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| Audit Report Number 2006 BO 1010 |
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TO: Donna J. Ayala, Director, Office of Public Housing, Boston, Massachusetts,
Regional Office, 1APH

FROM: John A. Dvorak, Regional Inspector General for Audit, 1AGA

SUBJECT: Boston Housing Authority, Boston, Massachusetts, Used Voucher Program
Funds to Pay State Housing Assistance Program Expenses and Needs to Improve
Its Rent Reasonableness Process

HIGHLIGHTS

What We Audited and Why

We reviewed the Section 8 Housing Choice Voucher program (Voucher program) at the Boston Housing Authority (Authority) as part of our fiscal year 2006 annual audit plan. Our audit objectives were to determine whether the Authority properly used Voucher program funds as required by U.S. Department of Housing and Urban Development (HUD) annual contributions contracts and to evaluate whether rent reasonableness determinations were conducted as required by HUD regulations.

What We Found

The Authority generally administered the Voucher program according to its administrative plan but did not always comply with its annual contributions contracts and HUD requirements. The Authority used Voucher program funds to subsidize state housing programs. It also did not conduct rent reasonableness

determinations according to requirements cited in its administration plan and HUD regulations. These conditions occurred because the Authority had not established or always followed its internal controls to ensure compliance with its annual contributions contracts and HUD regulations.

What We Recommend

We recommend that the director of the Office of Public Housing require the Authority to stop using Voucher program funds to pay for nonprogram costs, implement changes to separate its federal and state leased housing data into two databases, and improve its rent reasonability determinations procedures and the accuracy of unit data in its databases.

For each recommendation in the body of the report without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please also furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

The auditee generally did not agree with our findings, although they have initiated the planning of some corrective actions that should eliminate the conditions noted in this report. The auditee's response, along with our evaluation of that response, can be found in appendix A of this report.

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BACKGROUND AND OBJECTIVES

The United States Housing Act of 1937 established the federal framework for government-owned affordable housing. This act also authorized public housing as the nation's primary vehicle for providing jobs and building and providing subsidized housing through the Department of Housing and Urban Development (HUD). HUD disperses funds to public housing agencies under annual contributions contracts to provide subsidy payments or housing assistance payments for participating low-income families.

In addition, the United States Housing Act of 1937, as amended by the Quality Housing and Work Responsibility Act of 1998, authorizes operating subsidies for public housing agencies administering HUD low-income housing programs. HUD provides annual operating subsidies, through the Public Housing Operating Fund program, to help public housing agencies pay some of the cost of operating and maintaining public housing units. The Quality Housing and Work Responsibility Act of 1998 also created the Housing Choice Voucher program (Voucher program). The Voucher program allows public housing authorities to pay HUD subsidies directly to housing owners on behalf of the assisted family.

HUD contracts with the Boston Housing Authority (Authority) for the administration and management of 11,372 low-income units through annual contributions contracts. As of March 31, 2006, there were 10,789 housing choice voucher units under lease.¹ The annual contributions contracts require the Authority to follow appropriations laws, public housing notices, and the Authority's administrative plan.

The Authority is under the control of an administrator, who is appointed by and serves under the direction of the mayor of Boston pursuant to Chapter 88 of the Acts of 1989. The Authority does not have a board of commissioners but has an executive committee appointed by the administrator. This committee manages and controls the day-to-day operations of the Authority. The executive committee also makes recommendations to the administrator regarding the acceptability and/or appropriateness of procurement matters, funding documents, agency policy statements and other matters requiring the administrator's review and acceptance, and/or execution.

Our overall audit objective was to determine whether the Authority employed acceptable management practices to effectively and efficiently administer its Voucher program while creating decent, safe, and sanitary housing opportunities in compliance with its annual contributions contracts and HUD requirements. The specific audit objectives were to determine whether the Authority properly used Voucher program funds as required by HUD annual contributions contracts and to evaluate whether rent reasonableness determinations were conducted as required by HUD regulations.

¹The Authority currently administers 10,789 vouchers in total, which includes 10,122 total vouchers (net of HOPE VI and tenant protection), 159 HOPE VI Section 8 vouchers, and 508 tenant protection vouchers.

RESULTS OF AUDIT

Finding 1: The Authority Used Voucher Program Funds to Pay State Housing Assistance Program Expenses

The Authority used federal Voucher program funds to pay expenditures of state-subsidized housing assistance programs. This occurred because the internal controls the Authority implemented did not prevent the use of federal funds to pay expenses of its state-subsidized housing programs. Instead, the Authority's payment processing allowed the use of federal Voucher program funds for nonprogram expenses. As a result, the Authority did not fully comply with its annual contributions contracts which require that funds for the Voucher program be used only for program purposes.

The Authority Used Federal Funds Inappropriately

The Authority's consolidated annual contributions contracts require records that allow HUD to determine whether the Authority expended funds appropriately. The Authority's records consist of a series of fund accounts, which track the source and use of funds for its federal Voucher and state housing assistance programs. The Authority also uses a leased housing fund account as a "allocating" or revolving fund to further assist in tracking the source and application of funds. Generally, the Voucher program funds received flow through the program account into an allocating fund, from which program expenditures are paid. However, the Authority's payment processing system² also uses federal Voucher program funds in an allocating fund to pay state housing assistance payments, and the funds are reimbursed to the federal allocating fund account through interfund transfers for the expenses paid.

Between April 2004 and January 2006, the Authority had 31 interfund transfers totaling more than \$9 million from its state leased housing program to its federal Voucher program account. The state fund transfers to the federal fund program account were made relatively shortly after the State funds were received³ to repay the federal account. In addition, all interprogram funds transferred were properly accounted for. However, the use of the federal funds to pay state program costs violates the Authority's annual contributions contract with HUD. These fund transfers occurred because the Authority set up three allocating funds in its

² Due to the size of the federal leased housing assistance program (more than 12,790 units as compared to the state housing program with 750 units), the federal Voucher program provides a majority of the housing assistance funds.

³ Transfers occurred between 1 and 19 days after receipt with an average of six days before the funds were transferred.

accounting system, and interfund transfers were automatically created to account for transactions occurring among housing assistance funds. These three allocating funds are used to pay commercial vendors, the payroll for Authority employees, and the leased housing fund for housing assistance payments to landlords and utility payments. The federal Section 8 leased housing account⁴ is used as the allocating fund for all housing assistance payments including the state leased assistance housing payments.

The Authority Needs to Change Its Payment Processing

The Authority processes housing assistance payments and disburses funds to the landlord from the federal Section 8 leased housing account monthly. The Authority's fiscal department prepares reports that identify the expense allocation for the housing assistance payments to the applicable funds, including the state leased housing assistance fund. When the expense allocation is identified for the state leased housing fund, reimbursement is made from the state leased housing account³ to the federal account. The Authority believes that it is more efficient to pay the state leased housing assistance payments along with the federal Voucher program payments and reimburse the federal account. The Authority also believed that its systems could not accommodate separate federal and state housing assistance payment processing. However, it is revising its payment processing system and is giving consideration to new leased housing software that separates federal and state program data into two different databases with separate payment processing modules.

Conclusion

The Authority's housing assistance payment processing allowed use of federal Voucher program funds for nonprogram expenses, but the Authority accounted for all interprogram transfers and reimbursed the Voucher program in a timely manner. However, it had not established the appropriate internal controls to ensure the proper use of federal Voucher program funds in compliance with the financial provisions of its annual contributions contracts. The Authority's use of these funds violated the provisions in its annual contributions contract with HUD, and the Authority needs to establish internal controls to ensure federal Voucher program funds are used for appropriate program expenses and prevent use of federal funds to pay nonprogram expenditures. Also, if the Authority implements a separate database for federal and state housing programs, the different

⁴ The account is with Bank of America.

processing modules will clearly identify and separately process state and federally funded transactions.

Recommendations

We recommend that the director of the Office of Public Housing require the Authority to

- 1A. Cease using Section 8 funds to pay for nonprogram costs.
- 1B. Implement system changes for its leased housing database to separately process federal and state housing assistance payments and ensure that the payments are funded from the appropriate state and federally funded accounts.

RESULTS OF AUDIT

Finding 2: The Authority's Rent Reasonableness Process Needs Changes to Fully Comply with HUD Requirements

The Authority's rent reasonableness determinations were not conducted in full compliance with HUD requirements or its own administrative plan for the Voucher program. This occurred because the Authority did not always use the relevant rental factor information identified in HUD regulations for making rent reasonableness determinations. Instead, it used alternate rental factors from its rental databases to compare unit rents, and it made post determination adjustments to compensate for the insufficient factor information in the databases. In addition, the Authority did not always document its determinations or use of alternate factors. As a result, it could not fully demonstrate the reasonability of its new unit rents even when the rents negotiated were below the fair market value.

Reasonability Procedures Did Not Follow the Administrative Plan

The Authority conducts rent reasonableness determinations⁵ to establish rents for new leased units. The determination should consider such factors as location; bedroom size; quality; type; age of the contract unit; comparable units; and the amenities, housing services, maintenance, and utilities to be provided by the owner. However, the Authority's rent determinations did not always consider relevant rental factors such as those identified above. The Authority used alternate factors to compensate for variances in unit information and other inadequate or inaccurate information contained in its rent databases. Additionally, post determination adjustments were frequently made to compensate for large rent price variances and to keep rents below fair market rents.

The Authority's administrative plan states that the Authority established a point system to help assess the reasonable rent for each unit. However, the system fails to consider the quality and characteristics of the comparison units used or units of the same bedroom size. This results in a wide range of units being compared in the rent reasonability determinations, some of which do not have comparable factor attributes in accordance with HUD requirements. The plan also states that the Authority uses other sources of rental information such as leases of similar unassisted units and affidavits from realtors. However, the use of other sources was not described in any written procedures or entered into a database. During

⁵ As stated in chapter 8, section 2, of the Authority's administrative plan.

the audit, we found no evidence that such information was used in making the determinations, and it is unclear whether these other sources of information were considered in the rent determination completed by the Authority.

Relevant Rental Factors and Documentation Are Needed

The Authority has three rent databases with rental information: a historical database, which is no longer in use, and a market information landlord contract rents database and market rent database, which are used to make rent reasonableness determinations. The information in the market rent database establishes parameters for unit rents, and the information in the contract rents database is used for rent comparisons to the rent rolls. However, the reasonability comparisons using information from both databases are incomplete. The market information database contains only data on location, bedroom size, and rent charged, while the private market rents database from the rent rolls is biased toward higher rental rates. The comparisons completed fail to consider the relevant factors stated in the authority's administrative plan, which HUD wants authorities to consider. In addition, rent reasonableness documentation is not centrally located with other tenant-related documentation. HUD requires rent reasonableness documentation to be located in an easily accessible central location where it is available for review.

Currently the Authority's market rent database system allows for an initial comparison of units in the database to determine that the general characteristics of the new unit are comparable to the surveyed units. In the second stage, comparable units are filtered to match preselected factors of comparison within tolerances defined by the Authority to determine the optimal rent. However, the Authority's market rent database is being modified to add a new rent reasonableness module to store and organize the information gathered in surveys of nonsubsidized housing. This information could be used to evaluate potential program units for reasonableness of the requested rent. Also, the module would have the flexibility to allow it to be tailored to perform accurate unit comparisons by a variety of methods and under a variety of assumption sets from one central location. In addition, the module could be used to document the methodology and tolerances chosen by the Authority through print screens. It could also be used to provide a standard set of documentation for the Authority for each individual rent reasonableness determination by generating checklists and rent comparability forms and data on the units used in the comparison.

Conclusion

The Authority needs to improve the documentation of its rent reasonableness determinations. Also, market data needs to be collected for use in showing greater comparability with the units being reviewed for rent reasonableness. In addition, the methodology used in the determination process needs to be clear with fewer exceptions. When large variances in rent results occur, the processes used to moderate the results need be identified, understood, and controlled. As the process becomes more consistent, rent reasonableness determinations should become more routine and easier to document. If the new module for the market database is implemented, it could also consolidate the rent reasonability documentation so that data remain centrally located and available for future use. In addition, changes in rent reasonableness procedures need to be documented in the administrative plan.

Recommendations

We recommend that the director of the Office of Public Housing monitor the Authority on rent reasonability until the office is assured that the Authority has

- 2A. Improved documentation and procedures for its reasonability determinations and improved the content the accuracy of unit data in its databases.
- 2B. Modified its administrative plan to reflect the improvements and/or the implementation of the new rent reasonableness system module.

SCOPE AND METHODOLOGY

We conducted the audit between January and May 2006. Our fieldwork was completed at the Authority's central office located at 52 Chauncy Street, Boston, Massachusetts, and at the Leased Housing Inspections' offices located at 125 Amory Street, Roxbury, Massachusetts. In addition, we performed physical inspections of tenant units throughout the city of Boston. Our audit covered the period April 1, 2003, to March 31, 2005, and was extended when necessary to meet our objectives. To accomplish our audit objectives, we

- Interviewed the Authority's directors on accounting, financial reporting, occupancy and leased housing, inspections, and budget management to determine policies and procedures to be tested.
- Reviewed the financial statements, general ledgers, tenant files, rent reasonableness data, and cost allocation plans as part of our testing for control weaknesses.
- Reviewed program requirements including federal laws and regulations, Office of Management and Budget circulars, and the consolidated annual contributions contract between the Authority and HUD and the Authority's administrative plan to determine its compliance to applicable HUD procedures.
- Selected and reviewed a statistical sample of Voucher program tenant files to ensure program participants were eligible, housing assistance payments were properly supported and calculated, housing deficiencies were corrected in a timely manner, and rents paid were reasonable.
- Selected for our tests of rent reasonability a representative statistical sample of 94 units from a population of 363 units. The population of 363 units represents units leased using the Authority's rent reasonableness procedures. The sample was reduced to 20 units, since our tests of the files yielded consistent results.
- For the period April 2004 through January 2006, selected 100 percent of all of interfund receivables (due from) for major fund 25-HCVP (Section 8 Rental Certificate program) for the state leased housing program (070 EOCD regular leased housing) to determine 1) whether these interfund receivables are considered a long-term debt and 2) the amount of time it takes the Authority to ensure that all funds are accounted for in a timely manner.
- Summarized the results of our analyses.

We performed our review in accordance with generally accepted government auditing standards.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined the following internal controls were relevant to our audit objectives:

- Controls over tenant eligibility, calculating housing assistance payments, tenant payments, and utility allowances;
- Controls over rent reasonableness;
- Controls over voucher use (eligibility, waiting lists, and use);
- Controls over housing quality standards inspections;
- Controls over expenditures to ensure that they were necessary and reasonable;
- Controls over Section 8 program accounting and reporting; and
- Controls over accounting for portable voucher accounts.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weaknesses

Based on our review, we believe the following items to be significant weaknesses:

- The Authority did not ensure that federal Voucher program funds were only used for federal programs in compliance with its annual contribution contracts (finding 1).

- The Authority's rent reasonableness determination process did not have controls to ensure that the determinations of rents for new units were based on the relevant rent factors identified in HUD regulations and its own administrative plan (finding 2).

APPENDIXES

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



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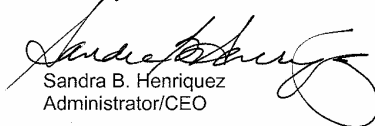
Kevin Smullen, Assistant Regional Inspector for Audit
U.S. Department of HUD-Office of Inspector General for Audit
10 Causeway Street, Room 370
Boston, MA 02222-1092

Dear Mr. Smullen:

Enclosed per your request, please find the Boston Housing Authority's formal written management comments on the Office of Inspector General for Audit's draft audit report dated June 23, 2006 on the BHA's Section 8 Housing Choice Voucher program.

If you have any questions or require further information, please contact Marilyn B. O'Sullivan, Chief Officer of Occupancy and Leased Housing at (617) 988-4540.

Sincerely,


Sandra B. Henriquez
Administrator/CEO

Attachment

Cc: H. Young
C. Moran
M. O'Sullivan
P. Saba
M. Cimmino
W. Phillips

Ref to OIG Evaluation

Auditee Comments

Boston Housing Authority (MA002) - HUD Inspector General Draft Audit Report – 06/23/06

General Comments

The Audit Objectives

BHA Response: The BHA has reviewed both the draft memo and report . The BHA notes that the audit objectives stated in the draft memo and report dated June 23, 2006 are inconsistent with the what is stated in the January 11, 2006 letter from John A. Dvorak, Regional Inspector for Audit as well as in the MS Power Point presentations made by your staff at both the entry and exit conferences held at the BHA. The BHA requests that the draft memo and report be changed to consistently state the audit objectives as “to determine whether the Boston Housing Authority has employed acceptable management practices to efficiently and effectively administer its Section 8 Housing Choice Voucher Program while creating decent, safe, and sanitary housing opportunities, in compliance with its Annual Contribution Contracts and HUD requirements.”

Comment 1

In addition, throughout the audit period staff from your office surveyed all areas of the BHA's Section 8 Housing Choice Voucher Program. The draft report fails to offer any detail in either the background or results sections which note the outcomes of all management practices and policies reviewed during the survey period. The MS Power Point presentation provided by your staff at the July 10, 2006 exit conference states that "Our Survey found that the Authority generally administered the Voucher program according to its administrative plan and as required by U.S. Department of Housing and Urban Development(HUD) annual contribution contracts." The BHA requests that this language be added to the final report.

Comment 2

Response to Finding 1: The Authority Used Voucher Program Funds to Pay State Housing Assistance Program Expenses.

The Authority (Boston Housing Authority or BHA) strongly disagrees with Finding 1, as well as Recommendation 1A, as they are currently stated. This wording implies the conscious decision to use federal Voucher Program funds to cover the expenses of the State Housing Assistance Program (the Mass. Rental Voucher Program, or MRVP) for an unspecified period of time, which is clearly not the case. For the review period the BHA had provided evidence of the MRVP's healthy reserve balance (in contrast to the federal Voucher Program's deficit reserve) and timely subsidy receipts that make such actions as implied by the finding illogical and unnecessary.

Comment 3

While most of the Report's overview of the BHA's payment disbursement process is a fair representation, there is one key statement that contains elements that are incorrect and misleading. The report states that "[t]he federal fund transfers

Comment 4

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Comment 4

to the state program account were for relatively short periods, ranging between 1 and 20 days with an average of six days before the funds were repaid to the federal account." Federal funds are not transferred to the state program account; it is the state program account that transfers funds sufficient to cover MRVP HAP disbursements drawn on the leased housing fund "allocating" account. These funds are transferred as close to, and in some cases before, the time of disbursement of the HAP checks. The BHA also questions the "relatively short periods" calculated for the timing of the transfers for the following reasons:

- It appears the methodology used to establish the number of days begins with the date the subsidy is received by the state account from the state funding agency to the date it is received by the federal account. The BHA does not agree that the period the funds remain in the state account prior to the disbursement of the HAP checks is relevant.
- All HAP checks are dated the first of each month (excluding replacements of lost checks and other non-routine payments) but this is not the definitive date for when the checks are actually disbursed. The process to prepare the 5,000 or more monthly checks for mailing (sorting, signing, placing in envelopes, affixing postage) is very labor intensive and can add several days to the time the checks are actually placed into the mail stream. The time spent in the mail is also a factor. This "float", though difficult to measure, is real and should be given consideration when evaluating the impact of the timing of the transfers.
- Several errors affecting the timing calculation were noted in the linking of disbursements from the state program account to the subsidy receipts. For example the disbursement of 01/27/05 was linked to the subsidy receipt of 12/23/04. This is incorrect and in fact the 01/27/05 disbursement was a prepayment of the subsidy necessary for the February HAP disbursement.

Comment 5

We have provided a spreadsheet that links MRVP subsidy requisition, receipt and transfer data. The data for the requisitions and transfers within the state accounts was the same as that given to the HUD OIG Auditors. We have gone over the data on the transfers to the federal account as compiled by the Auditors and have made corrections that, in our opinion, were warranted. We call your attention to the regularity and promptness of the transfers, especially those noted as prepayments, made to further insure that sufficient funds were on hand to cover state obligations. The analysis also indicates that excess state funds remained at the end of the audit period. This stems from "rounding up" the amount of the HAP transfer to again insure that adequate funds were available.

Comment 6

All this being said the BHA does concede the point that, as its HAP and reimbursement process now stands, there is the potential that federal funds may be inadvertently used to cover state HAP payments should a subsidy transfer or transfers from the state program account be overlooked for an extended period of time. As noted in the report the BHA is in the initial stages of the

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Auditee Comments

Comment 6

implementation of new Leased Housing software and was giving consideration to use this opportunity to create separate state and federal databases. While this move will result in additional expense (check stock) and redundancy (two check runs instead of one) the concern over internal control and clear separation of federal and state programs raised by this Report has helped to tip the balance in favor of separation. Thus, the BHA commits to implementing separate state and federal databases, each with its own check stock drawing on its own cash account, with the target date for activation being December, 2006. Please be aware that this target date may be revised depending on other factors affecting the software implementation project.

Comment 7

To conclude, the BHA respectfully requests that all references to the inappropriate use of federal Voucher Program funds in violation of its annual contributions contract be stricken from the report. The BHA's position is that this Finding has not been proven and the positive tone of the Report regarding the BHA's efforts to insure the timeliness of the transfers further substantiates this position. The BHA further requests that the Finding itself be dropped and replaced with a Recommendation for the improvement of internal controls as stated in the current Recommendation 1B. If this proves not to be an option then the BHA respectfully requests again that the references to the inappropriate use of federal Voucher Program funds be stricken and the Finding be revised along the lines of the following: The Authority Does Not Have Adequate Internal Controls in Place to Prevent the Potential Use of Federal Voucher Program Funds to Pay State Housing Assistance Payments. The BHA does concede to this fact and commits to taking the actions outlined in the existing Recommendation 1B.

Responses to Finding #2: The Authority's Rent Reasonableness Process Did Not Comply with HUD Requirements

Comment 8

The BHA strongly disagrees with Finding 2, as well as Recommendations 2A and 2B. The BHA does complete Rent Reasonableness determinations in compliance with both HUD regulations and its administrative plan. To support its position the BHA offers the following information:

PHA does not use all relevant factors in determining rent.

BHA Response: The federal regulations (24CFR 982.507) and the BHA Administrative Plan do not require the BHA to collect all the data on unassisted comparison units or on the contract units. The Federal regulations state that:

The BHA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. To make this determination, the BHA must consider:

- (1) The location, quality, size, unit type and age of the CONTRACT unit;
- and

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Auditee Comments

Comment 8

(2) Any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Further, HUD's PIH Notice 2003-12 offers a clarification to the regulation above by stating "**HUD never intended that PHAs must consider each of the nine criteria to determine rent reasonableness of each assisted unit in order to fully comply with the regulation.**" The Notice goes on to state that "each PHA should use appropriate and practical procedures for determining rental values in the local market."

Lastly, Chapter 9 (Rent Reasonableness) in HUD's Housing Choice handbook states in section 9.4, "Some of the data is routinely collected at the inspection of the unit, but many PHAs do not collect information on all nine factors".

Comment 9

The BHA does in fact collect all nine factors (location, quality, size, unit type, age, amenities, housing services and utilities) on units to be subsidized and if the market rent comparables were drawn from the subject property to be leased, does have all of the relevant factors on file for these units as well. However, our experience has shown that not all factors come into play when determining rents. The BHA uses the current practices established in the real estate industry in evaluating the value of a unit. Typically, in the private sector, market units are offered for lease based upon 3 major criteria:

Location: The geographical area or neighborhood of the subject unit. The BHA collects market rental data from several sources but relies primarily on its Rent Roll database which stores several thousand market rents at any given time. This rental information can be sorted by date, census tract, zip code, neighborhood and bedroom size or any combination thereof allowing the BHA multiple views of the rental market in a particular area.

Bedroom Size: The BHA utilizes numbers of bedrooms and overall unit size (square footage of all rooms) in determining rent reasonability. In making comparisons, like unit sizes are compared to like unit sizes. (Example: Three bedroom units are only compared to similarly sized three bedroom units.)

Quality: The BHA has a long established point system that it has employed for over 15 years and has passed review of past audits, including the recent HUD SEMAP confirmatory review held in May-June 2006. This system employs the use of a "Housing Quality Addendum" form used by the BHA for all units it inspects. The form consistently assigns points to features located in the unit including unit type, utilities, age of dwelling, quality, and amenities. The quality of units is determined and results with higher quality units being approved for higher rents.(assuming they also meet the reasonability requirement).

Comment 10

The IG auditors recommended that the BHA assume an arbitrary condition for all market units used for comparison by the BHA, without benefit of knowing their condition or quality. The BHA does not agree to assume conditions on properties that are not under their jurisdiction. To perform rent reasonableness reviews by this method would, in the opinion of the BHA be extremely unreliable and

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inaccurate and negate the intent of comparability. Further, the BHA is not willing to certify rent reasonability under this scenario proposed by the auditor.

The real estate market is not a static industry and as such, some factors that may be relevant in some parts of the country may not be relevant in others. The IG auditor's single comment regarding relevant factors was structure type. The BHA argued and continues to maintain that structure type plays little or no importance in determining the value of an apartment in the current market where it has jurisdiction. A check of any newspaper apartment listing will reveal that structure type is almost never mentioned in unit listings. Further, it is well known that information furnished by landlords and/or property managers are inherently unreliable, including information as relatively simple as describing the type of structure that they own/manage.

Post determination adjustments were frequently made to compensate for large rent price variances and to keep rents below fair market rents.

BHA response: The BHA is not sure what the report is stating. It may be the issue of the BHA determining median rents and striving to stay within those limits. The BHA monitors market median rents on a monthly basis for all of its service area. Based upon this review, the BHA establishes what it feels are reasonable rental limits, acknowledging that there are and will always be limits on what the BHA can pay for a reasonable rent. If an owner requests a rent that is higher than what our data reveal it to be in any given neighborhood, we will not approve the requested amount but will make a counter offer of what the BHA feels is reasonable, based upon data that is available at that time. In most cases, unless the subject property is in a so called "high rent" neighborhood, the owner accepts the offered, reasonable rent that was approved by the BHA.

Comment 12

The Authority's administrative plan states that the Authority established a point system to help assess the reasonable rent for each unit. However, the system fails to consider the quality and characteristics of the comparison unit used or units of the same bedroom size. This results in a wide range of units being compared in the rent reasonability determinations, some of which do not have comparable factor attributes in accordance with HUD requirements.

BHA Response: As stated above, neither HUD regulations nor the BHA's administrative plan require the BHA to compare units on all nine criteria. In addition, the BHA 's system does, as stated previously, compare like bedroom sizes.

The point system that has been used by the BHA for over 15 years was developed to determine how the unit to be subsidized measures up against similar unassisted units in the area. It is not possible to determine the quality of private market units that are offered by owners, since the BHA has no access to these units to perform a housing quality assessment. By relying on the point system, the BHA is able to place its quality units at the higher end of the

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established "reasonable" rents (which were determined as described above) for similar unassisted units either in the building or in the area. To assume that unassisted units within the subject property are of equal quality to the unit to be subsidized is frequently incorrect and unreliable. In numerous instances, the unit to be subsidized is in better condition than the market units located in the same building. In many cases this is because the subject unit has been vacant and the opportunity to renovate has presented itself to the owner.

The plan also states that the Authority uses other sources of rental information such as leases of similar unassisted units and affidavits from realtors. However, the use of other sources was not described in any written procedure or entered into a database.

BHA Response: The rent determination section of the administrative plan includes multiple sources that the BHA, at its discretion, may choose to utilize in determining reasonable rents. The plan lists any and all sources the BHA may use to assist in determining rent reasonability.

The BHA has not had to use affidavits from realtors or leases of similar unassisted units because the BHA has been able to gather an adequate number of samples through the use of rent rolls, internet resources and newspaper listings. Due to the cyclical nature of the real estate market, the BHA desired to have the option to be able to use other resources as needed based upon the health of the market. The BHA should not be penalized for seeking the flexibility to adjust our practices based upon future, unknown changes in the market conditions.

Comment 14

The Authority has three rent databases with rental information: a historical database, which is no longer in use and a market information landlord contract rents database and market rent database, which are used to make rent reasonableness determinations.

BHA Response: In reading the draft report, the BHA feels that there may be some confusion as to our explanation for the presence of 3 databases. We hope that the following will clarify this confusion:

- The initial database (titled contract rents) that the BHA used starting in year 2001 was a Lotus Approach system. It contained thousands of market rental information, collected from rent roll data provided by the owners. When the BHA switched from Lotus to Microsoft in 2003, a new database was created and the older Lotus database was no longer used. We kept the data in our system for audit purposes only.
- The 2003 database (called Rent Roll Database) is still used. Market rent data is entered and recorded by date of entry.
- The third database (but only the second that is currently being maintained and updated) is the newspaper database. This database is used primarily to track the rental market throughout eastern Massachusetts. Information to populate this database is collected monthly and assists the BHA in rent comparables where either little or no samples exist for purposes of

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Auditee Comments

Comment 15

determining reasonability. It is also very instructive in tracking rental trends in our service area.

In addition, rent reasonableness documentation is not centrally located with other tenant-related documentation.

BHA Response: The rent approval documentation and relevant worksheets are all centrally located in the BHA's Inspection Department, where the determination is performed. The inspection department is conveniently located next to the Jackson Square "T" station in Roxbury. Given the amount of rent reviews that are performed weekly for both new leases and rent increases, it is unrealistic and inefficient to expect the BHA staff at Amory Street to make copies of every page of every document, including worksheets, and to hand deliver them to two floors at Chauncy Street so that staff there can insert these copies into the tenant's files. It is inevitable that some documents will be either misfiled or misplaced. New software that the BHA is near to implementing will consolidate all files electronically.

Comment 16

Additional BHA Comments :

When the auditors met with Leased Housing staff regarding the rent determination practices, they stated that they were convinced that the rents that were reviewed and approved were in fact reasonable, however they had 3 suggestions:

1. **Rent Roll Database needed to include the source.** It was explained to the auditors that information contained in this database was at the time, exclusively collected from Rent Rolls. This was and is a non-issue
2. **The auditors wanted the BHA to only use comparables that were collected within the past 30 days.** It was explained that there is no requirement for the BHA to do this and to follow this procedure would handcuff the BHA in performing timely rent reviews. The BHA does make every attempt to use recently collected information for comparables. However, when situations warrant, due to lack of reliable market rent samples, the BHA can and will draw samples of market rents up to 12 months old. BHA notes that Section 9.3 of HUD's HCVP Guidebook on Rent Reasonableness suggests that rents be compared to units leased within the last two years.
3. The auditors suggested that our administrative plan be updated. At the time of the audit, the BHA had created a draft administrative plan, which, as explained, was out for public comment as required. This process has now been completed and the BHA will be submitting its final plan to HUD in August.

Comment 17

In conclusion, based upon the documentation supplied at the time of audit, HUD regulations and the BHA's administrative plan, the BHA does not think that this finding is valid.

Ref to OIG Evaluation

Auditee Comments

Comment 5

| MRVP (formerly Chapter 707) Subsidy Receipts | | | | | | | | | |
|--|----------------------|--------------|--------------|---------------|---------------|----------------------------|------------------------------|----------------------------------|--|
| Subsidy Applicable to | Funds Requested (**) | MRVP/707 MCB | MRVP/707 DMH | MRVP/707 AIDS | MRVP/707 AHPV | Amount Received From State | Received Account # State Op. | Transfer to Account # State L.H. | Amount Transferred to Account # Fed. L.H. HAP Only |
| April 2004 | | 310,298.00 | 28,267.00 | 6,532.00 | 10,971.00 | 356,088.00 | 5/3/2004 | 5/4/2004 | 4/5/2004 345,797.00 |
| May 2004 | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4/5/2004 345,797.00 |
| June/July 2004 | | PREPAY | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 5/5/2004 143,454.00 |
| June 2004 | | 353,285.00 | 0.00 | 0.00 | 30,744.00 | 384,039.00 | 6/1/2004 | 6/1/2004 | 5/1/2004 239,050.00 |
| June 2004 | | 0.00 | 32,023.00 | 13,701.00 | 0.00 | 45,724.00 | 5/28/2004 | 6/1/2004 | 6/7/2004 354,007.00 |
| July 2004 | | 0.00 | 66,028.75 | 589.25 | 7,595.00 | 74,206.00 | 7/1/2004 | 7/8/2004 | |
| August 2004 | | 632,205.00 | 0.00 | 0.00 | 9,150.00 | 641,355.00 | 8/3/2004 | 8/4/2004 | 8/5/2004 355,885.00 |
| September 2004 | | 312,839.00 | 24,679.00 | 0.00 | 0.00 | 337,518.00 | 8/30/2004 | 9/13/2004 | 8/30/2004 345,792.00 |
| October 2004 | | 387,411.00 | 29,574.00 | 0.00 | 7,460.00 | 424,445.00 | 9/29/2004 | 10/4/2004 | 9/7/2004 375,350.00 |
| November 2004 | | 315,136.00 | 28,494.00 | 0.00 | 8,046.00 | 351,654.00 | 10/27/2004 | 10/28/2004 | 10/5/2004 360,046.00 |
| December 2004 | | PREPAY | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 11/3/2004 343,946.00 |
| January 2005 | | 306,586.00 | 23,794.00 | 0.00 | 8,006.00 | 338,386.00 | 1/29/2004 | 1/26/2004 | 11/16/2004 354,688.00 |
| February 2005 | | 323,635.00 | 20,987.00 | 59,472.00 | 8,917.00 | 392,101.00 | 12/13/2004 | 12/16/2004 | 1/4/2005 352,625.00 |
| March 2005 | | PREPAY | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1/27/2005 300,000.00 |
| April 2005 | | 322,663.00 | 32,157.00 | 6,530.00 | 8,017.00 | 389,397.00 | 1/27/2005 | 2/2/2005 | 2/3/2005 370,000.00 |
| May 2005 | | 302,327.00 | 51,324.00 | 7,304.00 | 8,017.00 | 368,972.00 | 2/28/2005 | 2/28/2005 | 2/25/2005 30,544.00 |
| June 2005 | | 334,596.00 | 0.00 | 0.00 | 0.00 | 334,596.00 | 3/26/2005 | 3/26/2005 | 3/3/2005 355,141.00 |
| July 2005 | | 0.00 | 30,568.00 | 7,104.00 | 8,017.00 | 45,687.00 | 3/25/2005 | 3/26/2005 | 3/30/2005 355,141.00 |
| August 2005 | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4/12/2005 5,372,263.00 |
| September 2005 | | 3,807,013.00 | 367,893.75 | 100,271.97 | 122,840.00 | 4,487,818.72 | | | |
| October 2005 | | 328,020.00 | 42,249.00 | 7,184.00 | 6,417.00 | 383,870.00 | 4/27/2005 | 4/28/2005 | 5/17/2005 358,771.00 |
| November 2005 | | 0.00 | 0.00 | 0.00 | 323,860.00 | 323,860.00 | 6/1/2005 | 6/2/2005 | 6/3/2005 343,144.00 |
| December 2005 | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | |
| January 2006 | | 0.00 | 0.00 | 7,180.00 | 0.00 | 7,180.00 | 5/31/2005 | 6/2/2005 | |
| February 2006 | | 658,295.00 | 45,157.00 | 0.00 | 0.00 | 703,452.00 | 5/26/2005 | 6/2/2005 | |
| March 2006 | | 324,326.00 | 24,713.00 | 2,711.28 | 61,419.80 | 357,192.00 | 6/29/2005 | 6/30/2005 | 7/7/2005 341,915.00 |
| April 2006 | | 324,887.00 | 34,922.00 | 0.00 | 9,652.00 | 369,471.00 | 6/29/2005 | 6/30/2005 | 6/29/2005 345,726.00 |
| May 2006 | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 8/2/2005 250,000.00 |
| June 2006 | | 337,632.00 | 38,603.00 | 21,592.00 | 6,737.00 | 404,564.00 | 9/28/2005 | 9/29/2005 | 9/28/2005 107,898.00 |
| July 2006 | | 442,097.00 | 32,114.00 | 7,138.00 | 6,850.00 | 488,200.00 | 10/28/2005 | 10/28/2005 | 10/31/2005 300,000.00 |
| August 2006 | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 11/1/2005 54,871.00 |
| September 2006 | | 529,426.00 | 32,973.00 | 6,981.00 | 5,695.00 | 571,885.00 | 11/29/2005 | 11/30/2005 | 1/7/2006 346,575.00 |
| October 2006 | | 287,868.00 | 38,250.00 | 6,100.00 | 6,100.00 | 338,318.00 | 12/1/2005 | 12/1/2005 | 1/6/2006 383,050.00 |
| November 2006 | | 328,695.00 | 36,046.00 | 0.00 | 6,271.00 | 371,002.50 | 1/31/2006 | 1/31/2006 | 1/6/2006 386,576.00 |
| December 2006 | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 2/2/2006 374,760.00 |
| January 2007 | | 3,093,060.33 | 424,559.00 | 66,959.29 | 440,935.80 | 4,024,972.50 | 1/30/2006 | 1/30/2006 | 2/9/2006 54,342.00 |
| February 2007 | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3/5/2006 3,656,736.00 |
| March 2007 | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 9/29/2006 9,029,024.00 |
| April 2007 | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | |

(*) includes administrative fee retained by the State LH program
 (***) 07/08/04 transfer from State LH to Federal LH account misposted by bank, corrected 06/05/04

OIG Evaluation of Auditee Comments

- Comment 1** The audit objectives were not inconsistent, and the overall and specific objectives are stated in the Background and Objectives section. As in all our audit reports, the specific objectives were summarized in the Highlights section of the report. Initially at the entrance conference for the audit, we informed the Authority management of the overall objectives during the survey phase of our review, and stated that we would determine whether there would be any further changes to the audit scope and objectives as the survey progressed. At the conclusion of the survey, we informed the Authority management of our initial results, and indicated the specific objectives that we would address during the audit phase of our review.
- Comment 2** The Internal Controls section of our report identifies the internal controls and management practices and policies relevant to our audit objectives, and it summarizes the significant control weaknesses we identified. Also, the report in the Highlights section under “What We Found” states: “The Authority generally administered the Voucher program according to its administrative plan but did not always comply with its annual contributions contracts and HUD requirements.” The requested information is in the final report, as indicated.
- Comment 3** The report does not state it was a conscious decision to use federal Voucher program funds to cover the state expenses, but rather points out that the payment process used by BHA allows the use of federal funds to pay landlords participating in the state funded voucher program. This occurred even when the state Voucher program (MRVP) had funds available to pay those expenses. After payment from the federal Voucher funds and usually within a few days, funds were transferred from the state account to the federal account as reimbursement for these payments. As this is the accepted practice and standard operating procedure of the BHA to pay landlords in the state program using federal funds, it is clear that federal Voucher program funds were being used for non-program (state program) expenses.
- Comment 4** The report was changed to reflect that BHA transfers funds from its state program account to its federal account to cover the MRVP (state) HAP disbursements drawn on the federal leased housing fund “allocating” account. Also, the number of days cited indicated the minimum time that the state funds remained in the state account before the federal account was reimbursed. However, the number of days is not a true indicator of how long it took before the federal fund account was reimbursed for the disbursements made at the beginning of the month.
- Comment 5** The report was changed to note that between April 2004 and January 2006, the Authority had 31 interfund transfers totaling more than \$9 million. Also, although the schedule indicated prepay for some transfer, it does not appear that

these funds were available for the associated disbursements made at the beginning of the month.

- Comment 6** The potential is not that federal funds may be inadvertently used (they are used) to pay state HAP payments, but that reimbursement transfers from the state program account made be overlooked for extended periods of time. This potential problem is in addition to the deficiency that already exists and is cited in the report; BHA disburses funds for state program expenses from an account that contains federal funds. However, the Authority's planned implementation of new leased housing system software, with separate state and federal databases and payment processing modules, would correct the conditions cited in the finding.
- Comment 7** The finding clearly describes the condition and the violation relating to the use of federal Voucher program funds. In this finding, two specific criteria were used as the basis for our position: the Federal Appropriation Act for FY 2004, and the HUD Consolidated Annual Contributions Contract (ACC). The Appropriation Act for FY 2004, Title II, Department of Housing and Urban Development, Public and Indian Housing, Tenant-Based Rental Assistance, states "That all amounts provided under this paragraph shall be only for activities related to the provision of tenant-based rental assistance authorized under section 8, including related development activities." Also, Section 11a of the ACC, Use of Program Receipts, provides the following: The housing authority must use program receipts to provide decent, safe, and sanitary housing for eligible families in compliance with the U.S. Housing Act of 1937 and all HUD requirements. Program receipts may only be used to pay (Section 8) program expenditures.
- Comment 8** It was not HUD's intention nor ours to require PHAs to consider all nine criteria in determining rent reasonableness of each assisted unit, in order to fully comply with 24 CFR 982.507. However, PHAs are required to determine reasonability between similar or "comparable," units, and we maintain it is not reasonable to determine if a unit is comparable based on only the following three factors: location, bedroom size and market rent as is currently being done.
- Comment 9** The current practice used by BHA does not utilize the comprehensive information on units to be subsidized its collects or consider all relevant factors when determining rents of subsidized units. The comparability between a subsidized unit and a market unit can not be established based on only three common factors (location, bedroom size and market rent). If comparable data on relevant factors is not considered for both contract and market units, then a true comparison cannot be made and the determination as to rent reasonableness is incomplete.
- Comment 10** During the course of the audit, several discussions with BHA management were held in which various alternative methods of determining rent reasonableness were mentioned. These alternatives were not included as part of the finding or the audit recommendation.

- Comment 11** During rent reasonableness determinations, the BHA does not check or compare the rent for the approved unit to the fair market rents (FMRs). The approved unit's rent reasonableness determination is therefore incomplete.
- Comment 12** As noted in comment 9 (above), we disagree that comparability between a subsidized unit and a market unit can be established based on only three common factors (location, bedroom size and market rent).
- Comment 13** The use of alternative sources of rental information should be adequately addressed in BHA's administrative plan. Also, the use of all available resources is encouraged, and these possible sources should be sufficiently described and defined in the administrative plan.
- Comment 14** During the exit conference, and in its written response, BHA provided clarification on its 3 databases used for rent reasonableness determinations. However, the information provided in the clarification is different from what the auditors were told during the review, and therefore differs from what the auditors understood about the databases used by BHA in making its determinations. The sample selected of tenant unit reviews was based upon the information contained in the third database described (newspaper sources). BHA management now states that this is not its main or primary database. During our review, BHA management claimed that its 2003 database (the second database described in the response) was inaccurate because landlords of subsidized units dictated the rents.
- Comment 15** Housing Authorities customarily maintain rent reasonableness documents in the tenant files, and these files are usually kept in one location. BHA's plans for implementation of new software which will electronically consolidate all file information should allow for easier and centralized access to the rent reasonableness documentation.
- Comment 16** The first two suggestions were part of informal discussions with BHA management, and were not included as part of the audit finding or recommendations. The suggestions relevant to the condition described were included in the audit finding or recommendations. However, we did note in the draft finding that BHA needed to update its administrative plan, and our report was revised to note that the administrative plan was modified, and issued for public comment. The process for public comment is now complete, and BHA will be submitting its final administrative plan to HUD in August for approval.
- Comment 17** As indicated in the above comments, the OIG contends that the finding is valid, and that the Authority did not always obtain relevant rental factor information in making its rent reasonableness determinations, nor did it document these determinations accordingly.

Appendix B

SELECTED CRITERIA FOR THE SECTION 8 PROGRAM

Consolidated Annual Contributions Contract, Section 11 a., Use of Program Receipts: The HA [housing authority] must use program receipts to provide decent, safe, and sanitary housing for eligible families in compliance with the U.S. Housing Act of 1937 and all HUD requirements. Program receipts may only be used to pay program expenditures.

24 CFR [*Code of Federal Regulations*] 985.3B(ii)(b), SEMAP [Section 8 Management Assessment Program] Indicator 2, Form Reasonable Rent: The Authority must report performance under 24 CFR 985.3B(ii)(b), SEMAP Indicator 2, Form Reasonable Rent. The Authority self-certifies that it “takes into consideration the location, size, type, quality, and age of the program units and of similar unassisted units and any amenities, housing services, maintenance or utilities provided by the owners.”

24 CFR [*Code of Federal Regulations*] 982.54, “Administrative Plan,” states: (a) The PHA [public housing authority] must adopt a written administrative plan that establishes local policies for administration of the program. (b) The PHA must revise the administrative plan if needed to comply with HUD requirements. (c) The PHA must administer the program in accordance with the PHA administrative plan.

24 CFR [*Code of Federal Regulations*] 982.507(4)(b) requires consideration for rent reasonableness determinations be given to not only location and bedroom size but quality, size, type, and age of the contract unit and any amenities, housing services, maintenance and utilities to be provided by the owner.