015) were high and kept pace with the new leasing, thereby showing overall flat or negative gains instead of the more substantial gains desired because of the intense resources provided to the effort. The attrition rate resulted in significant part from affordable clients leaving the Housing Board's aging and obsolete units in favor of newer, amenity rich affordable units now available in the affordable housing marketplace. The Housing Board is continuing its efforts further to reduce its overall attrition, but is severely hampered by the lack of amenities at many of its aged properties, and inability to compete with the nearly 2,800 low income housing tax credit units that have sprung up in the Mobile area over the past several years and

Comment 7

are direct competition to the Housing Board's portfolio. Simply put, the Housing Board's World War II and Vietnam War era housing could not compete with the needs of the modern family with other affordable housing options.

The OIG in the Draft Audit fails to even acknowledge that there are capital needs at occupied units and appears to suggest that the Housing Board should have prioritized differently. Even if the Housing Board had dedicated all available capital funds from 2011 to 2015 (i.e., $10.4 Million), this could have gone towards about six percent (6%) of the $189 million in physical needs that the Housing Board identified in its FY2010 physical needs assessment for the long-term vacant units. This would have had the effect of diverting funds from the capital repairs needed for occupied Housing Board public housing units. The Housing Board would likely be facing another type of audit finding if it had done what the OIG appears to advocate.

Fortunately, the Housing Board was able to identify a path forward for addressing its long-term vacancies when, during 2012, Congress enacted the RAD program to allow housing authorities to convert their public housing units to project based Section 8 units. In that year, HUD also issued HUD PIH Notice 2012-7 which made obtaining HUD disposition approval a much more difficult process with heightened standards previously only applied to demolition applications. When HUD revised its initial RAD notice in July 2013 to allow for more flexibility, including pursuing portfolio conversions from the public housing program, the Housing Board quickly recognized the RAD program as an opportunity to comprehensively address its portfolio needs by accessing private debt and equity to supplement the inadequate federal funding. Between July and October 2013, the Housing Board worked feverishly to prepare a portfolio RAD application for all 3,409 of its units. However, Congress had only authorized 60,000 units to participate in the RAD program so the Housing Board was placed on HUD's RAD waitlist.

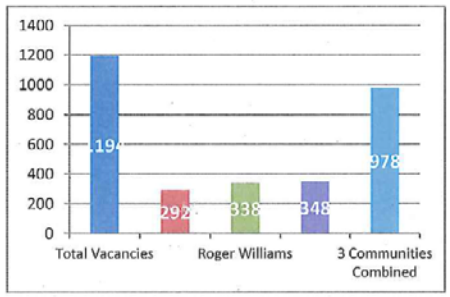
The Housing Board's road to RAD approval was long and arduous. While other housing authorities came off of the RAD Waiting List on December 15, 2014, the Housing Board did not and wrote to then Acting Assistant Secretary, Jemine A. Byron demonstrating its eligibility under the RAD Notice and asking for approval of its portfolio application.

RAD approval for the Housing Board took 24 months

Unfortunately, its application was preliminarily denied on December 29, 2014. The Housing Board immediately appealed and, as a result of a January 14, 2015 conference call with the RAD Office, the Field Office and the Housing Board, it was agreed that the Housing Board should reapply and respond to the Field Office's requests for information so that it could allay any concerns regarding the Housing Board's participation in RAD.[29] The Housing Board received a Portfolio-wide RAD approval from HUD on October 30, 2015. During this nearly 24 month process, the Housing Board judiciously and strategically made units ready in its viable communities and sought to maintain the deteriorating units where residents still resided. Even so, the Housing Board was not in a position to leverage the funds necessary to repair all of the vacant units absent the tool of RAD, coupled with demolition/disposition approvals from HUD.

The Housing Board's Transformation Plan sets forth the agency's plan to reposition its entire portfolio utilizing the RAD program. The Housing Board has procured multiple private developer partners, including Hunt Companies, Pennrose Properties and Hollyhand Development, BLOC Global to assist in achieving its goals. The Housing Board expects to enter into Development Agreement with Hunt Companies in the next several weeks and will be doing the same with Pennrose, Hollyhand and BLOC in the coming weeks.

Working together with its developer partners, the Housing Board has plans to revitalize its Roger Williams Homes (containing some 338 vacancies and which a Section 18 demolition/disposition application was approved by HUD in August 2015), dispose of Josephine Allen (containing 292 vacancies and which a Section 18 disposition application was approved by HUD on February 13, 2015 and a request to transfer RAD assistance is



[29] The Field Office sent a letter (dated January 13, 2015) asking for a host of pre-CHAP and post-CHAP projections, financial sources, documentation of RAD's solution to development challenges, sources and uses, demolition/disposition updates on Roger williams and Josephine Allen, alternate plans should HUD deny the Housing Board's RAD application, and other information normally provided to HUD as authorities worked through the RAD protocols, purported for the purpose of evaluating "outstanding items" pertaining to the Sustainability Plan that the Field Office stated were unresolved. The Housing Board also resubmitted its Portfolio-wide RAD applications to HUD's RAD Office on January 20, 2015. On February 13, 2015, the Housing Board submitted a response to the Field Office requests, enclosing detailed analyses and literally hundreds of pages of documents. After a site visit by the Field Office in June 2015, the Housing Board provided a 12 – 18 month projection of its Housing Transformation Plan 2020 implementation, which assumed the Housing Board would participate in RAD. On September 1, 2015, another request came from the Field Office asking for additional documents and responses relating to the Master Developer Agreements for the redevelopment of the Northside and Southside properties that were the subject of the CNI Planning Grants. It was stated that these documents were necessary in order for the Field Office to release the RAD "hold". On September 15, 2015, the Housing Board provided responses including hundreds of pages of documents requested by the Field Office. This documentation is voluminous so we are not including with our response but are happy to provide any or all of it to the OIG.

currently pending with HUD). The Housing Board also plans to demolish and revitalize Thomas James (containing 348 vacancies) and R.V. Taylor (containing 67 vacancies). **These four (4) communities account for some 87.5% (or 1,045 units) of the Housing Board's vacancies.**

Comment 2

The OIG ignores the fact that the only real approach to comprehensively addressing long-term vacancy issues is by leveraging scare federal dollars with public and private debt and equity. That takes planning, authorization from HUD to participate in a program such as RAD, often procuring a private developer partner, negotiating development agreements, creating a phasing plan for the redevelopment, obtaining allocations of federal low-income housing tax credits from the Alabama Housing Finance Authority, structuring single purpose entities consistent with HUD and LIHTC requirements, resident consultation, identifying available public and private funding sources, obtaining HUD approval of the financing plan, closing on all the financing, constructing/rehabilitating the housing, and then leasing the units. The Housing Board is among a leading group of housing authorities nationally who are pursuing this comprehensive redevelopment path – (i.e., the Housing Board's portfolio for RAD conversion is approximately the seventh largest that HUD has approved nationally) and has made significant progress already and is poised to move quickly ahead with its developer partners. The end result of the Housing Board's approach will be additional viable affordable units, safer communities, and an agency better positioned to meet the affordable housing needs of its Mobile community over the long-term.

Comment 23

The OIG's suggestion in the Draft Audit that the Housing Board has run afoul of Section 7 of the Capital Fund Agreement to the Annual Contributions Contract (ACC) is baseless and without merit. Section 7 of form HUD-52840-A states "Implementation or use of funding assistance provided under this Amendment is subject to the attached corrective action order(s)." There were no "corrective action order(s) and therefore MHB is unclear how it could a violated this section. Section 7 of form 52840-A is clearly inapplicable.

Comment 23

Perhaps the OIG intended to reference Section 5 of the Capital Fund Agreement, which requires compliance with the ACC and other HUD requirements applicable to public housing. But neither the existence of substantial vacancies, which the housing Board has explained at great length, nor anything else in the Draft Audit, demonstrate non-compliance with these requirements in view of the housing stock and funding challenges that the Housing Board was facing.

Comment 8

Moreover, the properties with significant vacancies were subject of demolition/disposition and/or disposition applications which have been subsequently approved by HUD. HUD's demolition/disposition regulation at 24 CFR §970.25 maintains that a PHA should not re-rent units at turnover while HUD is considering its application for demolition or disposition. The Housing Board should not be punished for following HUD regulations and preserving valuable and scare federal resources and not spending those resources on long-term vacant and obsolete units that are slated for demolition. The Housing Board's 2013 PHAS Management score was substandard as a direct result of such vacancies at a development approved for disposition, Josephine Allen For that reason the MHB appealed that score on January 12, 2015, but HUD has not yet responded.

C. OIG Draft Audit Findings, At Most, Should Be *Management Improvement* Recommendations

Comment 1

The Housing Board is learning some valuable lessons through its internal assessment and the OIG's audit process. While the Housing Board agrees that there is often room for improvements, the Draft Audit provides little factual guidance or support for upgrading and enhancing key areas of the Housing Board's operations, but rather, harms MHB's efforts to revitalize its housing. Moreover, we continue to believe that there are a number of *very serious inaccuracies* in the Draft Audit. Given all this, the conclusions in the Draft Audit should include no findings or in the alternative management improvement suggestions as opposed to audit findings against the Housing Board.

V. Housing Board's Evaluation of Other OIG Statements

There are several other items in the Draft Audit which require correction, further explanation or context. None of these items, taken individually or collectively, supports the OIG findings and recommendations.

A. Housing Board received Substandard MASS Scores Due to the Vacancies in Properties where Demolition/Disposition approvals were requested

Comment 8

For the past several years, the Housing Board has not been able to achieve a passing score on the Management Assessment Subsystem ("MASS") of the Public Housing Assessment System ("PHAS"). Although the Housing Board has shown demonstrable improvement in its operations, the MASS score is heavily weighted on occupancy. The Housing Board's vacancies, coupled with the inability to receive swift demolition/disposition, particularly for Josephine Allen, meant that the Housing Board had the vacant units in this obsolete property, and other obsolete properties such as Roger Williams and Thomas James count against the Housing Board for MASS purposes bringing it 2 - 3 points short of an acceptable score. The Housing Board provided an Action Plan for each of the years, and the Action Plan was heavily dependent on HUD acting on the open request for demolition/disposition. As mentioned previously, the Josephine Allen request languished for nearly four (4) years, incidentally, largely the same time period of the MASS concerns.

Comment 8

Comment 24

Comment 25

In any event, this meant that the Housing Board was MASS Substandard although it was still a *Standard Performer* under the overall PHAS protocol. The Housing Board sought to bring the impact of these vacancies to HUD's attention through an appeal of its MASS score in FY2013, but that appeal was denied by HUD. Therefore, the Housing Board was in a difficult, if not impossible situation – either try to turn more units in properties it was asking permission to demolish, or, wait patiently for HUD (with periodic inquiries by the Housing Board and the Field Office) to approve demolition/disposition applications and its portfolio-wide RAD application.[30] The OIG does give full expression to this difficult situation.

B. OIG Draft Audit Incorrectly Reports the Housing Board's Public Housing Waiting List Numbers

The Draft Audit seeks to suggest that the Housing Board had a great need for public housing units in each of its properties due to an increase in its waiting list from 2012 – 2016. While the public housing waiting list did increase, it did not increase by the amount indicated. Apparently, there was a glitch in the software at the time Waiting list information was given to the OIG auditor such that two properties over-reported waiting list numbers (i.e., R.V. Taylor originally showed 5,217 when the actual number is

MOBILE HOUSING BOARD'S WAITING LISTS (2011 - May 2016)

No.	Property	2010 - 2011 Waiting Lists	FY2012 PHA Plan Waiting List	FY2013 PHA Plan Waiting List	FY2014 PHA Plan Waiting List	FY2015 PHA Plan Waiting List	Current Waiting List (as of 5/2/2016)
AL002-01	Oaklawn	477	335	4	322	117	145
AL002-02	Orange Grove	241	100	787	805	547	29
AL002-03	Roger Williams	470	530	126	416	127	44
AL002-05	Thomas James Place	325	614	160	137	820	1073
AL002-06	Gulf Village	130	578	471	574	530	53
AL002-08	Josephine Allen	217	47	47	0	0	21
AL002-10	R. V. Taylor	749	497	840	609	498	690
AL002-12	Central Plaza	16	13	25	39	24	29
AL002-13	Emerson Gardens	18	17	8	51	89	9
AL002-16	Boykin Tower	0	3	0	4	3	4
AL002-19	Downtown Renaissance-LIPH	45	23	33	41	7	194
AL002-20	Renaissance Gardens			1317	569	291	15
AL002-21	The Renaissance		2001	1328	752	471	316
	LIPH Total	2688	4758	5146	4319	3524	2622
	Downtown Renaissance-HCV			40	31	31	16
	Gardens at First Avenue		2	N/A	4	N/A	N/A
	LIPH/Affordable Waiting List To	2688	4760	5186	4354	3555	2638
	Housing Choice Voucher	1079	1665	631	3	4808	5107
	Agency Waiting List total	3767	6425	5817	4357	8363	7745

[30] Note: the Draft Audit report suggests that the delay was the fault of the Housing Board. Nothing could be farther from the truth. The Housing Board did everything it could to get movement from HUD on the demolition/disposition applications including requesting and receiving emails and inquiries to HUD from Mr. Cintron, former Regional PIH Director, the Field Office, its own inquiries, its other agents and internal Housing Board staff. The Housing Board never received a letter from any HUD office stating that the Housing Board was to blame for the extraordinary delays.

690; and Oaklawn originally showed 2,028 when the actual number is 145). When we just focus on the public housing waiting list, we see the following:

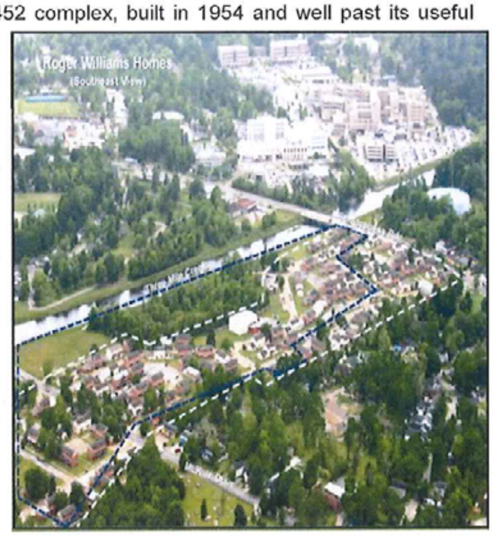
We see that the largest waiting lists consistently seem to focus around the Housing Board's newest properties located in the Renaissance Corridor. For example in FY2013, some 66.2% (or 3,432 applicants) of the public/affordable waiting lists were comprised of the Renaissance, Renaissance Gardens and Orange Grove. This suggests that low-income clients in Mobile are more interested in the properties that are constructed to modern standards and shying away from the older, obsolete and ancient properties. This client driven market phenomenon further supports the Housing Board's more comprehensive desire to reposition its housing stock and calls into question the OIG's approach to repair obsolete, costly and vacant units in aging properties.

C. Roger Williams Homes should be demolished and *not* renovated as Recommended by the OIG

Comment 5

The OIG suggests that all of the Housing Board's vacant units be renovated and then rented, if possible to low-income clients. This recommendation embraces the 338 vacant units at Roger Williams Homes. To renovate these units, as the OIG recommends, would be a mistake, largely impossible under current flood zone regulations, and subject the north side of Mobile to a perpetual property of blight and community disinvestment.

Roger Williams Homes is a 452 complex, built in 1954 and well past its useful life. The Physical Needs Assessment and staff observations of the property highlights several deficiencies. The community suffers from a host of neighborhood design challenges including, functional obsolescence, lack of adequate off-street parking, undersized units, lack of acceptable traffic flow, presence of crime, presence of drug activity, lack of modern day amenities, crumbling infrastructure, largely within a flood zone, etc.



Nearly 3/4 of the property cannot be easily renovated, if at all, because it sits in a flood zone. Nevertheless, the property is well

Comment 2

Comment 5

situated on Three Mile Creek across from world-class hospitals and medical complexes. The part of the property within the blue line is within the 100-year flood zone. The City of Mobile does not routinely provide building permits for substantial renovations in a flood zone.

The Housing Board, the City, the community, HUD and virtually everyone who has visited the site believes that the property should be demolished and revitalized as a mixed income community on the portion of the property that will not be in flood zone. The property is the subject of a 2014 Choice Neighborhood Initiative ("CNI") Planning Grant and the Housing Board, and community have engaged in robust planning efforts. The Housing Board has received permission from HUD to demolish the buildings and dispose of the property, but desires to use RAD as a development tool on the site.

The Housing Board is currently participating in the RAD protocol to receive permission to proceed in accordance with its Transformation Plan. During the CNI Planning process, there was unanimity of opinion that the property should not be renovated, but rather torn down and revitalized. The Housing Board estimates the cost of constructing mixed-income, multi-family, rental and homeownership housing at $67 - $85 million. The OIG recommendation to do the opposite and renovate the property flies in the face of the desires of the community, effectively negates the entire CNI Planning process and guarantees that the community where Roger Williams resides will continue to decline.

D. Josephine Allen should be demolished and *not* renovated as Recommended by the OIG

The OIG seems to suggest that all of the Housing Board's vacant units be renovated and then rented, if possible to low-income clients. This recommendation embraces the 292 vacant units at Josephine Allen Homes. To renovate these units, as the OIG recommends, would be a mistake, largely impossible under current flood zone regulations, and subject the property to perpetual blight, isolation and community disinvestment.

Josephine Allen Homes is a 292 complex, built in 1965 and well past its useful life. The Physical Needs Assessment and staff observations of the property highlights several deficiencies. The community suffers from a host of neighborhood design challenges including, lack of adequate off-street parking, functional obsolescence, undersized units, presence of crime (when occupied and even in its vacant condition), presence of drug activity, lack of modern day amenities, crumbling infrastructure, massive vandalism, and significant portions lie with flood zones, etc.

Comment 26

Nearly 1/2 of the property cannot be easily renovated, if at all, because it on top of underground streams and therefore sits in flood zones. Note the blue lines indicates the approximate placement of the underground streams. Unfortunately, the FEMA maps did not establish base flood elevations and no building permits can be issued for renovations or other building activity until those elevations are established. The Housing Board understands the cost of establishing the elevations the plumes of the underground streams could approach $200,000, and this cost would be born by the Housing Board. The property is somewhat isolated and was difficult to lease when it was occupied. In addition, the City of Mobile would not provide the Housing Board's contractors with building permits when the Housing Board sought to modernize the property in 2010 – 2011.

The Housing Board has received permission from HUD to dispose of the property, but desires to use RAD as a development tool to transfer rental assistance from the site to another site. The Housing Board is currently participating in the RAD protocol to receive permission to proceed in accordance with its Transformation Plan strategy. Should the Housing Board seek to construct new units on the site, it estimates the cost of construction at $42 million - $53 million. The OIG recommendation to do renovate the property is contrary to the City building permit protocols and flood zone processes.

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VI. OIG Recommendations and the Housing Board's Responses

***Recommendation 1A**. Require the Housing Board to provide support showing that a conflict of interest did not exist between the Mobile Development Enterprise and Superior Masonry or reimburse HUD $1,241,958 from non-Federal Funds.*

Comment 4

As we detailed previously, there is simply no conflict of interest with the Housing Board's procurement of Superior Masonry. The Housing Board directly procured Superior Masonry, along with two other contractors, pursuant to Request for Proposal MHB-09-R-2014. MDE had no involvement in that procurement. And certainly, the SVP MDE has never worked for the Housing Board, was paid solely by MDE, was an at-will employee of MDE, and had no ability to influence policy or decision-making with regard to construction related services such as were at issue with Request for Proposal MHB-09-R-2014. In addition, the OIG's site visits, extensive interviews of MDE personnel, extensive interviews of MHB personnel, review of the procurement records, interviews with Superior Masonry, interviews with the SVP MDE and review of the payment records produced no evidence that the SVP MDE in any way participated in any aspect of the RFP, award or administration of services.

Comment 27

The Housing Board's well documented procurement of Superior Masonry makes clear that the staff member of its related entity, who is in question here, played no role in whatsoever in the Housing Board's selection, award, or administration of any contracts related to that procurement. We analyzed the facts under the conflict of interest provisions of the ACC and applicable HUD regulations and guidance and demonstrated that there was no conflict of interest here, real or apparent, in the Housing Board's procurement of Superior Masonry. The OIG should withdraw this recommendation.

***Recommendation 1B**. Require the Housing Board to update its books, records, policies, and procedures to identify its nonprofit; Mobile Development Enterprise as an instrumentality per applicable HUD regulations, to prevent a future, actual or apparent conflict of interest between the Housing Board, its nonprofit, and other contractors.*

Comment 9

We address above that the Housing Board did not mischaracterize MDE to HUD and the status of MDE as an affiliate or instrumentality is immaterial to the conflict of interest analysis. Our prior analysis of PIH 2007-15, 24 CFR §943 Subpart C, and IRS usage of the term "instrumentality" makes clear that the Housing Board actually used the term "affiliate" correctly in the context of its procurement of MDE for program management services. The fact that the OIG is so confused by the correct terminology

Comment 9

to use with regard to related entities only seems to further underscore the point here that, if anything, the OIG should recommend that HUD issue clarifying guidance regarding usage of terms such as "affiliate" and "instrumentality" outside the context of development activities. In any event, the OIG recommendation should be withdrawn.

<u>Recommendation 1C</u>. Require the Housing Authority to execute an action plan to ensure that the Housing Board's units are renovated and available for eligible families.

Comment 2

The Housing Board *already* has more than a simple action plan that addresses vacancies on a sporadic basis – rather it has a full and detailed *Housing Transformation Plan 2020*, which promises to address the Housing Board's entire portfolio, including long-term vacancies in its obsolete properties. Under the Transformation Plan, the Housing Board will fully redevelop the long-term vacant units as part of a comprehensive redevelopment strategy using HUD's RAD program. As we detailed in our response to the Draft Audit, the Housing Board's Transformation Plan sets forth the agency's plan to reposition its entire portfolio utilizing the RAD program as one of the tools. The Housing Board has procured multiple private developer partners, including Hunt Companies, Pennrose Properties and Hollyhand Development, BLOC Global to assist in achieving its goals. The Housing Board expects to enter into Development Agreement with Hunt Companies in the next several weeks and will be doing the same with Pennrose, Hollyhand and BLOC in the coming weeks.

Working together with its developer partners, the Housing Board has plans to revitalize its Roger Williams Homes (containing some 338 vacancies and which a Section 18 demolition/disposition application was approved by HUD in August 2015), dispose of Josephine Allen (containing 292 vacancies and which a Section 18 disposition application was approved by HUD on February 13, 2015 and a request to transfer RAD assistance is currently pending with HUD). The Housing Board also plans to demolish and revitalize Thomas James (containing 348 vacancies) and R.V. Taylor (containing 67 vacancies). **These four (4) communities account for some 87.5% (or 1,045 units) of the Housing Board's vacancies.**

Comment 2

The Housing Board's Housing Transformation Plan 2020 is comprehensive, ambitious and reasonably calculated to reposition MHB's entire housing stock. The components of the Transformation Plan are set forth on page 14 of this Response and incorporated by reference herein. The OIG does not appear to recognize the significant thought and work that has gone into the Transformation Plan and all of the activities already underway to implement the Transformation Plan. It also seems to punish the Housing Board for thinking strategically and broadly about its housing needs in a manner that is apparently not countenanced by the OIG. The end result of the Housing Board's approach will be more affordable units, safer communities, and an agency better positioned to meet the affordable housing needs of its Mobile community over the long-term. This recommendation should be withdrawn.

<u>Recommendation 1D</u>. We recommend that the Director of the Departmental Enforcement Center, in coordination with the Director of the Birmingham HUD Office of Public Housing, take appropriate enforcement action against the Housing Board's management staff for failing to disclose the instrumentality relationship between the Housing Board and the Mobile Development Enterprise if a conflict of interest exists.

Comment 1

The OIG findings in the Draft Audit do not come close to warranting a recommendation to pursue enforcement action against the Housing Board's management staff for a number of reasons. Enforcement actions, such as debarment actions, are intended to protect the public interest by excluding persons who are not "presently responsible" from participation in federal programs.[31] Debarment may be imposed only to protect the public interest, not for the "purposes of punishment".[32] In the context of compliance with a public agreement like the ACC, the causes for debarment are:

1. A willful failure to perform in accordance with the terms of one or more public agreements or transactions. 2 C.F.R. §180.800(b)(1).
2. A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions. 2 C.F.R. §180.800(b)(2).
3. A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction. 2 C.F.R. §180.800(b)(3).
4. Any other cause of so serious or compelling a nature that it affects your present responsibility. 2 C.F.R. §180.800(d).

Comment 1

The facts here make clear that none such willful failures or violations are at issue. Rather, MHB has been extremely transparent throughout the OIG survey visit. Also, please see our response to Recommendation 1(B) above, which is incorporated by reference herein. This recommendation should be withdrawn.

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[31] 2 C.F.R. 180.125.
[32] Id.

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VII. Conclusion

Thank you for the opportunity to respond to the Draft Audit. We trust that our response has been comprehensive. However, if you would like us to respond more specifically to any concern raised in the Draft Audit, please let us know and we will respond appropriately.

The Housing Board requests that this entire response be included in the final report and receive favorable consideration by HUD, including the OIG. The Housing Board is determined to create a stronger agency that is poised to move forward and achieve its important social mission of providing quality affordable housing to the Mobile community. We believe our Transformation Plan and portfolio conversion under HUD's RAD program will allow us to do just that. We ask that the OIG not seek to stop the progress that is being made.

In conclusion, we would like to thank the OIG for its time and effort in conducting its audit of the Housing Board's activities, and urge the OIG to withdraw its Draft Audit report.

Respectfully yours,

Dwayne C. Vaughn
Executive Director

xc: Mr. Donald Langham, Chairman of the Board of Commissioners
Rev. Melvin Clark, Vice-Chairman of the Board of Commissioners

OIG Evaluation of Auditee Comments

Comment 1 The Housing Board's comments state that it adamantly disagrees with the scope, content, tone and magnitude of the draft audit's findings, conclusions, and recommendations and requests that we reconsider issuing the draft report. It also states that the findings are incorrect, skewed, and punishes the Housing Board for following the regulations and guidance of HUD Program offices. It urges us to reconsider issuing this draft report in its current form given that both findings and the recommendations are based on an incorrect or incomplete understanding of the facts, erroneous legal analysis, and flawed conclusions. It does not believe there is any basis for any of the findings in the draft report. It further states that it believes that we should have the final report withdrawn and not issue a final audit. However, if it is issued, the draft audit needs substantial correction and needs to be viewed in the context of the Housing Board's accomplishments to date.

We disagree with the Housing Board's assertions. The Housing Board did not comply with HUD regulations for its financial operations. Specifically, it identified Mobile Development Enterprises, its nonprofit as an affiliate entity to be treated as an independent third party to HUD. This action prevented HUD from identifying an apparent conflict of interest, which resulted in payments of more than $1.2 million to the owner of a construction company who was the half-brother of the senior vice president for the Housing Board's nonprofit. We determined that the Housing Board, and its nonprofit share bank accounts, office space and both use the same executive staff. Based on these facts, we determined that the Housing Board's procurement of its nonprofit's senior vice president's half-brother's company is an apparent conflict of interest. Furthermore, we recommend that HUD pursue enforcement action against the Housing Board staff based on its failure to notify HUD of its relationship with its nonprofit Mobile Development Enterprises which led to an apparent conflict of interest.

Additionally, the Housing Board did not comply with its Capital Fund amendment to its annual contributions contract which states that the Housing Board shall continue to operate each public housing project as low-income public housing in compliance with the Annual Contributions Contract (ACC), and all HUD regulations for a period of twenty years after the last disbursement of Capital Fund program funds assistance for modernization activities for each public housing project or portion thereof and for a period of forty years after the last distribution of Capital Fund program funds. This noncompliance included failing to use its capital funds to repair and rehabilitate 1,104 of its low-income public housing units as well as allowing 824 units to remain vacant from 1 to 16 years that prevented it from providing low-income families with decent, safe, and sanitary housing for many years.

Comment 2 The Housing Board's comments state that OIG completely ignores the fact that it is seeking to reposition its entire public housing inventory by undertaking a strategic portfolio conversion pursuant to the RAD program which directly addresses the long-term vacancy issues. In addition, it states that the OIG criticizes and seems to punish the Housing Board for devising an approach to address its housing, receiving HUD approval for that, and then following its plan.

After discussions with the Housing Board during the exit conference, we added details to the report regarding the Housing Board's transformation plan to use the RAD program to revitalize its low-income public housing. Although the Housing Board devised an approach to address its housing, it has not been able to fully implement or complete its plan. As of May 2016, the Housing Board has failed to demonstrate to HUD that it can continue to operate its low-income public housing units and improve unit conditions through the implementation of RAD. Additionally, the Housing Board's total expenses have exceeded its total revenue from 2012 through 2015, which further supports HUD's concern that the Housing Board does not have enough funds to sustain its low-income housing during the completion of the RAD implementation.

Comment 3 The Housing Board's comments state that no government money was misspent. It further states that the OIG's audit confirmed that the Housing Board appropriately accounted for and used all public housing capital funds for HUD-eligible purposes, specifically fixing properties, and housing units.

We did not question the eligibility of the Housing Board's use of funds. Specifically, the audit report finding regarding the Housing Board's use of its capital funds is based on its failure to reduce long standing vacancies in accordance with its HUD approved vacancy reduction plan. In its June 2011 vacancy reduction plan to HUD, the Housing Board stated that it would use HUD-approved Recovery Act funds, capital funds, operating reserves, and other sources totaling more than $7 million to decrease its long standing vacancies. Since its submission, the Housing Board's vacancies increased from 1,057 to 1,194; although, it received more than $18.4 million in capital funds, plus $3.2 million in Recovery Act funds. The Housing Board received more than $14.6 million than it estimated and was still unable to decrease its long standing vacancies.

Comment 4 The Housing Board's comments state that no conflict of interest exits. It further states that they demonstrate in their response that, based on the facts, there was absolutely no conflict of interest under any HUD conflict of interest standard. Therefore the Housing Board correctly procured Superior Masonry.

The annual contributions contract states that a Housing Authority may not enter into any contract or arrangement in connection with a project in which any employee of the Housing Authority who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner. Because of the Housing Board's close relationship with its nonprofit, Mobile Development Enterprises, it allows the senior vice president to act as a Housing Board employee which can potentially influence policy related to its low-income public housing developments. We determined that the nonprofit participates in procurement of the Housing Board's contractors. Its procurement activities include the evaluation and selection of potential Housing Board contractors for construction involving renovation of vacant units. Upon vendor selection, Mobile Development Enterprises works directly with vendors to ensure the quality and completion of task order items. Additionally, the Housing Board and the Mobile Development Enterprises share office space, bank accounts, and the same executive staff. As a result, we determined that by entering into a contract with the senior vice president of its nonprofit's half-brother there is an appearance of a conflict-of-interest which would lead to a violation of its consolidated annual contributions contract conflict-of-interest provision.

During our review, we were unable to determine whether an actual conflict of interest exists because we were denied access to the nonprofits files; therefore, we are recommending that the Housing Board provide documentation to support that an actual conflict of interest did not exist between the Mobile Development Enterprises and Superior Masonry or reimburse HUD $1,241,958.

Comment 5 The Housing Board's comments state that the draft audit advocates that old, vacant, and obsolete units should be constantly renovated at huge costs to the taxpayers, instead or torn down and replaced. It further states that it respectfully disagrees with our draft report because low-income families would not thrive if our approach was embraced.

We disagree with the Housing Board's assertions. Our draft report does not advocate for the Housing Board to renovate old, vacant, and obsolete units at huge costs to the taxpayers, instead of tearing them down or replacing them. The report finding focuses on the Housing Board's failure to effectively and efficiently use its capital funds, and despite a vacancy plan, and demolition and disposition approval the Housing Board's vacancy rates have increased along with its annual capital fund allocation. Although we updated the report to include the status of the Housing Board's RAD application, HUD stated the Housing Board has failed to demonstrate that it can continue to operate its low-income public housing units and improve unit conditions with its capital funds through the implementation of RAD.

Comment 6 The Housing Board's comments state that while we took nearly 9 months to conduct our audit of the Housing Board's activities, they were given the draft report on Friday, April 29, 2016, barely two business days in advance of the exit conference on Tuesday, May 3, 2016.

We provided the draft finding to the Housing Board on March 8, 2016, and discussed the results with staff on March 9, 2016. The Housing Board provided a written response on April 12, 2016. Although its response stated it disagreed, the Housing Board did not provide documentation to support revision of the finding. The draft findings provided in March 2016 were the same issues included in the draft report with more detail. In addition, the Housing Board was updated on a continuous basis throughout the audit process regarding any changes and additions via email or phone conversations. The Housing Board provided their comments on May 13, 2106, after receiving an extension from May 9, 2016. Therefore, the Housing Board was afforded more than 65 days to respond to the draft report.

Comment 7 The Housing Board's comments state that we neglect to mention the fact that its funding levels continue to be reduced and have been for years. In addition, the Housing Board stated that it has $96 million in current capital needs, but only receives $5 million from HUD for capital needs each year, which is 5 percent of the total need. It further states that we ignore the fact that the Housing Board has an obligation to its entire housing portfolio and, as is the case with many larger housing authorities, insufficient capital funds to address all capital needs of its portfolio.

We do not dispute the Housing Board's assertion that HUD cannot fully fund all of its capital needs. However, the Housing Board did not provide documentation to support that it lacked funds to meet its capital needs. In the Housing Board's June 2011 vacancy reduction plan to HUD, it stated that it would use HUD-approved Recovery Act funds, capital funds, operating reserves, and other sources totaling more than $7 million to decrease its long standing vacancies. Since its submission, the Housing Board has increased its vacancies from 1,057 to 1,194, as of October 15, 2015.

Comment 8 The Housing Board's comments state that we neglect to mention that 90 percent of vacancies are in properties that need to be torn down. Additionally, two properties contain substantial numbers of the vacancies and have received official approval from HUD for demolition or disposition. Also, one of the sites is a current recipient of a CHOICE Neighborhoods Initiative Planning grant which provides funding for to support communities that have undergone a comprehensive local planning process and are ready to implement their transformation plan to redevelop their neighborhood. Furthermore, it states we suggest renovation should still be in effect, which goes against the regulations of HUD's demolition and disposition approval. It also states that we attempt to use vacancy levels, primarily at older developments slated for demolition, disposition, and redevelopment under HUD's RAD program as evidence that the Housing Board failed to adequately manage its low-income public housing developments.

We disagree with the Housing Board's assertions. We identified two developments with 532 units that have been vacant from 1 to 12 years prior to the Housing Board's submission of a demolition or disposition application. These developments were approved for demolition and disposition in 2015 but as of May 2016, the Housing Board has not demolished or sold either development. To ensure that the Housing Board addresses the needs of its units approved for demolition or dispositions, we revised recommendation 1C to require HUD to work with the Housing Board to ensure that it meets the conditions of its RAD approval so that its units are made available for eligible families.

Although, we did not discuss the Housing Board’s Choice Neighborhoods Initiative Planning grant, the details of the grant only further supports the position that the Housing Board failed to occupy its vacant units when it had adequate resources. This includes its demolition and disposition application approvals.

Comment 9 The Housing Board’s comments state that it believes we should not substitute our own subjective opinions as to how the Housing Board should reposition its crumbling and aging housing stock. Rather we should give due deference to the Housing Board’s reliance on the plain meaning and language of HUD Notice PIH-2007-15 as it applies to entities engaged in development activities and not Mobile Development Enterprises’ engagement in administrative and managerial activities. Additionally, the Housing Board’s comments state that the HUD Notice PIH-2007-15 only covers development activities and activities related thereto and it is clear that the maintenance and make ready activity by one contractor, Superior Masonry, was not for “development” purposes.

We disagree with the Housing Board’s assertions. Mobile Development Enterprises does not just participate in program management activities; it participates in all Housing Board activities including those related to development including the redevelopment of its low-income public housing units under the RAD transformation plan. Mobile Development Enterprises employees attend Housing Board meetings and have participated in all aspects of RAD planning and implementation starting in 2013. Based on these facts and several other factors including that the Housing Board and the Mobile Development Enterprises share office space, an organizational chart, and bank accounts, we have determined that Mobile Development Enterprises’ activities apply to HUD Notice PIH-2007-15. The notice applies to entities involved in public housing development activities pursuant to 24 CFR Part 941, which covers public housing development activities. The relationship between the Housing Board and Mobile Development Enterprises’ is an instrumentality relationship and not a third party affiliate as the Housing Board described it to HUD.

Comment 10 The Housing Board’s comments states that it was surprised that the draft report states that it conducted its survey review because of a HUD Birmingham Field Office referral request following HUD’s Real Estate Assessment Center (REAC) financial assessment of the Housing Board for fiscal years 2009 to 2015. Although during the entrance conference we stated that it was conducting the survey of the Housing Board’s use of Capital Fund program grant funds as a part of its routine audit plan and had been randomly selected for the survey, and potential further audit.

We selected potential auditees the Mobile Housing Board based on our routine audit plan and risk assessments conducted on several potential auditees. As a result of the analysis of risk assessments, the Mobile Housing Board was selected based on several risk factors including concerns from the HUD Alabama State Office of Public Housing following the REAC financial assessment.

Comment 11 The Housing Board's comments state that it has been the subject of numerous HUD audits, none of which have suggested the level of concern, to the Housing Board's knowledge, that dictated the current survey by the OIG. In fact, the Housing Board's Financial Assessment Subsystem scores for the last three years have been extremely high.

The Financial Assessment Subsystem reviews the annual financial statements submitted by public housing agencies to assess their financial conditions. Although the Housing Board's scores were high during the periods 2011 through 2015, HUD's REAC Quality Assurance Operations (QASS) financial assessment identified financial statement figures that overstated the Housing Board financial position. The QASS financial assessment concluded that the Housing Board's financial condition has been deteriorating for at least five years from 2009 to 2013.

Comment 12 The Housing Board's comments state that it never received a copy of the REAC financial assessment despite repeated requests, or has been briefed on the contents of the assessments and its conclusions or recommendations.

The Housing Board should make their request to HUD because the financial assessment is an internal HUD document and is releasable at HUD's discretion.

Comment 13 The Housing Board's comments state that we disregarded the financial environment for public housing authorities from 2008 through 2012. Specifically, in 2012, HUD recaptured $566,605 from the Housing Board.

We disagree with the Housing Board's statement. The Housing Board was not included in a recapture; however, even if it were, in its 2011 vacancy reduction plan, it stated that it would cost more than $7 million to renovate 477 vacant units. Since it submitted its 2011 plan, the Housing Board received more than $18.4 million in capital funds plus $3.2 million in Recovery Act funds. It also had access to more than $27 million in capital fund revenue bond proceeds starting in 2003. Even with a recapture of $566,605 based on the Housing Board's own estimates, it had more than enough funding to reduce its vacancies by at least 477 units. However, its vacancies increased.

Comment 14 The Housing Board's comments state that the draft audit incorrectly refers to Mobile Development Enterprise throughout the report.

We have corrected the title throughout the report to Mobile Development Enterprises.

Comment 15 The Housing Board's comments state that the draft report does not mention Section 13 of the Housing Board Act of 1937, as amended or the implementing regulations set forth at 24 CFR 943 Subpart C that are applicable to Mobile Development Enterprises in the context of the Housing Board's procurement of Mobile Development Enterprises for program management services.

We acknowledge that the draft report did not mention the references. We did not question the Housing Board's procurement of Mobile Development Enterprises; therefore, it was not necessary for us to include the criteria referenced in the Housing Board's comment.

Comment 16 The Housing Board's comments state that at the exit conference, in response to its detailed refutation of this finding, we stated that it had legal opinions from OIG counsel and from HUD counsel in support of our position. The Housing Board's attorneys requested that the legal opinions, but we stated that neither legal opinion could be released and its request to talk to the OIG attorney was denied. It further states that this is an indication that we are not interested in clarifying and possibly resolving issues.

We disagree with the Housing Board's interpretation and the finding explains our position; therefore, releasing the legal opinions is unnecessary. The Housing Board has not provided additional information to dispute our finding and recommendations; therefore, we did not change the finding.

Comment 17 The Housing Board's comments state that our emphasizing that the Housing Board's alleged misrepresenting of Mobile Development Enterprises as an "affiliate" rather than an "instrumentality" led to a failure to disclose an alleged apparent conflict of interest to HUD. Our logic is erroneous on a number of fronts. It also states that Mobile Development Enterprises was being engaged for program management services, which are not covered by PIH 2007-15. Additionally, even if Mobile Development Enterprises were involved with procurement related to development activities and the Housing Board had characterized Mobile Development Enterprises as an instrumentality, PIH 2007-15 does not require procurements for a public housing authority to engage an instrumentality. Therefore, whether PIH 2007-15 is applied or not to the Housing Board's procurement of Mobile Development Enterprises, there is no basis in HUD regulations or guidance as to why HUD would have intervened to dispute the engagement of Mobile Development Enterprises to perform program management services for the Housing Board.

We do not agree with the Housing Board's assertions. The Housing Board should have identified the Mobile Development Enterprises to HUD as a nonprofit entity that shares office space, an organizational chart, and bank accounts with the Housing Board, not as an affiliate entity that would be treated as an independent third party. When HUD was notified of the true nature of the relationship between the Housing Board and Mobile Development Enterprises, it determined the Mobile Development Enterprises was an instrumentality. HUD defines an instrumentality as an entity related to a public housing authority whose assets, operations, and management are legally and effectively controlled by the PHA, through which public housing authority functions or policies are implemented and that utilize public housing funds or public housing assets for the purpose of carrying our public housing development functions of the public housing authority. The procurement of Superior Masonry created the appearance of a conflict of interest because the owner of Superior Masonry is the half-brother of the Mobile Development Enterprises senior vice president.

Additionally, we agree with the Housing Board's statement that PIH 2007-15 does not require procurements for a PHA to engage an instrumentality. The draft report does not question the Housing Board's procurement of Mobile Development Enterprises or their participation in program management and development activities. The finding specifically questions the Housing Board's identification of Mobile Development Enterprises as an affiliate entity to be treated as an independent third party despite the two organizations sharing office space, executive staff, and bank accounts.

Comment 18 The Housing Board's comments state that the apparent conflict of interest focuses on the fact that the senior vice president of business and community relations for Mobile Development Enterprises has a half-brother who owned Superior Masonry. However, the senior vice president had no role whatsoever in any contracting decision related to the request for proposal pursuant to which the Housing Board selected Superior Masonry along with two other contractors. It further states that the senior vice president never worked for the Housing Board, and was paid solely by Mobile Development Enterprises, and was an at-will employee of Mobile Development Enterprises, and had no ability to influence policy or decision making with regard to construction related services such as were at issue with the request for proposal.

At the start of our review, the Housing Board told us that Mobile Development Enterprises was an affiliate treated as an independent third party entity. Based on this information we did not request Mobile Development Enterprises' records because the scope of our review was Mobile Housing Board financial transactions. However, later we determined Mobile Development Enterprises was not an independent third party entity but instead an instrumentality. We also determined that Mobile Development Enterprises participated in the procurement of Superior Masonry. Its procurement activities included evaluation and selection, and upon selection it worked directly with Superior Masonry to ensure the quality and completion of the task order items. Furthermore, the senior vice president of Mobile Development Enterprises signed the Mobile Development

Enterprises contract with the Housing Board that agrees to all construction management activities, including those related to vacancy reduction, which were subsequently carried out by Superior Masonry. The senior vice president's relationship with the owner of Superior Masonry, and the relationship of the Housing Board and Mobile Development Enterprises create the appearance of a conflict of interest. We recommended that the Housing Board provide documentation to HUD to support that an actual conflict does not exist.

Comment 19 The Housing Board's comments state that in Table 2 of the draft report, we incorrectly characterize both the senior vice president of business and community relations and the vice president of asset management and compliance as being directly employed by the Housing Board. Both are solely employees of Mobile Development Enterprises and have never been employees of the Housing Board.

The organizational chart provided by the Mobile Development Enterprises showed the senior vice president of business and community relations and the vice president of asset management and compliance as employees of the Housing Board. Mobile Development Enterprises shares office space, executive staff, and bank accounts with the Housing Board.

Comment 20 The Housing Board's comments state that we substitute our own judgment in place of the policy decisions made by the Housing Board in consultation with and the approval of the HUD field office. It further states that our alternative view of how public housing capital funds might have been expended is isolated from the local factors on the ground.

Our findings are based on interviews with the Housing Board and HUD staff and analysis of documents provided by both agencies that included information related to the local factors on the ground. We have also presented our findings to the HUD staff and they agree with the information presented in the draft report.

Comment 21 The Housing Board's comments state that we attempt to blame the Housing Board for Congressional timing in lifting the unit cap under HUD's RAD program, which the Housing Board identified as a path to systematically and comprehensively address its long-term capital needs and corresponding vacancy problems. It further states that it should not be blamed for not receiving more funds from HUD, and that such a position makes housing authorities vulnerable for activities far outside of their control.

We do not agree with the Housing Board's assertions. Our draft report does not blame the Housing Board for any outside factors, including budget restrictions due to a government wide sequestration, that may have impacted the timing of its RAD program. Of the 491 units vacant as of November 2011 when the RAD program came into existence, 347 had been vacant from 1 to 12 years. These units remained vacant even after the Housing Board implemented its 2011 vacancy reduction plan and HUD's approval to allow the Housing Board to use Recovery Act funds to reduce its long-standing vacancies by 477 units. Additionally, the Housing Board's failure to renovate and lease its long standing vacant units prevented it from receiving operating funds and rental revenue which may have reduced the impact environmental factors that may have led to a reduction in Housing Board funds.

The draft report did not discuss the Housing Board's RAD program; however, we have included a discussion in the final report.

Comment 22 The Housing Board's comments state that within the assessed period, the Housing Board was encouraged by the HUD field office to focus on units that were more easily made-ready to increase occupancy rates at a faster rate. It further states that this methodology turned the focus away from costly long-standing vacant units that are the subject of the draft report.

The Housing Board's statements are not accurate. The HUD field office directed the Housing Board to utilize its own staff to prepare recently vacated units that required minimal maintenance as quickly as possible. It did not direct the Housing Board to stop working on reducing long-standing vacancies.

Comment 23 The Housing Board's comments state that the draft report's suggestion that it has run afoul of section 7 of the Capital Fund agreement to the ACC is baseless and without merit. It further states that section 7 of form HUD-52840-A states implementation or use of funding assistance provided under this amendment is subject to the attached corrective action order(s). There were no corrective action orders and, therefore, the Housing Board is unclear how it could have violated this section. It does not agree section 7 of form 52840-A is applicable.

The Housing Board's response is not based on the criteria used in the draft report. The draft report finding regarding the Housing Board's failure to renovate its vacant units with operating and capital funds reference section 7 of the Capital Fund agreement (form HUD-53012). Based on this criterion, we determined that the Housing Board failed to meet the requirements of is Capital Fund agreement.

Comment 24 The Housing Board's comments state that while the public housing waiting list did increase, it did not increase by the amount indicated in the draft report. It states that a glitch in the software causing two properties to over-report waiting list numbers.

The Housing Board did not provide a revised waiting list; therefore, we did not make revisions to the report.

Comment 25 The Housing Board's comments dispute that its RAD application delay was the fault of the Housing Board and that it did everything it could to get movement from HUD on the demolition and disposition applications.

The Housing Board's statements are not correct. The draft report did not include information regarding the Housing Board's RAD program. The Housing Board's failure to provide supplemental information requested by the Special Applications Center is documented in REAC's Quality Assurance Assessment report. The report states that the Special Applications Center requested supplemental information on December 2, 2011. As of August 6, 2014, the Housing Board had failed to provide the documentation requested. Also despite approvals, as of May 2016, the Housing Board's demolition and disposition developments have not been either demolished or sold.

Comment 26 The Housing Board's comments state that it is currently participating in the RAD protocol to receive permission to proceed in accordance with its transformation plan. During the Choice Neighborhood Initiative Planning process, there was unanimity of opinion that its Josephine Allen property should not be renovated, but rather torn down and revitalized. The Housing Board estimates the cost of constructing mixed-income, multifamily, rental, and homeownership housing at $67 to $85 million.

At the exit conference, the Housing Board requested that we include information in the report that acknowledges its participation in the RAD program. We honored the Housing Board's request, but in order to fully analyze its participation we also discussed HUD's concerns with the Housing Board's RAD program. Therefore, we have updated recommendation 1C to require HUD to work with the Housing Board to ensure that it meets the conditions of its RAD approval so that its units are made available for eligible families.

Comment 27 The Housing Board's comments state that there was no conflict of interest real or apparent in the Housing Board procurement of Superior Masonry and we should withdraw our recommendation.

We determined that the Housing Board may have violated its consolidated annual contributions contract's conflict of interest provision, HUD Notice PIH-2007-15 (HA), by entering into a contract with the senior vice president of its nonprofit's half-brother. The annual contributions contract states that a Housing Authority may not enter into any contract or arrangement in connection with a project under the annual contributions contract in which any employee of the Housing Authority who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner. Mobile Development Enterprises and the Housing Board share office space, executive staff, and bank accounts. These factors in addition to the familial relationship between Mobile Development Enterprises' senior vice president and the owner of Superior Masonry create the appearance of a conflict of interest.

Appendix C

Photos of Vacant Unit Conditions

To determine the nature and extent of each identified vacancy, the Housing Board physically inspected each vacant unit and rated the units from A to F, indicating the amount of resources needed to return the unit to a rentable status. Under the Housing Board's system, the A units needed the least amount of resources to return them to rentable status, and the F units needed the greatest amount of resources.

The photos below show the various conditions of the Housing Board's vacant units rated A to F.

A Units

The Housing Board planned not to use capital funds for the renovation of the units below. The renovation time would range from 2 to 4 days, with a cost of \$500 to \$3,000 per unit.

B Units

The Housing Board planned not to use capital funds for the renovation of the units below. The renovation time would range from 2 to 4 days, with a cost of $1,500 to $4,000 per unit.

C Units

The Housing Board planned to use capital funds, Recovery Act funds, and other available funds for renovation of the units below. The renovation time would range from 3 to 4 days, with a cost of $2,500 to $5,000 per unit.

D Units

The Housing Board planned to use capital funds, Recovery Act funds, and other available funds for the renovation of the units below. The renovation time would range from 4 to 5 days, with a cost of $3,500 to $6,000 per unit.

E Units

The Housing Board planned to use capital funds, Recovery Act funds, and other available funds for the renovation of the units below. The renovation time would range from 4 to 6 days, with a cost of $4,500 to $7,000 per unit.

F Units

The Housing Board planned to use capital funds, Recovery Act funds, and other available funds for the renovation of the units below. The renovation time would range from 10 to 20 days, with a cost of $10,000 to $45,000 per unit.