

# AUDIT REPORT



## HOUSING AUTHORITY OF THE COUNTY OF MARIN

2005-LA-1004

MAY 20, 2005

OFFICE OF AUDIT  
PACIFIC/HAWAII REGION  
LOS ANGELES, CALIFORNIA



Issue Date May 20, 2005
Audit Report Number 2005-LA-1004

TO: Melina Whitehead, Acting Director, Office of Public Housing, 9APH

*Joan S. Hobbs*

FROM: Joan S. Hobbs, Regional Inspector General for Audit, Pacific/Hawaii Region, 9DGA

SUBJECT: The Housing Authority of the County of Marin, San Rafael, CA,  
Inappropriately Administered \$2.8 Million in Section 8 Project-Based Vouchers

**HIGHLIGHTS**

**What We Audited and Why**

We audited the Housing Authority of the County of Marin’s (Authority) Section 8 project-based voucher program because of U.S. Department of Housing and Urban Development (HUD) concerns regarding the Authority’s administration of its Section 8 project-based voucher program. HUD expressed concerns about whether the Authority (1) performed rent reasonableness determinations and (2) executed housing assistance payments without HUD-required contracts.

The objective of the audit was to determine whether the Authority administered its Section 8 project-based voucher program in accordance with HUD rules and regulations.

**What We Found**

The Authority did not administer \$2.8 million in Section 8 project-based vouchers in accordance with HUD rules and regulations. The Authority did not perform rent reasonableness determinations to ensure Section 8 tenants’ rent was reasonable before entering into housing assistance payment contracts. The Authority also used tenant-based contracts and unenforceable memorandums of understanding to issue housing assistance

payments under its Section 8 project-based program instead of the appropriate project-based voucher contracts. The Authority's actions could have unnecessarily placed it at risk for potential legal actions by the tenants. We attributed these conditions to the Authority not having policies and procedures in effect to properly administer the project-based program or safeguard Section 8 resources.

The Authority agreed it did not administer its program in accordance with HUD rules and regulations and is creating a new Section 8 project-based program.

### **What We Recommend**

We recommend that HUD's director of the Office of Public and Indian Housing require the Authority to (1) develop and implement Section 8 procedures in accordance with HUD regulations and (2) reimburse HUD \$318,139 in unearned Section 8 administrative fees.

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

### **Auditee's Response**

We provided the Authority a draft report on April 21, 2005, and held an exit conference with the Authority's officials on May 6, 2005. The Authority provided written comments on May 18, 2005. The Authority agreed with the audit finding and recommendations.

The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix C of this report.

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## **BACKGROUND AND OBJECTIVES**

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The Housing Authority of the County of Marin (Authority) was established in 1942 under the provisions of the Housing Act of 1937 to administer federal funds to assist low-income families in obtaining decent, safe, and sanitary housing. The Authority receives funding from the U.S. Department of Housing and Urban Development (HUD), the state of California, and local government entities. HUD provides more than 90 percent of the Authority's total funding. The Authority owns and operates three nonfederally funded developments.

The Authority administers its Section 8 program under HUD's housing choice voucher program. The housing choice vouchers allow very low-income families to obtain safe, decent, and affordable privately owned rental housing. The Authority implemented both tenant- and project-based voucher programs. The main difference between the two programs is that under the tenant-based voucher program, the family may take the voucher anywhere vouchers are accepted. Under the project-based voucher program, the voucher is tied to a specific unit for a specified term. Tenants may not take the voucher with them if they move from the designated unit.

The Authority's Section 8 project-based voucher program existed from August 1, 2002, to July 31, 2004. HUD terminated the program due to noncompliance with HUD rules and regulations. During this period, the Authority issued 4,437 vouchers totaling more than \$2.8 million to owners to provide affordable housing to Section 8 tenants.

The objective of our audit was to address HUD's concerns over the Authority's administration of its Section 8 project-based program. We determined whether the Authority (1) performed rent reasonableness determinations for its Section 8 tenants and (2) executed housing assistance payments without HUD-required contracts.

## RESULTS OF AUDIT

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### Finding 1: The Authority Inappropriately Administered \$2.8 Million in Section 8 Project-Based Vouchers

The Authority administered \$2.8 million in project-based vouchers without following HUD requirements. The Authority did not perform rent reasonableness to assure Section 8 tenants' rents were reasonable in comparison to market-rate rents. In addition, the Authority issued housing assistance payments to owners using unenforceable memorandums of understanding and tenant-based voucher contracts instead of the required project-based voucher contracts. These practices occurred because the Authority did not have policies and procedures in effect to properly administer the project-based program or safeguard Section 8 resources. As a result, the Authority jeopardized funds needed to provide Section 8 program recipients with safe, decent, and affordable housing. Further, the Authority's practice of using tenant-based voucher contracts instead of project-based voucher contracts to issue project-based housing assistance payments may have given the tenants the false impression that they were allowed to use the vouchers anywhere vouchers are accepted. In addition, the Authority received more than \$318,000 in Section 8 administrative fees while inappropriately administering its Section 8 program.

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#### Section 8 Tenants Were Not Assured Reasonable Rents

From August 1, 2002, to July 31, 2004, the Authority failed to determine whether rent charged to Section 8 tenants was reasonable in comparison to rent charged to unassisted tenants before entering into housing assistance payment contracts. Our review of the Authority's procedures showed it did not follow HUD's requirements in determining rent reasonableness for its project-based units, including the use of state-certified appraisers to determine the appropriateness of the initial Section 8 unit rents. The Authority acknowledged it did not perform rent reasonableness or use a state-certified appraiser.

The *Code of Federal Regulation*, 24 CFR 985.256, requires housing authorities to determine the initial rent to be reasonable before entering into any housing assistance payment contract. The regulation also requires housing authorities to determine whether the rent to an owner is reasonable when compared to that of an unassisted unit. The regulation states housing authorities must consider the following: 1) location; 2) quality; 3) size; 4) unit type; 5) age of the contract unit; and 6) any amenities, housing services, maintenance, and utilities to be provided by the owner in accordance with the lease. Further, housing authorities are required to use a qualified state-certified appraiser with no direct ties to the property to determine whether the initial rents are reasonable.

The Authority did not comply with these requirements. As a result, the Authority provided no assurance Section 8 tenants were not paying higher rates than tenants of market rate units.

### **Housing Assistance Payments Issued without Appropriate Contracts**

From August 1, 2002, to July 31, 2004, the Authority issued 4,437 project-based vouchers totaling more than \$2.8 million to owners without entering into the appropriate housing assistance payment contracts (see appendix B). During this period, the Authority failed to use HUD-required project-based voucher contracts to issue payments to all 14 owners participating in this program. Instead, it used unenforceable memorandums of understanding and inappropriate tenant-based voucher contracts. We attributed the Authority's inappropriate practices to it not having policies and procedures in effect to properly administer the project-based program or safeguard Section 8 resources.

The *Code of Federal Regulations*, 24 CFR 983.151, requires public housing authorities to enter into a housing assistance payment contract, HUD form 52530B, with the owner. After the housing assistance payment contract starts, the housing authority must make the monthly housing assistance payments in accordance with the executed contract for each unit occupied by the family on the lease agreement.

The Authority did not comply with this requirement. As a result, the Authority exposed itself to unnecessary monetary and legal risks. In addition, the Authority's use of memorandums of understanding weakened the owners' responsibilities in following HUD rules and requirements for the Section 8 program.

The Authority's memorandums of understanding failed to include a description of the contract units, did not specify the number of units by unit size, and did not identify the applicable initial rent to the property owner. They also lacked information about the services, maintenance, and utilities to be provided by the owner. In addition, the memorandums of understanding lacked provisions designed to protect Section 8 tenants and the Authority, such as occupancy and payment, rent to owner, and conflict of interest.

The Authority agreed that it should have executed project-based voucher contracts with owners to issue housing assistance payments to participants in the program.

To supplement the inappropriate memorandums of understanding, the Authority prepared contracts with the owners applicable to each tenant. However, the Authority used tenant-based housing assistance payment contracts, HUD Form 52641, instead of the appropriate project-based housing assistance payment contracts. Therefore, the Authority violated *Code of Federal Regulations* requirements under part 983.151, which required the use of the HUD form 52530B to issue project-based housing assistance payments to the owners participating in the program. The Authority's practice of using the wrong

type of voucher would have given Section 8 tenants the impression that they were under the tenant-based voucher program, which would allow them to use the vouchers anywhere a landlord would accept them.

**More Than \$318,000 in Unearned Administrative Fees Received**

The Authority received fees from HUD that it did not properly earn due to its inappropriate administration of the Section 8 program. From August 1, 2002, to July 31, 2004, the Authority received \$318,139 in administrative fees for administering more than \$2.8 million in project-based vouchers. These fees benefited the Authority while it ignored and violated HUD’s requirements regarding the program’s implementation.

HUD pays public housing authorities an administrative fee for administering housing assistance payments under the Section 8 program. These administrative fees are earned on a monthly per-unit basis. HUD informs public housing authorities of the appropriate rate to use in calculating the administrative fees due for the fiscal year. The rates used to calculate the administrative fees are provided by HUD through the *Federal Register*, which is published on an annual basis.

The Authority received \$318,139 in administrative fees applicable to the project-based program. However, the duties the Authority must perform to earn the administrative fees include ensuring rents are reasonable and appropriate housing assistance payment contracts are generated, and as discussed above, the Authority did not perform these functions.

**Total administrative fees received for 2002 to 2004**

<b>Year<sup>1</sup></b>	<b>Total administrative fees received</b>
<b>2002</b>	\$57,201
<b>2003</b>	\$166,834
<b>2004</b>	\$94,104
<b>Total</b>	<b>\$318,139</b>

<sup>1</sup> The Authority initiated its Section 8 project-based voucher program in August 2002, and it was terminated in July 2004.

The *Code of Federal Regulation*, 24 CFR 982.155, allows HUD to recapture the Authority’s administrative fees if its Section 8 program is not adequate. If public housing authorities do not adequately administer the Section 8 program, HUD may prohibit the use of funds and may direct the Authority to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses.

HUD's recapturing of administrative fees prevents public housing authorities from mismanaging the Section 8 program. Further, this practice ensures public housing authorities meet the goals of the program to provide tenants with safe, decent and affordable housing.

## **Conclusion**

The Authority executed its Section 8 project-based program without following HUD rules and regulations. This occurred because the Authority did not have policies and procedures in effect to properly administer the project-based program or safeguard Section 8 resources. These actions could have given participating tenants false impressions concerning how they were allowed to use these vouchers. The Authority unnecessarily jeopardized funds needed to provide Section 8 program recipients affordable housing. In addition, the Authority received \$318,139 in Section 8 administrative fees while inappropriately administering its Section 8 program.

## **Recommendations**

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

- 1A. Develop and implement Section 8 procedures in accordance with HUD regulations.
- 1B. Reimburse HUD \$318,139 from its administrative reserves for inappropriately administering the Section 8 program.

## SCOPE AND METHODOLOGY

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To accomplish our objective, we reviewed

- Applicable HUD regulations at 24 CFR (*Code of Federal Regulations*) Parts 982, 983, and 985;
- Authority and HUD documents including audited financial statements, housing assistance payments files, project files, minutes from board meetings, and HUD correspondence; and
- Selected owner entities' rent rolls.

We interviewed appropriate Authority and HUD Office of Public and Indian Housing management staff.

We performed onsite work at the Authority's administrative office at 4020 Civic Center Drive, San Rafael, California, from November 2004 through February 2005. The audit covered the period of August 1, 2002, through July 31, 2004. We extended our review, when appropriate, to include other periods.

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

# INTERNAL CONTROLS

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Internal controls are 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, or 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.

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## Relevant Internal Controls

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

- Administration of the project-based Section 8 program in compliance with HUD regulations,
- Maintaining complete and accurate records for the project-based Section 8 program, and
- Safeguarding Section 8 program resources.

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, the following internal control is considered a significant weakness:

- The Authority did not have policies and procedures in effect to properly administer the project-based program or safeguard Section 8 resources (finding 1).

## APPENDIXES

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### Appendix A

#### SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

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Recommendation number	Ineligible 1/
1B	\$318,139

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or federal, State, or local policies or regulations.

## Appendix B

### SCHEDULE OF SECTION 8 PROJECT-BASED VOUCHERS ADMINISTERED

Month/year	Section 8 amount	Housing assistance payment vouchers issued
August 2002 <sup>1</sup>	\$82,509	147
September 2002	\$83,086	148
October 2002	\$93,681	164
November 2002	\$95,393	167
December 2002	\$97,782	169
January 2003	\$96,842	167
February 2003	\$105,015	176
March 2003	\$134,156	200
April 2003	\$155,069	243
May 2003	\$190,132	264
June 2003	\$104,593	167
July 2003	\$105,617	169
August 2003	\$111,154	174
September 2003	\$112,113	175
October 2003	\$115,240	177
November 2003	\$117,939	181
December 2003	\$121,238	183
January 2004	\$124,525	196
February 2004	\$124,710	195
March 2004	\$131,654	198
April 2004	\$131,147	196
May 2004	\$134,199	200
June 2004	\$132,949	198
July 2004 <sup>2</sup>	\$122,204	183
<b>Total</b>	<b>\$2,822,947</b>	<b>4,437</b>

<sup>1</sup> The Authority initiated its project-based Section 8 program on August 1, 2002.

<sup>2</sup> HUD terminated the Authority's project-based Section 8 program on July 31, 2004.

## Appendix C

# AUDITEE COMMENTS AND OIG'S EVALUATION

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### Ref to OIG Evaluation

### Auditee Comments

#### Comment 1

<p>May 16, 2005</p>	
<p>Joan S. Hobbs Regional Inspector General for Audit U.S. Department of Housing and Urban Development Office of Inspector General Pacific/Hawaii Region IX 611 West Sixth Street, Suite 1160 Los Angeles, CA 90017-3101</p>	<p>4020 Civic Center Drive San Rafael, CA 94903-4173 Executive Director Christine Gouig</p>
<p>Dear Ms. Hobbs:</p>	
<p>Thank you for the opportunity to review and comment on the draft discussion report of the audit completed by your office of the Section 8 Project-Based Voucher Program operated by the Housing Authority of the County of Marin ("Marin Housing"). You recommend that 1) the U. S. Department of Housing and Urban Development (HUD) require Marin Housing to develop and implement Section 8 procedures in accordance with HUD regulations and 2) Marin Housing reimburse HUD \$318,139 from its administrative reserves for inappropriately administering the Section 8 program.</p>	
<p>Marin Housing did not administer its former project-based voucher program with any intent to commit fraud or mispend federal funds. It established the program primarily to assist tenants with various mental, developmental and physical disabilities as well as to encourage the new construction and substantial rehabilitation of apartments affordable to extremely low income families. However, we acknowledge that our program was not created or administered in conformity with HUD regulations.</p>	
<p>Since the program was discontinued in July 2004, at which time the project-based vouchers were converted to tenant-based vouchers, Marin Housing has undertaken a complete reworking of its project-based program. HUD approved certain waivers for two new construction projects and Marin Housing has correctly entered into AHAPs with the projects' sponsors. The Board of Commissioners has adopted policies and procedures to govern program operations, HUD has approved the newspaper advertisements and selection criteria, availability of the project-based vouchers has been advertised in the local newspaper, and proposals submitted in response to the advertisements have been scored and ranked based on the approved criteria. The Board of Commissioners has approved the rankings assigned to the proposals for existing units and appraisals are underway to establish the initial rents. We will enter into project-based HAPs once the rents are determined and the tenants processed. Tenants of vacant units will be drawn from the waiting list maintained by the Authority.</p>	
<p>Housing Authority of the County of Marin 415/491-2525 (FAX) 415/472-2186 (TDD) 1-800-735-2929</p>	

Joan S. Hobbs  
Regional Inspector General for Audit  
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We are confident that the changes we have made are consistent with HUD requirements and will lead to the correct implementation of the program as well as allow Marin Housing to continue to serve its extremely low income residents. We look forward to working with HUD to clear the findings and bring our program into full compliance with HUD regulations.

Very truly yours,

  
CHRISTINE GOUG  
Executive Director

Cc: Board of Commissioners

## **OIG Evaluation of Auditee Comments**

**Comment 1** The Authority agreed with the audit finding and recommendations.