



# Richmond Housing Authority, Richmond, CA

## Public Housing and Housing Choice Voucher Programs – Financial Management



**To:** Gerard Windt, Director, San Francisco Office of Public Housing, 9CPH  
Dane Narode, Associate Counsel for Program Enforcement, CACC  
Craig Clemmensen, Director, Departmental Enforcement Center, CACB  
  
//SIGNED//

**From:** Tanya E. Schulze, Regional Inspector General for Audit, 9DGA

**Subject:** The Richmond Housing Authority, Richmond, CA, Mismanaged Its Financial Operations

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 Richmond Housing Authority.

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 213-534-2471.



**Audit Report Number: 2016-LA-1006**

**Date: June 3, 2016**

**The Richmond Housing Authority, Richmond, CA, Mismanaged Its Financial Operations**

## Highlights

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### What We Audited and Why

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We audited the Richmond Housing Authority due to a complaint alleging that the Authority submitted falsified documentation to the U.S. Department of Housing and Urban Development (HUD) and allowed the City of Richmond to use the Authority's HUD funds and the Authority's assets and that the City charged the Authority for rent and services at an unreasonable price. Our audit objective was to validate complaint allegations regarding whether the Authority spent HUD funds and used its assets in accordance with HUD requirements.

### What We Found

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The complaint allegations had merit. The Authority mismanaged its financial operations and did not spend HUD funds and use its assets in accordance with HUD requirements. We attributed these deficiencies to the Authority's disregard for HUD requirements and its agreement with HUD, the lack of independence in the relationship between the Authority and the City, and a weak internal control environment. As a result, the Authority misspent \$2.2 million in HUD funds, had \$944,910 in unsupported costs, and incurred other questionable transactions that unnecessarily limited its resources and effectiveness with its public housing program.

### What We Recommend

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We recommend that the Associate General Counsel for Program Enforcement determine legal sufficiency and if legally sufficient, pursue remedies under the Program Fraud Civil Remedies Act for submitting misleading documentation to HUD. We recommend that the Director of the Departmental Enforcement Center take the appropriate administrative actions against Authority officials for submitting misleading documentation to HUD. We recommend that the Director of the San Francisco Office of Public Housing require the Authority to (1) repay more than \$2 million for the ineligible use of HUD funds, \$53,347 for duplicate charges, and \$60,000 for a City-initiated management audit; (2) support \$80,890 of the executive director's salary spent on Authority activities and \$180,000 spent on office rent; (3) determine the proper use of the Authority's former maintenance building property; and (4) develop and implement financial policies and procedures for the current operating environment. We also recommend that the Director of the San Francisco Office of Public Housing work with HUD headquarters on corrective actions to improve the Authority's control and accountability regarding its finances and operations, including but not limited to HUD receivership and separating the Authority's finances from those of the City.

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# Background and Objective

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The Richmond Housing Authority, Richmond, CA, was formed in 1941 as a separate legal entity under the provisions of the Housing Act of 1937. The Authority was established to rehabilitate local deteriorated housing and assist low-income families in obtaining decent, safe, and sanitary housing. Although the Authority is a separate legal entity from the City of Richmond, it is an integral part of the City. The City exercises significant financial and management control over the Authority. Members of the city council and two tenant commissioners serve as the governing board of the Authority. The financial statements of the Authority are included in the City's general-purpose financial statements.

The U.S. Department of Housing and Urban Development (HUD) established the public housing program to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. HUD provides funds to local housing agencies that manage housing for low-income residents at rents they can afford. The Public Housing Operating Fund provides operating subsidies to housing agencies to assist with operating and maintenance expenses. The Public Housing Capital Fund provides funds to housing agencies to modernize public housing developments.

HUD provides funds to housing agencies under the Housing Choice Voucher program to assist very low-income families, the elderly, and the disabled in obtaining decent, safe, and sanitary housing in the private market.

HUD authorized the Authority the following assistance for its Operating Fund, Capital Fund, and Housing Choice Voucher programs for fiscal years 2013, 2014, and 2015.

<b>Fiscal year</b>	<b>Operating Fund</b>	<b>Capital Fund</b>	<b>Housing Choice Voucher program</b>
2013	\$2,088,528	753,815	\$17,470,172
2014	2,180,254	782,201	17,879,201
2015	1,556,894	\$775,701	18,705,723
<b>Total</b>	<b>\$5,825,676</b>	<b>\$2,311,717</b>	<b>\$54,055,096</b>

The Authority was designated as troubled by HUD's Real Estate Assessment Center for the fiscal year ending June 30, 2011. As a result, HUD and the Authority entered into a recovery agreement and action plan on February 5, 2013. The plan is a binding contract required by Federal statute that describes performance outcomes, timelines, and reporting requirements that must be strictly followed as well as remedies to achieve agreed-upon performance levels. If the Authority fails to comply with any measureable outcome, HUD may impose sanctions, up to and including the contracting out of the Authority's management operations. The agreement was amended April 30, 2015, and is effective until June 30, 2016. The amended agreement removed items that had been closed under the original agreement.

In 2009, we issued audit report 2009-LA-1020, which determined that the Authority did not follow procurement requirements and had internal control weaknesses. All of the recommendations related to this audit were closed; however, as part of our audit objective, we addressed a complaint alleging that the Authority submitted “falsified” documentation to HUD regarding its finances, including documentation submitted to HUD to close recommendations from that audit. In addition, we issued audit report 2016-LA-1004, which determined that the Authority did not always procure services and manage rents in accordance with HUD requirements. All recommendations remained open as of the publication of this report.

We received complaint allegations that the Authority submitted falsified documentation to HUD and allowed the City to use the Authority’s HUD funds and the Authority’s assets and that the City charged the Authority for rent and services at an unreasonable price. After interviewing the complainant and reviewing documentation obtained in the survey phase of audit report 2016-LA-1004, we determined that the allegations appeared to have merit and needed further review. Therefore, we initiated this second audit of the Authority. Our audit objective was to validate complaint allegations regarding whether the Authority spent HUD funds and used its assets in accordance with HUD requirements.

# Results of Audit

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## **Finding: The Authority Mismanaged Its Financial Operations**

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The Authority did not manage its financial operations in accordance with HUD requirements. Specifically, it

- Submitted misleading documentation to HUD that violated its agreement with HUD,
- Did not review and approve transactions initiated by the City,
- Inappropriately paid for City expenses,
- Overpaid salary expenses for its executive director,
- Did not negotiate rental costs,
- Did not obtain HUD approval for its general liability insurance, and
- Could not trace all expenses.

We attributed these deficiencies to the Authority's disregard for HUD requirements and its agreement with HUD, its lack of independence in the relationship between the Authority and the City, and a weak internal control environment. As a result, the Authority misspent \$2.2 million in HUD funds, incurred \$944,910 in unsupported costs, and incurred other questionable transactions. These deficiencies added to the already strained financial condition of the Authority and limited its resources and effectiveness with its public housing program.

### **The Authority Misled HUD**

The complaint alleged that the Authority submitted "falsified" documentation to HUD regarding its finances. This complaint had merit because the Authority submitted documentation to HUD, which misrepresented material facts, to close out findings

- In a prior HUD Office of Inspector General (OIG) audit report<sup>1</sup> and
- In its public housing authority recovery and sustainability (PHARS) agreement with HUD.

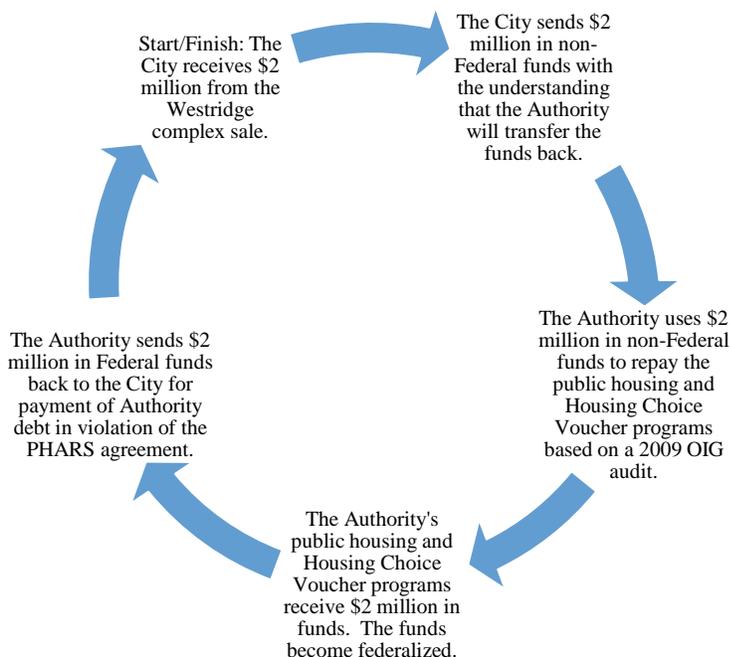
On February 5, 2013, HUD and the Authority entered into a PHARS agreement. According to the PHARS agreement, proceeds from the sale of the non-Federal property (Westridge) would be used to pay off the remainder of questioned costs identified in HUD OIG audit report 2009-LA-1020 and to pay off City debt. The agreement further stated the Authority could not use HUD program revenue to pay principal or interest on any obligation that the City considered owed for past financial transactions (appendix C).

RHA Properties, a joint venture between the Authority and the City, owned the Westridge property. The proceeds from the Westridge sale were used to pay more than \$7.7 million in debt that was assumed by RHA Properties, which included the remaining amount of its repayment

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<sup>1</sup> Audit report 2009-LA-1020

agreement from the prior OIG audit. The City agreed to deposit more than \$2 million of the funds into the Authority's account with the understanding that the Authority would transfer the funds back to the City. The Authority submitted documentation to HUD to show that on May 23, 2014, the Authority used the \$2 million to repay its public housing and Housing Choice Voucher programs for the questioned costs identified during the previous OIG audit.<sup>2</sup> However, HUD was not informed that 4 days later (May 27, 2014) the funds were withdrawn from the HUD program bank accounts and transferred back to the City. The Authority was also in violation of its PHARS agreement with HUD because it used funds to pay off debt for services provided by the City before the PHARS agreement. These violations occurred due to the Authority's disregard for HUD requirements and the PHARS agreement and the relationship between the Authority and the City. If the Authority had not transferred the \$2 million back, it could have used the funds for operations since its operating expenses exceeded its operating income. See the figure below.



The PHARS agreement also required that the Authority not incur additional debt with the City for the remainder of the Authority's 2013 fiscal year ending June 30, 2013 (appendix C). On June 11, 2013, the Authority sent HUD a letter stating that it did not incur additional debt with the City. However, the City charged the Authority \$25,000 for its recurring rent allocation and \$64,773 for its recurring indirect cost allocation from February to June 2013. The Authority had paid only \$38,863 of those charges, indicating that it had incurred \$50,910 in additional debt, which contradicted the Authority's assertion to HUD. In addition, the City typically charged the Authority for a monthly general liability cost allocation. The City did not charge the Authority for its general liability policy from February through June 2013 but began charging it again in July 2013. The PHARS agreement stated that the loan with the City would create additional

<sup>2</sup> Audit report 2009-LA-1020

financial problems (appendix C). This concern had not been adequately addressed by the Authority because the Authority continued to accumulate debt with the City and owed the City more than \$4 million as of January 31, 2016.

### **The Authority Did Not Properly Review or Approve All Transactions Initiated by the City**

The complaint alleged that the Authority allowed the City to use HUD funds and charged the Authority for services not provided. This complaint had merit because the Authority did not always properly approve transactions initiated by the City, which resulted in

- An indirect cost allocation in fiscal year 2015 with outdated expenses from 2011 and 2012, questionable costs, and duplicate charges and
- A \$60,000 contract that the Authority did not intend to pay for.

Although the Authority is a separate legal entity, it is treated as component unit of the City. The City exercises significant control over the Authority's finances because its board consists of the city council and two tenant commissioners. Further, HUD's PHARS agreement from February 5, 2013, included a statement that the Authority's finance department would be under the control of the City's finance department (appendix C). The City charged the Authority indirect costs through a cost allocation as if it were a department of the City. The City finalized the \$370,469 per year indirect cost allocation used in fiscal year 2015 on February 21, 2014, based on expenditures from 2011 and 2012. Due to the changes in the Authority's finance department discussed above, these costs would likely be outdated. On April 29, 2014, the executive director approved the City's cost allocation plan. However, despite the approval, our review and discussions with the Authority disclosed questionable items included in the allocation.

We did not verify all questionable items; however, we did note one that was double charged. The lease between the City and the Richmond Redevelopment Agency included maintenance, security, and utilities with the Authority listed as a tenant. The City also included these costs in its indirect cost allocation. In fiscal year 2015, the City charged both the rent allocation and indirect allocation to the Authority's public housing program. As a result, the Authority spent at least \$53,347 in public housing program funds on duplicate charges. The Authority should properly review the cost allocation to ensure that the City charged only for services received and that the costs had not been charged through other means.

In addition to the indirect cost allocation issues, the Authority paid for a management and performance audit that it did not intend to purchase. HUD prohibits housing agencies from incurring operating expenditures that are not in their approved operating budget. The management performance audit was initiated, procured, and contracted by the City. The city council instructed the city manager to hire a consultant to perform a management audit of the Authority. The City included the cost of this \$100,000 management and performance audit in the city manager's office budget as shown in the financial impact section of the City's agenda report below:

The actions requested in this proposal will result in a commitment of up to \$100,000 of City resources. The initial contract with Baker Tilly Virchow Krause, LLP will be for eleven months; however, it is anticipated that the project will be completed within 120 days of contract execution. The resources identified to support this project have been included in the City Manager's Office FY2014/2015 operating budget.

The City awarded and signed the contract with the accounting firm but then allocated the \$60,000 payment on the \$100,000 contract to the Authority because the City oversaw the Authority's finance staff and they shared the same accounting system.

### **The Authority Funded City Expenses and Provided a Building Rent Free**

The complaint alleged that the Authority owned a building at 360 South 27th Street, Richmond, CA, which was used by the City at no cost, but the Authority continued to pay for utilities on the property. This complaint was valid because the Authority

- Rented the building to the City for \$1 per year, which the Authority did not collect, and
- Paid at least \$11,850 of its own non-Federal funds on utilities and alarm services in fiscal years 2013 and 2014.

The Authority purchased the building in 1957 with HUD funds for the administration of low-rent public housing projects. The Authority's administration office moved to a different building in 1986, but the Authority continued to use the building as a primary maintenance facility. In 2006, the Authority decentralized its maintenance department as part of HUD's asset management requirements. The Authority decided to allow the City's RichmondBUILD program to use the building with the understanding that its construction students would update the building. However, the Authority did not obtain HUD approval to allow the City to use the building rent free. As a result, the Authority's public housing program did not benefit from this asset.

According to the lease agreement, the City's RichmondBUILD program was required to pay all costs associated with the building. However, the Authority paid at least \$11,850 in fiscal years 2013 and 2014 for utilities and alarm services for the building.<sup>3</sup> In addition, the \$1 rent per year had not been paid, and the Authority had no intention of collecting rent or renegotiating the lease. Although the utilities were paid for using non-Federal funds, the Authority should not pay for City expenses. According to its fiscal years 2013 through 2015 financial statements, the Authority was in a strained financial condition because its operating expenses exceeded its operating income. The Authority could have used the funds spent on utilities and received income from the building for operations.

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<sup>3</sup> Due to the Authority's switching its accounting system in fiscal year 2015, we were not able to determine the amount spent on utilities in fiscal year 2015 because the details did not include the building address.

### **The Authority Paid for the Executive Director To Work on City Activities**

The Authority's executive director had been the City's acting housing and community development director since at least August 15, 2015. The Authority paid the executive director's full salary of \$80,890 from August 15, 2015, to January 31, 2016, without requesting reimbursement from the City for the portion of the salary related to time spent on City activities.

The executive director's salary was paid from the Authority's central office cost center account, which is considered non-Federal funds; however, according to 24 CFR 990.280(b)(4), project-specific operating costs include a property management fee charged to each project that is used to fund operations of the Authority's central office (appendix C). By not requesting reimbursement for the portion of the executive director's salary spent on time supporting the City's Housing and Community Development Department, the project management fee charged to each project was used to fund the City's central office costs and not those of the Authority as intended.

Although these issues included non-Federal funds, the Authority should not have paid for City expenses. According to its fiscal years 2013 through 2015 financial statements, the Authority had been in a strained financial condition because its operating expenses exceeded its operating income. The Authority could have used the funds for operations.

### **The Authority Did Not Negotiate Fair Rental Terms With the City**

The complainant alleged that the City charged the Authority excessive amounts to rent City space for its administrative and finance staffs while it had space at Nevin Plaza, an Authority-owned building. This complaint had some merit because the rent amount charged by the City appeared excessive for the square footage occupied by the Authority, but we could not determine whether the staff should still be located at the Authority's Nevin Plaza building. According to Office of Management and Budget Circular A-87, section 37, reasonable rental costs are allowable, but should be reviewed periodically to determine whether circumstances have changed.

The Authority's administrative and finance staff relocated from Nevin Plaza in 2009 to one of the City's Civic Center buildings under a sublease with the Richmond Community Redevelopment Agency. The Redevelopment Agency dissolved in early 2012, and the City, the successor agency, took over the obligations of the lease. The Authority and the City could not locate the sublease; however, the lease between the City and the Redevelopment Agency listed the Authority as a tenant. We reviewed the market conditions for similar office space in the same zip code, and it appeared that the Authority was charged more than the market rate for its space.

In addition, the Authority no longer occupied the space identified in the lease agreement. The Authority's Finance Department was moved into two Civic Center buildings in cubicles intermingled with City employees instead of in its own separate space. This arrangement reduced the amount of square footage occupied by the Authority from 5,000 to 1,744 square feet. The City and the Authority did not negotiate a new lease based on the current market rate or changed circumstances. The Authority and the City should renegotiate the terms of the lease and perform a cost analysis to ensure that the Authority is not paying more than the market rate. From fiscal years 2013 through 2015, the Authority was charged \$180,000 in office rent. If the

Authority does not renegotiate its lease, it will pay annual rent of \$60,000, or approximately \$1.4 million, from fiscal year 2016 to the end of the lease term, June 30, 2039.

### **The Authority's General Liability Insurance Was Not Approved by HUD**

The Authority used the City's \$500,000 self-insurance and the City's general liability policy through the California Joint Powers Risk Management Authority risk pool without HUD approval. The Authority's annual contributions contract with HUD requires the Authority to have general liability insurance and receive a waiver from HUD to establish a self-insurance fund in lieu of purchasing insurance. In addition, HUD regulations at 24 CFR 965.205(a) allow the Authority to purchase insurance from a nonprofit insurance entity owned and controlled by public housing agencies without open and competitive bidding when approved by HUD (appendix C). The City was unaware of requirements to obtain approval from HUD for self-insurance or to be part of a non-HUD-approved risk pool. As a result, there was no assurance that the liability coverage was adequate or that \$684,020 charged for general liability coverage from fiscal years 2013 through 2015 was reasonable.

### **The Authority Could Not Trace All Expenses**

An Authority employee stated that cost allocation items were recorded against the Authority's public housing programs; however, the Authority hired an accountant to adjust the entries at year end. The Authority could not trace the accountant's work to determine how much was recorded against each public housing property as required by 24 CFR 990.280 (appendix C). We attempted to trace the cost allocation expenses and found that 2013 and 2014 expenses were not recorded against the Authority's public housing program as stated. In addition, the amount recorded in 2013 and 2014 did not match the cost allocation billing statements from the City, which were much higher. It appeared that the Authority did not record \$331,466 of the cost allocation expenses in fiscal year 2013 and \$280,547 of the expenses in fiscal year 2014.

### **Conclusion**

The complaint allegations had merit. Based on all of the issues identified above, we determined that the Authority mismanaged its financial operations. We attributed these deficiencies to the Authority's disregard for HUD requirements and its PHARS agreement with HUD, the lack of independence in the relationship between the Authority and the City, and a weak internal control environment. As a result, the Authority misspent \$2.2 million in HUD funds, had \$944,910 in unsupported costs, and incurred other questionable transactions. The poor management added to the already strained financial condition of the Authority and unnecessarily limited its resources and effectiveness with its public housing program.

## Recommendations

We Recommend that the Associate General Counsel for Program Enforcement

- 1A. Determine legal sufficiency and if legally sufficient, pursue remedies under the Program Fraud Civil Remedies Act for submitting misleading documentation to HUD associated with HUD OIG audit report 2009-LA-1020 and its original PHARS agreement.

We recommend that the Director of the Departmental Enforcement Center

- 1B. Pursue appropriate administrative actions against Authority officials for the Authority's submission of misleading documentation to HUD associated with HUD OIG audit report 2009-LA-1020 and its original PHARS agreement.

We recommend that the Director of the San Francisco Office of Public Housing require the Authority to

- 1C. Repay the U.S. Treasury \$2,096,528 (\$1,637,704 in public housing funds and \$458,823 in Housing Choice Voucher program funds) for its ineligible use of Federal funds for payment of debt to the City.
- 1D. Reverse the debt of \$53,347 for duplicate charges to the Authority's public housing programs included in the indirect cost allocation plan that were included in the rent allocation and review the indirect cost allocation for additional duplicate charges.
- 1E. Repay its public housing program from non-Federal funds \$60,000 plus any additional payments made to the City for the management and performance audit initiated by the City.
- 1F. Work with HUD on a disposition plan for the Authority's former maintenance building including but not limited to selling the property for a fair and reasonable amount or entering into a fair market lease agreement that provides the Authority with income from the property and ensure the City follows all lease requirements including that the City pays for all associated alarm and utility costs.
- 1G. Determine what percentage of the executive director's \$80,890 salary from August 15, 2015, to January 31, 2016, plus the applicable portion of any additional charges from February 1, 2016, forward should have been charged to the City for time spent as the acting executive director of the City's Housing and Community Development Department and obtain reimbursement for that amount.
- 1H. Establish and implement policies and procedures for Authority employees to charge time to the City when working on City assignments.
- 1I. Provide documentation to support that \$180,000 spent on office rent was reasonable or repay its public housing program from non-Federal funds.
- 1J. Renegotiate its \$60,000 per year office space rent to ensure that the Authority obtains a fair market price for the reduced space.

- 1K. Obtain HUD approval for its self-insured general liability policy and its participation in a risk pool not approved by HUD.
- 1L. Provide support showing that the \$684,020 charged by the City for general liability coverage was reasonable.
- 1M. Develop and implement financial policies and procedures for the current operating environment that address the roles of Authority and City employees. The Authority should also ensure that there are additional steps for expenses charged by the City to ensure proper review and approval.

We recommend that the Director of the San Francisco Office of Public Housing

- 1N. Work with HUD headquarters on corrective actions to improve the Authority's control and accountability regarding its finances and operations including but not limited to HUD receivership and/or separating the Authority's finances from those of the City.

# Scope and Methodology

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Our audit period covered July 1, 2012, to June 30, 2015, but was expanded when necessary. We conducted our fieldwork at the Authority's finance office at 450 Civic Center Plaza, Richmond, CA, between October 2015 and February 2016.

To accomplish our objective, we

- Reviewed applicable laws and regulations for public housing agencies.
- Reviewed HUD OIG hotline complaint 77639.
- Reviewed the Authority's annual contributions contract with HUD, accounting records, independent auditor's reports, board minutes, 5-year annual plan, one contract file, and lease agreements.
- Interviewed staff from HUD, the Authority, the City, a City contractor, and the complainant.
- Performed site visits to the City's Civic Center space occupied by Authority employees and the Authority's old administrative and maintenance building currently occupied by the City's RichmondBUILD program.

We reviewed documentation submitted to HUD to close out findings from HUD OIG audit report 2009-LA-1020 and documentation submitted to HUD related to findings in the PHARS agreements to determine whether the documentation was misleading as stated in hotline complaint 77639.

We reviewed documentation for the indirect, rent, and general liability cost allocations charged by the City to the Authority to determine whether the charges were reasonable and necessary because the hotline complaint stated that the City charged the Authority for space and services that it did not use. The City charged the Authority more than \$1.5 million for the cost allocations from July 1, 2012, to June 30, 2015. We did not look at the \$310,916 in costs included in the indirect cost allocations for fiscal years 2013 and 2014 to determine whether it appeared reasonable and necessary because it was no longer effective at the time of our review. However, we did review the Authority's general ledgers to verify that the \$310,916 was recorded as an expense. In addition, due to the complicated nature of the indirect cost allocation plan, we were not able to review all questionable items.

We reviewed a \$100,000 contract initiated by the City because the Authority paid \$60,000 of the costs.

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

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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:

- Reliability of financial information submitted to HUD.
- Ability to trace HUD expenditures in accordance with HUD regulations.
- Implementation of policies and procedures to ensure that resources and assets are managed effectively, adequately safeguarded, and used only for authorized purposes.

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 lack of an independent relationship between the Authority and the City, coupled with weak internal controls, allowed the Authority to mismanage its resources (finding).

# Appendixes

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## Appendix A

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**Schedule of Questioned Costs and Funds To Be Put to Better Use**

Recommendation number	Ineligible 1/	Unsupported 2/	Funds to be put to better use 3/
1B	\$2,096,528		
1C	\$53,347		
1D	\$60,000		
1G		\$80,890	
1I		\$180,000	
1J			\$60,000
1K.		\$684,020	
<b>Totals</b>	<b>\$2,209,875</b>	<b>\$944,910</b>	<b>\$60,000</b>

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.
- 3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an OIG recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. If the Authority ensures that it obtains a fair market rate for its space, it will reduce future costs. In this instance, \$60,000 represents 1 year of office rent that appeared to be higher than the market rate. This amount may decrease once HUD and the Authority determine the appropriate market rate.

## Appendix B

### Auditee Comments and OIG's Evaluation

#### Ref to OIG Evaluation

#### Auditee Comments



Timothy Jones, Executive Director

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May 2, 2016

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**Subject: Response to Office of Inspector General (OIG) Draft Audit No. 2016-  
LA-100X concerning the Richmond Housing Authority**

Dear Ms. Schulze:

The City of Richmond Housing Authority (RHA) is in receipt of your letter dated April 21, 2016, and the Office of Inspector General (OIG) Draft Audit No. 2016-LA-100X regarding the RHA's financial management of its Public Housing and Housing Choice Voucher Programs (Draft Audit). The Draft Audit sets forth the OIG's findings and recommendations to the U.S. Department of Housing and Urban Development (HUD).

This letter serves as the RHA's formal responses and comments to the Draft Audit.

#### BACKGROUND

HUD OIG audited the RHA due to an anonymous complaint alleging that the RHA submitted falsified documentation to HUD and allowed the City of Richmond (City) to use RHA HUD funds and RHA assets and that the City charged the RHA for rent and services at an unreasonable price. The audit objective was to validate the complaint allegations.

The Draft Audit determined that the complaint had merit. This response highlights the RHA's concerns with the draft findings. With respect to many of the findings, we believe our actions were proper and agreed to in advance by HUD.

DISCUSSION

Comment 1

**Recommendation 1A. and 1B.**

These recommended actions concern the use of sales proceeds from the April 2014 sale of the Westridge apartments, an apartment complex owned by a joint venture of the RHA and City and which was purchased with bond proceeds, not federal funds, in 2003. The proceeds from the sale of Westridge were used to pay 1) repayment obligations arising out of audit report 2009-LA-1020 (2009 OIG Audit) and 2) salaries and benefits for RHA Public Housing Program and Section 8 Housing Choice Voucher Program staff paid in advance by the City.<sup>1</sup> Since the unreimbursed salaries and benefits were for RHA staff that performed federal public housing and Section 8 duties, the debt was federal and rightfully owed to the City.

Comment 2

Since 2012, HUD was aware proceeds from the sale of Westridge were to be used to both repay amounts owed arising out of the 2009 OIG Audit and reimburse the City for its advance of RHA staff salaries and benefits. First, the Region IX Administrator acknowledged this dual purpose repayment plan in her email to the City Manager on September 26, 2012, which email summarized HUD's September 18, 2012 meeting with the City and RHA regarding the Public Housing Authority Recovery and Sustainability (PHARS) teams' concerns with the RHA. In her email, [REDACTED] writes at key item #3:

Comment 3

There are plans to sell the property known as Westridge, a mixed-finance property purchased in 2003, and use the proceeds to pay the debt by [R]HA to the City and the debt owed by the [R]HA to HUD.

See Attachment 1, email titled Summary of September 12, 2012 Meeting dated September 26, 2012. Emphasis Added.

[REDACTED] email refers to the very debt owed by the RHA to the City for advances in salaries and benefits and the RHA's repayment obligations to HUD arising out of the 2009 OIG Audit.

Second, G001 of the Action Plan attached as Exhibit A to the PHARS Agreement with the RHA acknowledges this repayment plan at paragraph D of the Desired Outcome column:

The sale of the Westridge property (discussed by the City Manager during the September 18, 2012 meeting with HUD, and summarized by HUD in an email to the City dated September 26, 2012) will provide proceeds which will be used to 1) pay off [the] remainder of questioned costs identified in the 2009 OIG audit, and 2) repay the City for balance of [the] loan

<sup>1</sup> As detailed in the response, sale proceeds were used in part to pay portions of the salaries and benefits paid by the City to RHA staff in fiscal years 2010/2011 and 2011/2012. The RHA still owes the City \$938,911.53 in unreimbursed salary and benefit advances paid to RHA staff from July 2011 through January 2012.

.... The Westridge property was not funded by any HUD program revenues.

See **Attachment 2**, Recovery Agreement between the Richmond Housing Authority and United States Department of Housing and Urban Development and City of Richmond dated February 5, 2013. Emphasis Added. The "loan" here refers to outstanding debt owed to the City, including for advances in salaries and benefits.

Comment 4

Once this plan had been approved by HUD, the RHA received authority from its Board of Commissioners to execute a memorandum of understanding (MOU) with the City which required the RHA to retire its debt with the City and satisfy the financial sanctions imposed by HUD as a result of the 2009 OIG Audit. See **Attachment 3**, Resolution No. 1966, dated April 16, 2013; see also **Attachment 4**, Memorandum of Understanding between the Richmond Housing Authority and RHA Properties dated May 6, 2013, Section 1: "The RHA[Properties] shall provide resources derived from the Westridge at Hilltop Apartment proceeds to pay financial sanctions imposed by HUD OIG on RHA in an amount no less than \$2,257,799, and to retire outstanding debt owed to the City of Richmond by RHA in an amount no less than \$6,600,000 upon disposition of the Westridge at Hilltop Apartments by RHAP." On April 15, 2014, after the close of escrow on the sale of Westridge, this is exactly what the RHA did. See **Attachment 5**, Final Sources and Uses spreadsheet attached to an email from the City's Finance Department to Tim Jones dated May 22, 2014, showing that 1) \$2,096,527.64 of the sales proceeds were used to satisfy the 2009 OIG Audit and 2) \$1,304,063.28 of the sales proceeds were used to pay all unreimbursed salaries and benefits for February 2011 through June 2011 and \$792,464.36 were used to pay a portion of unreimbursed salaries and benefits for July 2011 through January 2012.

Comment 5

Comment 6

Finally, HUD knew at all times prior to closing out PHARS finding G001-Aa in November 2014 that the RHA intended to use the monies deposited into its Low Income Public Housing Program and Section 8 Housing Choice Voucher Program bank accounts from the sale of Westridge – which monies satisfied the 2009 OIG Audit upon deposit – to then repay the City for unreimbursed salaries and benefits advanced by the City. To be sure, when HUD closed finding G001-Aa, HUD had knowledge from its review of the RHA's bank statements that there was only \$976,052.97 in Westridge sales proceeds available to the RHA after satisfying both the 2009 OIG Audit and retiring a portion of its debt to the City. See **Attachment 6**, PHARS Recovery Agreement and Action Plan Quarterly Report dated November 13, 2014, Comments table: "8/19/2014 received bank statements showing \$976K deposited into master account." See also **Attachment 7**, email string dated August 19, 2014 between [REDACTED], Financial Analyst, Office of Public Housing, and Tim Jones, requesting and providing bank statements showing that \$976,052.97 remained in the RHA's accounts from the Westridge sales proceeds after satisfaction of both the 2009 OIG Audit and its debt to the City. If HUD, as the OIG suggests, had actually required that \$2,096,528 be available to the RHA for operations after satisfaction of both items, HUD would have never closed the finding knowing that only \$976,052.97 remained in the RHA's accounts. Indeed, HUD never required the \$2,096,528 deposited into the RHA's accounts be available for operations because HUD knew the funds were to be used to satisfy both the 2009 OIG Audit and its debt to the City; restated, HUD knew that the RHA's payment to its Public Housing and Housing

Choice Voucher bank accounts had a dual purpose, namely to satisfy both the 2009 OIG Audit and a portion of its debt to the City. The attached records clearly show that the same funds were used to close out both the 2009 OIG Audit and the RHA's repayment obligations to the City and HUD knew that to be the case before closing out its findings.

Comment 7

In sum, the RHA was required to close-out both the 2009 OIG Audit and make payment to the City under the PHARS agreement. That the RHA used the proceeds from the sale of Westridge to address both of those matters was transparent and agreed to by HUD. There is no justification now to require repayment when this plan was not only approved in advance but then also verified by HUD before closing out PHARS finding G001-Aa. There is also no authority for the proposition that the proceeds could not be used to satisfy both findings.

Comment 8

Notwithstanding the above stated and should HUD demand repayment, the \$2,096,527.64 the Draft Audit recommends be repaid needs to be recalculated as it does not take into account funds that the RHA has already repaid to the U.S. Treasury and to its own programs. For instance, in compliance with the April 4, 2012 repayment agreement relating to findings 1O and 1G resulting from the 2009 OIG Audit, the RHA paid to the U.S. Treasury in 12 monthly installments of \$13,825.42 (one installment was in the amount of \$13,825.38) a total amount of **\$165,905 from July 1, 2012 to July 1, 2013** from Westridge proceeds. In compliance with the second April 4, 2012 repayment agreement arising out of the 2009 OIG Audit, the RHA paid back its own programs in four quarterly installments of \$40,317.84 a total amount of **\$161,271 from July 1, 2013 to April 1, 2014** (the balance of that repayment obligation is the \$2,096,527.64 amount questioned in the Draft Audit) from the Westridge sales proceeds.

Comment 9

Additionally, in response to a demand put upon the RHA just before closing (arising out of a 2006 HUD OIG audit regarding phase down funding) the RHA, also from Westridge proceeds, paid to the U.S. Treasury via a \$50,000 check (prior to closing) and an electronic funds transfer in the amount of \$499,483, a total amount of **\$549,483 on April 15, 2014**. Finally, after sweeping all of the Westridge operating accounts, the RHA paid back its own programs an amount totaling **\$976,052, with the last deposit posted on July 22, 2014**. In summary, from **July 1, 2012 to July 22, 2014**, the RHA repaid the U.S. Treasury and its own programs a total of **\$1,852,711**, even before the questioned \$2,096,527.64 amount was used to repay its programs in compliance with the 2009 OIG Audit and to retire its debt to the City.

Comment 10

**Recommendation 1C.**

RHA has confirmed this finding and will seek repayment from the City.

Comment 10

**Recommendation 1D.**

RHA has confirmed this finding and will seek repayment from the City.

Comment 11

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**Recommendation 1E.**

This recommendation requires the RHA to dispose of its former maintenance building for a fair and reasonable amount or enter into a fair market lease agreement with the current tenant, the Employment and Training Department's RichmondBUILD program. RichmondBUILD has been leasing the RHA's former maintenance building since April 2007.

The former maintenance building was purchased in October 1957 at a cost of \$12,783.14. Its original purpose was to serve as the RHA's Administration Building to support the following Low Rent Projects: Cal 10-1 Atchison Village (sold to Co-Op in 1954), Cal 10-2 Nystrom Village (still operated as LIPH AMP 01) and Cal 10-3 Easter Hill (demolished in 2000 and now the Richmond Village HOPE VI Development). The building continued to serve as the Administration Building until 1986 when Nevin Plaza was completed with new administrative offices. The building then continued to be used as the RHA's primary maintenance facility until 2006 when the RHA, in compliance with Asset Management, decentralized its maintenance operation and vacated the property. At the time of vacation, the building was fully depreciated with a \$0.00 book value and all building systems past their useful life and in need of major repair and renovation.

In consideration for nominal rent, and in light of the dilapidated state of the building as of April 2007, RichmondBUILD put more than \$400,000 worth of improvements into the building and provides carpentry pre-apprenticeship track training in the construction and energy fields to participants from low income households.<sup>2</sup> Approximately 95% of its participants are minorities and over 30% have a history with the justice system. After completing the carpentry pre-apprenticeship track, RichmondBUILD participants choose from extended carpentry, hazardous waste removal, solar energy, energy efficiency, and electrical wiring or theory electives.

The RichmondBUILD program is recognized nationally as an exemplary "green-collar" job training program, and one of the Department of Labor's "Best Practices". The Secretaries of HUD and the Department of Labor encourage Public Housing Authorities to collaborate with their local Workforce Investment Boards to find innovative ways to provide employment training to low-income families residing in public housing and the neighborhoods within which such housing is located. The RichmondBUILD program does just that.

As a result of the tenant improvements implemented by the RichmondBUILD program at no charge to the RHA and in consideration of nominal rent, the building has an appraised value of \$980,000 as of July 2014. To now assess this program a market-rate rent or require RichmondBUILD to purchase the property risks displacing the program

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<sup>2</sup> Tenant improvements include the complete renovation and upgrades to three bathrooms; the complete renovation of all interior offices plus the mezzanine; upgrades to the floors which included the installation of carpet and ceramic tile; improvements to the exterior landscaping; sheetrock, plumbing, electrical and painting repairs and upgrades throughout the building; and modernization work on the storage area to create additional classrooms and training areas.

Comment 12

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and runs afoul of the directives of the Secretaries of HUD and Labor noted above.<sup>3</sup> RichmondBUILD would also have to be compensated for its investment in the property in the form of tenant improvements, which compensation would more than offset market rent well into the future.

The point here is that the public benefit far outweighs any rent RichmondBUILD would be required to pay at the market. To require them to pay market rent or purchase the building at the current appraised value hurts only those very residents the RHA and RichmondBUILD programs are intended to benefit, is contrary to the directive to provide employment training to low-income families residing in public housing and the neighborhoods within which such housing is located and seems extremely shortsighted.

**Recommendation 1F.**

This recommendation requires that the RHA determine what percentage of the Executive Director's salary should be charged to the City for time spent as Acting Director of the Housing and Community Development Department (HCD).

I spend no more than 25% of my time working as the Acting Director of HCD. This figure is an estimate based on my review of work and activities undertaken as Acting Director for the past six months.

This figure is supported by the fact that the RHA has 22 full-time equivalent (FTE) employees and I completed the following major projects on behalf of the RHA in 2015: the Hacienda Demolition-Disposition application and related Tenant Protection Voucher application approval from HUD along with the successful relocation of the 101 residents from Hacienda, and RAD conversions of the Triangle Court and Friendship Manor Public Housing Developments. This is in addition to my ongoing day-to-day duties related to administration of the Low Income Public Housing, Section 8 Housing Choice Voucher and Capital Fund Modernization programs.

For comparison, HCD has only 3 FTEs primarily used to support a State funded Home Improvement Loan Program and federally funded CDBG and HOME programs. During my tenure as the Acting Director, HUD has not approved any HOME expenditures or allocations nor 2015 CDBG allocations. Existing CDBG funds have been expended only on six ADA projects, which projects are managed by general contractors, City Public Works staff, private consultants and construction management firms. HCD's (and my) administrative oversight over those projects is extremely limited. Additionally, the CDBG and HOME programs will be administered by Contra Costa County starting with the 2016 allocations.

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<sup>3</sup> The former maintenance building is 14,050 square feet. Current NNN lease rates for similar buildings are approximately \$0.60/SF. At that rate, rent would be approximately \$8,430 per month or \$101,160 per year.

Comment 10

**Recommendation 1G.**

If required by HUD, RHA will establish policies for RHA employees to charge time when working on City projects.

Comment 10

**Recommendation 1H.**

This recommendation requires the RHA to support as reasonable the \$180,000 spent on office space rent for fiscal years 2012/2013 through 2014/2015 or repay its public housing program from non-federal funds. The RHA will review comparable lease rates and determine the reasonable amount of rent. The RHA will repay its public housing programs any overpayment taking into consideration the reduction in square footage from 5,000 square feet to 1,744 square feet for six months in fiscal year 2012/2013 and 12 months in fiscal years 2013/2014 and 2014/2015. The RHA will use the information obtained in its review to help satisfy Recommendation 1.I requiring the RHA to renegotiate its office space rent to ensure that it pays fair market rent moving forward.

Comment 10

**Recommendation 1I.**

The RHA will renegotiate its office space rent rate with the City to ensure that it pays fair market rent for its use of City space.

Comment 13

**Recommendation 1J.**

This recommendation requires the RHA to obtain HUD approval for its self-insured general liability policy and to participate in the City's risk pool.

The RHA was a member of the California Housing Authority Risk Management Agency (CHARMA) pool until June 2010 when CHARMA dissolved. Since RHA staff is comprised of City employees, the California Joint Powers Risk Management Authority (CJPRMA) allowed the RHA to join through the City in October 2011. This saved the RHA considerable cost as there is a limited market for housing authority specific risk pools in California with the dissolution of CHARMA. Also, since there has been no change in this insurance structure since 2011, there is nothing for which the RHA is required to seek HUD's approval.

CJPRMA is a statewide risk retention pool that was established in 1986 to provide excess general liability coverage for its members. Currently, its membership is composed of 17 cities and 4 joint powers authorities. The combined membership represents over 100 public entities throughout the state. CJPRMA's excess liability program and property program provide \$40 million and \$300 million in coverage, respectively. It has been accredited with excellence by the California Association of Joint Powers Authorities since 1991. If this recommendation is implemented by HUD, there is no doubt the CJPRMA will be approved.

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Comment 10

**Recommendation 1K.**

The RHA will provide documentation to support \$684,020 charged by the City for fiscal years 2012/2013 through 2014/2015 for general liability coverage. At the outset, however, we note that CJPRMA rates passed on to the RHA by the City are commensurate with the rates previously charged by CHARMA to the RHA. For instance, the CHARMA general liability policy premium for fiscal year 2008/2009, the last premium payment made before CHARMA dissolved, was \$108,560. For comparison, CJPRMA rates passed on to the RHA for the period in question total \$694,020 or \$141,918 for fiscal year 2012/2013, \$269,219 for fiscal year 2013/2014 and \$272,883 for fiscal year 2014/2015, respectively. Considering the inflation factor, these rates are competitive.

Comment 10

**Recommendation 1L.**

If required by HUD, RHA will develop financial policies and procedures for its operating environment that address the roles of the RHA and City.

Comment 10

**Recommendation 1M.**

If required by HUD, RHA will work with HUD to develop a Corrective Action Plan.

If you have any questions regarding any of this information please do not hesitate to contact me at (510) 621-1310. Thank you very much to you and your staff for conducting this audit with limited disruption to our ongoing operations.

Sincerely,



Timothy Jones  
Executive Director

**Attachments**

CC William Lindsay, City Manager  
Bruce Reed Goodmiller, City Attorney



## OIG Evaluation of Auditee Comments

- Comment 1 The recommendations referenced in the response was changed to recommendation 1A, 1B, and 1C. We acknowledge that the Authority recorded a debt to the City for payroll expenses related to its public housing and Housing Choice Voucher programs. However, the Authority's PHARS agreement, dated February 5, 2013, stated that the Authority would not use Federal funds to repay the City for past financial transactions. The funds became Federal when the Authority repaid its HUD programs with the \$2 million required by the 2009 OIG audit report. The Authority violated its agreement and used the \$2 million Federal funds in May 2014 for 2011 and 2012 payroll expenses.
- Comment 2 The documentation provided does not support that HUD knew that the same \$2 million used to satisfy 2009 OIG audit report recommendations would also be used to repay the Authority's debt to the City. The Westridge sale resulted in net proceeds of more than \$7 million. The Authority received more than \$2 million from the sale of Westridge, and the PHARS agreement specifies that the sales proceeds will be used to (1) pay off the remainder of questioned costs identified in the 2009 OIG audit and (2) repay the City for the balance of the loan. These are two separate items of cost. The Authority did not provide documentation to show that the same funds were to be used for both costs or that HUD was aware that the Authority used the same funds for both costs. The funds became Federal when the Authority repaid its HUD programs with the \$2 million required by the 2009 OIG audit report. It is not reasonable for the Authority to assume that HUD knew that it would use the \$2 million to satisfy OIG recommendations and then almost immediately transfer the same amount out to pay off debt owed to the City.
- Comment 3 The Authority provided attachments with its response. We reviewed the attachments as part of our evaluation of the Authority's response. However, we did not include the attachments in the report because they were too voluminous. They are available upon request.
- Comment 4 The resolution and memorandum of understanding (attachment B) do not state that the \$2 million used to satisfy OIG recommendations was also supposed to be used to help satisfy debt owed to the City. Attachment B of the memorandum of understanding states that "resources derived from the proceeds" will be used to "pay financial sanctions imposed by HUD OIG on RHA [the Authority] in an amount no less than \$2,257,799, and to retire outstanding debt owed to the City of Richmond by RHA in an amount no less than \$6,600,000 upon disposition." Attachment C of this memorandum of understanding was not provided by the Authority in its response, but we obtained it during the course of the audit. Attachment C specifically lists these two items as separate costs with \$2.3 million for "Office of Inspector General Sanctions" and \$8.3 million for "City of Richmond Advance." Based on attachment C, the Authority anticipated that the

Westridge proceeds would provide \$10.7 million in funds that could be used for these purposes.

- Comment 5 The final sources and uses attachment shows that the Authority did not receive the anticipated \$10.7 million and instead received only \$7.4 million to satisfy OIG recommendations and debt owed to the City. This document shows that the Authority intended to use the \$2 million in proceeds to repay OIG debt and debt owed to the City simultaneously. However, this spreadsheet was not provided to HUD and not included as part of the documentation for the \$2 million OIG audit repayment.
- Comment 6 The PHARS agreement findings concerning the OIG recommendations were closed out on June 11, 2014. The \$976,052 was a separate issue that HUD was tracking and not part of the OIG repayment agreement. In addition, the emails and documentation to HUD were dated at least 2 months after the OIG recommendations related to the repayment agreement were closed.
- Comment 7 We disagree that the \$2 million transaction by the Authority that was used to repay HUD programs, based on the OIG recommendations and then used to repay debt owed to the City was transparent to HUD. The Authority could not provide documentation to adequately support that statement, and HUD stated that it was unaware of the funds cited in the OIG recommendations having been transferred out of the account shortly after the deposit was made. Therefore, the Authority improperly spent HUD funds for past debt owed to the City, which was against its PHARS agreement with HUD. If the Authority can provide further documentation, it can be presented to HUD during the audit resolution process.
- Comment 8 We disagree that the \$2,096,527 needs to be recalculated. We did not review the repayment to the Treasury for recommendations 1O and 1G in audit report 2009-LA-1020. We reviewed the repayment agreement for recommendations 1D, 1E, 1G, 1J, 1L, and 2F for \$2,257,799 that needed to be repaid to HUD programs. We considered the four repayments totaling \$161,271, which the Authority paid back to HUD programs, and did not question the use of these amounts. The only amount we questioned was the last repayment of \$2,096,527. The amount in recommendations 1A and 1B does not need to be adjusted.
- Comment 9 The \$549,483 was for a separate OIG audit; therefore, we cannot deduct the \$549,483 from the \$2 million repayment required in OIG audit report LA 2009-LA-1020 to reduce the amount owed. In addition, the \$976,052 was a separate issue HUD was tracking concerning the Westridge operating accounts, not from the proceeds of sale from the Westridge property.
- Comment 10 We look forward to working with HUD and the Authority to close out these recommendations. (Note: The recommendation numbers referenced in the response changed to recommendations 1D, 1E, 1H, 1I, 1J, 1L, 1M, and 1N.)

- Comment 11 The recommendation referenced in the response was changed to recommendation 1F. The former maintenance building is a Federal property under the Authority's annual contributions contract with HUD. Section 7 of the contract specifically prohibits the Authority from disposing of or in any way encumbering the project without HUD approval. The property is a Federal asset to be used for HUD programs and not for other programs. According to 24 CFR 85.31, when real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency. Since the Authority no longer uses the property for its originally authorized purposes, it needs to work with HUD on disposal in accordance with 24 CFR 85.31. As discussed at the exit conference, we revised recommendation 1E to include working with HUD on a disposition plan for the property.
- Comment 12 The recommendation referenced in the response was changed to recommendation 1G. We commend the Authority for actively working to determine an appropriate percentage to split the executive director's salary between the Authority and City. The Authority can provide supporting documentation to HUD during the audit resolution process.
- Comment 13 The recommendation referenced in the response was changed to recommendation 1K. Although the Authority switched to the California Joint Powers Authority in 2011 after the California Housing Authority Risk Management Agency dissolved, it did not receive approval to be part of a risk pool not listed on HUD's Web site as approved or to be part of the City's self-insured policy. The Authority needs to obtain HUD approval to continue to participate in the risk pool and self-insured City policy as required by its annual contributions contract with HUD.

## Appendix C

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### Criteria

#### 24 CFR 85.1 (2014 Edition)

##### **Applicability of and cross reference to 2 CFR 200**

(a) Federal awards with State, local and Indian tribal governments are subject to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards at 2 CFR part 200.

(b) Federal awards made prior to December 26, 2014 will continue to be governed by the regulations in effect and codified in 24 CFR part 85 (2013 edition) or as provided by the terms of the Federal award. Where the terms of a Federal award made prior to December 26, 2014, state that the award will be subject to regulations as may be amended, the Federal award shall be subject to 2 CFR part 200.

#### 24 CFR 85.1 (2013 Edition)

##### **Purpose and scope of this part**

This part establishes uniform administrative rules for Federal grants and cooperative agreements and subawards to State, local and Indian tribal governments.

#### 24 CFR 85.3 (2013 Edition)

##### **Definitions**

As used in this part:

*Government* means a State or local government or a federally recognized Indian tribal government.

*Grantee* means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

*Local government* means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

#### 24 CFR 85.20 (2013 Edition)

##### **Standards for financial management systems**

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(2) Accounting records. Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

(3) Internal control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

#### **24 CFR 85.31 (2013 Edition)**

##### **Real property**

a) Title. Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

b) Use. Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.

(c) Disposition. When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency. The instructions will provide for one of the following alternatives:

(1) Retention of title. Retain title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

(2) Sale of property. Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

(3) Transfer of title. Transfer title to the awarding agency or to a third party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.

## **2 CFR 200.302**

### **Financial Management**

(b) The financial management system of each non-Federal entity must provide for the following:

(3) Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

(4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See §200.303 Internal controls.

## **2 CFR 200.303**

### **Internal Controls**

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

## **24 CFR 965.201**

### **Purpose and applicability**

(a) Purpose. The purpose of this subpart is to implement policies concerning insurance coverage required under the Annual Contributions Contract (ACC) between the U.S. Department of Housing and Urban Development (HUD) and a Public Housing Agency (PHA).

## **24 CFR 965.205**

### **Qualified PHA-owned insurance entity**

(a) Contractual requirements for insurance coverage. The Annual Contributions Contract (ACC) between PHAs and the U.S. Department of Housing and Urban Development requires that PHAs maintain specified insurance coverage for property and casualty losses that would jeopardize the financial stability of the PHAs. The insurance coverage

is required to be obtained under procedures that provide “for open and competitive bidding.” The HUD Appropriations Act for Fiscal Year 1992 provided that a PHA could purchase insurance coverage without regard to competitive selection procedures when it purchases it from a nonprofit insurance entity owned and controlled by PHAs approved by HUD in accordance with standards established by regulation. This section specifies the standards.

(c) Approval of a nonprofit insurance entity. Under the following conditions, HUD will approve a nonprofit self-funded insurance entity created by PHAs that limits participation to PHAs (and to nonprofit entities associated with PHAs that engage in activities or perform functions only for housing authorities or housing authority residents):

(1) An insurance company (including a risk retention group).

(i) The insurance company is licensed or authorized to do business in the State by the State Insurance Commissioner and has submitted documentation of this approval to HUD; and

(ii) The insurance company has not been suspended from providing insurance coverage in the State or been suspended or debarred from doing business with the federal government. The insurance company is obligated to send to HUD a copy of any action taken by the authorizing official to withdraw the license or authorization.

## **24 CFR 990.280**

### **Project-based budgeting and accounting**

(a) All PHAs covered by this subpart shall develop and maintain a system of budgeting and accounting for each project in a manner that allows for analysis of the actual revenues and expenses associated with each property. Project-based budgeting and accounting will be applied to all programs and revenue sources that support projects under an ACC (e.g., the Operating Fund, the Capital Fund, etc.).

(b)(4) Project-specific operating expenses shall include, but are not limited to, direct administrative costs, utilities costs, maintenance costs, tenant services, protective services, general expenses, non-routine or capital expenses, and other PHA or HUD-identified costs which are project-specific for management purposes. Project-specific operating costs also shall include a property management fee charged to each project *that is used to fund operations of the central office*. Amounts that can be charged to each project for the property management fee must be reasonable. If the PHA contracts with a private management company to manage a project, the PHA may use the difference between the property management fee paid to the private management company and the fee that is reasonable to fund operations of the central office and other eligible purposes.

## **Office of Management and Budget Circular No. A-87 Cost Principles for State, Local, and Indian Tribal Governments**

1. Purpose. This Circular establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local governments and federally-recognized Indian tribal governments (governmental units).

**Office of Management and Budget Circular No. A-87**

**Attachment B, Selected Items of Cost: 37. Rental costs of buildings and equipment.**

a. Subject to the limitations described in subsections b. through d. of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and, the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

b. Rental costs under “sale and lease back” arrangements are allowable only up to the amount that would be allowed had the governmental unit continued to own the property. This amount would include expenses such as depreciation or use allowance, maintenance, taxes, and insurance.

c. Rental costs under “less-than-arms-length” leases are allowable only up to the amount (as explained in Attachment B, section 37.b) that would be allowed had title to the property vested in the governmental unit. For this purpose, a less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between (i) divisions of a governmental unit; (ii) governmental units under common control through common officers, directors, or members; and (iii) a governmental unit and a director, trustee, officer, or key employee of the governmental unit or his immediate family, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, a governmental unit may establish a separate corporation for the sole purpose of owning property and leasing it back to the governmental unit.

**Annual Contributions Contract Between the Authority and HUD**

**Section 4: Mission of the HA**

The HA [public housing agency] shall at all times develop and operate each project solely for the purpose of providing decent, safe, and sanitary housing for eligible families in a manner that promotes serviceability, economy, efficiency, and stability of the projects, and the economic and social well-being of the tenants.

**Section 7: Covenant Against Disposition and Encumbrances**

The HA shall not demolish or dispose of any project, or portion thereof, other than in accordance with the terms of this ACC and applicable HUD requirements. With the exception of entering into dwelling leases with eligible families for dwelling units in the projects covered by this ACC, and normal uses associated with the operation of the project(s), the HA shall not in any way encumber any such project, or portion therefore,

without the prior approval of HUD. In addition, the HA shall not pledge as collateral for a loan the assets of any project covered under this ACC.

**Section 8 – Declaration of Trust**

Promptly upon the acquisition of the site of any project, the HA shall execute and deliver an instrument (which may be in the form of a declaration of trust, a trust indenture, or such other document as may be approved by HUD), confirming and further evidencing, among other things, the covenant of the HA not to convey or encumber the project except as expressly authorized in this ACC. Such instrument and all amendments shall be duly recorded or filed for record wherever necessary to give public notice of their contents and to protect the rights and interests of HUD and of any bondholders. The HA shall furnish HUD with appropriate evidence of such recording or filing. From time to time, as additional real property is acquired by the HA in connection with the projects, the HA shall promptly amend such instrument to incorporate all such real property and shall record the instrument, as amended.

**Section 11 – Operating Budget**

(D) The Housing Authority shall not incur any operating expenditures except pursuant to an approved operating budget.

**Attachment VII Insurance Requirements**

*Section 1 – Mandatory and Optional Insurance Coverage*

The following types of insurance are either required or should be purchased if the Authority determines that exposure exists.

(B) Commercial General Liability. Mandatory.

*Section 2 - Authorized Insurance Companies.*

Insurance must be purchased from an insurance company or other entity that is licensed or duly authorized to write insurance in the State where the HA is located.

*Section 4- Waivers and Self-Insurance Funds.*

Requests for waivers not to purchase any form of required insurance, or to establish a self-insurance fund in lieu of purchasing insurance, must be submitted to HUD for approval with a justification as to why the request should be approved.

**Public Housing Authority Recovery and Sustainability Agreement, Dated February 5, 2013, Action Plan Attachment**

	<b>Results and Determinations from Assessment</b>	<b>Desired Outcome</b>	<b>Measures to Achieve Outcomes</b>
G001	RHA expenses have exceeded income, whereby the City has provided a “loan” to	A. The RHA will operate within budget and cannot use HUD program revenue to pay principal	A. Monthly financial statements will be submitted for HUD review within 15 days of the end of the

	<p>the RHA. The agreement between the City and RHA to repay the loan will create additional financial problems. The debt was \$6,842,227 at the end of FY [fiscal year] 2011</p>	<p>or interest on any obligation that the City considers owed them from past financial transactions. C. The City will suspend charging the housing authority for centralized costs and/or indirect costs allocations until a cost allocation plan is submitted and approved by HUD. D. The sale of the Westridge property will provide proceeds which will be used to 1) pay off the remainder of questioned costs identified in the 2009 OIG audit, and 2) repay the City for the balance of the loan.</p>	<p>following month. D. Sell Property by 6/30/14. If RHA is unable to sell property, provide plan to repay from non-HUD sources, the questioned costs identified in 2009 OIG audit.</p>
F004	<p>The RHA's Finance Manager's knowledge is inadequate and records are poor and unreliable. The Finance Manager was unable to provide several records requested or provided incomplete or outdated documents. In addition, HUD asked for copies of depository agreements for RHA banks, and were provided a copy of an unsigned form. Bank signature cards initially could not be located and when finally provided, one of the cards still authorized the previous Deputy</p>	<p>A. The Finance Manager over the Housing Authority should be knowledgeable of HUD financial requirements, organized, with the ability to maintain proper records and ensure federal and internal controls are met.</p>	<p>The Housing Authority finance department is under the control of the City finance department. The Finance Manager for the Housing Authority during the PHARS review should not have lead finance responsibilities for the housing authority.</p>

	Director access to accounts. In addition, the credit card issued to the same Deputy Director was still active.		
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