



U.S. Department of Housing and Urban Development
Wanamaker Building, Suite 1005
100 Penn Square East
Philadelphia, PA 19107-3380

District Inspector General for Audit

March 26, 2002

Audit Memorandum
No. 2002-PH-1803

MEMORANDUM FOR: Malinda Roberts, Director, Office of Public Housing, 3APH

FROM: Daniel G. Temme, District Inspector General for Audit,
Mid-Atlantic, 3AGA

SUBJECT: Philadelphia Housing Authority Limited Personnel Review

In response to an anonymous complaint, we performed a review at the Philadelphia Housing Authority (Authority). The complaint alleged the Executive Director of the Authority was unfairly recruiting and promoting individuals he was affiliated with, rather than allow for open and fair competition. Also, the complaint alleged the Executive Director's management style was causing many executive level personnel to leave the Authority.

We found the allegation relating to the Executive Director's unfair hiring practices at the Authority had merit. However, as for the second allegation, although there was a general consensus the Executive Director was a demanding supervisor and a number of executive personnel left for this reason, we did not find his management style violated any Federal or State laws. In addition, we noted the Authority violated the conflict of interest provision of its Consolidated Annual Contributions Contract (ACC) with HUD when it hired the daughter of a member of the Authority's Board of Commissioners for a senior management position for which she was not qualified. Further, we questioned the circumstances relating to the Authority obtaining the services of the human resource consultant, who drafted the Authority's personnel policy that exempted the Executive Director from following the Authority's prescribed personnel policies and procedures. The details of our review and recommendations are discussed under the "Results of Our Review" section of this audit memorandum.

BACKGROUND

The Philadelphia Housing Authority is the fourth largest housing authority in the United States. According to the Authority's Annual Plan for fiscal year 2001, it received more than \$526 million in financial resources to fund its operations, of which HUD provided more than \$345 million. The Authority houses approximately 70,000 residents in 20,000 units and an additional

12,500 families are provided housing through the Authority's Section 8 Program. Mr. Carl R. Greene has been the Executive Director of the Authority since April 1998.

At the time of our review the Authority had approximately 2,600 employees. The selection and promotion of employees of the Authority were defined under the 1995 Supervisors Manual of Personnel Policies (1995 Personnel Manual). Based upon the recommendations noted in a review completed by a legal consulting firm, the Authority updated the 1995 Personnel Manual in December 1999 and issued the Revised Philadelphia Housing Authority Human Resources Manual of Policies and Procedures (1999 Personnel Manual). Generally, the Authority states its personnel policy is to select the person with the strongest combination of qualifications based on merit without regard to race, color, religion, sex, national origin, age, marital status, etc.

OBJECTIVE, SCOPE AND METHODOLOGY

The primary objective of our review was to determine if the complaint had merit. To accomplish our objective, we selected 46 Authority employees, including 30 employees selected at random, eight high level executives mentioned in the complaint who allegedly left the Authority due to the Executive Director's management style, two of which were in our original sample, and 10 employees who were referred to us during the course of the audit or received rapid promotions contrary to standard Authority procedures. We reviewed the personnel files for these employees; interviewed HUD Office of Public Housing staff, both present and past Authority employees, the Executive Director, members of the current Board of Commissioners, and the outside legal counsel hired by the Authority. Further, we reviewed the database of the personnel records to obtain financial information, minutes of the Board of Commissioners meetings, and other relevant data.

During our review, the Authority obtained the assistance of outside legal counsel to obtain and provide the records requested by the OIG and act as the audit liaison. The Authority claimed it needed this special assistance because the personnel files at the Authority were disorganized and scattered. However, as the audit progressed, it became apparent the Authority's outside legal counsel involvement extended well beyond obtaining personnel records. The Authority's outside legal counsel insisted on being present at the majority of our interviews with current and former Authority staff, and the majority of our questions for the Authority's managers and their responses were routed through the outside legal counsel. Further, the outside legal counsel restricted our access to the Authority's Board of Commissioners. Thus, we did not have full and free access to all records and Authority staff during our review. In a sense, we conducted our review through the Authority's outside legal counsel. These actions prolonged the audit and often frustrated the auditors in their efforts to complete a thorough review.

The audit generally covered the period of April 1998 through February 2001, but was expanded when necessary to include other periods. The audit work was conducted from February 2001 to November 2001 in accordance with Generally Accepted Government Auditing Standards.

We conducted an exit conference with the Board of Commissioners and their outside legal counsel on March 1, 2002.

RESULTS OF OUR REVIEW

A. Discretionary Hiring Authority of the Executive Director

The Executive Director did not adhere to the Authority's established written personnel policies and procedures in hiring and recruiting staff from April 1998 to December 1999

In April 1998, when the Executive Director assumed his role within the Authority the 1995 Personnel Manual was the policy approved by Board of Commissioners (Board) for hiring and promoting employees. The Authority policy was to select the individuals with the strongest combination of qualifications for each job without regard to race, color, religion, sex, national origin, age, physical or mental disability, etc. Further, all employees were to be hired, assigned, transferred, promoted, upgraded, and compensated to the greatest extent possible based on the concept of merit. The 1995 Personnel Manual did not provide an exemption for the Executive Director to deviate from the Authority's prescribed policies and procedures in recruiting and hiring Authority staff.

Our review found the Executive Director did not adhere to the established written personnel policies and procedures from April 1998 to December 1999. Specifically, the Executive Director hired and promoted staff without providing for open and fair competition. In fact, our review found there was little to no documentation to support the justification for several staff hires and promotions. In our review of 46 employees, we identified eight that were either hired or promoted contrary to the 1995 Personnel Manual. When we discussed the discretionary hiring authority with the Authority management, via their outside legal counsel, it was explained that the Executive Director was just following the standard operating procedures from prior administrations. Thus, in their opinion, the Executive Director did not violate the Authority's Personnel Policies and Procedures.

Authority revises 1995 Personnel Manual to give the Executive Director discretionary hiring authority without Board of Commissioners approval

In 1998, the Authority followed the advice from a legal consulting firm, and updated the 1995 Personnel Manual. To accomplish this, the Authority hired two consultants to work with Authority staff. The first was the legal consulting firm that made the original recommendation and the second was a former employee of the Executive Director from the Detroit Housing Commission. The former employee was the primary author of the new manual and was later hired by the Authority to become the General Manager of Human Resources. When we questioned the Executive Director and other representatives of the Authority as to why the former employee of the Executive Director was selected as an outside consultant, neither the Executive Director nor the other Authority representatives would provide any details as to how the consultant was identified or selected to perform the task. (See Section E)

Overall we noted the 1999 Personnel Manual had incorporated many positive changes with it sighting specific goals, objectives and standards in the recruitment and promotion of personnel. Further, the Authority's personnel policy was more clearly defined. However, we noted the

1999 Personnel Manual also included several key provisions that exempted the Executive Director from all of the personnel policies and procedures defined under the new manual. Specifically, the 1999 Personnel Manual states, *“This is the policy and procedure to follow when filling regular vacant positions within the Authority. This policy does not apply to the Executive and Department Head Roster positions.”* Under the 1999 Personnel Manual, Executive level is defined as the Executive Director, Executive Deputy Director, Deputy Director, General Counsel, Chief of Staff, Chief of Police, Inspector General, Directing Counsel, Executive General Manager, and the Department Heads and their assistants. However, the policy can also be expanded to include any other positions designated by the Executive Director. Further, the manual is silent on the procedures to follow when selecting an employee for one of these Head Roster positions. Thus, under the 1999 Personnel Manual the Executive Director can recruit and promote individuals at his discretion with no accountability and can change the make-up of the Head Roster without any checks and balances.

Since these policy changes were not defined under the 1995 Personnel Manual, and the Executive Director was already recruiting and promoting staff at his discretion before the 1995 Personnel Manual was revised in December 1999, it appears the new more liberal policies were added either to legitimize or formalize the practice the Executive Director was already following. In addition, the Board of Commissioners did not approve the 1999 Personnel Manual; instead, the Executive Director approved the revised Manual for implementation on December 2, 1999. A copy of the policy was provided to the Board of Commissioners as an “Informational Memorandum” on December 16, 1999. The Authority’s Board of Commissioners did not formally approve or affirm these policy changes until the OIG questioned them in November 2001.

Authority response to OIG’s questions regarding discretionary hiring authority afforded the Executive Director

When we questioned the Authority’s outside legal counsel on the provision in the revised manual that exempts the Executive Director from following the prescribed personnel policies and procedures, we were initially told the 1999 Personnel Manual just puts into writing the policies and procedures that were already being used at the Authority. Further, the Authority’s outside legal counsel compared the hiring practices of the Executive Office of the Authority to Schedule C Federal Government appointees under Office of Personnel Management (OPM), Code of Federal Regulations (CFR) Title 5, 213.3301 and 213.3302, and to 4 PA Code 91.4(b)(2)(i), (b)(2)(iii), and (b)(2)(iv) for Pennsylvania State Civil Service Commission (SCSC) hires.

Title 5 CFR 213.3301 and 213.3302 provide for Schedule C categorization of specified positions that are policy determining or which involve a close and confidential working relationship with the head of an agency. Appointments to these positions are exempted from the competitive service. However, 5 CFR 213.3301 identifies clear and specific requirements for Schedule C hires, and requires specific authorization from the OPM, approval in advance and certification from the agency on the purpose of the Schedule C position. These hires are extremely controlled and the hires are transparent. In comparison, the discretionary hires of the Authority do not require or allow for this control and transparency. In fact, the Authority’s outside legal counsel

told the OIG's office that the Executive Director does not have to document or justify his reasons for hiring and promoting within the Executive and Department Head Roster positions.

Under 4 PA Code 91.4(b)(2)(i), (b)(2)(iii), and (b)(2)(iv) for Pennsylvania State Civil Service Commission (SCSC) hires, certain positions, such as department heads, deputy department heads and their personal aides, are exempt from requiring approval from the SCSC. However, for positions not specifically identified, the regulation identifies specific requirements to request exemptions in writing including specific reasons why the position should be exempt from the classified service. In comparison, the 1999 Personnel Manual gives the Executive Director the authority to hire and promote any position without any requirement for prior approval, justification for, or documentation to support the exemption.

The Authority's outside legal counsel also referred to the "Kroll Report" to support the hiring discretion of the Executive Director. In August 2001, the Authority hired an outside consulting firm to conduct a review and assessment of the Human Resources Business Unit Division. Generally, we found the report, dated September 27, 2001, to be fairly comprehensive in its review of the overall personnel function of the Authority. However, the Kroll Report was relatively silent as to the discretionary hiring of Executive and Department Head Roster positions. The report simply stated the Authority's policy was consistent with Federal and State laws and regulations, such as 5 CFR 213.3301 and 3302, and 4 PA Code 91.4.

Authority of Administrative Board to change Personnel Policy questionable

The OIG challenged the Authority's outside legal counsel on their reference to OPM Schedule C appointments and 4 PA Code 91 hires as support for the discretionary hiring authority of the Executive Director. In addition, OIG questioned why the Board of Commissioners never approved the revised policy through a formal resolution, as was the usual practice of the Authority. We were then told the 1995 Personnel Manual had a provision that allowed for an Administrative Board, which had the authority to develop, review and approve the revised personnel policies and procedures without the Board of Commissioners approval.

However, based on the Authority's own guidelines for the Administrative Board in the 1995 Personnel Manual, we questioned the Authority's outside legal counsel on the assertion the Administrative Board had the authority to develop, review, and approve the Authority's 1999 Personnel Manual without the approval of the Board of Commissioners. As we discuss in detail below, there was no credible evidence to support the claim that an Administrative Board was appropriately used to revise and approve the new policies. Further, information provided by the Authority on the Administrative Board, and the Authority's own 1995 Personnel Manual that define the purpose, board make-up, authority and role of the Administrative Board contradicted the Authority's assertion that the Administrative Board was a legitimate and appropriate tool for changing the policies. A detailed discussion of the purpose, board make-up, authority and role of the Administrative Board, as defined under the 1995 Personnel Manual follows.

Purpose of the Administrative Board

Section 19.1 of the Authority's 1995 Personnel Manual states: *"The Administrative Board is established to provide the mechanism for the Authority to establish and maintain procedures and practices to effectively and efficiently implement and support the Personnel Policies."* This provision does not provide the Administrative Board the authority to change the personnel policy. Rather, its purpose is to develop and maintain procedures that implement and support the Authority's personnel policies. We believe the provision in the 1999 Personnel Manual that exempts the Executive Director from following the Authority's personnel policies is clearly a change in policy that falls outside the purview of the Administrative Board.

Make-up and Authority of the Administrative Board

Section 19.2 of the 1995 Personnel Manual states: *"The Administrative Board will be comprised of at least three members which will be the Executive Director, Deputy Executive Director for Operations and Deputy Executive Director for Administration. From time to time, the Executive Director may appoint executive management personnel who may act as designees for any of the Board's membership."* We found the make-up and authority of the Administrative Board did not meet this requirement. First, the make-up of the Administrative Board violated Section 19.2 of the 1995 Personnel Manual. The Authority identified five individuals who served on the Administrative Board. Two of the members were outside consultants, the former employee of the Executive Director, hired as an outside Human Resources consultant, and an attorney from an outside legal consulting firm. The other three were Authority employees, including the General Manager and Assistant General Manager of Human Resources, and the Authority's General Counsel. The only member of the Administrative Board that complied with the Section 19.2 requirements was the Authority's General Counsel.

Further, Section 19.3 states: *"The Board will review the procedures developed by the functional management of the Human Resources organization to support the Authority's Personnel Policies and authorize their operational application. The Board will establish its own operating procedures."* We found that four of the five members the Authority identified as serving on the Administrative Board were the same individuals who were assigned the responsibility for developing the new policies and procedures.

We made numerous attempts to contact each of the Authority identified Administrative Board members to determine what their involvement was in reviewing and approving the Authority's personnel policies and procedures. The results of our efforts are summarized below.

1. The Human Resources Consultant, a former employee of the Executive Director at the Detroit Housing Commission, drafted the policy. This individual refused to speak with OIG. In addition, the Executive Director asserted he had no involvement in bringing this individual to the Authority for the purpose of updating the 1995 Personnel Policy. (See Section E)

2. The General Manager of Human Resources acknowledged membership on the Administrative Board and assisted in updating the personnel policy. However, she explained the Administrative Board never held meetings or approved the 1999 Personnel Policy by vote. It was assumed that if the Administrative Board accepted the latest version of the draft policy, then the policy was approved. Further, when we asked the General Manager about the Board of Commissioners and their responsibility in approving the personnel policy, she would not address the issue.
3. The lawyer from the legal consulting firm, who was hired to review the Employment Policies and Practices of the Authority, did assist members of the Authority's Human Resource Department in updating the personnel policy. However, he did not know he was a member of an Administrative Board until the Authority's outside legal counsel explained it to him. He claimed his approval of the policy was his firm's acceptance of its legality.
4. The Authority's General Counsel did not return our calls.
5. In an attempt to locate the former Assistant General Manager of Human Resources we obtained the last known number from the Authority; however, that number was incorrect. In addition, we completed a search on Lexis/Nexis and forwarded letters to two separate addresses; however, we were unsuccessful in our search.

Role of the Administrative Board

Section 19.4 of the 1995 Personnel Manual states: *"In addition to reviewing and authorizing operational procedures, the Board may request the development of new personnel policies, practices and supporting processes, expand or contract their application and otherwise ensure that these policies, procedures and practices provide the best utility to the Authority, its employees, residents and other stakeholders."* Although the provision allows for the Administrative Board to request the development of new personnel policies, it does not provide it the authority to create and approve new personnel policies. In addition, under the Authority's Resolution No. 9302, dated December 21, 1994, the Board of Commissioners affirmed that a Commissioner's resolution was needed in order to authorize the updated Personnel Policies (1995 Manual) to become operationally effective. No resolutions have been passed since that removes this requirement.

Further, there was no record of any Administrative Board meetings or that the Administrative Board actually approved the new policy and procedures manual. The Authority's outside legal counsel stated that the Administrative Board's approval of the new Manual was simply their acceptance of the latest version, and that Authority procedures did not require the Administrative Board to maintain a written record of their activities. The only formal record that does exist relating to the authorization of the Authority's personnel policies and procedures is the cover memorandum signed by the Executive Director on December 2, 1999 that approved the implementation of the revised 1999 Personnel Manual.

Two years after the 1999 Personnel Manual was implemented by the Executive Director, the Board of Commissioners affirms the approval of the 1999 Personnel Manual

On October 5, 2001, OIG requested a meeting with the Chairman of the Board of Commissioners to discuss the issues we had identified during our review. Specifically, we wanted to determine if the Board of Commissioners was aware of the circumstances surrounding the revision of the Authority's personnel policy as it related to exempting the Executive Director from following those policies and procedures. On October 18, 2001, the Authority's outside legal counsel agreed to meet with the OIG to discuss in more specific detail the issues we wanted to present to the Board of Commissioners. However, at the same time we were conducting the meeting, the Board of Commissioners passed Resolution 10732 that affirmed its approval of the Authority's 1995 Personnel Manual as restated and re-codified in the 1999 Personnel Manual, dated December 2, 1999, nearly two years after it was implemented. In fact, although the Authority's outside legal counsel had actually presented the resolution to the Board of Commissioners just hours before attending our meeting, he never disclosed this important development to us during the meeting. Under the resolution, the Board of Commissioners affirmed that an Administrative Board, as defined under the 1995 Personnel Manual, had the authority to revise and approve the provisions of the Manual without the Board of Commissioners' approval and formal resolution. Further, the Board instructed the Executive Director to continue operations under the revised 1999 Personnel Manual.

Unfortunately, we believe the Board of Commissioners' decision to pass the resolution was based on incomplete information. As we discussed in detail above, the role, purpose, authority, and make-up of the Administrative Board did not comply with any of the provisions of the 1995 Personnel Manual. Further, the Authority was not able to provide us any credible evidence that an Administrative Board was actually created and used to review and approve the new policies and procedures. Thus, it appears the claim by the Authority that the Administrative Board was the means by which the Authority legitimately revised the Authority's personnel policies and procedures was merely another attempt to justify the Executive Director's actions and/or lack of oversight by the Authority's Board of Commissioners.

Through the Authority's outside legal council, we continued to stress the urgency in meeting with the Board of Commissioners to discuss our concerns on the discretionary hiring authority of the Executive Director and the authority of the Administrative Board to make policy changes. We believe many of the facts on which the Board of Commissioners passed the resolution were incorrect. In addition, we wanted to discuss two apparent conflict of interest violations of the ACC that involved one of the members of the Board of Commissioners and the hiring of her daughter for a top management position in the Authority. (See Section D) On November 6, 2001, the Chairman of the Board of Commissioners, one additional Board member, and the Authority's outside legal counsel agreed to meet with us.

In the meeting, the Chairman of the Board of Commissioners stated when the Executive Director was hired in April 1998, it was the Board's intent to give the Executive Director broad discretion in running the Authority, including personnel issues. However, neither the Chairman nor the other Board member would confirm they were aware of the circumstances as to how the 1999

Personnel Manual was revised, or of the content of the provision that exempted the Executive Director from following the Authority's Personnel policies and procedures. Further, since the Board of Commissioners never approved the revised policy by resolution, we cannot assume the Chairman of the Board of Commissioners is speaking for the full Board of Commissioners, especially in light of the fact the present Board of Commissioners' membership is different from that in December 1999.

On March 1, 2002, the Chairman of the Board presented us with a letter that further clarified the statements he made in our November 6, 2001 meeting. In the memo, the Chairman reiterates, that the Board of Commissioners directed Mr. Greene to exercise discretion in making executive level personnel decisions with the intention to give Mr. Greene a broad mandate to take the steps necessary – consistent with applicable laws and regulations – to implement significant change at the Authority. As previously stated, the first time the OIG was informed of the Board's verbal instructions to the Executive Director was in the November 6, 2001 meeting, a full 10 months after the start of our review. Up to that point, the Authority's justification for the hiring practices used by the Executive Director, as presented by their outside legal counsel, was an evolving series of explanations that continually changed as we questioned each theory. In fact, when we questioned the Executive Director in September 2001 concerning the hires and promotions at the Authority, he never claimed his authority stemmed from instructions he received from the Board of Commissioners. Rather, the Executive Director consistently responded that the 1999 Personnel Policy allowed him to hire and promote individuals at his discretion. Thus, it appears the Executive Director's justification contradicts the statements made by the Chairman of the Board and, as such, we cannot rely on either statement.

B. Effects of Discretionary Hiring Authority at the Authority

Executive Director hired and promoted individuals contrary to the Authority's written personnel policies and procedures

We reviewed 46 personnel files from more than 300 individuals hired between April 1, 1998 and February 14, 2001 and found in 11 of the 46 cases, the Executive Director deviated from the Authority's standard written personnel policies and procedures to hire and/or promote these individuals. We also noted many of the Executive Director's personnel actions took place prior to the implementation of the 1999 Personnel Manual, which allowed for discretionary hiring authority and the waiving of the educational and experience requirements.

Our review showed 10 of the 46 employees received promotions and/or pay raises increasing their salaries from 4 percent to 65 percent in as little as three weeks to eight months after starting at the Authority. The promotions were offered to the employee without competition or the position was "reclassified" to a higher position with a pay increase. For the eleventh employee we had serious concerns regarding her hire as a consultant and then later as a full time Authority employee. (See Section E)

For employees hired under the 1995 Personnel Manual a three-month probationary period is required before they become regular full time employees and thus eligible for promotion.

Further, the 1999 Personnel Manual requires a six-month probationary period prior to being eligible for promotion. However, we found 7 of the 11 employees received their promotions or pay raises in violation of the timeframes dictated by the applicable Personnel Policy. Attachment B illustrates the promotions that occurred without fair and open competition, the timeframe the promotion was received, and the percentage of salary increase.

The following are more detailed examples of questionable hires and/or promotions that have resulted from the discretionary hiring practices of the Executive Director:

- In August 1999, the Executive Director waived the educational and experience requirements to hire the daughter of a member of the Board of Commissioners. (See Section D) The employee hired did not meet the minimum educational requirements as listed on the job announcement and her prior experience is also questionable. Within three weeks, the employee received a \$7,000 annual pay increase. This employee was hired under the 1995 policy that did not allow the Executive Director to waive educational and experience requirements. When we discussed this hire and promotion with the Executive Director, he stated that he felt this individual was qualified for the position and the hire was consistent with policy.
- In December 1998, the Executive Director waived the educational requirements to hire an Administrative Assistant in the Executive Office. The employee was referred to the Executive Director through a mutual acquaintance of both the Executive Director and the employee. The Authority personnel qualifications for this position required an individual to have a Bachelors Degree; however, the employee did not have a degree and the Executive Director waived the requirement. Within seven months this individual was promoted to Administrative Officer, an even higher-level position that also required a Bachelors degree. Once again this employee was hired and promoted under the 1995 policy that did not allow the Executive Director to waive educational and experience requirements. When we discussed this hire and promotion with the Executive Director, he stated that he felt this individual was qualified for the position and the hire and promotion were consistent with policy.
- In May 1998, the Executive Director exercised discretionary hiring authority when he promoted the Media Specialist to the position of Executive Media Specialist. This promotion included a \$20,000 pay raise and occurred within two months of the employee starting at the Authority. This employee was hired and promoted under the 1995 policy that required a three-month probationary period prior to being promoted. When we discussed this promotion with the Executive Director, he stated the position was “reclassified” so there was no need for competition or for the employee to interview for the promotion.
- In January 2001, after only seven weeks at the Authority, the General Manager of Contract Administration received a promotion to Executive General Manager of Contract Administration and a \$7,500 raise. In addition, the employee received two additional raises increasing her salary by a total of \$17,850 within six months of being hired. This employee was hired and promoted under the 1999 policy that requires a six-month probationary period

prior to being promoted. We questioned the Authority's outside legal counsel concerning these promotions. He stated that the initial promotion was due to additional duties assumed by the employee and the raises were to put her salary inline with other comparable Executive General Managers. The promotion was offered without competition.

- The Executive Director hired an Administrative Officer (assigned to the Executive Office) that was previously employed at the Detroit Housing Commission as a typist. The Authority more than doubled the Administrative Officer's salary from \$22,000 in Detroit to \$47,900 at the Authority and within two months of her hire, the Executive Director promoted her to Relocation Manager with a \$2,400 salary increase. The employee was appointed to the position non-competitively. After several months it was determined the employee was "not the right fit" for the position and was returned to the original position, without a change in salary. Further, the Authority paid \$4,266 in relocation expenses to relocate her from Detroit to Philadelphia. Although the 1995 Personnel Manual is silent on the matter relating to an employee's relocation expenditures, this type of expense is typically reserved for Executive level staff. We found no documentation to show who authorized the relocation expenses.

Considering the Administrative Officer position is a fairly standard position that would normally be filled from a local source, we questioned the Authority's outside legal counsel and Human Resource staff as to the circumstances related to the Authority's decision to recruit this individual from Detroit. The Authority's outside legal counsel stated a top manager at the Authority, who also came from the Detroit Housing Commission, recruited this individual. However, the manager did not corroborate the legal counsel's assertion and simply stated she provided the individual a good reference. No other individual at the Authority could explain how this individual was hired nor provide documentation to support her hire and justify her associated recruitment costs. Further, when we interviewed the individual in question, she told us she sent her resume to the Authority because she had heard the Executive Director wanted to hire Detroit employees.

Although this individual worked in the Executive Office of the Detroit Housing Commission where the Executive Director served in the same capacity prior to coming to the Philadelphia Housing Authority, the Executive Director stated he did not know this individual and she did not work directly for him while at Detroit. Further, the Executive Director stated he did not interview this individual for the position at the Authority and had no knowledge of the Authority paying for the individual's relocation expenses. In the end, we received no definitive explanation on how and why this individual was hired and promoted.

When we asked for documentation to support these hires and promotions, the Authority's outside legal counsel stated that the Executive Director does not maintain any type of records to support his decisions and the 1999 Personnel Manual does not require him to do so. Without providing some documentation to support the decisions made, the Authority and the Board of Commissioners cannot be assured that the best-qualified candidates were chosen.

Authority had a difficult time quantifying the number of Executive Hires

On October 18, 2001, we requested the Authority's outside legal counsel provide a complete listing of employees hired and promoted using the discretionary hiring authority of the Executive Director. We were told that this would be a difficult task for a number of reasons. According to the Authority's outside legal counsel, the Executive Director used his discretionary hiring authority for a variety of different circumstances. For example, the Executive Director may waive the educational requirement for one employee, in another case he may eliminate the need to advertise the position, or he may eliminate the standard waiting period for promotions. According to the outside legal counsel, these various applications of the discretionary hiring authority made it difficult to quantify the number of employees who were hired or promoted under this authority. In addition, the Executive Director can forward this authority to any staff member he sees fit, thus, making it virtually impossible to know how many staff were hired or promoted under the discretionary hiring authority.

Another aspect that makes it difficult to quantify the number of hires or promotions under the discretionary hiring authority is the fact that the Authority's personnel records and promotional files were unorganized, incomplete and not centrally located. Original personnel records are scattered throughout boxes in warehouses and obtaining these documents was time consuming and in some cases fruitless. The Authority's outside legal counsel had a difficult time in reviewing and organizing Authority personnel files and still could not always provide complete files for the OIG to review. Further, although the 1999 Personnel Manual requires the Authority to maintain records such as rating sheets, interview notes, the final recommendation memo, and copies of all correspondence and miscellaneous items in the position-recruiting file, the manual exempts the Executive and Department Head Roster positions from this policy. When questioned, the outside legal counsel told us the Executive Director did not feel he needed to maintain any records or documentation to support his decisions to hire and promote using the discretionary hiring authority.

On December 7, 2001, the Authority's outside legal counsel provided us a list of employees believed to be hired or promoted using the discretionary hiring authority. The list we received included 54 employees hired since April 1998, 37 of which were hired prior to the implementation of the 1999 Personnel Manual. Although we were provided a list, we cannot be sure this list is all-inclusive given the obstacles noted above.

Currently, the Authority is implementing a new Human Resource software program to improve its record keeping process. Unfortunately, because the records are in such disarray, we believe data input into the new system will be incomplete at the start.

In summary, we found the Executive Director did not adhere to the Authority's 1995 Personnel Manual from April 1998 to December 1999, when he hired and promoted individuals at his discretion. In December 1999, the Executive Director approved the 1999 Personnel Manual, which included provisions to exempt the Executive Director from the established Authority personnel policies and procedures. We raised serious questions relating to the circumstances surrounding how and who revised the Personnel Manual, and the Board of Commissioners lack

of oversight in the matter. For many of the employees we reviewed, there was little question as to whether they were hired or promoted contrary to the standard Authority personnel policies and procedures before and after the 1995 Personnel Manual was revised. The Authority and its outside legal counsel responded by stating the Executive Director had the authority to hire and promote outside of the policies and procedures as stated under the 1999 Personnel Manual. We believe these uncontrolled and undocumented recruitment and promotion practices by the Executive Director lacks accountability and does not offer the Executive Director any defense against the allegations of favoritism or improper influence.

C. Executive Director's Management Style Did Not Violate Federal or State Laws

The second allegation in the complaint alleged that many executive level personnel had resigned from the Authority because of the Executive Director's management style. We took into consideration during the review of this allegation that one's opinion of another's management style is much more subjective than trying to determine if a policy or procedure was violated. However, we reviewed this allegation to determine if the Executive Director violated any Federal or State laws along with the Authority's policies. The complaint specifically names eight executive level personnel. The positions ranged from Executive Assistant of the Executive Director to the Deputy Director of the Authority with salaries ranging from \$63,000 to \$117,500. We noted that six of the eight were employed by the Authority for two years or less and the remaining two were employed just over two years.

We reviewed the personnel files of these eight individuals and attempted to contact each of them. We were successful in speaking with three employees. All three employees felt the Executive Director was a tough and demanding boss; however, that was not the reason they left the Authority.

We also selected nine current and former employees to obtain their opinions on the management style of the Executive Director. These individuals ranged from executive level to administrative staff. The majority informed us that the work environment at the Authority was extremely stressful and several of the former employees cited the Executive Director as the reason they left the Authority. As stated above, we understand that obtaining a person's opinion on another's management style is very subjective, so in order to draw a conclusion we have to determine what rules were violated. While the Executive Director may have been a tough and demanding manager, we found no evidence that he violated any relevant Federal or State laws.

D. Authority Violated Section 19 of its Consolidated Annual Contributions Contract With HUD

During our review of the allegations of the complaint, we identified an incident in which the Authority violated the Conflict of Interest provision under Section 19 (B) of its Consolidated Annual Contributions Contract (ACC) with HUD. Specifically, in August 1999, the Authority hired the daughter of one of the members of the Board of Commissioners as the General Manager for its scattered site program. Besides not receiving the proper waiver for the hiring, we have serious concerns whether the employee even meets the minimum qualifications for the position.

Conflict of Interest Section 19 of the ACC

Section 19 (B)(1) of the ACC states: *“The housing authority may not hire an employee in connection with a project under this ACC if the prospective employee is an immediate family member of any person belonging to one of the following classes:”* including *“(i) any present or former member or officer of the governing body of the housing authority.”* This prohibition shall remain in effect throughout the class member’s tenure and for one year thereafter. However, the ACC does allow the Board of Commissioners the opportunity to waive the requirement of subsection B for good cause provided that State and Local law permit such a waiver. However, we found the Board of Commissioners did not waive the ACC requirement prior to hiring the Commissioner’s daughter. The Authority’s outside legal counsel stated that since the Board of Commissioners were aware of the hiring, they in a sense offered their approval by not speaking out against it. In fact, the outside legal counsel provided several newspaper articles to support the fact that the hiring was well publicized. Although the hiring of a member of the Board of Commissioner’s family was publicized, it does not negate the fact that the Board of Commissioners and the Authority violated the ACC contract and that the hiring was not properly authorized.

In addition to the ACC conflict of interest violation, the employee in question did not meet the educational and/or experience requirements normally required for this position. Specifically, the position required a college degree and at least 10 years experience in senior management. We attempted to review the employee’s personnel file to determine if the basic requirements were met; however, we never obtained this file. In fact, we were told by the Authority’s outside legal counsel that the personnel file was missing. The only document the outside legal counsel could provide was the employee’s job application. Upon review of the employee’s application, we noted no evidence of a college degree and question if a high school diploma was ever received. In addition, we found no documented evidence to support that the employee had any career experience that would support this position. When we discussed the educational background with the employee, she stated she did not have a college degree, but she did graduate from high school. During the discussion, she agreed to sign a statement stating she had obtained a high school diploma. However, later when we presented the statement, the Authority’s outside legal counsel informed us that she would not sign the statement.

The Authority’s outside legal counsel referenced the provision in the 1999 Personnel Manual that exempted the Executive Director from following the standard personnel policies as the justification for hiring the employee, even though she lacked the educational qualifications for the position. However, we noted the employee was hired in August of 1999, and the 1999 Personnel Manual was not approved until December of 1999. The 1995 Personnel Manual does not allow for the waiving of education or career experience in order to hire an employee; consequently, the Executive Director violated existing Authority personnel policies to hire this individual.

In addition, the employee was hired with a starting salary of \$80,000 per year and within three weeks the salary was increased by \$7,000. Since this employee was hired under the 1995

Personnel Manual, a probation period of three months was required to be met before a promotion or pay raise could be received. Nine months later the employee received an additional \$3,000 raise and a large retroactive pay adjustment that effectively put the starting salary at \$90,045.

Chairman of the Board acknowledged he was unaware of key ACC provisions in which the Authority violated its ACC with HUD

On November 6, 2001, we questioned two members of the current Board of Commissioners, which included the Chairman of the Board, on the apparent conflict of interest violation of the ACC. Generally, the two Board members stated they supported the hiring of the Board member's daughter and the Chairman acknowledged he was not aware of the proper protocol needed to waive the ACC requirements. Further, the Chairman of the Board suggested the Board entertain the idea of passing a resolution authorizing the waiver of the ACC requirements for this hire at the next Board of Commissioners meeting. With limited discussion, on November 15, 2001 the Board of Commissioners passed a formal resolution that waived the requirements of section 19 (B) of the ACC.

In November 2001 the Board of Commissioners affirmed the 1999 Personnel Manual it just passed at the October 2001 Board of Commissioners Meeting

In our meeting with the two current Board members on November 6, 2001, the OIG expressed concern over the fact that when the Board of Commissioners approved the 1999 Personnel Manual on October 18, 2001 by resolution, the three Board members' voting included the member whose daughter directly benefited from this new policy. In fact, this Board member was the decisive vote in ensuring the resolution was passed, and as such constituted a conflict of interest. In response to this concern, on November 15, 2001 the Board of Commissioners presented and passed the resolution again without the vote of the Commissioner whose daughter was hired by the Authority.

E. Questionable Circumstances Related to Recruitment of Human Resources Consultant to Revise the Personnel Manual

During our personnel review, we found the Authority hired a Human Resource consultant to update the 1995 Personnel Manual. Although we did not question the Authority's decision to hire a consultant to assist them in revising the manual, there were a number of questionable circumstances as to the hiring and costs associated with the employment. Specifically, we had questions relating to how and why the consultant was selected for the task, later hired as the Authority's Human Resources General Manager, and the costs (salary, relocation, temporary quarters, etc.) associated with her employment.

When the Authority decided to update its 1995 Personnel Manual it was determined that they lacked the expertise "in house" so a Human Resource consultant was hired. We noted the consultant selected was a former employee of the Executive Director where he served in the same capacity at the Detroit Housing Commission prior to his appointment in Philadelphia. Further, the consultant was hired under an existing Authority contract for temporary services in

the Information Systems Management (ISM) department. We reviewed the contract file, but found no evidence of a change order to allow the contract to cover the services provided by the Human Resources consultant. In addition, the fees charged for this individual were twice as much as the highest rate listed on the ISM contract. Specifically, the Authority paid \$105 per hour for the services of the Human Resource Consultant. By comparison, the highest rate listed on the ISM contract was \$52.06. In addition, the Authority paid \$12,600 for three weeks vacation and \$33,508 in overtime at \$157.50 per hour. In total, the Authority incurred \$191,848 for the nine months of services provided by the Human Resource Consultant. The costs of this contract were not only excessive, but it also violated 24 CFR 85.36(b)(2) which requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts. Further, the terms of this contract do not allow for overtime or vacation for any position under this contract.

In questioning the Executive Director concerning the hire and costs associated with this individual, he stated he had no knowledge of how the consultant was selected, hired or paid. In fact, he stated he had no role in updating the personnel policy. We find this lack of knowledge and denial of involvement on the part of the Executive Director troubling and contradictory to the information provided by the Authority during our review of the Administrative Board. (See Section A) As discussed in Section A, under the 1995 Personnel Policy section on the Administrative Board, the policy states that only the Executive Director had the authority to appoint additional members to the Administrative Board. In which case, the Executive Director must have been involved in hiring this individual and assigning them to the Administrative Board for the purpose of updating the personnel manual. In fact, a letter dated September 20, 2001 sent to our office from the Authority's outside legal counsel states: *"Pursuant to the 1995 policies and procedures, the Administrative Board requested that the PHA's Human Resources Department develop new personnel policies to improve upon those already in place. The Executive Director was charged with putting together a group to meet this goal. To this end, the PHA hired an experienced consultant with over twenty five years experience in the employment and human resources fields to assist the General Manager of the Human Resources department."* *"The Administrative Board carried out its charge of the 1995 policies and procedures, and the current PHA policies and procedures are the result of the tireless efforts of the group that the Executive Director put together."*

The Executive Director was charged with putting together the Administrative Board and, in fact, was the only person who could designate members. When we asked the Authority for a listing of Administrative Board members, the Human Resource Consultant was among them. On one hand the Executive Director stated he played no role in bringing anyone, including the Human Resource Consultant, in to update the Authority's Personnel Policies; yet, the Authority's procedures and outside legal counsel acknowledge that the Executive Director was responsible for putting the Administrative Board together. In addition, during several discussions with the Authority's outside legal counsel, we were told the Executive Director knew the consultant and wanted to bring this individual to the Authority.

Since the Executive Director stated he had no knowledge of how this consultant was hired, we also questioned the former Contracting Officer, former Human Resource manager, and the

Temporary Services firm. Both the former Contracting Officer and Human Resource manager had no knowledge of how this individual was selected or from which contract she was paid. The former Human Resource manager stated that the hiring of the consultant would have been handled in the Contracting Department. When we spoke to the Temporary Services firm, we were told that they were directed by the Authority to seek out and hire this particular individual for the Human Resource Consultant position. However, the Temporary Services firm said they did not remember who at the Authority instructed them to do so. Further, after we initially contacted the Human Resource Consultant, the consultant declined to speak to us without the Authority's outside legal counsel being present. We agreed, but when we attempted to contact the consultant to set up the interview, the consultant did not return the OIG phone calls. Thus, the interview never took place.

Based upon our review and questions relating to the hiring of this consultant, the Authority's outside legal counsel completed a full review of the hiring of the consultant. From that review, the outside legal counsel recommended the Temporary Services firm pay back a portion of the contract, while the Authority pay from non-Federal funds the remainder. The Temporary Services firm paid \$76,025 and the Authority paid \$115,823 out of the Section 8 Earned Administrative Reserve, thus \$191,848 was paid back to HUD.

Consultant appointed as the General Manager of Human Resources

Three months after the consulting contract was complete, in October 1999, the Authority hired the consultant as its full time General Manager of Human Resources. Even though the Executive Director did not approve the 1999 Personnel Policy until December 1999, the employee was hired using the policy within the 1999 Personnel Manual that allows the Executive Director discretionary hiring authority. In addition, as the General Manager of Human Resources, this individual was in charge of implementing the 1999 Personnel Policy. This makes the individual the author, beneficiary, and manager of the 1999 Personnel Policy.

The consultant was hired as a full time employee with a starting salary of \$95,000. During May 2000, after only eight months as an Authority employee, the Authority paid to move the employee back to Detroit. After this date, the employee received an individual pay raise of \$3,325, an Executive Incentive Bonus of \$2,850 and a retroactive pay adjustment totaling \$2,237. According to the 1999 Personnel Manual, the Authority can only allow for one annual pay increase a year. All three pay changes occurred after the Authority was fully aware of the employee's intention to resign from the Authority. In addition, when the employee formally resigned on August 1, 2000 she continued to receive seven paychecks until the end of September 2000. All seven were explained as vacation time accumulated. Upon review of the 1999 Personnel Manual, we determined that the Authority paid for two extra weeks of vacation for this employee totaling \$3,780.

As part of the Offer of Employment, the Authority paid \$205 for a house hunting trip and \$4,118 for two months of temporary housing costs until the employee could establish Philadelphia residency. However, in May 2000 the Authority paid \$2,163 to move the employee back to the Detroit area. The employee remained in her official capacity as the General Manager of Human

Resources until August 2000. During the months of June and July, the Authority paid additional temporary housing costs of \$3,031 and at various times during the 10 months of employment the Authority paid over \$329 in airfare for travel between Detroit and Philadelphia. We questioned the Executive Director and outside legal counsel as to why the Authority paid for the relocation back to Detroit, the temporary housing, and airfare for a full time Authority employee. The Executive Director explained that since the Authority did not pay for the employee to move to Philadelphia, it paid for the move back to Detroit. However, according to the Authority's outside legal counsel, the employee only intended to remain at the Authority on a temporary basis until a permanent replacement could be found, thus the intention was never to relocate to the Philadelphia area in the first place. This violates both the 1995 and 1999 Personnel Manuals, which have a residency clause for all Authority employees. In fact, the 1999 Personnel Manual states: *"All applicants for employment are required to be residents of the City of Philadelphia or must establish residency prior to the extension of an offer of employment."* We received no explanation for the temporary housing costs paid in June and July or the airfare.

The 1999 Personnel Manual, relocation policy, allows for the transporting of household goods to a residence in Philadelphia - not Detroit; temporary housing costs up to 60 days beginning with the first day of employment - not at the end of employment; and travel expenses for one house hunting trip after acceptance of employment - not travel expenses for the benefit of the employee. We questioned the Authority staff whether this employee had an employment contract that may have allowed for this deviation from normal Authority policy or a special waiver to allow for the added benefits. We were told there was no such contract or anything in writing to justify these added expenditures. In fact, the Authority's outside legal counsel informed us the Authority's policies and procedures require no explanation or special authorization for such expenditures.

In summary, the circumstances surrounding the hire of this individual are questionable; especially in light of the fact the employee was a former employee of the Executive Director from the Detroit Housing Commission and the primary author of the 1999 Personnel Manual that directly benefited the Executive Director. In addition, while a consultant and full time employee, the individual received questionable payments in salary and benefits that go beyond those afforded to a normal employee. Further, the Executive Director's contradictions over his involvement in hiring this individual only add to the questionable circumstances.

We presented the draft report to the Office of Public and Indian Housing, the Authority Board of Commissioners, and the outside legal counsel on February 13, 2002. We received the Authority's response from their outside legal counsel on February 28, 2002, and the exit conference was held on March 1, 2002.

Auditee Comments

The Authority's response to our audit memorandum was prepared and submitted by its outside legal counsel. Altogether, the response was 276 pages, including a 45 page narrative section and 46 attachments totaling over 230 pages. Except for our conclusion that we did not find the Executive Director's management style violated any Federal or State law, the Authority's outside legal counsel objected to the audit memorandum in its entirety and requested that it be

withdrawn. Specifically, the outside legal counsel asserted the OIG did not have jurisdiction to report on matters addressed in the audit memorandum. Further, the outside legal counsel questioned the OIG's motive, approach, scope, methodology, and auditors experience in completing the audit, and with few exceptions, refuted the facts and conclusions presented in the memorandum as being inaccurate, misleading and unfair.

A redacted version of the narrative portion of the outside legal counsel's response is attached in Attachment C. However, due to the overall volume of the outside legal counsel's response, the attachments were not included in this audit memorandum. The attachments will be made available upon request.

OIG Evaluation of Auditee Comments

Except for our concurrence that we did not find the Executive Director's management style violated any Federal or State law, we adamantly disagree with the outside legal counsel's characterization of the issues, facts and conclusions. Rather than discussing the specific facts related to the serious issues presented in the memorandum, the outside legal counsel used his response as a forum to unfairly criticize the OIG for completing the audit and attempted to discredit the report and the OIG audit staff. We believe this was done to detract from the true issues in the Audit Memorandum, with the ultimate goal to prevent the issuance of the Audit Memorandum. In spite of this approach, we objectively evaluated the response to determine if any changes should be made to the draft memorandum and, as appropriate, modified the report.

A primary issue addressed by the Authority's outside legal counsel was that the OIG did not have jurisdiction to report on matters relating to the issues addressed in the Audit Memorandum. We disagree with this position. The OIG Act of 1978 provides us authorization to conduct audits, investigations and related activities in connection with the enforcement and administration of all laws, regulations, orders, contracts, and programs in which the Department of Housing and Urban Development is a party. With the Authority receiving more than \$345 million dollars a year in HUD funds, we have an obligation to ensure the Authority conducts its business in an efficient and effective manner and Federal funds are used appropriately. Further, we never questioned the Board's authority to establish policy nor have we made any attempt to dictate personnel policy. In our review, we used the Authority's own policies and procedures as the benchmark for our evaluation.

Exit Conference

On March 1, 2002, we conducted an exit conference with the Authority's Board of Commissioners and their outside legal counsel. With the exception of the Chairman of the Board, four of the five Board members attended the meeting. The purpose of an exit conference is to discuss the findings, conclusions and audit recommendations of the audit, as well as any points of disagreement and the auditee's reasons for disagreeing. Since the Authority's legal counsel prepared the Authority's response, and we wanted to ensure the Board members actually read the response and supported the matters that were presented, we asked the Board members at the start of the conference if they read the response and fully supported it. The spokesperson for the

Board, (Ms. Wilkerson) admitted to reading only part of the response and relied instead, on a briefing provided by the Authority's outside legal counsel. When the OIG questioned the remaining three Board members, the Authority's outside legal counsel advised them not to answer, invoking the attorney-client privilege, and instead stated all we needed to know was that he briefed the Board on the issues.

By accepting the outside legal counsel's advice to not respond to our question, we were left with the impression that no one on the Board read the Authority's response and thus, an informed discussion could not take place as we would have preferred. In our opinion, the Board's total reliance on outside legal counsel indicates the Board was disingenuous in addressing the matters in the report and appeared to be more preoccupied with justifying what had happened rather than accepting their oversight role and responsibilities.

Recommendations

We recommend the Office of Public and Indian Housing:

- 1A. Evaluate whether the conflict of interest constitutes an actionable breach of the Consolidated Annual Contributions Contract, and if so, consider and implement appropriate action to remedy the breach.
- 1B. Ensure the Authority repay, with non-Federal funds, relocation expenses of \$2,163, temporary housing costs of \$3,031, and airfare costs of \$329, in ineligible costs, paid to or on the behalf of an Authority employee.
- 1C. Ensure the Authority repay, with non-Federal funds unsupported retroactive pay adjustments of \$2,237 and salary overpayments of \$3,780 for the two unsupported paychecks received after the employee left the Authority.

Also we recommend the Office of Public and Indian Housing require the Board of Commissioners to:

- 1D. Objectively assess whether the actions taken by the Executive Director, as are defined in this report, warrant disciplinary action. Specifically, his role in recruiting and use of outside consultants, development of Authority personnel policies, violation of 1995 Personnel Policies and failure to provide auditors with full and free access to authority records, files, and personnel as required by the ACC.
- 1E. Update its 1999 Personnel Manual to clearly define all directions and mandates granted to the Executive Director and other Executive Managers on their discretionary hiring authority. Also, update the policy to include adequate safeguards to identify, track and monitor all discretionary hires.

- 1F. Attend mandatory training to obtain a better understanding of the differences in the roles and responsibilities of the Board and the Executive Director, along with obtaining training on the provisions and requirements of their Consolidated Annual Contributions Contract with HUD.

In addition to this audit memorandum, HUD's Inspector General issued a separate letter on March 26, 2002 to the Philadelphia Housing Authority's Chairman of the Board of Commissioners. The letter expresses the OIG's concerns over the use of scarce PHA financial resources to engage consultants to oversee our audit activities, and to contract for services that are already covered by our ongoing audit work. Further, the letter instructs the Chairman to ensure that henceforth, the PHA avoids the purchase of unnecessary services and fully cooperate with audit activities.

Schedule Of Questioned Costs

<u>Section Number</u>	<u>Ineligible 1/</u>	<u>Unsupported 2/</u>	<u>Recovered Costs 3/</u>
E			\$191,848
E	\$2,163		
E	\$3,031		
E	\$ 329		
E		\$2,237	
E		<u>\$3,780</u>	
Totals	<u>\$5,523</u>	<u>\$6,017</u>	<u>\$191,848</u>

- 1/ Ineligible costs are costs charged to a HUD 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 costs charged to a HUD program or activity that the auditor cannot find documentation to support the expense.
- 3/ Recovered costs paid back during the course of the review, based upon questions raised by the auditor during the review.

Questionable Hires and Promotions Under 1995 Personnel Manual

Original Position	Starting Salary	Promoted Position	Promoted Salary	% Of Increase	Timeframe	Comments
Media Specialist	\$43,630	Executive Media Specialist	\$63,138	45%	2 months	Position Reclassified/no competition for promotion. Policy requires 3 months prior to promotion.
Admin Asst. 2	\$43,630	Senior Administrative Officer	\$60,000	38%	7 months	Lacks education required for either position.
Exec Asst. to Exec Director	\$61,000	Senior Counsel	\$72,778	19%	8 months	No competition for promotion.
Deputy General Counsel	\$97,000	General Counsel	\$110,000	13%	4 months	No competition for promotion.
Executive Assistant	\$74,654	No change	\$83,000	11%	1 ½ months	Policy requires 3 months prior to promotion.
General Manager of Housing Operations	\$80,307	No change	\$87,000	8%	3 weeks	Lacks education & experience required for the position. Policy requires 3 months prior to promotion.
Admin Officer	\$47,900	Relocation Manager	\$50,344	5%	2 months.	No competition for promotion. Policy requires 3 months prior to promotion.
Human Resource Manager	\$95,000	No change	\$98,325	4%	8 months	No competition for hire.

Questionable Hires and Promotions Under 1999 Personnel Manual

Original Position	Starting Salary	Promoted Position	Promoted Salary	% Of Increase	Timeframe	Comments
Technical Aide	\$25,269	Assistant to the Executive Director	\$41,704	65%	4 months.	No competition for promotion. Policy calls for 6 months to be eligible for promotions.
Program Manager	\$60,216	Supervisory Program Manager	\$66,642	11%	5 months	No competition for promotion. Requires 6 months to be eligible for promotions.
General Manager of Contract Administration	\$96,000	Exec GM of Contracts Administration	\$103,500	8%	6 weeks.	No competition for promotion. Policy calls for 6 months to be eligible for promotions.

The tables show whether the hire/promotion occurred before or after the 1999 Revised HR policy was signed by the Executive Director, the change from the original position and salary to the promoted position (if applicable) and salary, the percentage of salary increase, the elapsed time between hire and promotion and comments identifying the questions related to the hire/promotion.

Auditee Comments

LAW OFFICES
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
1735 MARKET STREET, 51st FLOOR
PHILADELPHIA, PENNSYLVANIA 19103-7599
215-665-8500
FAX: 215-864-8999
WWW.BALLARDSPAHR.COM

BALTIMORE, MD
DENVER, CO
SALT LAKE CITY, UT
VOORHEES, NJ
WASHINGTON, DC

JAMES J. EISENHOWER
DIRECT DIAL: 215-864-8217
PERSONAL FAX: 215-864-9146
EISENHOWERJ@BALLARDSPAHR.COM

February 28, 2002

BY HAND DELIVERY

Daniel G. Temme
District Inspector General for Audit
U.S. Department of Housing & Urban Development
Wanamaker Building, Suite 1005
100 Penn Square East
Philadelphia, PA 19107-3380

Re: Philadelphia Housing Authority

Dear Mr. Temme:

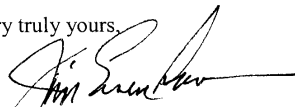
Enclosed please find the Response of the Philadelphia Housing Authority to Office of Inspector General Draft Audit Memorandum No. 2002-PH-18XX (Limited Personnel Review). We note that while your "review" and drafting process covered a thirteen month period, we have conformed to the ten work day schedule you unilaterally set for the submission of this response.

In the interest of fairness, the Authority requests that your office provide a copy of this Response to any party or individual receiving the Audit Memorandum, or any subsequent version thereof. This would include concurrently publishing the Response in any written or electronic medium (including, but not limited to, website posting) in which the Audit Memorandum is made available to third parties for review.

You will note that information contained in certain exhibits to the Response has been redacted. We have taken this step to protect the privacy of current and former PHA employees. The step is consistent with the Draft Audit Memorandum not identifying by name the so-called "questionable hires and promotions."

Your files should contain an unredacted copy of any document which has been redacted. If this is not the case, please advise and I will provide you with unredacted versions.

Very truly yours,



James J. Eisenhower

JJE/bad

**RESPONSE OF THE PHILADELPHIA HOUSING AUTHORITY
TO OFFICE OF INSPECTOR GENERAL
DRAFT AUDIT MEMORANDUM NO. 2002-PH-18XX
(LIMITED PERSONNEL REVIEW)**

FEBRUARY 26, 2002

**Philadelphia Housing Authority
12 South 23rd Street, 6th Floor
Philadelphia, PA 19103-4497**

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I. INTRODUCTION

The Philadelphia Housing Authority (hereinafter “PHA” or “the Authority”) concurs with the Office of Inspector General (hereinafter “OIG” or “IG”)¹ determination in Draft Memorandum² No. 2002-PH-18XX (February 13, 2002) (hereinafter the “Draft Memorandum”) that neither PHA or its Executive Director, Carl R. Greene, have violated any federal or state laws in the formulation and implementation of the Authority’s hiring and promotion policies and procedures. PHA is pleased that the OIG has agreed with the central findings of Kroll Associates, an internationally recognized independent consulting firm, which, after conducting a far more extensive review of the subject policies and procedures and their application, reached the same conclusion of legal compliance over four months ago.

Given these threshold findings, PHA objects to the remainder of the Draft Memorandum and believes that the draft’s other “conclusions” are inaccurate, misleading, and unfair. Further, the publication of the Draft Memorandum, after a 13 month review conducted at great taxpayer expense, constitutes nothing more than a post hoc attempt by the OIG to justify its review of an isolated and suspect anonymous complaint regarding matters that are outside of OIG jurisdiction.

Accordingly, other than the finding that that neither PHA or its Executive Director have violated any Federal or State laws in the formulation and implementation of the hiring and

¹ Unless otherwise stated herein, the terms “OIG” or “IG” collectively refer to Daniel G. Temme, District Inspector General for Audit, Mid-Atlantic, 3AGA, and/or his staff.

² Although captioned “Audit Memorandum,” in fact the document does not report on the results of an audit. Instead, the Draft Memorandum contains the findings of a “review.” The distinction, as explained later in the PHA response, is significant.

promotion policies and procedures PHA objects to the Draft Memorandum in its entirety, and requests that it be withdrawn.³

In the event that the OIG does not withdraw the Draft Memorandum, PHA submits the following response.

³ PHA also requests that the OIG provide a copy of the instant response to any party or individual receiving the Draft Memorandum (or subsequent versions). This would include concurrently publishing the response in any written or electronic medium in which the Draft Memorandum is made available, including, but not limited to, the HUD IG official website.

II. RESPONSE

A. The OIG Does Not Have Jurisdiction to Report on the Matters Addressed in the Draft Memorandum

The OIG has admitted that there are no HUD regulations governing housing authority employment policies and procedures. Therefore, matters relating to PHA employment policies and procedures that make up the majority of the Draft Memorandum are beyond the scope of OIG jurisdiction, and the Draft Memorandum should be withdrawn. Importantly, over five months ago, PHA advised the OIG of these circumstances, and the fact that other HUD Inspector General investigations have acknowledged a lack of jurisdiction in similar situations. See, e.g., Housing Authority of Muskogee, Oklahoma, Congressional Inquiry Regarding Operations, No. 1997-00842-01-02, at 1 (in matter alleging improper favoritism in the hiring and termination of employees, IG noted that “HUD does not dictate the hiring, evaluation, and termination policies of a public housing authority”) (Ex. “1”). See September 14, 2001 Letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. “2”).

The OIG never responded to PHA’s concerns regarding jurisdictional authority, and instead persisted in conducting the review. In addition, rather than evaluating the credibility and perhaps improper motivations of its anonymous complainant, the OIG ignored the findings of two independent parties who found that PHA hiring and promotion practices were lawful and appropriate.⁴ Now, after nearly 13 months of investigation into approximately 321 Authority

⁴ On April 26, 2001, the Philadelphia Commission on Human Relations (“PCHR”) found that similar allegations of favoritism in hiring and promotion were groundless. See April 26, 2001 Letter from Joseph Farley, PCHR Compliance Supervisor, to Jill Weitz, Esquire (Ex. “3”). In addition, on September 27, 2001, Kroll Associates issued a report which found that PHA hiring and promotion practices are not motivated by race, sex, or other inappropriate considerations, and that PHA policies and procedures comply with all applicable federal, state and local laws. See September 27, 2001 Kroll Associates Report (Ex. “4”).

executive level hires during the period April 1998 through November 2001, a significant disruption to PHA operations, and the expenditure of thousands of dollars in costs and expenses incurred by both the OIG and PHA during the course of the review, the OIG has concluded, among other things, that:

1. The Authority's 1995 personnel policies and procedures **do not** violate any laws or regulations;
2. The Authority's 1999 personnel policies and procedures, which are currently in effect, **do not** violate any laws or regulations;
3. The Executive Director's demanding "management style" **did not** violate any federal or state laws; and
4. A minimal amount of \$13,212.00 in costs are either "ineligible" or "unsupported."⁵

Given the above findings, the Authority objects to the OIG determination that "the allegation relating to the Executive Director's unfair hiring practices had merit." To the contrary, the OIG findings reflect that this allegation is wholly without merit and should be stricken from the Draft Memorandum altogether.

B. The Objective, Scope and Methodology of the Draft Memorandum is Fatally Flawed

The Draft Memorandum description of the OIG objective, scope and methodology is disingenuous because it fails to acknowledge that since initiation the review has been plagued by ever changing areas of inquiry, range and focus.

⁵ As discussed later in this Response, PHA disputes the finding of any ineligible or unsupported costs.

The PHA was first apprised of the OIG's intention to conduct a review through a January 22, 2001 letter from the OIG captioned "Limited Review of Personnel Procedures." The letter stated in relevant part:

Recently our office received an anonymous complaint regarding allegations of unfair personnel and labor practices within the Philadelphia Housing Authority. It is the responsibility of our office to determine if the complaint has any validity and to determine if further actions are necessary. As a result, we will be conducting a limited review of personnel procedures carried out by your agency.

A copy of the OIG January 22, 2001 letter is attached hereto (Ex. "5"). During the initial phases of the review, it appeared that the OIG intended to focus on just such limited issues, as he requested information on particular employees and the circumstances of their hiring and/or promotion. Indeed, in correspondence dated as late as March 19, 2001 (Ex. "6"), the OIG continued to refer to the project as a "limited personnel review."

Based upon the OIG representations, the Authority proceeded on the understanding that the review centered on allegations of favoritism in promotion and hiring. However, even with respect to these seemingly straightforward allegations, the OIG approach and focus raised concerns because of continued lack of focus. One example of these difficulties involved the OIG's use of a "sample." The OIG initially advised PHA that it was considering a "sample" drawn from the approximately 321 individuals hired by the PHA since Mr. Greene's arrival in April 1998. According to the OIG, the sample was created by taking every 11th person from the group of 321 and then selecting nine people from the resulting group of 30 believed to be unusual in some way. At some point, the OIG added additional people who fell outside the original sample, making it appear that the "sample" was selected to support a particular theory. See July 16, 2001 letter from [REDACTED] Auditor to James J. Eisenhower, Esquire (Ex. "7"). At the very least, the inclusion of the additional individuals removed any statistical validity from

the sample, as did the OIG's selective consideration of African-American women and failure to interview or otherwise consider male employees. When PHA raised these issues, the OIG responded by stating that there was no requirement that he use a statistically meaningful sample, a significant shift from his earlier position, and that this review was not an "audit" based on a sample but an investigation of a significant complaint.

The Authority cannot reconcile the Draft Memorandum statement that the OIG objective all along was to review 46 personnel files. In fact, the Draft Memorandum description of the review objective, scope and methodology is nothing more than an effort at post hoc rationalization. Indeed, it now appears that despite the early assertion that OIG staff was using a random sample, the OIG from the start targeted particular employees apparently identified in the anonymous complaint. As a result, the personnel review is not valid, statistically or otherwise, and provides an intentionally skewed picture of personnel hiring and promotion policies and procedures at the Authority that may have been orchestrated by a disgruntled former employee.

C. Other Questionable Changes in Review Scope and Objectives

Other changes in the review scope and objectives were significant. As noted above, on September 27, 2001, PHA provided the OIG with a complete copy of a lengthy management review and assessment of the PHA Human Resources business unit conducted by the independent consulting firm, Kroll Associates. The Kroll Report concluded generally that PHA's hiring and promotion practices have not been motivated by improper considerations and that appropriate policies and procedures govern Authority hiring practices. See Kroll Report, page 14 (Ex. "4"). During his November 6, 2001 interview of PHA Commissioners Edward G. Rendell and Joyce Wilkerson, the OIG remarked that the Kroll Report is "generally excellent." Nevertheless, rather than carefully considering the Kroll findings and incorporating them into his own investigation, the OIG instead requested copies of the contract and other documentation

regarding Kroll's relationship with PHA in an apparent attempt to challenge PHA's retention of Kroll.

Similarly, the OIG requested the contracts and billing records of the Authority's counsel relative to counsel's representation of PHA in the instant review. The Authority can come to no other conclusion than that the OIG request for counsel's contract and billing records represents a thinly veiled effort on the part of the OIG to chill and hinder the attorney-client relationship between the Authority and its counsel.⁶

Finally, it should be noted that throughout the personnel review, the OIG has repeatedly resorted to "trial by surprise" tactics that have deprived the Authority and its Executive Director of basic due process protections, such as disclosure of the full nature of the anonymous claims, and the opportunity to fully investigate and respond to the allegations based on the facts. As noted above, at the outset of the review, the OIG advised that he was conducting "a limited review of personnel procedures carried out by your agency." Nevertheless, on September 27, 2001, approximately eight months after the initiation of this review, the OIG disclosed for the first time that part of the inquiry centered on complaints regarding the Authority's Executive Director's "management style." Finally, on January 23, 2002, exactly one year after this review commenced, OIG informed the Authority that it was reviewing the allegation that many PHA

⁶ The most egregious example of the OIG's effort to hinder the Authority's relationship with its counsel involves the OIG's total disregard of the attorney-client privilege. As noted above, the OIG requested the contracts and billing records for Authority counsel related to counsel's representation of PHA in the instant matter. Despite PHA's suspicion that this request was made in an effort to harass and intimidate the Authority and counsel, PHA agreed to provide the requested contract and billing records, subject to redaction to protect attorney-client privileged information. In addition, PHA agreed to provide any and all other contracts and billing records for matters not related to the instant review in an unredacted form. PHA and the OIG agreed that if the OIG disagreed with PHA's assertion of the attorney-client privilege, the OIG would issue a subpoena so that the issue could be resolved before appropriate judicial authorities. Incredibly, in complete violation of the attorney-client privilege and the agreement with the Authority, the OIG simply took and secretly reviewed the original unredacted billing records without PHA's knowledge or authorization. See February 27, 2002 letter from James J. Eisenhower, Esquire to Daniel G. Temme, District Inspector General for Audit (Ex. "8").

executive-level personnel were “forced to resign” from PHA as a result of the Executive Director’s actions.

D. Negative Inferences Regarding PHA Counsel

The Draft Memorandum seems to suggest that the Authority’s retention of counsel has somehow hindered or negatively impacted the OIG investigation. The Draft Memorandum states that the review was conducted “through the Authority’s outside legal counsel” and that “outside legal counsel was present at the majority of our interviews with current and former Authority staff and, at the Authority’s request; the majority of our questions for Authority management and answers received were routed through the outside legal counsel.”⁷

The OIG is well aware that PHA retained counsel to facilitate the production of information and documents provided in response to OIG requests. Specifically, the Authority engaged counsel only after the OIG stated that he was not satisfied with the manner in which PHA was responding to document requests. Notably, at the beginning of counsel’s involvement, the OIG welcomed counsel’s involvement and stated that counsel had improved the responsiveness and timeliness of PHA’s information and document production. The OIG questioned the involvement and role of the Authority counsel in this matter only after counsel questioned the propriety and integrity of the OIG methods and tactics in this review.

E. The Executive Director Did Not Violate Authority Personnel Policies and Procedures At Any Time

There is absolutely no factual evidence that the Authority’s Executive Director violated PHA personnel policies and procedures at any time during his tenure at PHA. The OIG’s contrary conclusion, however, confirms that he continues to misunderstand the history and

⁷ Despite the OIG’s clear understanding that the Authority was represented by counsel, the OIG somehow felt it was appropriate to directly contact PHA Commissioners Rendell and Wilkerson. Such conduct again demonstrates the OIG’s disregard for the attorney-client relationship between the Authority and its counsel.

background of the PHA Board of Commissioners (the “PHA Board”) acceptance of the Authority’s 1999 Human Resources Manual of Policies and Procedures (the “1999 Manual”), the substance of the 1999 Manual and the previous 1995 Supervisors Manual of Personnel Policies (the “1995 Manual”), and the situation that confronted the Executive Director upon his arrival at PHA in April, 1998. An accurate understanding and consideration of these facts and circumstances compels the conclusion that the Executive Director at all times followed the instructions of the PHA Board and at no time violated any PHA policy or procedure.

At the November 14, 2001 interview of PHA Commissioners Rendell and Wilkerson, the OIG learned that at the beginning of the Executive Director’s tenure at the Authority in April, 1998, the PHA Board instructed the Executive Director to exercise “wide latitude” and discretion in his efforts to restructure and infuse “new blood” into PHA’s management structure, including the hiring and termination of PHA executive staff members.⁸ Commissioners Rendell and Wilkerson further explained the Board’s view that the 1995 Manual, as well as the PHA Board verbal instructions, afforded the Authority with discretion in executive-level personnel matters, and that the creation of an Administrative Board pursuant to the 1995 Manual and the drafting of the 1999 Manual was intended to “codify” such discretion in written form. Crucially, there can be no dispute that the 1995 Manual does not preclude discretion in hiring at the management and executive office level.

⁸ The Executive Director confirmed the instructions of the PHA Board in his September 28, 2001 interview with OIG staff. Mr. Temme, the District Inspector General for Audit, was not present, having declined the Executive Director’s request that he attend the interview.

F. PHA Properly Revised the 1995 Manual to Reflect Existing Policies and Procedures

The OIG incorrectly asserts that the Human Resources consultant hired to update the 1995 Manual was the 1999 Manual's "primary author." In addition, because this consultant had previously been employed by the Detroit Housing Commission ("DHC") during the time the PHA Executive Director served as Executive Director of the DHC, the OIG infers that the Executive Director was somehow ultimately responsible for the revisions to the 1995 Manual, and in particular, the sections of the 1999 Manual providing for the exercise of discretion in executive-level personnel matters.

Regrettably, the OIG once again refuses to acknowledge that the PHA Board was fully aware of the authority granted to the Executive Director to exercise discretion in executive-level personnel matters upon his hiring in 1998, and that the 1999 Manual codified that discretion. Further, the inference that the Executive Director somehow controlled the revisions to the 1995 Manual, and was behind the drafting of the sections addressing the exercise of discretion in executive-level personnel matters is wrong. The OIG fails to recognize that the Executive Director did not formulate the revised policies and procedures. Instead, it is undisputed that the 1999 Manual was a collaborative effort by an Administrative Board that included the above-referenced consultant, Sandra Young, who possessed over 25 years of experience in the employment and human resources fields, Caroline Sistrunk, PHA Director and General Manager of Human Resources, Mark Foley, Esquire, PHA's outside labor counsel, and then-PHA General Counsel, Sharon Weathers. Further, the Draft Memorandum fails to acknowledge that a draft of the revised policies and procedures was made available to all PHA general managers for review and comment. These general managers included: Michael Leithead, Deputy Executive Director, Linda Staley, General Manager for Operations, Marvin Lotman, General Manager for Finance,

Dan Quimby, General Manager for Major Systems, Miranda Crawford, General Manager for Client Services, and Joseph Daley, the PHA Inspector General. Although many of the comments provided by the general managers to the Administrative Board were verbal, written comments were submitted by PHA Inspector General Daley (Ex. "9"), who stated, in part, that the revisions are a "major improvement over current guidance." Thus, any suggestion that the Executive Director played a significant role in revising the 1995 Manual (either in whole or in part) is simply untrue.

The OIG assertion that the PHA Board was required to formally approve the 1999 Manual is also inaccurate, and again confirms the OIG failure to understand the history and background of the PHA Board role with regard to the 1999 Manual. Accordingly, a brief review of the pertinent history and background is in order:

1. On December 21, 1994, the PHA Board approved the 1995 Manual. See PHA Resolution No. 9302 (Ex. "10").
2. Section 19.0 of the 1995 Manual established an Administrative Board "to provide the mechanism for the Authority to establish and maintain procedures and practices to effectively and efficiently implement and support the Personnel Policies." See 1995 Manual, Section 19.1 (Ex. "11").
3. Pursuant to the 1995 Manual, the Administrative Board requested that the PHA Human Resources Department develop new personnel procedures and practices and codify and improve upon those already in place, including the exercise of discretion in executive-level personnel matters.
4. The Administrative Board carried out its charge to improve the PHA personnel policies via the development and issuance of the 1999 Manual.

5. On December 16, 1999, the PHA Executive Director presented the 1999 Manual to the PHA Executive Committee, a body comprised of the entire PHA Board, for their review. See PHA Agenda of December 16, 1999 Regular Board Meeting (Ex. "12").

6. No resolution by the PHA Board adopting the 1999 Manual was required inasmuch as those policies and procedures were properly created and enacted pursuant to the 1995 Manual.

Any inference or suggestion that the Executive Director operated in an improper and surreptitious fashion in connection with the acceptance of the 1999 Manual and the exercise of discretion in executive-level personnel matters is unfair and not supported by fact. As stated above, the PHA Board was fully aware of the authority it granted to the office of the Executive Director to exercise discretion in executive-level personnel matters, both before and upon the commencement of Mr. Greene's tenure at PHA. It was the Board's intention that the 1999 Manual should codify such discretion. Further, any inference of surreptitious activity fails to recognize that the Executive Director did not formulate the policies and procedures contained in the 1999 Manual.

Finally, the assertion in the Draft Memorandum that "under the 1999 Personnel manual the Executive Director can recruit and promote individuals at his discretion with no accountability, and change the make up of the Head Roster without any checks and balances," is also inaccurate. It goes without saying that all policies and procedures developed and implemented at PHA are subject to the requirements and constraints of federal, state and local law. Indeed, PHA and its employees are accountable on a daily basis for following all applicable laws and regulations. Critically, in this matter the PHA personnel policies and procedures, as well as the actions of its Executive Director, have been found to be in full compliance with the

law by three separate, independent organizations: the PCHR, Kroll Associates, and the OIG itself. Any assertion in the Draft Memorandum regarding a lack of either accountability or “checks and balances” should be stricken.

G. Discretionary Hiring Practices at PHA are Lawful and in Conformity with Federal and State Practice

In September 2001, counsel for the Authority informed the OIG that both the federal government and the Commonwealth of Pennsylvania allow for the hiring of executive level employees (and their assistants) outside of the ordinarily applicable civil service regulations. See September 14, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. “2”). In the Draft Memorandum, the OIG attempts to establish that unlike the Authority Executive and Department Head Roster Policy, corresponding federal and state regulations require multiple levels of oversight and approval by, respectively, either the federal Office of Personnel Management (“OPM”), or the Pennsylvania Civil Service Commission (“CSC”). Regrettably, the OIG efforts in this regard reflect a flawed and incomplete reading of the applicable regulations.

In the federal system, pursuant to 5 C.F.R. § 213.3301, agencies may make Schedule C appointments “upon specific authorization by OPM.” In contrast to what the OIG seeks from PHA, however, 5 C.F.R. § 213.3301 does not provide that the hiring of individuals pursuant to a Schedule C appointment be memorialized by any memoranda or other record of how the employment decision at issue was made. With respect to the “certification” noted in the OIG’s Draft Memorandum, the regulation simply requires certified confirmation that the “position was not created solely or primarily for the purpose of detailing the incumbent to the White House.”

The OIG interpretation of 4 PA.Code §91.4, the Pennsylvania statute addressing executive-level hiring by the Commonwealth, is particularly distressing. At page five of the

Draft Memorandum, the OIG states: “[t]he regulation requires the Director [of the CSC] to recommend approval or denial of the exemption request to the Commission, which will make the final determination of classified services coverage.” Incredibly, in an apparent attempt to mislead readers of the Draft Memorandum, the OIG completely ignores the following provisions of 4 PA.Code §91.4 which address exemptions from CSC approval:

Department heads and deputy Department heads **are automatically exempt and require no Commission approval.** 4 PA.Code §91.4(b)(2)(i) (emphasis added).

Appointing authorities shall identify and notify the Director, in writing, which positions are designated as personal aides or confidential and provide the Director with a copy of the current job description. **Commission approval is not required.** 4 PA.Code §91.4(b)(2)(iii) (emphasis added).

Positions in attorney classifications **are automatically exempt and require no Commission approval.** 4 PA.Code §91.4(b)(2)(v) (emphasis added).

The appointing authority shall identify and notify the Director, in writing, of the professional positions attached to the department head’s office which function as press or public relations, or both, and legislative liaisons, and provide the Director with a copy of the current job description for each position so identified. **Commission approval is not required.** 4 PA.Code §91.4(b)(2)(vii) (emphasis added).

At most, 4 PA. Code §91.4 requires the appointing authority to place the CSC on notice as to which positions are designated exempt from CSC regulations. The Pennsylvania Code in no way requires appointing authorities to seek prior approval for, or to provide justification or documentation to support, the exemption at issue. As such, the corresponding section of the Draft Memorandum stating that PHA’s executive-level discretionary hiring practices do not conform with corresponding federal and state law should be stricken.

H. The Kroll Report Comprehensively Reviewed Discretionary Hiring of Executive and Department Head Roster Positions at PHA and Found the Practices to be in Compliance with Federal, State and Local Law

With respect to the Kroll Report, the Authority accepts the OIG finding that the report was “fairly comprehensive,” and notes again that during the November 6, 2001 interview of PHA Commissioners Rendell and Wilkerson, the OIG remarked that the Kroll Report is “generally excellent.” Nevertheless, the Authority disputes the finding that the Kroll Report was “relatively silent as to the discretionary hiring of Executive and Department Head Roster positions.”

Pages 12 through 14 of the Kroll Report specifically address the topic of “Executive Discretion.” The report initially reviews the substance and purpose of PHA’s Executive or Department Head Roster Policy, and goes on to compare the same with corresponding federal and state laws and regulations. Importantly, Kroll determined that the Executive or Department Head Roster Policy is “consistent with best practices in government and is in compliance with federal and state laws and regulations governing personnel management.” Kroll also found “no evidence of preferential treatment or discrimination.” See Kroll Report (Ex. “4”).

I. The Administrative Board Did Not Make or Change PHA’s Personnel Policies

As PHA has repeatedly explained to the OIG throughout the 13 month review, the Administrative Board did not make or change the Authority’s personnel policies. Rather, in accordance with the 1995 Manual, the Administrative Board merely developed practices and procedures designed to codify personnel policies which had already been set forth by the PHA Board and utilized over the years by a series of PHA administrations.

As Mr. Greene stated at his OIG interview, at the time of his arrival at the Authority in April, 1998, he was advised that the use of discretion in executive-level personnel matters was a

permitted and long-standing policy at PHA. Similarly, and as explained at the OIG November 14, 2001 interview of PHA Commissioners Rendell and Wilkerson, at the commencement of his tenure as Executive Director, the PHA Board instructed Mr. Greene to exercise “wide latitude” and discretion in his efforts to restructure and infuse “new blood” into the PHA management structure, including the hiring and termination of PHA executive staff members. Given the above, it is clear that the PHA Board had established discretion in executive-level personnel matters as official policy of the Authority well in advance of Administrative Board’s creation, and that rather than creating or changing personnel policy, the Administrative Board’s development of the 1999 Manual constituted an exercise in codification only.

Accordingly, the OIG’s conclusion that the Administrative Board changed or developed personnel policy is incorrect, and should be stricken from the Draft Memorandum.

J. The PHA Board of Commissioners Properly Passed Board Resolution No. 8 Affirming the Approval of the 1999 Personnel Manual

The Draft Memorandum asserts that the PHA Board passage of Board Resolution No. 8 (Ex. “46”), which affirmed the approval of the 1995 Manual, as restated and recodified in the 1999 Manual, constituted an “attempt to justify the Executive Director’s actions.” The OIG position in this regard yet again represents the OIG’s continued failure to understand the history and background of the PHA Board’s acceptance of the 1999 Manual.

As previously discussed above, on December 21, 1994, the PHA Board approved the 1995 Manual. See PHA Resolution No. 9302 (Ex. “10”). Section 19.0 of the 1995 Manual established an Administrative Board “to provide the mechanism for the Authority to establish and maintain procedures and practices to effectively and efficiently implement and support the Personnel Policies.” See 1995 Manual, Section 19.1 (Ex. “11”).

Pursuant to the 1995 Manual, the Administrative Board requested that PHA's Human Resources Department develop new personnel procedures and practices and codify and improve upon those already in place, including the exercise of discretion in executive-level personnel matters. The Administrative Board carried out its charge to improve the PHA personnel policies via the development and issuance of the 1999 Manual.

On December 16, 1999, the Executive Director presented the 1999 Manual to the PHA Executive Committee, a body comprised of the entire PHA Board, for their review. See PHA Agenda of December 16, 1999 Regular Board Meeting (Ex. "12"). No resolution by the PHA Board adopting the 1999 Manual was required inasmuch as those policies and procedures were properly created and enacted pursuant to the 1995 Manual that was formally approved by the PHA Board on December 21, 1994 via PHA Resolution No. 9302 (Ex. "10").

In short, the PHA Board did not pass a formal resolution adopting and/or approving the 1999 Manual because a resolution was unnecessary given its formal adoption of the 1995 Manual and the mechanisms contained therein for the creation of the Administrative Board. Nevertheless, because the OIG had raised concerns as to whether a formal resolution accepting the 1999 Manual was procedurally necessary, the PHA Board passed Resolution No. 8 (Ex. "46") to allay those concerns, and to put to rest any uncertainty that it fully approved of the 1999 Manual and, in particular, the Executive and Department Head Roster Policy contained therein.

The Authority and its Executive Director strongly reject any assertion that the Executive Director operated in an improper and surreptitious fashion in connection with the acceptance of the 1999 Manual when it was first presented to the Board of Commissioners on December 16, 1999, and its formal approval via Resolution No. 8 on October 18, 2001. As discussed at length above, at all relevant times, the PHA Board was fully aware of the authority it granted to the

Executive Director to exercise discretion in executive-level personnel matters, and the 1999 Manual should have been intended to codify that discretion. Further, any inference of surreptitious activity fails to recognize that the Executive Director did not formulate the policies and procedures contained in the 1999 Manual, and constitutes nothing more than the OIG's factually unsupported conjecture.

With respect to the OIG assertion that neither Commissioner Rendell or Commissioner Wilkerson "would confirm that they were aware of the circumstances as to how the 1999 Personnel Manual was revised" or of the express contents of the Executive and Department Head Roster Policy (which the OIG misleadingly characterizes as "the provision that exempted the Executive Director from following the Authority's Personnel policies and procedure"), it is undisputed that the 1999 Manual and the Executive and Department Head Roster Policy are entirely consistent with the PHA Board position that it fully supported granting the Executive Director "wide latitude" and discretion in his efforts to restructure and infuse "new blood" into PHA's management structure, including the hiring and termination of PHA executive staff members. It is similarly undisputed that the 1999 Manual and the Executive and Department Head Roster Policy do not violate federal or state law.

Finally, in the Draft Memorandum, the OIG states: "we cannot assume the Chairman of the Board of Commissioners is speaking for the full Board of Commissioners, especially in light of the fact that the present Board of Commissioners' membership is different from that in December 1999." This statement is both disingenuous and misleading. At the time the OIG interview with Commissioners Rendell and Wilkerson was arranged, the OIG expressly agreed that these Commissioners would be speaking on behalf of the full Board membership. Moreover, the OIG conveniently omits the fact that it never requested the opportunity to

interview the full Board of Commissioners membership from December 1999 to the present. Certainly, it is unfair to blame the Authority for the OIG's slipshod and incomplete investigative methods.

K. PHA Hired and Promoted the Questioned Individuals in Conformity With the Authority's Personnel Policies and Procedures

After reviewing 46 personnel files selected from a sample of 321 PHA employees hired between April 1998 and February 14, 2001, the OIG concluded that in 11 cases the PHA Executive Director "deviated from the Authority's standard personnel policies and procedures" concerning the hiring and/or promotion of these 11 individuals. PHA vigorously disputes any finding that the Executive Director violated any Authority personnel policy and/or procedure during his tenure at PHA, and request that this determination be stricken from the Draft Memorandum. To the contrary, at all times, the Executive Director, as well as PHA, have scrupulously complied with Authority policies and procedures. In addition, as the OIG itself has determined, both the personnel policies and procedures in effect at the Authority during the relevant time period, and the Executive Director's "management style," did not violate any applicable laws or regulations.

With respect to the specific examples of "questionable" hires and/or promotions identified in the Draft Memorandum, PHA responds as follows:

- General Manager of Housing Operations: PHA has provided the OIG with ample reasons for the hiring and promotion of this individual on numerous occasions. See Carl R. Greene Interview Memorandum (Ex. "13"). PHA also provided the OIG with a copy of the individual's employment application and records application. See September 25, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "14"). In summary, in 1999, PHA commenced a search for an individual to serve as the General Manager of Housing

Operations. In furtherance of the search, PHA retained an executive placement firm, Gans, Gans & Associates, Inc. ("Gans"), to engage in an extensive search for a qualified individual to fill the position. See Greene Interview Memorandum (Ex. "13"). PHA previously provided the OIG with the job posting and other materials from Gans relating to the search for this position. See October 22, 2001 letter from James J. Eisenhower, Esquire to [REDACTED] Auditor (Ex. "15"). Contrary to the OIG's assertion, fair and open competition for the position did occur. Gans conducted a nationwide search for candidates to fill the position in question, including active recruitment at the top 80 housing associations around the country. Gans, however, was ultimately unable to find a candidate to accept the General Manager of Housing Operations position. Reportedly, numerous experienced individuals turned down the opportunity because of the impending end of the Rendell administration and because PHA could not offer an employment contract. See August 27, 1999 Facsimile Memorandum from George Wright-Anderson to Carolyn Sistrunk (Ex. "16").

Subsequently, PHA determined that conventional housing and scattered site housing were sufficiently different as to require separate managers for each. Hence, the General Manager of Housing Operations position was divided into two jobs: General Manager for Scattered Sites and General Manager for Conventional Sites. On August 13, 1999, the individual at issue was appointed General Manager for Scattered Sites. The job posting sought candidates with a college degree and ten years of senior management experience. See Position description (Ex. "17"). Although the individual did not have these credentials, PHA's waiver of education and experience requirements was permitted under existing practices and procedures.

Moreover, there was ample basis for waiving the requirements for the individual in question. PHA has a policy of hiring residents, and federal regulations, specifically Section 3 of

the Housing and Urban Development (HUD) Act of 1968, as amended, encourage the placing of residents into management positions. See Greene Interview Memorandum (Ex. “13”). The individual in question had lived in public housing her entire life. She had twenty-five years’ experience as a resident advocate. See Greene Interview Memorandum (Ex. “13”); see also August 19, 1999 PHA Press Release (Ex. “18”); see also August 18, 1999 letter from Carl R. Greene to Editor, *Philadelphia Inquirer* (Ex. “19”). She headed a group whose primary concern was the improvement of residents’ quality of life, the very area covered by the vacant position. She was familiar with the applicable rules and policies. See Greene Interview Memorandum (Ex. “13”). The PHA Board of Commissioners had observed the subject individual’s work product before her hire, as well as her ability to interact effectively with PHA residents. See Greene Interview Memorandum (Ex. “13”). As reported by several newspapers, Commissioners Rendell and Wilkerson supported the hire. See August 18 and 22, 1999 *Philadelphia Inquirer* articles (Ex. “20”).

- Administrative Assistant 2: PHA has previously explained to the OIG that this hire was consistent with PHA policies and practices. See May 11, 2001 letter from James J. Eisenhower, Esquire to ██████████, Auditor (Ex. “21”). The OIG failure to present PHA’s position on this hire is unfair and misleading. Contrary to the OIG’s assertion, there was a job posting for this position. See Greene Interview Memorandum (Ex. “13”). The job posting stated that a B.S. degree was necessary, but both existing practices and PHA personnel policies and procedures allowed the Authority to waive such requirements. PHA’s decision to promote this individual to a senior administrative officer position was likewise consistent with Authority personnel policies and procedures.

PHA's Human Resources department initially interviewed the subject individual as an Administrative Assistant 1, but because of her qualifications, she was hired as an Administrative Assistant 2. She was preliminarily interviewed by a PHA Human Resources administrator, and the notes from that interview were provided to the OIG. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED] Auditor (Ex. "21"). The Administrative Assistant positions were advertised, but the advertisement did not designate to which department the Administrative Assistant would report. Panels of interviews were conducted and those individuals selected were placed in several departments according to need. After the individual in question was interviewed by the PHA human resources administrator, the individual was referred to the Executive Office for an interview with the Executive Director. Pursuant to PHA policies and procedures, the individual was hired as an Administrative Assistant 2 to the Executive Director.

Sometime in early 1999, it became evident that Authority Administrative Assistants needed managers. As such, PHA created the Senior Administrative Officer position to manage the Administrative Assistants. In the Executive Office, PHA determined that the individual in question was the most senior and qualified person to fill the new position of Senior Administrative Officer. The individual in question did not seek a promotion for this position, therefore, no documents reflecting a request for a promotion exist. PHA approached the individual about this position, and she accepted the position. Under the authority of PHA's policies and procedures, she was hired as Senior Administrative Officer.

- Media Specialist: The OIG is splitting hairs by pointing out that this individual was promoted within two months, instead of three. In fact, the hire and reclassification of this individual was entirely compliant with PHA personnel policies and practices. The individual was hired as a media specialist, and at the time of hire, the Executive Media Specialist position

did not exist. The individual was more than qualified for the media specialist position. She had extensive experience as a newspaper reporter for the Philadelphia Tribune, covering such topics as City Hall, City Council meetings, and the PHA. A copy of her resume was previously provided to the OIG. See July 24, 2001 letter from James J. Eisenhower, Esquire to [REDACTED] Auditor (Ex. "22"). She was not promoted to the position of Executive Media Specialist; rather, she received a different salary and title because she assumed additional job responsibilities. As Mr. Greene explained in his interview with the OIG, he had never met this individual before she was hired by PHA. See Greene Interview Memorandum (Ex. "13").

- General Manager of Contract Administration: The OIG mischaracterizes this individual's situation and unfairly fails to present PHA's position on this issue. See September 20, 2001 letter from James J. Eisenhower, Esquire to [REDACTED] Auditor (Ex. "23"); see also Greene Interview Memorandum (Ex. "13"). PHA also notes that the OIG never interviewed the individual in question, and that her hiring date is outside of the period set for review by the OIG. As such, this section should be removed from the Draft Memorandum in its entirety.

This individual was initially hired as a contracts administrator through a fair and open competitive process. As time went by, the individual assumed additional duties, including managing and administering contract development and working on revitalization efforts. She eventually was promoted to General Manager of Contract Development on January 10, 2001, and her raise correlated with that promotion and the additional duties she assumed. She now holds two significant positions at PHA, overseeing both Hope VI initiatives, and construction and demolition projects. Her salary increase in May, 2001 put her in line with the salaries of comparable executive general managers in her field.

- Administrative Officer: As PHA has explained to the OIG previously, this hire did not violate PHA policies or practices. A copy of the individual's resume was given to the OIG during the review. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED] Auditor (Ex. "21"); see also July 24, 2001 letter from James J. Eisenhower, Esquire to [REDACTED] Auditor (Ex. "22"). This individual was employed as a typist by the City of Detroit before she joined the Detroit Housing Commission (DHC). She retained the title of typist when she transferred to the DHC. As the OIG was told, her title at the DHC did not reflect her education and prior work experience in the private sector, or her job responsibilities at DHC, but resulted from the DHC requirement that new employees start in the lowest entry-level job classification (which in this case was "typist.") See Greene Interview Memorandum (Ex. "13"). In fact, in her final position at DHC, which was not listed on her resume, the individual's duties were similar to the duties of an administrative officer at PHA, including but not limited to preparing activity reports, preparing for bi-weekly commission meetings, serving as a liaison to city officials, and preparing various correspondence. See July 24, 2001 letter from James J. Eisenhower, Esquire to [REDACTED] Auditor (Ex. "22"); see also September 20, 2001 letter from James J. Eisenhower, Esquire to [REDACTED] Auditor (Ex. "23"). The OIG failure to note these facts in the report reflects the OIG's preconceived, inaccurate notions. Unlike at PHA, employees at DHC are employees of the City of Detroit. As a result, DHC salaries are significantly lower than salaries for PHA counterpart positions. Thus, the OIG is comparing apples to oranges.

As the OIG was informed, this individual served in the Executive Director's office at DHC but he did not know her. See Greene Interview Memorandum (Ex. "13"). He did not hire or promote this individual when she applied for a position with PHA. In fact, the individual

followed standard procedures to apply for and obtain a position at PHA. To apply for a position, she sent a copy of her resume to PHA with a cover letter. As reflected in her resume, a copy of which was provided to the OIG, the individual was qualified for the position of administrative officer at PHA. The resume reflects ten years of experience in administration. See July 24, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "22").

The Draft Memorandum notes that the individual was recommended for employment by a PHA manager with whom she worked at the DHC. Specifically, the General Manager of Community Relations and Social Services recruited the individual. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "21"). She was hired as an Administrative Officer, and she was one of the very first persons to hold that position. The Administrative Officer position was previously classified as an Administrative Assistant 3, Executive Assistant or Executive Secretary, and PHA reclassified the position. The job announcements and advertisements for this position were previously provided to the OIG. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "21").

Several months after the individual was hired, the position of Relocation Manager became vacant and there was an immediate need to fill the vacancy. PHA believed that the individual in question was best suited to fill that need temporarily. For this reason, no competitive hiring process took place. Thus, the individual was temporarily promoted to Relocation Manager. The PHA policies and procedures authorized PHA to waive the probationary period, which it did. Over time, it became apparent that she was not the right fit as Relocation Manager. She was subsequently returned to the Administrative Officer position.

During the time the individual served as Relocation Manager, the salary range of Administrative Officers changed to reflect the type of work they were assigned. PHA assigned

Administrative Officers to assist General Managers, and their salaries were increased to reflect the additional responsibilities and qualifications needed for that position. All Administrative Officers salaries were increased because of this change. In addition, during the time the individual served as Relocation Manager, Administrative Officers received cost of living increases. Accordingly, when the individual returned to the Administrative Officer position, her salary was increased from the amount of her initial hire date to reflect these changes.

The OIG asserts that the position of administrative officer at PHA is a “fairly standard position that would normally be filled from a local source.” The OIG fails to cite any basis for this assertion, and we have found none. In addition, the OIG is not in a position to determine what constitutes “normal” in this context and, in any event, lacks the authority and jurisdiction to do so.

- Executive Assistant to Executive Director: PHA has explained to the OIG its position with regard to this individual. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. “21”). In late 1998, PHA’s legal department conducted interviews for a senior counsel position. The interview process produced six viable candidates, but there were only three available senior counsel positions. This individual was one of those six candidates. At the same time, a need arose in the Executive Office for attorneys to address special projects that could not be handled by staff attorneys. PHA created the position of Executive Assistants to the Executive Director to meet this need. The Acting General Counsel picked three of the six candidates for senior counsel positions, and the Executive Director selected the other three qualified candidates to serve as Executive Assistants. PHA made the notes from these interviews available for the OIG’s review. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. “21”). The individual in question

was one of the three Executive Assistants. She subsequently worked on several special projects, including a project to obtain funding for job training for PHA residents. She was selected to work on those special projects pursuant to PHA policies and procedures.

In addition, another need arose when the General Manager for Residential Affairs position became vacant in early 1999. The Executive Director, under the authority of PHA's policies and procedures, temporarily placed the individual in question in that executive position. During the time that she served in that temporary position, PHA employed the executive placement firm of Gans, Gans & Associates, Inc. ("Gans") to conduct a search to fill that vacancy permanently. The individual subsequently returned to her position as Executive Assistant to the Executive Director once the General Manager for Residential Affairs position was filled.

- Deputy General Counsel: PHA has explained to the OIG its position with regard to this individual. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "21"). Sometime in 1998, PHA became aware that their current General Counsel needed assistance. The position of Deputy General Counsel was advertised in the newspapers, and applicants submitted their resumes for this position. PHA conducted several interviews for this position. The individual identified in Appendix B to the Draft Memorandum had worked as corporate counsel in Detroit's law department, and was one of the individuals considered for this position. She was hired as Deputy General Counsel. Subsequently, the general counsel position became vacant, and the individual was placed in the Acting General Counsel position. The position was advertised during this time in newspapers. A copy of the newspaper advertisement was made available for the OIG's review. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "21"). In addition, the executive placement firm of Gans,

Gans & Associates, Inc. ("Gans") conducted a search for the general counsel position. PHA did not identify another qualified individual to replace the general counsel at that time, and thus the individual remained as General Counsel.

- Program Manager: PHA has explained to the OIG its position with regard to this individual and provided the OIG with a copy of her job description. See May 11, 2001 letter (Ex. "21"); see also July 24, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "22"). PHA created the position of Program Manager in its police department to oversee civilian investigations. This individual worked in the Philadelphia District Attorney's Office as a law enforcement community liaison. PHA hired her because of this unique experience and her educational qualifications. Application letters previously provided to the OIG evidence other applicants for both positions and refer to a job advertisement of September 12, 1999. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "21"). Job announcements for these positions were also provided to the OIG. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "21"). As the job description reflects, the Program Manager position required an employee to be responsible for oversight of Investigations, Section 8 Program Compliance, and Termination Hearing. The employee also was responsible for planning, developing, establishing, and maintaining effective research and planning models that addressed the concerns of both the PHA and the respective resident and community groups that the PHA serves. Applicants responding to the job announcements were considered for both the Program Manager and the Supervisory Program Manager. The individual in question was considered with this group of applicants, which included at least eight other individuals.

- Technical Aide: As previously explained to the OIG, the hiring and promotion of this individual was in accordance with PHA personnel practices and policies. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. “21”). Mr. Greene played no role in this individual’s hire or promotion. See Greene Interview Memorandum (Ex. “13”). After the individual was employed by PHA as a college intern, she was hired into the PHA technical aide program, which is exempt from PHA’s personnel policies and practices, including the employee probationary period. One of the goals of the technical aide program at PHA is to bring in people who can learn quickly and promote them within six to eight months. See Greene Interview Memorandum (Ex. “13”). It is essentially a tool to recruit and develop bright young people for management positions. As a technical aide, the individual in question demonstrated skills above those of her peers and the Executive Office recognized her qualifications. The individual was given a pay raise because she began performing a new, more demanding job. See Greene Interview Memorandum (Ex. “13”). When her predecessor moved to another position, the Executive Director asked Human Resources for candidates to fill the position, but he did not personally interview the individual in question. See Greene Interview Memorandum (Ex. “13”). Notably, the individual in question receives approximately one-half the salary that her predecessor received, thereby resulting in a cost savings to the Authority. See Greene Interview Memorandum (Ex. “13”).

- Human Resource Manager: PHA’s response is set forth in Sections Q and R below.

L. PHA Properly Quantified the Number of Executive Hires

PHA disagrees with the OIG statement that PHA and/or its outside counsel failed to “quantify” the number of executive hires per the OIG’s request, or otherwise failed to respond to

the OIG request for personnel information and files in a complete and timely manner. In early February, 2001, the OIG requested a list of personnel hired since April 1, 1998 and a list of individuals who left PHA during that same period. See February 7, 2001 letter from Tina Schimony, Senior Auditor to Marc Woolley, PHA Human Resources Department General Manager (Ex. "24"). PHA provided the requested information in late February, 2001. See February 14, 2001 letter from Marc Woolley, PHA Human Resources Department General Manager, to Tina Schimony, Senior Auditor (Ex. "25"), and February 15, 2001 e-mail message from Tina Schimony, Senior Auditor to Marc Woolley, PHA Human Resources Department General Manager (Ex. "26"). Subsequently, PHA and its outside counsel provided updated lists and other information requested by the OIG, and made personnel files available as requested. See Chronology (Ex. "27"). In December, 2001, PHA provided the OIG with the executive roster it requested. See December 7, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "28"). When the OIG requested justification for each exercise of PHA's discretion in hiring or promotion, however, PHA correctly stated that there is no requirement for such justification under PHA's rules, or federal, state and local law. Nonetheless, PHA did provide the OIG with an oral explanation for each of the "questionable" hires and promotions identified by the OIG.

The OIG states that PHA's personnel files were "unorganized, incomplete and not centrally located." This statement is not accurate. The process of document production was time consuming not because the files were in disarray, but because many of the files were in PHA warehouses, and outside counsel had to retrieve them. As the OIG acknowledges, PHA retained outside counsel to facilitate PHA's response to OIG requests for information and files.

The OIG revelation that personnel files could be better maintained is not new to PHA. Kroll Associates issued this finding months ago in its Report. See Kroll Report (Ex. “4”). In addition, Kroll subsequently issued a management improvement plan that PHA is now implementing. See Kroll Accomplishments and Work Plan to Implement HR BUD Review Recommendations (Ex. “29”). PHA provided the OIG with a copy of this plan. See November 16, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. “30”). Among the remedial measures that PHA is taking to address records management issues is the installation of a new software program to improve record keeping. In addition, as PHA previously informed the OIG, personnel records and other documentation will now be kept on site instead of in a warehouse. See Greene Interview Memorandum (Ex. “13”). The OIG failure to describe such remedial measures in the Draft Memorandum is unfair and misleading.

The OIG assertion that PHA discretionary employment decisions result in a lack of accountability on the part of the Executive Director and fail to offer him “any defense against the allegations of favoritism or improper influence” is inflammatory and unfair. The OIG found no evidence of favoritism or improper influence in PHA hires and promotions, and the report should make an explicit finding of the same.

In addition, Kroll Associates conducted a much more comprehensive review of the Authority’s Human Resources functions than the OIG and made a specific finding that PHA’s hiring and promotion practices were not motivated by improper considerations and that appropriate policies and procedures govern the Authority’s hiring practices. See Kroll Report (Ex. “4”). PHA provided the OIG with a copy of this report on the day the report was released. See September 27, 2001 letter from James J. Eisenhower, Esquire to [REDACTED] Auditor (Ex. “31”).

Lastly, PHA successfully defended itself against identical charges brought before the Philadelphia Commission on Human Relations ("PCHR"). See April 26, 2001 letter from Joseph Farley, PCHR Compliance Supervisor, to Jill Weitz, Esquire (Ex. "3"). Based on a complaint brought by a former PHA employee, both the PCHR and PHA's outside counsel in the matter conducted a full and comprehensive investigation of alleged favoritism or improper influence in hiring and promotions. See PCHR Complaint packet (Ex. "32"). The investigations found no substantiation for the charges. See April 26, 2001 letter from Joseph Farley, PCHR Compliance Supervisor, to Jill Weitz, Esquire (Ex. "3"). A copy of the PCHR's findings was provided to the OIG. See July 3, 2001 facsimile transmission confirmation sheet (Ex. "33"); see also Greene Interview Memorandum (Ex. "13"). PHA also gave the OIG access to the outside counsel who represented PHA in the matter. The Draft Memorandum failure to mention these facts and circumstances is unfair and misleading.

M. The Executive Director's Management Style Did Not Violate Federal or State Laws

The Authority is pleased that the Draft Memorandum confirms that the Executive Director's management style did not violate any laws, rules or regulations. As there is no corroboration of the allegations in the anonymous complaint regarding Mr. Greene's management style, the Draft Memorandum should make that explicit finding. With regard to the OIG's selection of nine current and former employees to solicit opinions on the Executive Director's management style, it is unclear how the OIG selected these nine individuals. PHA does not know the identity of these individuals and thus cannot determine whether they are a representative sample. PHA's current management team, comprised mainly of white males, has remained relatively stable. PHA has made these individuals available to the OIG for interview,

but the OIG declined to do so. This section of the Draft Memorandum should be stricken in its entirety.

N. PHA Did Not Violate the Conflict of Interest Section of the ACC

PHA vigorously contests the OIG finding that PHA violated Section 19 of the Annual Contributions Contract (“ACC”) with HUD by hiring the daughter of a member of the PHA Board of Commissioners. Moreover, the section heading itself is inflammatory, inaccurate and misleading and should be stricken.

As PHA has explained to the OIG, in 1999, the PHA Board of Commissioners waived the conflict of interest provision of the ACC for this individual, albeit without a formal Board resolution. There is no question that the ACC permits the Board to waive the conflict of interest provision for good cause so long as federal and state law permit such a waiver. PHA has conceded all along that its legal counsel should have advised the Board to formalize its waiver through a resolution. However, the fact that the Board did not pass a resolution formalizing the waiver does not affect its validity.

Each member of the Board was fully apprised of the relationship between the subject employee and the Board member before the individual was hired by PHA in August, 1999. See Board of Commissioner Information Packet (Ex. “34”). There was no attempt to “hide the ball.” PHA previously provided the OIG with a copy of the informational package that was provided to the Board in August, 1999, along with meeting minutes and related materials. See October 19, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. “35”). The Board tacitly approved the hire at that time, and Commissioners Rendell and Wilkerson made public statements in support of the individual. See Newspaper articles (Ex. “20”). The HUD Field Office was likewise aware of the situation before the individual was hired, the Board passed a formal resolution reaffirming its waiver, on November 15, 2001. See Board Resolution No. 10

(Ex. "36"). Thus, any technical violation of the ACC has been rectified and it is no longer an appropriate issue for the Draft Memorandum to address.

With regard to the individual's qualifications for the PHA position, PHA's response is set forth in Section K, above. PHA must point out, however, that the individual never agreed to sign a statement stating that she had obtained a high school diploma, as the OIG claims. The individual consistently refused to sign such a statement, in as much as she was the only individual to receive such a request from the OIG. Nonetheless, the individual has consistently stood by the statement she made in her interview with the OIG that she did obtain her high school degree.

O. The Chairman of the PHA Board Did Not Claim Responsibility for Violating the ACC

The OIG's statement that the Chairman of the PHA Board of Commissioners "claimed responsibility for violating the ACC" is wholly inaccurate and misleading. Rather, in his interview with the OIG, Commissioner Rendell merely observed that in August, 1999 the PHA Board did not know to pass a resolution formalizing its waiver of the ACC conflict of interest provision. Moreover, as Commissioner Wilkerson stated in her interview with the OIG, PHA General Counsel should have advised the Board to pass a resolution, but counsel did not do so. This section of the Draft Memorandum should be deleted.

P. The November 15, 2001 Board of Commissioners Resolution Affirming Approval of the 1999 Personnel Manual was Appropriate and Proper

On October 18, 2001, the PHA Board approved by resolution the 1999 Human Resources Manual of Policies and Procedures. Subsequently, at the November 6, 2001 interview of Commissioners Rendell and Wilkerson, the OIG expressed concern that when the Board passed the October 18, 2001 resolution, the three Board Members voting included the member whose

daughter was hired into the General Manager of Housing Operations position. According to the OIG, this constituted a conflict of interest since the 1999 Manual purportedly allowed for the daughter being hired.⁹

To allay the OIG's concern, the PHA Board elected to pass an additional resolution in November 2001 which affirmed the October 2001 resolution and its approval of the 1999 Manual. This resolution was passed by three Commissioners, and did not include the Commissioner whose daughter the Authority hired. The passage of the November 15, 2001 resolution was appropriate and proper, and took place solely to insure that all conflict of interest concerns were appropriately addressed.

Q. The Recruitment of the Human Resources Consultant to Revise the Personnel Manual Was Proper

PHA objects to the heading for the corresponding section of the Draft Memorandum as inflammatory and misleading. There are no "questionable circumstances" regarding the human resources consultant in question. PHA has fully explained to the OIG the hiring and promotion of this individual. Moreover, the Draft Memorandum mistakenly states that the Executive Director hired this individual as a consultant and later as the General Manager of Human Resources. This statement is inaccurate. It was PHA and not the Executive Director who hired and promoted the individual.

As PHA previously explained to the OIG, the individual in question was hired as a consultant and not a full-time PHA employee because she had retired from her human resources position with the DHC and did not wish to relocate to Philadelphia with her family. As

⁹ The OIG's position in this regard is flawed. Inasmuch as the individual in question was hired for the General Manager of Housing Operations position in August of 1999, the 1999 Manual, given its December 1999 effective date, was inapplicable.

consultants are not PHA employees, they are exempt from the competitive hiring requirements. There is no question, however, that the individual was qualified for the position, which ultimately included serving on the Administrative Board charged with revising the PHA personnel policies and procedures. At the time of her hire, she had over 25 years of experience in the employment and human resources fields.

With regard to the costs associated with the individual's employment as a consultant, PHA conducted a full internal investigation into the matter. PHA provided the OIG with a copy of its report. See September 6, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "37"). An error was made in that the individual was overpaid under the wrong contract. As the OIG is aware, PHA immediately rectified the error and all federal funds relating to her contract as a consultant have been reimbursed. See September 25, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "45") see also October 18, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "38"). Rather than applauding the Authority's proactive and prompt efforts, however, the OIG instead insists on improperly revisiting these issues. Since the issues have been properly resolved, all references thereto in the Draft Memorandum should be deleted.

The OIG claim that a contradiction exists regarding the circumstances of the individual's hire is baseless. The Executive Director stated that while he knew the individual and the quality of her work from his tenure at the DHC, and approved her to serve on the PHA Administrative Board, he did not know the details of how she was recruited and hired as a consultant to PHA. See Greene Interview Memorandum (Ex. "13"). As the OIG is surely aware, it is typical for the human resources department of an organization as large as PHA to handle the details of recruiting and hiring potential employees and consultants. The OIG's twisting of these

straightforward facts reveals an unfortunate tendency toward making unsupported, sensational assertions.

R. PHA Properly Appointed the Consultant as the General Manager of Human Resources

After serving as a consultant, the individual in question was appointed to the full-time position of General Manager of Human Resources. PHA came to the conclusion that the individual should be hired on a full-time basis because it questioned whether she could act as a representative of the Authority without full-time employee status. See May 11, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "21"). Notably, all parties, including the individual in question, understood that she would fill the position on a temporary basis only. While the individual held the General Manager of Human Resources position, PHA through Gans searched for a permanent replacement.

Contrary to the OIG assertion to the contrary, this individual did not violate the Authority Residency Policy, which provides that "[an] applicant must be a resident of the City of Philadelphia at the time of application or must be able to establish residency prior to appointment." The Residency Policy clearly provides that the residency requirement may be waived "for a period of one (1) year." See Residency Policy (Ex. "39"). Here, the individual was employed by the Authority for less than a year.

With regard to the costs associated with the individual's appointment as General Manager of Human Resources, PHA disagrees that any monies were improperly paid to the individual. Appendix A first lists as a "questioned cost" those amounts relating to the individual's move back to Detroit (i.e. \$2,163.00). This amount was properly paid to the individual because PHA had not paid for her move to Philadelphia as a management level employee, as provided under the PHA Relocation Policy (Ex. "40"); see also September 20, 2001 letter from James J.

Eisenhower, Esquire to [REDACTED], Auditor (Ex. "23"). Payment of moving expenses is customary for management level employees in most government and corporate offices. The Authority is unaware of any HUD rules or regulations prohibiting this practice.

The next questioned cost concerns temporary housing expenses for June and July, 2000 totaling \$3,031.00. This amount was properly paid to the individual because she continued to perform substantial work with PHA during that time. See September 20, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "23"). Similarly, the retroactive pay adjustment made, in the amount of \$2,237.00 was properly paid to the individual because she performed significant work for PHA and assisted substantially on the projects with which she was involved. PHA compensated her for the work that she was completing. See September 20, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "23"). Finally, the questioned house hunting expenses were paid in accordance with PHA's relocation policy. See Relocation Policy (Ex. "40").

With respect to the questioned costs involving airfare paid for the individual to travel between Detroit and Philadelphia (in the amount of \$2,001.00), and the purportedly "extra vacation" paid to the individual (in the amount of \$3,780.00), the Authority first notes that OIG has not provided any detail (such as dates, number of airline tickets, number of extra vacation days etc.) as to how it reached its conclusion that such costs were improperly paid. Without such detail, it is difficult for the Authority to intelligently respond. Nonetheless, it appears that the airline expenses were properly paid inasmuch as they were incurred in connection with permitted relocation activities. In addition, PHA believes that the questioned "extra" weeks of "vacation" were properly paid inasmuch as they constituted reimbursement to the individual in question for unused vacation, sick time, and personal days.

PHA also disputes that the individual in question, PHA, or the Executive Director acted improperly by revising the PHA personnel policies through the Administrative Board. The allegations contained in the Draft Memorandum are unfair and scurrilous. There is no evidence that Mr. Greene or PHA gave preferential treatment to any employee because Mr. Greene had previously worked with them. Mr. Greene advised the OIG that he was not involved in the details of PHA's hire of the subject individual. In fact, the Draft Memorandum makes no such finding yet it repeatedly suggests improper activity in the narrative. The OIG assertion that the individual was the "author, beneficiary, and manager of the 1999 Personnel Policy" is also inaccurate. Instead, as PHA has previously explained to the OIG, the 1999 Manual was a collaborative effort of an Administrative Board that included the PHA Director and General Manager of Human Resources; PHA's outside labor counsel; and the then-PHA General Counsel. See June 6, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "41"). Further, a draft of the revised policies and procedures was made available to all PHA general managers for review and comment, and a meeting was later held by the Authority's outside counsel to go over any such comments. See October 29, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "42"). These general managers included the Executive Deputy Director; the General Manager for Operations; the General Manager for Finance; the General Manager for Major Systems; the General Manager for Client Services; and the PHA Inspector General. Although many of the comments provided by the general managers to the Administrative Board were verbal, written comments were submitted by the PHA Inspector General, who stated, in part, that the revisions were a "major improvement over current guidance." PHA previously provided the OIG with a copy of the written comments. See October 29, 2001 letter from James J. Eisenhower, Esquire to [REDACTED], Auditor (Ex. "42");

see also Daley comments, (Ex. “9”). There is absolutely no evidence of any wrongdoing, or that the subject individual or Mr. Greene improperly derived personal benefit from the individual’s involvement in revising the 1999 Manual.

S. PHA Personnel Policies and Procedures are Consistent with those Employed by Other Housing Authorities Throughout the United States

During the course of the instant review, the OIG has stated that PHA’s personnel policies and procedures are not consistent with so-called “best practices.” Notably, the OIG has never shared with the Authority what it contends are best practices relative to housing authority personnel policies and procedures. Regardless, the PHA personnel policies and procedures do comply with best practices inasmuch as the policies and procedures are substantially similar to those employed by other housing authorities across the country.

For example, the District of Columbia Housing Authority (“DCHA”) exempts certain management-level and related employees from strict compliance with the DCHA’s Personnel Policy and Procedure Manual. The exemption provision states:

DCHA employees shall be divided into the following categories of employees:

- a. Exempt Employees: Personnel responsible for execution of policy. They may be Department Directors or individuals in charge of special phases of the Housing Authority’s Operations. Also included are key advisors, personal staff, and those individuals who work for and/or provide direct support to the Executive Director. Such employee serve at the pleasure of the Executive Director.

See DCHA Personnel Policy and Procedure Manual, Section 7102.1 (Ex. “43”).

Similarly, the Housing Authority of Baltimore City’s General Recruitment and Selection Rules state that the Executive Director:

[A]ppoints the Deputy Executive Director who appoints the Associate Deputy Directors (ADDs) and Division Directors.

Authority for appointments to positions below Division Directors is delegated to the appropriate ADDs or Division Directors who may in turn delegate such authority to subordinates. All selected applicants are subject to the approval of the Deputy Executive Director **with concurrence by the Executive Director.**

See BCHA General Recruitment and Selection Rules (Ex. “44”) (emphasis added).

III. CONCLUSION

After 13 months and the expenditure of significant amounts of taxpayer dollars, the OIG has reached the conclusion that neither PHA or its Executive Director have violated any Federal or State laws with regard to Authority hiring and promotion policies and procedures. Other than this single finding, the remainder of the Draft Memorandum should be stricken as outside OIG jurisdiction, inaccurate, misleading and unfair.

IV. RESPONSE TO OIG RECOMMENDATIONS

- 1A. Any violation of the ACC was merely technical and has been fully rectified. Thus, the issue is not properly raised in the Draft Memorandum and should be stricken.
- 1B. The HUD IG has not identified any violation of law or regulation that supports this Recommendation, and as a result does not have jurisdiction to make the Recommendation. This Recommendation should be stricken from the Draft Memorandum. Moreover, all of the questioned expenses were properly paid to the individual pursuant to applicable law and regulation, and repayment with non-federal funds is not warranted.
- 1C. The HUD IG has not identified any violation of law or regulation that supports this Recommendation, and as a result does not have jurisdiction to make the Recommendation. This Recommendation should be stricken from the Draft Memorandum. Moreover, all of the questioned expenses were properly paid to the individual, repayment with non-federal funds is not warranted.
- 1D. The HUD IG has not identified any violation of law or regulation that supports this Recommendation, and as a result does not have jurisdiction to make the Recommendation. Nor does the HUD IG have jurisdiction over the enactment and implementation of Authority policies and procedures. See Housing Authority of Muskogee, Oklahoma, Congressional Inquiry Regarding Operations, No. 1997-00842-01-02 (Ex. "1"). This Recommendation should be stricken from the Draft Memorandum. Moreover, there is absolutely no evidence to support any disciplinary action against the Executive Director.

- 1E. The HUD IG has not identified any violation of law or regulation that supports this Recommendation, and as a result does not have jurisdiction to make the Recommendation. This Recommendation should be removed from the Draft Memorandum. Moreover, the PHA Board of Commissioners fully intended to vest PHA, and the Executive Director's Office specifically, with the broadest possible discretion in hiring and promoting executive and management level employees within the bounds of the law. PHA also notes that previous regional OIG reviews have acknowledged that "HUD does not dictate the hiring, evaluation, and termination policies of a public housing authority." See Housing Authority of Muskogee, Oklahoma, Congressional Inquiry Regarding Operations, No. 1997-00842-01-02 (Ex. "1").
- 1F. The HUD IG has not identified any violation of law or regulation that supports this Recommendation, and as a result does not have jurisdiction to make the Recommendation. Nor does the HUD IG have jurisdiction to recommend that the PHA Board of Commissioners attend "mandatory training" regarding their responsibilities and/or the ACC provisions. This Recommendation should be removed from the Draft Memorandum. Moreover, the Draft Memorandum contains no finding that supports this Recommendation.

V. **RESPONSE TO APPENDICES A AND B**

For the reasons set forth above, Appendices A and B to the Draft Memorandum are unfair, inflammatory, and misleading, and should therefore be stricken in their entirety from the Draft Memorandum.

Distribution

Honorable Edward G. Rendall, Esq., 123 South Broad Street, Suite 1827, Philadelphia, PA 19102

Mr. James Eisenhower, III, Ballard Spahr Andrews & Ingersoll, LLP, 1735 Market Street, 51st Floor, Philadelphia, PA 19103-7599

Director, Office of Public Housing, Mid-Atlantic, 3APH

Secretary's Representatives

Audit Liaison Officer, 3AFI

Acquisitions Librarian Library, AS (Room 8141)

OIG Key Principal Staff Listing

HUD Key Principal Staff Listing

The Honorable Fred Thompson, Chairman, Committee on Governmental Affairs, 340 Dirksen Senate Office Building, US Senate, Washington, DC 20510

The Honorable Joseph Lieberman, Ranking Member, Committee on Governmental Affairs, 706 Hart Senate Office Building, US Senate, Washington, DC 20515

Ms. Cindy Fogleman, Subcommittee on Oversight and Investigations, Room 212, O'Neil House Office Building, Washington, DC 20515

Director, Housing and Community Development Issue Area, US GAO, 441 G Street, N.W., Room 2474, Washington, DC 20548, Attn: Stanley Czerwinski

The Honorable Dan Burton, Chairman, Committee on Government Reform, 2185 Rayburn Building, House of Representatives, Washington, DC 20515

The Honorable Henry Waxman, Ranking Member, Committee on Government Reform, 2204 Rayburn Building, House of Representatives, Washington, DC 20515

Ms. Sharon Pinkerton, Deputy Staff Dir, Counsel, Subcommittee on Criminal Justice, Drug Policy and Human Resources, B373 Rayburn House Office Building, Wash, DC 20515

Mr. Steve Redburn, Chief, Housing Branch, Office of Management & Budget, 725 17th Street, N.W., Room 9226, New Executive Office Building, Washington, DC 20503

Mr. Andrew R. Cochran, Senior Counsel, Committee on Financial Services, U.S. House of Representatives, 2129 Rayburn House Office Building, Washington, DC 20515

Mr. Armando Falcon, Director, Office of Federal Housing Enterprise Oversight, 1700 G Street, N.W., Room 4011, Washington, DC 20552

Honorable John Street, City of Philadelphia, Office of Mayor, Room 215, Philadelphia, PA 19107

Jonathan A. Saidel, City Controller, Office of City Controller, 1401 JFK Boulevard, 12th Floor, S-1230, Philadelphia, PA 19102-1679