



**Southern Nevada Regional Housing Authority,
Las Vegas, NV**

Recovery Act Capital Funds



Issue Date: January 23, 2013

Audit Report Number: 2013-LA-1002

TO: Velma Navarro, Director, Office of Public Housing, San Francisco, 9APH

///SIGNED///

FROM: Tanya E. Schulze, Regional Inspector General for Audit, Los Angeles Region, 9DGA

SUBJECT: The Southern Nevada Regional Housing Authority, Las Vegas, NV, Did Not Always Administer Its Recovery Act Capital Fund Grants in Accordance With Recovery Act and HUD Requirements

Enclosed is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final results of our review of the Southern Nevada Regional Housing Authority's American Recovery and Reinvestment Act of 2009 Public Housing Capital Fund grants.

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

The Inspector General Act, Title 5 United States Code, section 8L, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 213-534-2471.



January 23, 2013

The Southern Nevada Regional Housing Authority, Las Vegas, NV, Did Not Always Administer Its Recovery Act Capital Fund Grants in Accordance With Recovery Act and HUD Requirements

Highlights

Audit Report 2013-LA-1002

What We Audited and Why

We audited the Southern Nevada Regional Housing Authority's American Recovery and Reinvestment Act Public Housing Capital Fund grants as part of our objective to review funds provided under the American Recovery and Reinvestment Act of 2009. We selected the Authority because it is a newly formed entity, created January 1, 2010, and the Authority and the entities that formed it received more than \$21 million in Recovery Act Capital Fund grants. The objective of our review was to determine whether the Authority administered its Recovery Act funds in accordance with Recovery Act and U.S. Department of Housing and Urban Development (HUD) regulations.

What We Recommend

We recommend that the Director of HUD's San Francisco Office of Public Housing require the Authority to obtain documentation to support that contractors and subcontractors made corrective payments for improper wages cited, update its policies and procedures related to Davis-Bacon compliance, and establish policies and procedures to ensure accurate and complete reporting to HUD and other Federal agencies.

What We Found

The Authority generally complied with HUD procurement policies for its Recovery Act Capital Fund grants. However, it did not always ensure that its contractors complied with the Davis-Bacon Act and Federal labor standards. The Authority did not (1) ensure that proper wage rates were paid, (2) ensure that additional wage classifications and rates were requested and received from the U.S. Department of Labor, or (3) investigate complaints received by contractor employees. Further, the Authority did not always ensure that it complied with Recovery Act reporting requirements. Specifically, it did not accurately report in FederalReporting.gov the number of jobs created and retained. This condition occurred because the Authority did not effectively monitor its contractors in the enforcement of Federal labor standards and lacked written policies and procedures for Recovery Act reporting. As a result, the Authority's contractors did not always comply with the Davis-Bacon Act and underpaid employees more than \$7,300. Also, the Authority's use of Recovery Act funds was not always transparent, and the public did not always have access to accurate information about the Authority's use of the Recovery Act grants.

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BACKGROUND AND OBJECTIVE

On January 1, 2010, the Housing Authority of the City of Las Vegas and the Clark County Housing Authority combined to form the Southern Nevada Regional Housing Authority. The Authority absorbed the North Las Vegas Housing Authority on January 1, 2011. The Authority has a nine-member board of commissioners that have fiduciary responsibility as well as the responsibility of establishing and overseeing policy for the agency.

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009. This legislation included a \$4 billion appropriation of capital funds to carry out capital and management activities for public housing agencies as authorized under Section 9 of the United States Housing Act of 1937. The Recovery Act requires the distribution of \$3 billion in formula grants and the remaining \$1 billion through a competitive grant process.

The Recovery Act imposed additional reporting requirements and more stringent obligation and expenditure requirements on the grant recipients beyond those applicable to the ongoing Public Housing Capital Fund program grants. For example, the Authority was required to obligate 100 percent of its formula grant funds by March 18, 2010. The Authority was also required to expend 100 percent of the formula grant funds by March 18, 2012. Transparency and accountability are critical priorities in the funding and implementation of the Recovery Act.

The Authority and the agencies of which it is comprised obtained three formula grants totaling more than \$8.8 million and two competitive grants totaling more than \$12.2 million for total Recovery Act funding of more than \$21 million. The Authority obligated its Recovery Act funding within the required deadlines. It expended its formula grants and one of its competitive grants within the required timeframe and is on track to expend the remaining competitive grant by its expenditure deadline. The Authority used the funds to develop and renovate public housing projects, perform energy upgrades on scattered-site units, and demolish one public housing project.

The overall objective of our review was to determine whether the Authority administered its Recovery Act funds in accordance with Recovery Act and U.S. Department of Housing and Urban Development (HUD) regulations.

RESULTS OF AUDIT

Finding: The Authority Did Not Always Ensure That Its Contractors Complied With the Davis-Bacon Act and Recovery Act Reporting Requirements

The Authority did not always ensure that its contractors complied with the Davis-Bacon Act and Federal labor standards. It did not (1) ensure that proper wage rates were paid, (2) ensure that additional wage classifications and rates were requested and approved by the U.S. Department of Labor, or (3) investigate complaints received by contractor employees. Further, the Authority did not always ensure that it complied with Recovery Act reporting requirements. Specifically, it did not accurately report in FederalReporting.gov the number of jobs created and retained. This condition occurred because the Authority did not effectively monitor its contractors in the enforcement of Federal labor standards and lacked written policies and procedures for Recovery Act reporting. As a result, the Authority's contractors did not always comply with the Davis-Bacon Act and underpaid employees more than \$7,300. Also, the Authority's use of the Recovery Act funds was not transparent, and the public did not have access to accurate information about the Authority's use of the Recovery Act grants.

The Authority Did Not Always Ensure That Proper Wage Rates Were Paid

The Authority generally complied with HUD procurement policies for its Recovery Act Capital Fund grants. However, it did not ensure contractor compliance with the Davis-Bacon Act. Department of Labor regulations at 29 CFR (Code of Federal Regulations) 5.5(a)(1) state that all laborers and mechanics employed or working upon the site of the work will be paid wage rates not less than those contained in the wage determination attached to each contract. In two contracts reviewed, the Authority failed to follow up on Davis-Bacon violations, which resulted in Davis-Bacon wages not being paid. For example, the certified payroll for contract C10006 indicated that the cement mason was paid \$41.45 per hour. The approved wage determination states that cement masons are to be paid \$42.53 per hour. As a result of this error, the contractor underpaid its cement mason by \$86.40. Also, the certified payrolls for the same contract identified one employee as a general laborer earning \$9 per hour. However, during the interview, the Authority's Inspector witnessed the employee performing carpentry work. A carpenter earns \$15.34 per hour. The contractor underpaid this employee \$431 for the work performed on this contract.

The certified payroll for contract C10003 showed two employees, classified as glaziers, who worked a total of 26 hours and earned \$52.82 per hour. However,

during the wage interviews, one employee stated that he earned \$19 per hour and the other stated he earned \$20 per hour. The contractor potentially underpaid these two employees by \$866. The Authority identified an error made by a subcontractor on the same contract, but the amount calculated by the Authority for repayment was incorrect. As a result, the subcontractor owed its electrician \$37.77 for work performed on the contract. If the Authority had performed timely certified payroll reviews and compared the certified payrolls to the wage interviews, it could have identified these deficiencies and followed up in a timely manner to ensure that employees received the proper wages.

The Authority Did Not Ensure That Contractors Obtained Additional Wage Classifications and Wage Rates Approved by the Department of Labor

HUD's Making Davis-Bacon Work guide for public housing agencies states that if the work classification needed does not appear on the wage decision, the contractor needs to request an additional classification and wage rate. It further states that contractors should start the request for additional classifications and wage rates right away. However, contractors either did not submit requests or submitted the requests months after they started the job. For example, on contract C11289, the contractor identified a painter, plumber, and insulation installer on its certified payrolls submitted to the Authority. These positions were not on the approved wage decision for the contract. The Authority issued a letter to the contractor 4 months after the certified payrolls were submitted, stating that the contractor was required to submit an additional wage classification and rate request to the Department of Labor for these job classifications. The contractor submitted 20 payroll reports prior to the Authority identifying the violation. The Department of Labor denied the contractor's request and stated that the contractor was required to pay its employees at a rate higher than the contractor was paying them. The Authority has not required the contractor to pay the additional wages owed to its employees. As a result, the contractor owes 16 employees who performed painting, plumbing, and insulation services a total of \$5,888. Also, for contracts C10003 and C10006, the Authority did not receive an approved additional job classification request from the Department of Labor for glaziers and painters. As a result, there was no assurance that the contractors paid these employees the proper wages.

The Authority Did Not Investigate Complaints Received by Contractor Employees

Regulations at 29 CFR 5.6(a)(3) requires the agency to perform investigations to ensure compliance with applicable statutes. The regulations further state that complaints of alleged violations must receive priority. The Authority did not investigate complaints received by contractor employees. For example, three employees performing work on contract number C10006 complained to the Authority's inspector that they did not receive payment for all hours worked on the job. The inspector noted that he would follow up, but there was no documentation to support that the Authority investigated the issue further.

Also, the Authority did not respond to complaints in a timely manner. During wage interviews, dated May 3, 2011, employees working on contract C10108 stated that they did not receive payment for all hours worked. Seven months after receiving the complaints, the Authority sent a letter to the contractor regarding the inconsistencies in the pay for some of the workers and requested additional information. The contractor failed to submit the documentation required by the Authority. As a result, the contractor may have owed its employees additional wages. If the Authority had taken prompt action to resolve this matter, it could have ensured that contractor employees working on the job received the proper wages before the employees finished the job and before it made final payment to the contractor.

The Authority Did Not Effectively Monitor Its Contractors

The Authority did not ensure contractor compliance because (1) its written policy and procedures were not adequate, (2) personnel did not follow its written policy and procedures, and (3) its wage interviews were not reliable.

The Authority does not review the certified payrolls in a timely manner. HUD Handbook 1344.1, REV-1, paragraph 3-3(c), states that payrolls should be dated and initialed upon review. The Authority should examine the payrolls upon receipt so that it can initiate any necessary corrective action before the problem multiplies and accomplish needed changes while the workers are still available. The Authority's policy also requires a review of the certified payrolls upon receipt. However, the policy does not require the reviewer to date the certified payrolls upon completing the review. The Authority's policy also states that the reviewer should compare the wage interviews to the certified payrolls to determine whether the information agrees and initial both the payroll report and wage interview when completed. In most cases, there was no signature on the

wage interview reports to indicate that the reviewer had compared the two reports. The employee responsible for Davis-Bacon compliance stated that she did not always review certified payrolls upon receipt, compare wage interviews to certified payrolls, or follow up on complaints and deficiencies in a timely manner. The employee stated that she was responsible for many other tasks and that it was difficult to thoroughly complete Davis-Bacon reviews or always follow written policies. She also stated that if the Authority had a more detailed written policy with deadlines, she could prioritize her responsibilities and do a better job of completing reviews.

According to Authority personnel, the deficiencies noted for contract C10006 occurred during the transition period when the three housing Authorities were combined into one. The Authority did not review the certified payrolls or wage interviews for this contract. The contractor submitted certified payrolls, and the Authority performed wage interviews as required. However, the Authority stated that due to the confusion of the merger, it did not review the payrolls and interviews. This error resulted in the Authority's not monitoring Davis-Bacon compliance for this contract as required.

The Authority's wage interviews were not reliable and did not assist the Authority in ensuring contractor compliance. HUD Handbook 1344-1, REV-1, paragraph 3-2(b), states that employee interviews must be sufficient to establish the degree of compliance and indicate the nature and extent of violations, if any. The Authority interviewed employees the first week the employee was on the job. As a result, the information obtained was not reliable because the employee had not received a paycheck and was unable to state whether proper wages were received for all hours worked on the job. The Authority was unable to determine the degree of compliance and identify violations through its wage interviews.

As a result of the deficiencies cited above, the Authority did not adequately monitor its contractors, and it either missed the compliance issues noted in this report or identified the issues months after they occurred.

The Authority Did Not Accurately Report Information on the Use of Its Recovery Act Grants

The Authority did not accurately report the number of jobs created or retained. After comparing the hours submitted for reporting purposes to the certified payroll for four contracts, we determined that the number of jobs reported by the Authority was not consistent. For example, in the first quarter of 2012 under contract number C11289, the contractor reported that only one employee worked a total of 376 hours, and its subcontractor reported that six employees worked a total of 144 hours for an overall total of 520 hours. However, the certified payroll listed more employees with total hours equal to 2,400.55. The Authority submits

quarterly reports in FederalReporting.gov, which then become available to the public on the Recovery.gov Web site. Office of Management and Budget (OMB) Memorandum 10-08 requires recipients of Recovery Act funds to submit estimates of jobs created and retained for each project or activity in their recipient reports. Overall, from the four contracts reviewed, the Authority over reported 2.26 jobs in the fourth quarter of 2011 and underreported 6.88 jobs in the first quarter of 2012. The discrepancy in the number of jobs created or retained was due to contractors' not submitting accurate hours to the Authority.

The Authority Did Not Effectively Implement Procedures To Ensure Accurate Reporting in FederalReporting.gov

The Authority did not effectively oversee contractors to ensure accurate reporting. Data quality is an important responsibility of key stakeholders identified in the Recovery Act. The Authority, as owners of the data submitted, have the principal responsibility for the quality of the information submitted. However, according to the two employees responsible for reporting on Recovery Act grants, it is the contractor's and not the Authority's responsibility to report accurate hours when requested each month. The Authority did not have controls in place to perform a review of the data submitted to ensure the accuracy of the data.

Conclusion

The Authority did not adequately monitor its contractors to ensure compliance with the Davis-Bacon Act and Federal labor standards and did not accurately report Recovery Act grant activities. As a result, HUD and the Authority lacked assurance that the Authority's contractors complied with the Davis-Bacon Act, and its contractors underpaid employees more than \$7,300. Also, the public did not have access to accurate information regarding the number of jobs created and retained, and the Authority's use of the formula and competitive grants it received was not transparent.

Recommendations

We recommend the Director of HUD's San Francisco Office of Public Housing:

- 1A. Request that HUD's Department of Labor Relations conduct a Davis-Bacon compliance review of both Recovery Act and non-Recovery Act capital funds to ensure the Authority's compliance with Davis-Bacon Act requirements.

We recommend the Director of HUD's San Francisco Office of Public Housing require the Authority to:

- 1B. Obtain documentation to support that the subcontractors for contracts C10006 and C10003 made restitution payments totaling \$555 to their employees or reimburse the employees from non-Federal funds for the inaccurate wages cited.
- 1C. Withhold from the contractor for contract C11289 a total of \$5,888 for wages owed to its employees and only release the funds after the contractor provides support of the restitution payments.
- 1D. Obtain documentation from the contractor for contract C10003, showing that it paid its glaziers the proper wages. If the proper wages were not paid, the Authority should require the contractor to make corrective payments totaling \$866 or reimburse the contractor's employees from non-Federal funds.
- 1E. Update its policies and procedures to ensure that its employees sign and date the certified payrolls after reviewing them, perform timely and reliable wage interviews, and fully investigate wage complaints.
- 1F. Develop and implement written procedures and controls to ensure the accuracy, completeness, and timeliness of all reports submitted to HUD or other Federal agencies.

SCOPE AND METHODOLOGY

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Our audit period covered March 1, 2009, to July 31, 2012, but was expanded when necessary. We conducted our fieldwork at the Authority's office at 340 North 11th Street, Las Vegas, NV, between August and November 2012.

To accomplish our objective, we:

- Reviewed applicable laws and regulations and HUD's Making Davis-Bacon Work guide for public housing agencies.
- Reviewed HUD regulations and reference materials for management and marketing support services.
- Reviewed the Authority's annual contributions contracts with HUD, accounting records, 5-year annual plan, contract files, independent auditor's reports, policies and procedures, board meeting minutes pertinent to the program, organizational charts, Line of Credit Control System information, and Recovery Act reports submitted to FederalReporting.gov.
- Reviewed HUD's monitoring reports of the Authority's Recovery Act funds and projects.
- Interviewed staff from HUD, the Authority, and Authority contractors.

We reviewed the Authority's contract files to determine whether the Authority followed Recovery Act and HUD procurement requirements. Using auditor judgment, we selected 4 contracts to review from a universe of 32 contracts. We selected the largest contract for three of the grants and a smaller contract from one grant to test the Authority's small purchase procedures.

We also reviewed the progress of all five Recovery Act grants reported by the Authority through FederalReporting.gov to determine whether the Authority accurately reported the amount of funds obligated and expended and vendor payments. Using auditor judgment, we selected the largest contract from 4 of the 17 contracts under grant NV01800001610R to determine whether the Authority accurately reported the number of jobs created and retained.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

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

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

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

- Compliance with applicable laws and regulations – Policies and procedures that the Authority implemented to provide reasonable assurance that it complied with procurement, Davis-Bacon, and Recovery Act reporting requirements.

We assessed the relevant controls identified above.

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

Significant Deficiencies

Based on our review, we believe that the following items are significant deficiencies:

- The Authority lacked sufficient procedures and controls to ensure compliance with Davis-Bacon Act requirements (finding).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Unsupported <u>1/</u>
1B	\$555
1C	\$5,888
1D	<u>\$866</u>
Total	\$7,309

1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures. In this case, the Authority needs to support that the contractors paid restitution for underpayment of wages. Also, the Authority needs to obtain supporting documentation showing that the contractor for contract C10003 paid its glaziers the proper wages.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

December 20, 2012

Ms. Tanya E. Aschulze
Regional Inspector General for Audit
Office of Inspector General
U.S. Department of Housing and Urban Development
611 W. Sixth Street, Suite 1160
Los Angeles, CA. 90017

Re: SNRHA ARRA Draft Audit Report Response

Dear Ms. Aschulze:

I am pleased to know there are not procurement related findings as it was the primary focus of the Office of the Inspector General (OIG) review. Southern Nevada Regional Housing Authority (SNRHA) respectfully submits the following responses regarding the Office of Inspector General (OIG) findings.

Finding: The Authority did not always ensure that its contractors complied with the Davis-Bacon Act and Recovery Act Reporting Requirements

Comment 1

The Authority did not always ensure that proper wage rates were paid.

SNRHA is a new housing authority that was formed on January 1, 2010 as the result of the merger of the former Housing Authority of the County of Clark (HACC) and former Housing Authority of City of Las Vegas (HACL V), and Housing Authority of the City of North Las Vegas (HACNLV) joining SNRHA on January 1, 2011. In an effort to provide project continuity the former agencies respective employees continued to oversee the construction work assigned to their respective former agencies and gradually transitioned to new projects. While we take responsibility of the oversight of the projects, as you might imagine the merger process of the agencies was very challenging times for the authority as this was the first merger in HUD history.

In reference to C10006, the work under this contract was funded through the ARRA Grant allocated to the former HACC. The contractor provided certified payrolls and the Construction Inspector assigned to the project did conduct employee interviews however, the review of the certified payrolls fell under the radar.

Comment 2

In reference to C10003, the work under this contract was funded through the ARRA Grant allocated to the former HACL V. The review of the certified payrolls were conducted, deficiencies were identified and contractor was notified however,

it appears that the contractor did not submit the supporting documentation confirming that the workers were paid the amount indicated in the certified payroll.

To ensure that the certified payroll reports review are performed timely and the employee interviews are compared with certified payroll SNRHA has updated the Certified Payroll Standard Operating Procedures (SOPs – See Exhibit C) to require that all certified payroll reports be reviewed within (10) business days of receipt. A letter will be issued to the contractor within (24) hours of the review if any discrepancies are found. The contractor will be required to address the stated issues and provide applicable supporting documentation within (30) calendar days of the date of the letter. On the (31st) day, if the issue(s) are not addressed a written notification of intent to withhold funds from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, will be sent to the Prime Contractor.

Comment 3

If restitution is not made, SNRHA will use the monies held from the Prime Contractor to make restitution to the worker(s). Should SNRHA be required to withhold monies from a Prime Contractor in order to make restitution to workers on their project the Prime Contractor will be deemed non-responsive and will cause one or more of the following:

- Suspension of any further payment
- Restrict contract close-out
- Contract termination
- Ineligibility for future awards
- Possible debarment

As of the date of this letter we have been in contact with contractor of record for C10006 and subcontractor for C10003. The contractor for C10006 submitted documentation on December 6, 2012 which have been reviewed and a follow up letter sent to the contractor to correct a few remaining minor details. On December 5, 2012, an email was sent to the contractor for C10003 and we are continuing to follow up on this issue (See Exhibit A).

Comment 4

Moving forward the SNRHA will ensure that the review of certified payroll reports is in accordance with HUD and SNRHA policies and procedures.

In addition SNRHA will follow the recommendation to obtain documentation to verify that contractors and subcontractors pay compensation for improper wages cited.

The Authority did not ensure that contractors obtained additional wage classifications and wage rates approved by the department of labor.

In reference to C11289, the work under this contract is funded through the ARRA Grant allocated to SNRHA. Due to the extraordinary work load certified payroll reports for some projects were not reviewed timely therefore, there was a delay in following up with the contractor. However, on August 21, 2012 SNRHA did follow up with this contractor advising them that the DOL denied their Additional Classification Requests for Painter, Plumber and Insulation Installer. The contractor chose to appeal the DOL's decision therefore on September 26, 2012 they submitted a request for reconsideration to our local HUD Labor Relations Specialist. On or about November 21, 2012 our local HUD Labor Relations Specialist telephoned the contractor and notified them that the DOL denied their request for reconsideration therefore compensation of the difference in the pay rates used on the project and the wage rate the DOL approved is due and must be paid to the workers. On November 26, 2012 SNRHA received an email from the HUD Specialist forwarding us a copy of the DOL's decision letter. On Wednesday, December 12, 2012 the contractor called and notified SNRHA that the worker's compensation checks were ready and would be dropped off later that day. As of December 12, 2012 the contractor submitted (17) checks totaling \$6,262.84 (See attached Exhibit B). On December 13, 2012 the restitution checks amounts were reviewed and found to be correct. As of the date of this letter a total of (16) workers have received their restitution checks; the final worker now lives in Sparta, WI. He was contacted at the telephone number provided by the contractor and, due to the distance great distance involved, he requested the check be mailed to him. His check was mailed via certified mail #701002290000341348011 with a signature and return receipt required. USPS.com confirms that the letter was delivered December 20, 2012, at 1:22 pm (confirmation printout attached). SNRHA cannot be held accountable for the DOL's decisions with regards to Additional Classification Requests. Whenever an Additional Classification Request is submitted, be it at the beginning of the project or not, SNRHA has no control over when the DOL will respond to the request or what their decision may be. The contractor would have to comply with the DOL's decision regardless therefore the amount due to the workers of this project as a result of the DOL's wage decision should not negatively impact the SNRHA. SNRHA respectfully disagrees with the OIG's statement that SNRHA did not follow up with the contractor in regards to this issue. This was an open and ongoing item until November 26, 2012 when the DOL rendered a decision on the reconsideration request. Please see attached supporting documentation regarding this issue (See Exhibit B). Now that all of the affected workers have been compensated 100% we respectfully request this portion of this finding be closed.

Comment 5

Comment 6

In reference to C10003 and C10006 it appears that we did not receive an approved additional classification and it appears that we did not follow up with the Department of Labor.

To ensure that the proper wages are consistently paid to all individuals working on SNRHA federally funded projects SNRHA has updated its SOPs to require that at the time of the pre-construction meeting the Prime Contractor is notified that they must submit any and all Additional Classification Request within (10) business days of issuance of Notice to Proceed (NTP). On the (11th) day, if the Additional Classification Request is not received a written notification will be sent to the Prime Contractor notifying them that they have (48) hours to submit these required documents.

Should the duration of the contract be less than (30) days, the Prime Contractor will be required to submit applicable Additional Classification Request within (48) hours of the issuance of the NTP.

If Additional Classification Request(s) are not submitted within the specified time frame, SNRHA will issue written notification of intent to suspend future payments and the Prime Contractor will be deemed non-responsive and could cause one or more of the following:

- Suspension of any further payment
- Restrict contract close-out
- Contract termination
- Ineligibility for future awards
- Possible debarment

Additionally, SNRHA has updated their SOPs to require weekly follow-up e-mails with the Department of Labor on all outstanding Additional Classification Request(s) over 30 days.

The SNRHA has already implemented a confirmation process prior to processing payments. Currently the certified payroll examiner is required to sign off on the request for payment prior to securing Dev/Mod Director approval.

The Authority did not investigate complaints received by contractor employees

In reference to C10006, the work under this contract is funded through the ARRA Grant allocated to the former HACC. It appears that the complaint was not investigated any further.

Through the regionalization the Dev/Mod Departments from the former HACC and HACLV went through an integral transition period April 2010 when the two departments were combined into one department and moved to one location. Consequently, a re-assessment of duties and responsibilities was performed and changes were made to Dev/Mod staff roles and responsibilities. At the end of 2010 the selection of the new Executive Director was made thereby causing

another integral agency wide transitional period bringing a new direction to agency. Dev/Mod Department was impacted with the assignment of the preparation of the strategic plan and participation in countless meetings adding additional strain on an already understaffed department.

Due to the increased workload as a result of the regionalization of the Agencies the volume of projects being managed by the Dev/Mod Department increased tremendously and consequently so did the number of certified payroll reports to be reviewed. Therefore, the decision was made to cross train and split the responsibilities between two employees. The employee of the former HACLV (Dev/Mod Coordinator) had over (10) years experience in reviewing certified payroll and the employee of the former HACC (Administrative Assistant) who had no experience in reviewing certified payroll reports. The first project that this employee was made responsible for reviewing certified payroll reports was Contract C10108. This contract entails the new construction of (112) apartment units totaling over \$10MIL requiring certified payroll reports monitoring of over (20) subcontractors.

On May 3, 2011 the Dev/Mod Coordinator submitted a notice of intent to retire effective May 31, 2011. In preparation of this eventuality the responsibility for the review of all certified payroll reports was transferred to the Administrative Assistant. Although, a replacement was hired for this vacated position the Agency did not allow the transfer of the replacement employee until October 2011. From May 2011 through October 2011 the Administrative Assistant was called upon to

- The responsibility of the review of certified payroll reports for all active projects,
- Assist with the compellation of bid packages for numerous IFB's and RFQ's for work funded by capital fund grants which the Dev/Mod Department was handling for the Procurement Department
- Assist with the coordination of the acquisition and rehabilitation of (91) single family homes under the first round of the Neighborhood Stabilization Program (NSP-1) which was also in full swing at the time.
- Submit ARRA Federal Reporting and RAMPS Reporting for all (5) ARRA Grants

From 2010 when the vacant position was filled the Dev/Mod Department went through yet another transitional period with the re-assignment of duties and responsibilities.

To ensure that any and all complaints are consistently investigated and addressed SNRHA has updated its SOPs as stated under the previous finding. In addition, the Dev/Mod was recently granted approval to hire an Administrative Clerk allowing the Administrative Assistant to focus primarily on the review of certified payroll reports.

To ensure that worker complaints are investigated timely SNRHA has updated the Certified Payroll Standard Operating Procedures (SOPs) to require that all complaints must be submitted within (1) business day to the certified payroll examiner. Within (2) business days the certified payroll examiner will open an investigation. If necessary an appointment will be scheduled, as soon as possible, with the worker submitting the complaint to collect any documentation substantiating the claim, provide a written statement and to complete the Federal Labor Standards Questionnaire HUD Form 4730. The certified payroll examiner will review the submitted information within (2) business day and will issue a request for information to the general contractor to cross reference information obtained from the worker. The worker(s) name and any information obtained from the worker are kept confidential at all time. The contractor will be required to provide supporting documentation (10) business days. On the (11th), if the requested documentation is not provided a written notification of intent to withhold funds from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, will be sent to the Prime Contractor.

If the requested documentation is not provided or the contractor does not respond, SNRHA will use the monies held from the Prime Contractor to make restitution to the worker(s). Should SNRHA be required to withhold monies from a Prime Contractor in order to make restitution to workers on their project SNRHA will issue a Notification of Default to the DOL, the Prime Contractor will be deemed non-responsive and will cause one or more of the following:

- Suspension of any further payment
- Restrict contract close-out
- Contract termination
- Ineligibility for future awards
- Possible debarment

If documentation is submitted timely the certified payroll examiner will have (10) business to cross reference the information obtained from the contractor and the worker and issue a decision which includes calculations of back pay if any. At the conclusion of the investigation the certified payroll examiner will issue a notice to the contractor of the final decision and the amounts of back-pay if any. Should the contractor wish to appeal the certified payroll reviewer decision they must submit within-in (2) business days a formal letter in writing requesting an appeal. The

Comment 7

certified payroll examiner will forward the contractor's appeal request and all related documents to the appropriate HUD Labor Relations representatives.

The Authority did not effectively monitor its contractors

SHRHA respectfully disagrees in regards to the employee interviews not being reliable and requests that this finding be reduced to a comment. Please be reminded that the majority of our jobs have a duration between 60 to 90 days in which various trades are in and out of the job in a couple of days. We do not have the benefit of wait a week or more before conducting employee's interviews because some trades will be missed. In addition, our Construction Inspectors consistently inform the workers regarding the wage rates applicable for the job and encourage workers to contact them or SNRHA at any time in the event the contractor is not in compliance (i.e. not paying applicable wage rates, or not applying actual number of hours, not paying applicable overtime etc.). The workers are informed that the information given is confidential. If the Construction Inspector(s) see a worker performing work that would fall under a different classification than what was previously interviewed the Construction Inspector conducts another employee interview.

To further ensure compliance in regards to the review certified payroll reports in timely manner, in addition to the updates to the SOPs indicated in the previous comment SNRHA has updated the SOPs requiring the reviewer to date certified payroll reports upon receipt and dated upon review as well as to initial the wage review after comparing both, the certified payroll reports and wage interviews, for compliance.

The Authority did not accurately report information on the use of its recovery act grants

The OMB M-10-8 dated December 8, 2009 which provided further clarification in regards to definition of jobs created or retained, it is assumed that it was forwarded to the Executive Director and appears that it was not forwarded to either the former HACC or HACLV staff responsible for the reporting. The release of this document came at a critical time with very unusual circumstances due to the merger activities and it appears that this document was missed. Since the new Executive Director came on board systems have been implemented to ensure that HUD information received via e-mail is disseminated immediately to the Deputy Executive Director, and the Directors of Finance, Housing Choice Voucher and Dev/Mod via an auto-forwarded e-mail system.

The Authority did not effectively implement procedures to ensure accurate reporting in federalreporting.gov.

Comment 8

SNRHA respectfully disagrees with this finding. (4) of the (5) ARRA grants were awarded prior to the agencies regionalizing and requests that this finding be reduced to a comment. The agencies were all separate, individually functioning agencies and therefore they held different views of the requirements for ARRA reporting. After the merger HUD still maintained those existing grants separately under the (3) former agencies requiring SNRHA to continue reporting as individual former agencies. Also, some of the projects were near completion at the time the two departments were combined into one department and moved to one location April 2010. The report process was challenging for numerous reasons and we were in constant contact with San Francisco Office requesting that they intercede, on the SNRHA's behalf with the proper department(s), to fast track the resolution to our issues. Many of the questions included in the FederalReporting.gov report are unclear and misleading as to exactly what information is being requested subsequently the two employees responsible for the reporting of the ARRA grants had different interpretations of what was being asked and therefore included or didn't include different pieces of information in their respective reports. At no time did anyone from HUD or Federalreporting.gov ever question the differentiation in the information that was being reported. Even after the agencies merged there was no mention of the differences in information being reported. Whenever a discrepancy is discovered in the information reported under Federalreporting.gov an email is sent to notify the respective housing authority of the discrepancy and a correction of the noted discrepancy is required. Throughout the required reporting of the ARRA grants some e-mails were received however, never requesting to correct the number of jobs created, vendor payments, and/or sub-award payments being reported.

To ensure consistency in future HUD reports the duties and responsibilities have been assigned to the Dev/Mod Coordinator. SOPs will be updated or implemented as required by each of the new reporting guidelines.

The OIG draft report recommended the San Francisco office request the DOL conduct a Davis-Bacon compliance review of both Recovery Act and Non-Recovery Act capital funds to ensure the Authority's compliance with Davis-Bacon Act requirements. SNRHA requests that in as much as regulations require contractors to keep files for (3) years, our staff should be given the opportunity to follow up expeditiously on the contracts noted in the IOG draft report and provide a report back to the San Francisco Office confirming full compliance has been reached. Therefore, the DOL would not be required to conduct any further review.

Comment 9

I can assure you that the SNRHA has and will continue implementing controls that will satisfy HUD and SNRHA requirements to ensure compliance. Please feel free to contact me at 702-922-6855 if there are any questions or concerns or should you require additional information.

Sincerely,

John N. Hill
Executive Director

attachments

cc: Velma Navarro, Director, Office of Public Housing, San Francisco, 9APH
Kenneth LoBene, Director, Las Vegas Field Office, 9KMA
Lisa Danzing, Special Assistant, Office of Strategic Planning and Management, X
Michael Adams, Office of Strategic Planning and Management, X
Catherine Neale, Office of Strategic Planning and Management, X
Rudy Mehrbani, Special Policy Advisor, Office of the Secretary, S

OIG Evaluation of Auditee Comments

- Comment 1** We reviewed the Authority's written response including all supporting documentation. Based on the response, we made minor changes to the report. However, the overall conclusions of the report remain the same. In addition to the auditee response, the auditee also provided updated standard operating procedures, time sheets, checks and other documentation with its response. We did not include this in the report because it was too voluminous; however, it is available upon request.
- Comment 2** We agree that the Authority reviewed payrolls and identified deficiencies for contract C10003. However, the deficiencies were not identified until two months after certified payrolls were submitted to the Authority. Also, the violation letter did not identify the difference between the wages reported during the wage interviews, and those reported on the certified payroll for two Glaziers as identified in the report. The Authority shall submit to HUD supporting documentation that these employees were paid the proper wages, or reimburse the employees from non-federal funds.
- Comment 3** We are encouraged that the Authority has made changes to its policies and procedures relating to Davis Bacon compliance. The Authority can submit all changes to its policies and procedures to HUD for review and approval during the audit resolution process.
- Comment 4** Once the Authority obtains sufficient supporting documentation for the violations noted in this report for contracts C10006 and C10003, it can submit it to HUD for audit resolution.
- Comment 5** The Authority states that the contractor issued 17 checks totaling \$6,262.84 in restitution for contract C11289. However, the supporting documentation only supported 14 checks totaling \$5,286.69. Also, some of the checks issued were not sufficient to fully reimburse the employees. The contractor still owes 12 of its employees a total of \$828.94. The report will remain unchanged until the Authority provides documentation that the contractor paid full restitution to all its employees who worked on contract C11289.
- Comment 6** We understand that the Authority does not have control over how long the Department of Labor takes to issue its wage decisions. However, the Authority should take steps to identify deficiencies as early as possible to ensure contractor compliance while the workers are still on the job, and the contractor is still working. In this case, the Authority did not identify the deficiency until four months after the certified payrolls were submitted. If the Authority had taken prompt action, the employees could have been paid prior to leaving the job site, and in one case moving to a different state.

- Comment 7** The inadequate wage interviews is not a finding, but one of the causes of the Davis-Bacon violations we noted during our review. We understand that the Authority has jobs that are short in duration and will not allow for multiple wage interviews. However, for three of the four contracts we reviewed, the contractors were on sight for several months. This allowed time for interviews to be performed throughout the job and not just during the first week. Employees are not able to answer whether or not they are paid the correct wages if they have not received a paycheck. We did not remove this cause from the report.
- Comment 8** We agree with the Authority's comments regarding the reporting of vendor and sub recipient data. We revised the report accordingly.
- Comment 9** We recommend that HUD's Office of Labor Relations perform further review of Davis Bacon compliance. During our survey, we only looked at a small sample of contracts. The Office of Labor Relations would be able to perform a broader review to include contracts that are not funded by Recovery Act Capital Fund grants. Thus, in our opinion this recommendation is appropriate for HUD's consideration, and will remain in the audit report.