U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

November 12, 2014

Board of Commissioners
c/o Irene McBride, Chair
Alexander County Housing Authority
600 Elmwood Place
Cairo, Illinois 62914

Re: Public Housing Agency June 24-26, 2014 Onsite Review, Office of Fair Housing and Equal Opportunity, HUD Compliance Review Numbers: 05-14-R002-6 and 05-14-R002-4, Departmental Enforcement Center Snapshot Review dated September 22, 2014 and Federal Standards Labor Report dated June 25, 2014

Dear Commissioners:

This letter is to convey the findings of the Alexander County Housing Authority (ACHA) review conducted by HUD between June 24, 2014 and June 26, 2014. The ACHA previously received an assessment of its financial condition and governance as a result of a designation of Substandard by HUD's Real Estate Assessment Center ("REAC") for the fiscal year ending 2012. An onsite review conducted between September 10, 2013 and September 12, 2013 resulted in findings submitted to the Housing Authority in a letter dated November 1, 2013. The ACHA submitted a response on December 13, 2013. This response was insufficient and additional information was required. Consequently, HUD found it necessary to schedule another onsite review.

During the onsite review conducted the week of June 24-26, 2014, a "cross functional team" comprised of the Illinois Office of Public Housing, the Office of Fair Housing and Equal Opportunity, the Departmental Enforcement Center and the HUD Office of Labor Relations Region V reviewed key documents of the ACHA and conducted interviews with staff and stakeholders and inspected low rent housing properties. We would like to extend our thanks and appreciation to staff for their cooperation and assistance during our assessment.

The findings of the June 24-26, 2014 assessment in addition to open findings from the September 10-12, 2013 are attached. Separate letters were issued on September 30, 2014 from the HUD Office of Fair Housing and Equal Opportunity. The Departmental Enforcement Center (DEC) Snapshot Review dated September 22, 2014 is also attached. Additionally the HUD Department of Labor Relations Federal Standards Labor Report dated June 25, 2014, is enclosed.

We have determined that the ACHA is non-compliant with Federal, State Housing and Labor laws in a number of areas of operation. Moreover there is very significant misuse of funds and repayments will be required to be made to the low rent housing program from non-federal funds.

The ACHA will need to prepare an action plan by December 31, 2014 which specifically addresses each finding together with a detailed schedule for completely resolving the Finding(s). This Action Plan should address all Findings in the DEC Snapshot Review, HUD Labor Relations Federal Standards Labor report and Illinois State Office of Public Housing summary. This Action Plan will become an amendment to the previously submitted Action Plan. Once the Board of Commissioners has reviewed and approved the Action Plan, it will take the place of any other Action Plan approved by HUD. The Alexander County Housing Authority Board of Commissioners is the legal/governing entity of the Authority and hence the Board should carefully review all actionable items and time frames. FHEO will independently work with the ACHA to address all findings in their correspondence dated September 30, 2014.

The Illinois State Office of Public Housing will review the submitted Action Plan together with the DEC and HUD Labor Relations to confirm that it addresses all of the Findings. If the Housing Authority disputes any of the Findings, a detailed response must be submitted providing evidence to the contrary and citing specific Federal or State regulations with citations. Statements refuting any Findings without evidence to the contrary are not acceptable. If you have any questions, please contact me at William.E.Wilkins@hud.gov. Thank you for your continuing assistance in this matter. I look forward to working with your agency to resolve the issues.

Sincerely,

William E. Wilkins
Director
Illinois State Office of Public Housing
HUD RegionV

Enclosure

Cc: w/Enclosure

Mr. Harold McNelly
Alexander County Board Chair
2000 Washington Avenue
Cairo, Illinois 62914

John Price, Commissioner
Alexander County Housing Authority
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Mike Brey, Commissioner
Alexander County Housing Authority
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Martha Franklin, Executive Director
Alexander County Housing Authority
100 Ohio Street
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The Alexander County Housing Authority
Public Housing Agency Summary Assessment June 24-26
November 12, 2014

Management

- **Finding # 1) Improper Consulting Contract with former Executive Director**
  Condition: The former Executive Director, James Wilson improperly procured a consultant services contract for himself dated March 23, 2012.
  Criteria: 24 CFR 85.36
  Cause: The Board approved a contract that was not in compliance with HUD procurement regulations.
  Concern: The contract that was awarded without competition. There are no records available (hourly time sheets, notes, work product etc.) for "the consulting work" performed by the former Executive Director, Mr. James Wilson. Consequently, there is no record of work product to justify the expense. Improper use of PHA funds is adverse to the mission of the PHA to provide safe and sanitary housing for low income persons.
  Corrective Action : The consultant contract was voluntarily terminated by the former Executive Director on October 25, 2013 following HUD notice to the Housing Authority that this consulting contract was improperly procured. Since the Consulting Contract was improperly procured, all of the funds for service from April 1, 2013 through October 25, 2013, totaling Nine thousand eight hundred dollars ($9,800.00) shall be repaid to the low rent housing program with non-Federal Funds by the Alexander County Housing Authority. Also, Mr. James Wilson was paid through the ACHA payroll and employer portions of FICA and Medicare which should also be repaid to the low rent housing program using nonfederal funds.

- **Finding #2) Improper Legal settlement with former Executive Director James Wilson**
  Condition: On October 25, 2013, the Board approved continuing payments equal to consulting fees James Wilson former Executive Director was receiving, as part of a settlement agreement justified as a release against potential future legal actions.
  Criteria: The Board had no authority to offer a financial settlement in response to a threatened lawsuit without the express review and approval by the HUD Office of General Council as set forth in the HUD litigation Handbook 1530.01 Rec-5 issued 5/18/2005 Section 5-3C.
  Concern: The Housing Authority made financial payments that it had no basis to provide. Improper use of PHA funds is adverse to the mission of the PHA to provide safe and sanitary housing for low income persons.
  Corrective Actions: Funds in the amount of twenty- one thousand six hundred seven dollars ($21,607.00) paid through 5/20/2014 shall be repaid with nonfederal funds by the Alexander County Housing Authority to the low rent housing program. In addition any additional payments shall stop immediately and any payments made after 5/20/2014 shall be added to the repayment. Also, James Wilson was paid

through the ACHA payroll and employer portions of FICA and Medicare were paid on his behalf. Those funds should be repaid to the low rent housing program using nonfederal funds.

- **Findings #3) No Community Service Requirement For ACHA Tenants**
  Condition: The Alexander County Housing Authority does not require tenants to complete applicable community service requirements.
  Criteria: 24 CFR 960.603(a) see PIH Notice 2009-48(HA).
  Cause: Non-enforcement of a statutory requirement. Self-certification by tenants is not acceptable.
  Concern: Alexander County is housing tenants who may not be in compliance with regulations for community service in violation of Federal Statue.
  Corrective Action: The Housing Authority shall begin to administer this requirement and provide evidence that it is being complied with.

- **Finding 4) Improper Coding of Settlement Agreements**
  Condition: The Housing Authority improperly charged EEOC settlement costs to program funds.
  Criteria: The reference is in OMB Circular A-87 Attachment B #16 page 27, Fines and penalties. "Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, Local, or Indian tribal laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments".
  Cause: The ACHA did not comply with regulations for proper payment of fines, penalties, damages and settlements from program funds. The Housing Authority does not have a cash flow/budget for all of the retirement payouts and EEOC payments identifying how these will be paid and where they will be charged in the annual budget for the Housing Authority.
  Concern: Use of Federal Program funds for an improper cost removes funding from the operations of the Housing Authority programs diminishing the quality of service for PHA customers. It is difficult to establish if the Housing Authority has the long term ability to make these payments while maintaining and modernizing their properties.
  Corrective Action: The ACHA shall make repayments using nonfederal funds. Future payments shall be made from non-Federal Funds. The Housing Authority shall provide a cash flow for all payments made for retirement, EEOC, other settlements and legal fees. Executive Director and Financial staff shall obtain financial management training for all program operations.

- **Finding 5) High Vacancy Rate**
  Condition: The Housing Authority has a current vacancy rate of 13%.
  Criteria: 24 CFR 990.120 through 990.155, 24 CFR 966.4 (e), Annual Contributions Contract (ACC)
  Cause: Age and condition of part of the inventory make the property hard to keep in

leasable condition. Building systems in Amp 1 have not been modernized.
Concern: The Housing Authority is adversely impacted by the loss of potential rental income as well as loss of operating subsidy due to the high vacancy rate.
Correction: The Housing Authority shall develop and implement a plan to increase occupancy to at least 98% by either leasing units or removing obsolete units from inventory.

- **Finding 6) : The Housing Authority does not have a Current Physical Needs Assessment**
  Condition: The ACHA has no Physical Needs Assessment (PNA) performed by a qualified Expert to establish Capital Improvement requirements for the various low rent properties in the portfolio.
  Criteria: 24 CFR 905.300(a)
  Cause: ACHA Management did not procure and schedule a Physical Needs Assessment as required.
  Concern: The ACHA may be operating properties which are obsolete and need to be replaced based on the number of building systems requiring repair or replacement. The ACHA may be investing Capital Funds in properties which are not sustainable. The ACHA may not be properly prioritizing their Capital Fund expenditures and not addressing building and site systems which may be in greater need of repair or replacement.
  Corrective Action: The ACHA shall procure and schedule a PNA for their inventory. The ACHA should evaluate properties for obsolescence in accordance with Section 18. The PNA should also include estimates of costs for the various building and site systems in need of replacement in order for the ACHA to be able to generate a cash flow and schedule for needed improvements.

- **Finding 7) Security Issues at Family Sites;**
  Condition: The McBride and Elmwood sites have security issues as reported by residents and local law enforcement during on site interviews. Issues include but are not limited to personal property crimes and gunfire.
  Criteria: 24 CFR 966.4(e)
  Cause: Lack of security measures and or lease enforcement to remove non-residents, associates of residents and any residents who may be associated with incidents. Security measures are not equitable within ACHA properties. For example; the Connell Smith Building has security guards and cameras while properties with more security issues were not given higher priority when implementing security measures.
  Concern: Lack of a safe environment creates a physical hazard to residents, loss of personal property and diminishes the marketability of the property contributing to higher vacancy rates.
  Corrective Action: Implementation of additional security measures and measurement and documentation of incidents. Identify and act upon the root causes of security issues to make properties secure around the clock so that all ACHA tenants are safe and staff can safely access all properties.

- **Finding 8) Improper Management of the Capital Fund Program**
  Condition: The Alexander County Housing Authority has been improperly procuring and managing Capital Fund work.
  Criteria: 24 CFR 85.36, 24 CFR 905.314(a), 24 CFR 905.316, 24 CFR 905.320 and 24 CFR 905.326. HUD Handbook 7460.8 Rev-2 issued 2/2007.
  Cause: ACHA staff is not properly following procurement and Capital Fund management practices. ACHA staff is completing force account work for modernization and maintenance without field office approval. The ACHA is funding unit turn using Capital Fund under cost codes 1450 and 1460. Other non-qualified expenses are being charged to Capital Fund grants resulting in a lack of funding for property maintenance and rehabilitation.
  Concern: There are no independent cost estimates for force account modernization and maintenance projects. The Housing Authority cannot confirm that it is getting the best value from its maintenance staff in comparison to professional contractors. Specialty contracts may perform a modernization a job more quickly and efficiently resulting in a lower cost.
  Corrective Action: The Housing Authority has been placed on LOCCS zero threshold review to insure that all Capital Fund expenditures are properly procured and appropriate to charge to the Capital Fund grant. The Housing Authority shall not utilize force account labor for any modernization work without Field Office Approval. Capital Fund Cost code 1406 should be for the purpose of operations which are to pay the costs of salary and benefits for full time maintenance staff to cover labor for maintenance and normal unit turn.

FEDERAL LABOR STANDARDS MONITORING REPORT

Alexander County Housing Authority

June 25, 2014

SUMMARY

On Wednesday, June 25, 2014, Ms. Roxanne A. Volkmann, Contractor and Industrial Relations Specialist, Office of Labor Standards and Enforcement (OLSE), Region V, joined a team of representatives from several departments within the U.S. Department of Housing and Urban Development (HUD) and reviewed the administration and enforcement of Federal Labor Standards requirements of the Alexander County Housing Authority, hereafter "Agency", pursuant to Section 12[1] of the United States Housing Act of 1937. Ms. Martha Franklin, Executive Director, of the Alexander County Housing Authority, Mr. Richard Harrington, former Modernization Coordinator, the Agency's Maintenance Staff members (Bill Tatum, James Renfrow, Clayton Greenley, Jeff Childs, Henry Wade, DD Copeland, Eric Childs and Robert Price), and third party legal counsel and union representatives, participated in the review.

For the purpose of this review, construction contracts, contract administration, employee interviews (HUD-11's) and other related documents were reviewed, and Agency staff were interviewed to establish Davis Bacon and the Related Acts (DBRA) knowledge and capacity to enforce Federal labor standards related to the administration of HUD funded and/or assisted projects. In addition, procedures for records keeping, contract administration, and complaint intake were discussed and evaluated.

At the time of the monitoring Ms. Franklin, the Executive Director, indicated that there were no contracts subject to DBRA to be reviewed by this office. Upon further review, it appears that there were, in fact, many instances in which a contract should have been executed. In those instances, the work was subject to labor standards requirements.

OLSE met with Ms. Franklin and reviewed with her the process by which a contract is bid out, including lock-in dates and applicable wage determinations, contract administration, including labor standards provision form (HUD-5370, HUD-5370-C , HUD-5370EZ), and payroll administration, including employee interviews forms (HUD-11). The routine, non-routine and forced labor account work performed by maintenance staff members was also discussed with Ms. Franklin, Mr. Harrington and the Agency's maintenance staff.

Project Name	Project ID	Contract Amount

According to the Executive Director, there were zero (0) contracts subject to DBRA in last 12 months.

Based on information reviewed during the monitoring visit, administration of federal labor standards is determined to be inadequate.

[1] (also mandates the payment of HUD-determined prevailing wage rates to all maintenance laborers and mechanics engaged in the operation of PHA low-income housing projects)

Performance is deemed to be adequate when a LCA is operating in accordance with HUD program guidelines and there are no serious deficiencies or regulatory violations. Performance is deemed inadequate when a LCA fails to carry out HUD programs according to the established requirements and serious program deficiencies and/or regulatory violations exist.

This monitoring review identified four (4) findings.

FINDING 1: Failure to properly administer contracts subject to Davis Bacon and the Related Acts.

During the monitoring interview, in response to direct a question, the Agency's Executive Director indicated that over the past 12 months, there were "no contracts subject to Davis Bacon [and the Related Acts]." Semi-Annual Labor Standards Enforcement Reports (HUD-4710) submitted by the Agency covering the two periods which make up FY 2014 (October 1, 2013 – March 31, 2014 and April 1 – September 30, 2014) indicate that the "Number of prime contracts subject to the Davis Bacon and Related Acts (DBRA) and/or the Contract Work Hours and Safety Standards Act (CWHSSA) awarded this period" was "0". A further review of the second period of FY 2013 (April 1 – September 30, 2013) also indicated zero (0) contracts.

However, upon reviewing available FY 2013 documents in the Agency's files it was evident that work subject to DBRA had taken place but, contracts were not properly administered nor were these projects reported on the HUD-4710 forms. In lieu of contracts or purchase orders, we identified a document titled "Contractor Agreement", but it did not contain sufficient regulatory language nor did not meet the labor standards required by DBRA and this office for proper compliance.

§29 CFR 5.6: Enforcement states that:

(a) (1) It shall be the responsibility of the Federal agency to ascertain whether the clauses required by § 5.5 have been inserted in the contracts subject to the labor standards provisions of the Acts contained in § 5.1. Agencies which do not directly enter into such contracts shall promulgate the necessary regulations or procedures to require the recipient of the Federal assistance to insert in its contracts the provisions of § 5.5. No payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency unless the agency insures that the clauses required by § 5.5 and the appropriate wage determination of the Secretary of Labor are contained in such contracts. Furthermore, no payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency after the beginning of construction unless there is on file with the agency a certification by the contractor that the contractor and its subcontractors have complied with the provisions of § 5.5 or unless there is on file with the agency a certification by the contractor that there is a substantial dispute with respect to the required provisions.

and

§29 CFR 5.7: Reports to the Secretary of Labor states:

(b) ***Semi-annual enforcement reports.*** To assist the Secretary in fulfilling the responsibilities under Reorganization Plan No. 14 of 1950, Federal agencies shall furnish to the

> Administrator by April 30 and October 31 of each calendar year semi-annual reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and its related acts covering the periods of October 1 through March 31 and April 1 through September 30, respectively.

Chapter 10, REPORTS (Davis Bacon and Related Acts) of the OLSE Handbook 1334.1, revision 2, further clarifies the DOL 29 CFR Part 5, §5.7:

> 10-3 **Semi-annual Enforcement Reports.** HUD is required to furnish to DOL semiannual reports (SARs) concerning the volume of DBRA-covered activity and the compliance and enforcement of DBRA labor standards provisions in HUD programs. The reports cover the periods of October 1 through March 31 and April 1 through September 30 of each calendar year. The reports are due to DOL by April 30 and October 31, respectively. HQLR collects data from LR2000 and from each RLRO and prepares and submits the report to DOL. (See also DOL regulations at *29 CFR§5.7(b).*)...
>
> > **B. LCA [Local Contracting Agencies] -administered projects.** LCAs must maintain the data necessary for the SAR and submit the data to HUD on form HUD-4710. The LRS/RLRO shall collect the data (HUD-4710s) from the LCAs in their jurisdiction. RLROs shall compile the LCA data for their region and submit the compiled data to HQLR no later than six working days in advance of the due date to DOL. The HUD-4710 and instructions are available on-line at HUDClips. The HUD-4710 is on-screen fillable and can be transmitted to HUD electronically. States may submit SARs directly to DOL.

A folder labeled "Security Cameras" was located in the Agency's FY2013 files. This folder contained one page documents titled "Contractor Agreements" The folder also contained other documents relating to work proposed and completed by Daniel Walker (dba Walker Technology). There were three separate agreements which all appear to be a part of the same security system. The three Contract Agreements with Mr. Walker are dated June 13, 2013, July 10, 2013 and August 8, 2013 and appear to be, at least in part, for work and materials related to the physical installation of electronic security cameras and DVRs, part of the security network. There is a fourth, unsigned Contractor Agreement for similar work, but it is impossible to tell if this was for additional work, work already included in the previous three Contractor Agreements or if this work was ever even agreed upon.

It is difficult to determine the exact value of the total for the project because there are no bid specifications, purchase orders, or anything similar relating to the work done, contractor and employees involved, cancelled checks or receipts outside of the single page "Contractor Agreements", an e-mail to the Agency's Executive Director from Mr. Walker which appears to confirm a part of the project being done and two very general "Statements of Work".

Additionally, the three signed Contractor Agreements have "Contract Price" totals that are either written in over a previous amount, such as "355.00" handwritten over a crossed out number (305.00), or incorrect contract prices on the same line, such as "One Thousand Two Hundred Ninety Two Dollars (1330.00)". The total amount for the project appears to range from $2,946.00 to $3,034.00. If the fourth Contractor Agreement was actually awarded and completed, the total amount for the project would range from $4,186.00 to $4,274.00, thus subject to labor standards compliance.

It is important to note that in the example above, as well as other project files (covering the FY2013 time period and presumed to have taken place but lack the existence of proper contractual documentation), several other Findings as well as issues of potential restitution from underpayment may result.

Without the suitable contracts for these projects, the Agency has failed to comply with DBRA Contract Administration requirements. As a result of the absence of a contract, appropriate Labor Standards Provisions (HUD-5370) and the applicable Davis Bacon Wage Determination were not incorporated. The purpose of these missing contractual requirements are as follows:

> Labor Standards Provisions: It is critical that the labor standards provision (HUD-5370, 5370-C or 5370-EZ) is properly incorporated into the contract. The failure to include the labor standards provisions may result in the Agency's inability to enforce the DBRA requirements such as access to payrolls, subcontractor compliance, and withholding rights.

The lack of this document is in violation of §29 CFR 5.6: Enforcement (as previously cited).

> Applicable Wage Determinations: Without the applicable wage determination incorporated into the contract, underpayment to employees and remuneration due is probable.

The failure to properly incorporate the applicable wage determination is also in violation of § 29 CFR Part I, Section 1.6 (b):

> "(b) Contracting agencies are responsible for insuring that only the appropriate wage determination(s) are incorporated in bid solicitations and contract specifications and for designating specifically the work to which such wage determinations will apply. Any question regarding application of wage rate schedules shall be referred to the Administrator, who shall give foremost consideration to area practice in resolving the question."

The Agency's liability for potential underpayment of employees increases when the applicable wage determination has not been properly incorporated into the contract with the labor standards provisions.

CORRECTIVE ACTION:

The Agency must devise and implement written control procedures to insure the inclusion and/or proper reference of the Federal Labor Standards provisions (HUD-5370) as required into all contracts subject to DBRA, in addition to adhering to the principles of any contract requirements under the jurisdiction of and as specified by HUD Public and Indian Housing (PIH) regulations and any other overseeing regulatory entities. Further instructions relating to this requirement can be in found in the Labor Relations Letter LR-06-03, "Incorporation of federal labor standards provisions and prevailing wage decisions into bid specifications and contracts."

The Agency must also devise and implement written control procedures to insure the inclusion of correct and applicable general wage decisions (including correct category of construction and modification) and/or HUD-determined wages (as required) into every contract. The U.S. Department of Labor (DOL) provides additional guidance and instructions to select the correct category of construction in their All Agency Memo 130. Current and archived federal wage decisions are available at www.wdol.gov.

Please submit to OLSE, in writing, a copy of control procedures devised and implemented by the Agency to insure the incorporation of appropriate federal labor standards provisions into all future construction contracts in which the Davis-Bacon and Related Acts are applicable. The Agency must also submit a written copy of control procedures to indemnify prevailing wages are properly locked-in, applicable to the nature of the project, category of construction, and applicable modification.

At this time, we have determined that it is not possible to retroactively amend the project reviewed to include contract and payroll information because the project has been completed. However, if there are any ongoing or upcoming projects which are subject to DBRA, these projects must be assigned the proper contracts as determined by PIH and these contracts must properly include both the correct HUD-5370 Labor Standards Provision form and the current and applicable wage determination.

A list of all of these projects including the project name, amount, HUD-5370 form used, bid date, contractor information, contract award date, construction start, wage decision used and percentage completed will need to be provided to this office.

FINDING 2: Failure to properly enforce and maintain administrative payroll documentation for work performed subject to DBRA.

The Agency also fails to fulfill Payroll Administration obligations under DBRA in the absence of a contract and any payroll and payroll-related documentation. The Agency is required to collect DOL-compliant payrolls and Statements of Compliance under the same regulations identified above.

§ 29 CFR 5.6 Enforcement states:

(a) (1) It shall be the responsibility of the Federal agency to ascertain whether the clauses required by § 5.5 have been inserted in the contracts subject to the labor standards provisions of the Acts contained in § 5.1. Agencies which do not directly enter into such contracts shall promulgate the necessary regulations or procedures to require the recipient of the Federal assistance to insert in its contracts the provisions of § 5.5. No payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency unless the agency insures that the clauses required by § 5.5 and the appropriate wage determination of the Secretary of Labor are contained in such contracts. Furthermore, no payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency after the beginning of construction unless there is on file with the agency a certification by the contractor that the contractor and its subcontractors have complied with the provisions of § 5.5 or unless there is on file with the agency a certification by the contractor that there is a substantial dispute with respect to the required provisions.

(a) (2) Payrolls and Statements of Compliance submitted pursuant to § 5.5(a)(3)(ii) shall be preserved by the Federal agency for a period of 3 years from the date of completion of the contract and shall be produced at the request of the Department of Labor at any time during the 3-year period.

It is difficult to determine which, if not all, of the projects located in the files were subject to DBRA as no contracts were executed. In each and every instance in which the Agency failed to administer these contracts, the mandatory payroll administration was also not performed.

Without this information, the Agency cannot be sure that workers on the site were properly paid in accordance with DBRA. Particular problems that would be identified by standard payroll reviews, employee interviews, job postings, proper use of DOL-approved apprentices, appropriate use of job classifications for work performed on the site, and so on may have been missed because the agency failed to enforce any basic payroll administration.

CORRECTIVE ACTION:

The Agency must devise and implement written control procedures to insure the proper payroll administration for all mechanics and laborers protected by DBRA. Given the severity of the violations, it is mandatory that the Agency immediately schedule DBRA training from OLSE. All senior staff responsible for contract administration and the resulting payroll administration must be in attendance.

Please contact OLSE to schedule training and submit, in writing, a copy of control procedures devised and implemented by the Agency.

The Agency must also maintain all payroll records for projects subject to DBRA for a period no less than 3 years (or longer if required by any other overlapping HUD program requirements).

At this time, if there are any ongoing or upcoming projects which are subject to DBRA, these projects must have all related and required payroll records submitted to this office. In instances where there were no payroll records kept for an ongoing project, the Agency must immediately begin collecting, reviewing, and enforcing DBRA payroll submissions. The Agency must also send a registered, return-receipt letter containing a HUD-4730 (Federal Labor Standards Questionnaire) to all current and former employees performing work on the ongoing projects. Copies of all of the payrolls received, returned receipts and any responses to the HUD-4730 must be forwarded to the OLSE for the next twelve (12) months.

Finally, if any issues of DBRA underpayment are identified, restitution must be paid to all of the affected workers.

FINDING 3: Routine and non-routine (including HUD-determined and Davis Bacon Wage Determinations) were improperly implemented by the Agency.

a. **HUD-52158 does not include all of the work classifications performed by contracted maintenance staff; and/or it is unclear whether or not staff and other employees are receiving the proper wages as adopted on the current HUD-52158 or are subject to DBRA wage determinations.**

b. **HUD-determined maintenance wage rates were erroneously used in non-routine work by the maintenance staff as mandated by the Agency under Force Account Labor (FAL).**

A. On September 12, 2013, this office approved HUD-52158, as requested by the Agency September 11, 2013 with the position of "Maintenance Technician" and a respective basic wage of $16.00 per hour.

On November 15, 2013, this office e-mailed a follow-up query to clarify several concerns, namely:

1. The Maintenance Technician position only increased $0.07 over a 5 year period;
2. Previous positions were dropped and/or changed;
3. There were no associated job descriptions available. Usually, where there is a Collective Bargaining Agreement (CBA), a job description is included within that document. The respective CBA states "Job titles and classifications may be changed at the discretion of the Housing Authority Management." As a result, job descriptions were requested from the Agency.

This office did not receive a response at that time, but at the monitoring OLSE was given a copy of a response letter dated November 20, 2013. The response explained that the $0.07 increase is a result of the terms agreed upon and documented in the CBA. However, the response mentions a copy of an enclosed current job description, although no job description was submitted. The Agency did attach another copy of the CBA referenced in the third concern identified in the initial inquiry, but it was unclear if that was to provide a response to the request for current job descriptions.

The Agency also explained why there were no longer Maintenance Superintendents as before. The Agency submitted a new request for two separate positions (Maintenance Technician I and Maintenance Technician II), as well as a request for a part-time "Maintenance Worker". They also attached a table of the maintenance employees, titles and wage rate, a copy of the benefit package break-down and surveys of nearby housing authorities.

OLSE has not and cannot issue an amended wage determination without receiving and considering the requested supporting job descriptions. Further interviews during the monitoring with maintenance staff and unit preparation summaries indicate that the work performed by the maintenance staff is the same, regardless of the job moniker given by the Agency. Unit Preparation Sheets (referenced by the maintenance staff and copies provided to OLSE) indicated that the same type of work was performed by all of the maintenance men, regardless of the job title.

This office also identified individuals performing work under Section 3. The worksheets are labeled "grounds" and other titles. Several individuals performing this work are reported to have received $8.25 (minimum wage). We encourage individuals to perform work under Section 3 opportunities, but as explained in the cover letter the Agency receives with each HUD-52158 wage rate determination, "Unless you request that we add additional classifications to your HUD-52158, you may only employ persons in the presently listed classifications." This office has not received any requests to approve hourly wages at any rate for individuals doing grounds keeping work, or any other Section 3 related positions.

This office has determined that based upon the on-site interviews and documents collected at the monitoring, some maintenance staff employees have been underpaid for the hours they performed routine maintenance work. Individuals performing work under Section 3 opportunities may also have been underpaid as there was no supporting documentation or approved HUD-determined routine or non-routine wages.

CORRECTIVE ACTION:

All employees that performed the same types of maintenance work are subject to the same wages negotiated and agreed upon in the CBA. The CBA represent local area practice and it sets the prevailing wage for union and non-union employees. The underpayment amount for work performed in the last three (3) years must be assessed and calculated. Those calculations will be presented to HUD for a final determination prior to the payment of restitution to the affected workers.

Job descriptions for all maintenance wages must be immediately submitted to OLSE.

For Section 3 workers that performed labor and maintenance on-site, each exact job title and job description must be documented and submitted to this office. The Agency, with guidance from HUD, will need to perform a survey to identify the local area prevailing wages for those positions for the dates the work was performed. The hours and dates that each Section 3 worker performed actually performed the work must also be collected and submitted to this office. Finally, if underpayment is identified from the research, restitution must be made.

One set of folders compiled documents relating to a water heater replacement project, including bids for the water heaters from Lowe's, and Menards. A single quote from Lowe's for 70 water heaters was included in the folder as was a receipt from Lowe's for 15 water heaters, totaling $10,434.36. Presumably, the work involved labor to detach and remove existing heaters, labor to locate the new heaters to where they would be installed, and any plumbing, electrical and gas disconnections and reconnections, was not included in the purchase and there was no other contract for labor. This office could not immediately determine exactly who installed the new water heaters, although the work appears to have been done under force account labor. Other projects, that appeared to be similar in nature, were partially documented in other folders.

No payrolls were collected and if the work was performed by force account labor, this information was also not readily available. The files included some spreadsheets with the names of individuals. It was impossible to tell if these were records for the given project because many seemed to have no bearing to the type of work that would have been involved.

OLSE has not and cannot issue HUD-determined non-routine wages without receiving and evaluating the requested supporting documents for such a request. Additionally, the work may have been subject to Davis Bacon prevailing wages rather than HUD-determined non-routine wages, but at the time, limited documentation made such a determination difficult.

The U.S. Housing Act of 1937, as amended (USHA), Section 12 states:

(a) Any contract for loans, contributions, sale, or lease pursuant to this Act ....shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act..., shall be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under section 8 of this Act, where the public housing agency or the Secretary and the builder or sponsor enter into an agreement for such use before construction or rehabilitation is commenced), and the Secretary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this Act, shall not apply to any individual that

(1) performs services for which the individual volunteered;
(2) (A) does not receive compensation for such services; or
(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and
(3) is not otherwise employed at any time in the construction work.

Chapter 11 (of the Federal Labor Standards Requirements in Housing and Urban Development Programs, Handbook 1344.1, Revision 2) "Interpretations and Applications" elucidates the manner in which employees are expected to be compensated (***emphasis added***).

11-12 **Force account labor.** In some instances a government agency (state or political subdivision thereof) may perform DBRA-covered construction work with its own employees. These governmental employees are referred to as "force account" labor. Force account workers are excluded from DBRA coverage. This exclusion stems from the language of most DBRA statutes such that the covered classes of workers are those employed by "contractors and subcontractors" and the concept that governmental agencies are not considered "contractors" or subcontractors" within the meaning of these DBRA.

A. Non-force account labor. Any portion of the DBRA-covered work that is not performed with excluded force account labor is subject to DBRA and other labor standards in the usual manner.

B. ***Non-excluded force account labor. Certain HUD related acts (i.e., U.S. Housing Act of 1937, Native American Housing Assistance and Self-determination Act) require the payment of prevailing wages to all laborers and mechanics without stipulation that such laborers and mechanics are employed by contractors and subcontractors. Under these statutes, the governmental agency employees must be paid in accordance with the applicable DBRA/MWD requirements.***

Failure to comply with these requirements has resulted in the existing underpayment of prevailing wages to the employees who performed work on this and all other projects similar to this subject to non-routine HUD determined wages or DBRA wage determinations.

CORRECTIVE ACTION:

All employees that performed non-routine maintenance work are subject to non-routine maintenance wages and/or Davis Bacon prevailing wages. No requests for non-routine work were presented to or approved by OLSE and as a result, all restitution due will have to use established Davis Bacon prevailing wages for that work at that period of time. The underpayment amount for work performed in the last three (3) years must be assessed and calculated. Those calculations will be presented to HUD for a final determination prior to the payment of restitution to the affected workers.

The Agency must devise and implement written control procedures to insure the proper payment for all mechanics and laborers protected by DBRA. The Agency must also maintain all payroll records for projects subject to DBRA for a period no less than 3 years (or longer if required by any other overlapping HUD program requirements).

If the Agency would like to request future non-routine maintenance wages such requests and complete supporting documentation must be presented to OLSE in a timely manner for consideration.

FINDING 4: The agency failed to maintain accessible and proper DBRA records.

It was difficult to locate information (such as contracts, bids, payrolls, etc.) for each project subject to prevailing wages. In some instances, OLSE located two folders for a project, often labeled "material and "labor". The "material" folders contained documents which could be "Contract Agreement", examples of bids, e-mails relating to scope of work, hardware store receipts, and so on. The "labor" folders contained tables with employees' names as well as Section 3 participants, but most did not correlate with the folder in which they were located. None of the folders were consistent in the types of documents that it contained.

For example, within the installation of security camera and system folder project, OLSE located a list of Section 3 participants listed as "grounds". The scope of work, that was in the folder, in no way listed work that would consist of such a position.

§ 29 CFR 5.5 Contract provisions and related matters

(3)(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at *http://www.dol.gov/esa/whd/forms/wh347instr.htm* or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

HUD handbook 1344.1 revision 2 further explains this requirement in Chapter 5: Labor Standards Administration and Basic Enforcement:

5-2 **Field LRS/LCA Staff Responsibilities.**

A. Responsibilities/direction shared by LRS/LCAs.

For each project assigned to field LRS and LCA staff, the staff shall:

1. Confirm the specific labor standards provisions applicable to the project (e.g., Davis-Bacon wage and reporting requirements, CWHSSA).
2. Ensure that the current applicable Davis-Bacon wage decision and contract standards are incorporated into the contract for construction (e.g., contract specifications).
3. Ensure that no contract is awarded to any contractor that is debarred or otherwise ineligible to participate in Federal programs.
4. Provide technical support to the prime contractor and subcontractors concerning prevailing wage and reporting requirements.
5. Identify and process requests for additional classifications and wage rates, as needed, for the construction of the project.
6. Perform periodic "spot-check" reviews of certified payroll reports (CPRs) and related submissions, including comparison of on-site interview data against CPRs, for compliance with the labor standards.
7. Notify the employer and prime contractor of any labor standards deficiencies and required corrective actions.

8. Identify potential willful violations through spot-check reviews and/or employee interviews. Follow-up on potential willful violations through employee questionnaires and other techniques to identify cases for investigation.
9. Receive and screen employee and other complaints or allegations of violation.
10. Ensure full correction of labor standards deficiencies or violations.
11. As necessary, refer through the RLRO cases for administrative hearing (29 CFR, Part 5, §5.11) and/or make recommendations for debarment (29 CFR, Part 5, §5.12) and/or CWHSSA liquidated damages assessment (29 CFR, Part 5, §5.8).
12. Prepare reports on all enforcement activity.
13. Dispose of deposit/escrow accounts established for labor standards purposes.
14. Establish and maintain, for not less than 3 years after the completion of construction or final disposition of any compliance issues, whichever occurs last, full documentation of all labor standards administration and enforcement activities.

The Agency is required to complete all of these responsibilities. The information which was located in the folders was hard to discern. The folders were incomplete and disorganized. Some files contained unrelated documents. The Agency cannot insure that workers are being properly paid if the Agency cannot access the relevant documents to review and enforce, where necessary.

CORRECTIVE ACTION:

Many of the required actions are already stated above, including scheduling an OLSE training. The Agency must also devise a recordkeeping system that in which documents, required by DBRA, can be easily accessed. A written copy of the method by which these records will be kept must be submitted to this agency.

Alexander County Housing Authority
Illinois
Snapshot Review
September 22, 2014

Craig T. Clemmensen, Director

Table of Contents

I. Executive Summary

Based on the results of a Public Housing Agency Recovery and Sustainability (PHARS) review of the Alexander County Housing Authority (ACHA – IL007) in September 2013 by the Chicago Field Office (CFO), the Office of Public and Indian Housing (PIH) referred the ACHA to the Departmental Enforcement Center (DEC) to conduct a review of the financial condition of the Low-Rent Public Housing Program (LRPH), Central Office Control Center (COCC), inter program balances, and ACHA's internal controls. The DEC conducted an on-site review, along with PIH, HUD's Office of Fair Housing and Equal Opportunity (FHEO), and HUD's office of Labor Relations from June 24, 2014 through June 26, 2014.

Based on our review, the DEC found that COCC expenses were paid with LRPH funds each year from FY 2011 through FY 2013 (October 1, 2010 through September 30, 2013), resulting in an inter program payable of $404,538 due from the COCC to the LRPH program at September 30, 2013. Also, had all of the authorized COCC fees for FY 2013 been charged to the LRPH program, the current assets of the LRPH AMPs would have been reduced, resulting in a PHAS financial score of 9.7 out of 25, putting the ACHA in a substandard financial status at September 30, 2013.

The DEC concluded the following were unauthorized uses of LRPH funds.

1. The previous Executive Director (ED), who retired April 1, 2013, has been paid $40,426 through May 2014 in salary and employment taxes on a post retirement consulting contract voided by the Chicago Field Office (CFO) in October 2013. Also, the entire $40,426 has been paid from LRPH program funds.

2. Early retirement buyouts and accrued vacation and sick time, post retirement employment contracts, and post retirement benefits totaling $296,426 paid during FY 2013 and FY 2014 were charged to the LRPH program.

3. An EEO settlement with a former employee effective February 2014 is being paid with LRPH funds, totaling $10,500 as of July 1, 2014.

4. Training and travel costs totaling $95,787 for COCC staff from FY 2011 through FY 2014 to date have been paid with LRPH funds.

The total unauthorized use of LRPH funds from FY 2011 through FY 2014 to date were $443,209. Had all of the authorized COCC fees for FY 2011 through April 2014 been charged to the Asset Management Projects (AMPs), and had all of the costs noted above been properly charged to the COCC, there would not have been any inter program payables at the end of any of these fiscal years, and the COCC would have a cash reserve of $301,901 at April 30, 2014.

The ACHA is also experiencing declining occupancy, with occupancy reported at 88% for July 2014, down from 94% for FY 2013. At this rate, the DEC projects LRPH operating deficits of $126,300 for FY 2014 and $379,900 for FY 2015.

The DEC recommendations include but are not limited to ACHA working with the local HUD PH field office to the reconciliation of COCC and LRPH accounts, recovery of over $31K paid to the former ED, training ACHA board members and the ED regarding the authorized uses of LRPH funds. In addition, ACHA should update their internal control policies in the areas of major purchases over $100,000, Davis-Bacon wage requirements; use of required HUD contract forms; and documenting rationale for contract awards.

II. Purpose

The purpose of the review was to assess the overall financial condition of the ACHA, determine the inter program receivable/payable balances, authorized and unauthorized uses of LRPH program funds, and to evaluate the internal control policies and practices in place at ACHA.

III. Scope and Methodology

The scope of the review included financial transactions of the ACHA for FY 2010 through April 2014 to determine the overall financial condition of the ACHA, compliance with HUD regulations on the use of LRPH program funds, inter program transactions between the LRPH and the COCC, procurement procedures, internal controls and overall governance and management of financial operations.

The DEC conducted remote work which consisted of a review of: ACHA financial audits for FY 2010 through 2013, including trend analyses; peer-to-peer analysis (P2P) for FY 2012; month end financial statements for September 2013 through April 2014; and bank statements, check registers and general ledgers for FY 2011 through FY 2013.

The remote work was followed up with an on-site review, along with PIH, HUD's Office of Fair Housing and Equal Opportunity (FHEO), and HUD's Office of Labor Relations from June 24, 2014 through June 26, 2014. This review included interviews with the ED/Finance Director and the Accounts Payable clerk and a review of the process for maintaining accounting records as part of its assessment of ACHA internal controls.[1]

IV. Background

The ACHA is located in located in Cairo, IL and operates 484 LRPH units in 3 AMPs. The LRPH program is the only HUD program operated by the ACHA.

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[1] See 24 CFR Part 85.20 (b) (3),which requires that HUD grantees and subgrantees establish effective internal control and accountability over grant funds received, to include safeguarding assets.

As a result of a substandard PHAS – physical score from FY 2012 of 22 out of 40, the CFO conducted a site visit to ACHA in September 2013 to substantiate the PHAS score determination. While there, the CFO team discovered a number of other issues that prompted a full PHARS assessment, which included the DEC and the other HUD offices identified above. The initial Results and Determination letter issued by CFO dated November 1, 2013 cited a number of Physical and Management issues that included improperly procured maintenance contracts, ongoing security issues at 2 of the AMPs, improper selection of employees offered retirement packages, conflict of interest issues between board and management personnel and employees of ACHA, and employee evaluations not tied to performance.

The administrative staff of ACHA currently consists of an ED, Finance Director, Accounts Payable Clerk (part time), Chief Leasing Officer, Leasing and Occupancy Clerk, Lease Enforcement/Occupancy-Receptionist, MOD Coordinator, Security Director, Site Manager (3 positions), and Assistant Site Manager (2 positions). Currently, the ED also fills the positions of Finance Director, Security Director and Site Manger for 2 AMPs, and the Site Manager for AMP 2 is the Assistant Site Manager for AMPs 1 and 3. There are also 3 security guards, who are centralized from the COCC, 3 maintenance techs assigned to the AMPs, and 5 part time employees who perform custodial duties at the AMPs.

The ED has worked at ACHA for 12 years and was elevated to ED in April, 2013. She served as the Financial Director for 10 years before becoming the ED. The ED also stated that the Fee Accountant, HBO, Inc. does not create the monthly financial operating reports, but only prepares the fiscal year-end financial statements for the annual audit. The monthly operating statements are prepared by the ED using a checklist provided by HBO, Inc.

The ACHA Board of Commissioners (the Board) consists of 5 members appointed by the Alexander County Board President. According to the ED, there are no Board members with a financial background. The ED also stated that the Board does review the check register and credit card statements each month.

V. Results of Review

A. Overall Financial Assessment

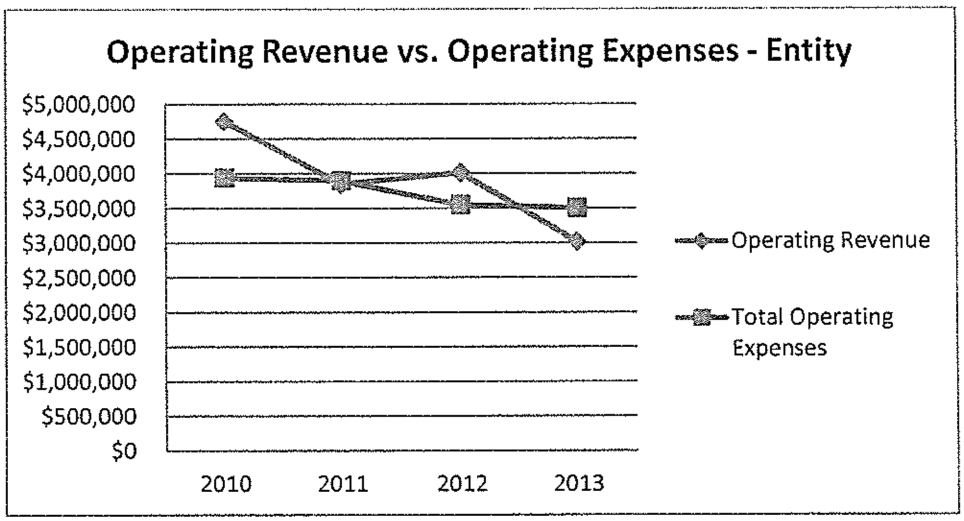
The overall financial condition of ACHA has weakened over the review period.

Overall net operating income decreased from a surplus of $812,608 in FY 2010 to a deficit of $488,429 in FY 2013, a change of $1,300,000. Overall cash and investments have decreased from $1,125,986 to $216,588 during this period, a change of over $900,000, and total revenues have decreased by $1,735,000 from $4,752,161 to $3,016,661 during this period. Operating expenses have decreased by $434,000 during this period, but not enough to keep up with the decrease in revenue. Operating reserves have fallen to $283,083 at September 30, 2013, to only .97 months of operating expenses, and, as of the April 2014 monthly operating report, are 1.26 months of operating expenses. These reserves are significantly below the 4 months of operating reserves required for a PHA of this size[2].

[2] PIH Notice 2011-55

The deterioration of the financial condition was caused in part by a reduction in HUD operating subsidy and CFP grants of $940,545 and tenant revenue of $46,739, totaling $987,284, from FY 2012 to FY 2013. The decrease in HUD operating and capital grants is consistent with reductions in HUD operating and capital grants throughout PIH caused by budget reductions and an effort by HUD to make PHAs use excessive operating reserves.[3] The decrease in tenant revenue was caused by a reduction in occupancy from 97% in FY 2012 to 94% in FY 2013. Overall occupancy for FY 2014 is 92% through April, 21014, with occupancy of 88% reported for July 2014.

Retirement buyouts and post retirement contracts totaling $248,878 in FY 2013 have also contributed to the decrease in operating reserves at September 30, 2013. The chart below shows the trends in ACHA revenue and expense:



B. LRPH Program

As with the overall ACHA, the financial performance of the LRPH program has weakened significantly over the review period. As reported in the Annual Audited Financial Statements (AFS), the LRPH program reported operating deficits in 3 of the last 4 years. Cash and investments have decreased by $774,952, total revenue has decreased by $769,650, and operating income has decreased by $421,264. From FY 2012 to FY 2013 cash and investments decreased by $738,592, total revenue decreased by $994,008 and operating income decreased by $660,046. The LRPH program reported an operating deficit of $220,017 in FY 2013; however, had all of the authorized COCC fees been paid, and the COCC expenses charged to the LRPH program been properly charged to the COCC, the operating deficit for FY 2013 would have been $425,586.

The decrease in revenue is the result of the same factors discussed above: reduced HUD subsidies and reduced rent revenue.

[3] PIH Notice 2011-55 and PIH Notice 2012-02

As over 87% of LRPH revenue is from tenant rents and HUD operating grants, which are dependent on the number of occupied units, the reduced occupancy trend is significant. The DEC estimates the monthly income for each occupied unit during FY 2014 at $427.50; at 88% occupancy for July 2014 ACHA lost an estimated $24,795 in revenue. Based on the current 88% occupancy rate, the current rate of HUD operating and CFP grants, and the current rate of operating expenses, the DEC projects total revenue from tenant rents and HUD operating grants at $2,423,700 for FY 2014 and $2,159,700 for FY 2015, resulting in projected LRPH program operating deficits of $126,300 for FY 2014 and $379,900 for FY 2015. When coupled with the deficit operating results for 3 of the last 4 years as discussed above, the LRPH program is trending towards a non-sustainable financial position.

Overall operating expenses were $333,962 less for FY 2013 than FY 2012; however, total personnel costs were actually $93,867 higher in FY 2013 than FY 2012, even though 4 employees, including the former ED, retired halfway through the year. This was caused by payments on the voided consulting contract with the former ED and early retirement buyouts combined with rehiring 3 of these employees on employment contracts. Per payment records obtained from ACHA, $248,878 in early retirement buyouts, accrued benefits, and post retirement employment wages and benefits, were paid in FY 2013, all from LRPH program funds. As of April 30, 2014, post retirement benefits and contract payments have totaled $109,194 for FY 2014, the entire amount charged to the LRPH program. These payouts are detailed in Exhibit 1. Of these amounts, $208,878 in FY 2013 and $87,587 in FY 2014 should have been charged to the COCC, and is an unauthorized use of LRPH program funds.[4]

The DEC also found that the reduction in operating costs from FY 2012 to FY 2013 was the result of a reduction of $371,500 in COCC fees and $149,000 in total maintenance.

The DEC also determined that the total staff training and related travel costs charged to AMPs was $128,589 from FY 2011 through FY 2014 to date. Of these, the costs that were identified for the COCC staff for FY 2011, 2012, 2013, and 2014 to date totaled $95,787. These costs should have been charged to the COCC. The DEC also noted that the total staff training and travel costs increased by $5,157 from FY 2012 to FY 2013 during a period of significantly reduced ACHA revenue.

Fiscal Year	**Total Costs Charged to AMPs ($)**	**COCC Staff Cost Charged to AMPs ($)**
2011	64,013	46,989
2012	27,664	19,058
2013	32,821	27,012
2014	4,091	2,728
Total	**128,589**	**95,787**

[4] Supplement to HUD Handbook 7475.1 Rev., CHG-1, Financial Management Handbook (the Supplement).

According to the Supplement, the personnel costs of the executive director, finance, accounting, and payroll staff that are not directly related to the AMPs should be charged to COCC. The Supplement also states that all personnel costs that include training and travel costs of COCC staff should be charged to COCC. Additionally, according to OMB Circular A-87, Attachment A (C), to be allowable the costs must be necessary and reasonable, and should conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.

Based on the information shown in the above chart, for the COCC staff of 3, the DEC concluded that the travel costs were not reasonable and trainings attended were not necessary to perform the job functions. The DEC also deemed certain travel associated with training as unreasonable or unnecessary, according to the Supplement and OMB Circular A-87. For example, the accounts payable staff person attended a REAC inspections training in December of 2012, a retired maintenance employee who works one day a week attended a NAHRO conference in October of 2012 and a NAHRO legislative conference in March of 2013, and the former executive director attended trainings in March of 2013 just prior to his retirement. Additionally, the finance director and other administration staff attended several non-financial related trainings during FYs 2011 through 2014.

Additionally, the Supplement states that Board training and related expenses must be reasonable, included in a budget, and approved by the Board before being incurred. However, the executive director could not provide the supporting documentation in the form of a budget or separately identifiable costs for our review.

Other expenses that increased significantly from FY 2012 to FY 2013 included the following:

- Other Operating Administration – Increased $27,217. This was caused by including $32,821 in travel costs in this account. The ACHA did not report separate travel costs for FY 2013.
- Water and Sewerage – Increased $37,389. Per ACHA management, this was primarily caused by an increase in sewerage costs by $2,600 per month beginning in January, 2013.
- Legal – Increased $10,103. Per ACHA management, this was caused by the attorney not charging an increase in the retainage fee from September 2010 through March 2013 totaling $6,600 that was paid in July 2013, and $3,762 for the EEOC case discussed above.
- Insurance – Increased $29,242. Per ACHA management, this was caused premium increases for general liability and worker's comp insurance from FY 2012. ACHA also states that a new carrier has been retained for FY 2014 that will result in significantly lower general liability premiums.

The total increase in costs for these accounts was $197,818.

C. COCC

As with the LRPH program, the COCC reported operating deficits for 3 of the last 4 years. In order to make up for these deficits, the AFS for FY 2011, 2012 and 2013 all reported the use of LRPH funds to pay COCC expenses. Under provisions of the Supplement, this is an unauthorized use of LRPH funds.

The AFS reports $134,310 as due from the COCC to AMP 1 at September 30, 2011, $102,676 at September 30, 2012, and $404,538 at September 30, 2013. The auditor reported the payables from the COCC to the LRPH program in the Notes to the AFS for FY 2011 and 2012, and reported the $404,538 payable in FY 2013 as a finding.

The April 2014 year to date reports the COCC with an operating deficit of $53,280. The COCC reported fee revenue of $59,468, all from AMP 2, through April 30, 2014.

The DEC's review found that for FY 2011 the COCC charged only $193,402 in total fees to the AMPs. The COCC had $134,446 in cash and investments at September 30, 2010 and reported total expenses of $461,855 for FY 2011. The COCC reported $0 cash at September 30, 2011. Based on the operating deficit of $268,453 and the depletion of the cash reserves of $134,466, the remaining deficit of $133,987 was covered by the use of LRPH funds.

The DEC also found that the COCC was actually authorized to collect $504,973 in fees for FY 2011; had all of these fees been charged, there would not have been an inter program payable from the COCC to the LRPH program for FY 2011. Also, there would have been a COCC cash reserve of $177,584 at September 30, 2011.

For FY 2012 the COCC reported total revenues of $454,889, including total fees of $453,868, and total expenses of $431,038, for an operating surplus of $23,851; however, the inter program payable from the COCC to the LRPH program decreased by $31,634. The COCC reported $0 cash at September 30, 2012.

As in FY 2012, the DEC also found that the COCC was actually authorized to collect $511,945 in total fees for FY 2012. As in FY 2011, had all of these fees been charged, there would be no inter program payable at September 30, 2012.

The DEC found similar results for the FY 2013. For FY 2013, the COCC charged $83,124 in total fees against total expenses of $351,536, resulting in an operating deficit of $268,412; however, the COCC was actually authorized to collect $524,867 in total fees, which would result in no inter program payable at September 30, 2013. The COCC reported $0 cash at September 30, 2013.

The reporting error for FY 2013 is more significant because of the impact on the PHAS Financial score for FY 2013. The elimination of the $404,538 inter program payable would have resulted in a decrease in the current assets of the LRPH program reported in the AFS, reducing the PHAS financial score from 18.2, out of a possible 25, as reported in the FASS-PH system, to 9.7, putting the ACHA in a substandard financial status at September 30, 2013. While the elimination of the inter program payables in FY 2011 and 2012 would have also decreased the overall PHAS financial score, the decrease would not have been sufficient to result in a substandard financial rating for those years.

For FY 2014 through April 2014, authorized COCC fees from all the AMPS totaled $358,759, which would result in an operating surplus for the COCC. When asked about these inter program payables, the ED responded that she chose not to charge the AMPs these fees because the AMPs were short of cash, loaning the cash to the COCC, a practice which continued in FY 2014.

The DEC's review found that the COCC fees are paid from the same LRPH cash that the ED is trying to protect, but, by reporting these payments as loans instead of fees, a false assessment of the financial strength of the LRPH program is created. Also, the practice of loaning LRPH funds to the COCC is specifically stated as an unauthorized use of LRPH funds in the Supplement.

As the actual cash involved would be the same cash used to pay the COCC fees, there is no repayment due back from the COCC to the LRPH program; the accounting entries, however, need to be changed to properly reflect these transactions as a fee expense to the AMPs for each of these years.

The DEC also notes that the Supplement does not require all of the fees earned by the COCC from the AMPs to be charged; however, all of the *operating expenses* of the COCC must be paid from the authorized fees charged to the AMPs.

VI. Internal Controls

The DEC reviewed the written Internal Control Policy of the ACHA and interviewed the ED/Financial Director and the Accounts Payable Clerk on the processes and procedures of handling financial transactions to determine the effectiveness of ACHA's internal controls in accordance with 24 CFR Part 85.20 (b)(3).[5]

The ACHA did provide the DEC with a copy of their Internal Control Policy, adopted by the Board July 31, 2009. This policy covers the collection, safeguarding and deposit of checks and cash received by the ACHA, and the handling of invoices and issuance of checks; however, these procedures do not accurately reflect the actual organizational make-up of the ACHA. While the policy appears to break up cash and check handling responsibilities among several individuals, because numerous positions are filled by the same person, there is no real segregation of duties.

Examples include:

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[5] 24 CFR Part 85.20(b)(3) requires that HUD grantees establish effective internal control and accountability over grant funds received, to include safeguarding such assets and assuring that funds are used solely for authorized purposes.

1. "AMP managers must sign or stamp all bills or requests for payment forms approving purchases and/or reimbursements before submitting to the Finance Director for approval of payment." Presently, the Finance Director is also the AMP site manager for 2 of the 3 AMPS.

2. "Monthly credit card statements will be presented by the Finance Director to the AMP managers for approval of charged purchases and returned to the Finance Director." Again, the Finance Director is also the AMP site manager for 2 of the 3 AMPS.

3. "All PO's must have Site Manager/Executive Director approval for PO's over $150." The Executive Director is also the AMP site manager for 2 of the 3 AMPS.

Procurement

The DEC reviewed the ACHA Procurement Policy for compliance with HUD and PIH procurement requirements as found in 24 CFR 58.36 and the Procurement Handbook for Public Housing Agencies (7460.8 rev-2). The ACHA Procurement Policy provided to the DEC was revised and approved by the Board in February 2007.

The ACHA procurement policy is deficient, especially as it relates to major purchases over $100,000, including: Davis-Bacon wage requirements; use of required HUD contract forms; and documenting rationale for contract award.

As the CFO is in the process of actually reviewing the details of ACHA capital procurements during the review period, the DEC only reviewed the professional services contracts for legal services and the fee accountant. The Procurement Handbook for Public Housing Agencies (7460.8 rev-2) limits contracts to no more than 5 years, including options, without HUD approval. The DEC found that both contracts had been procured within the last 5 years.

The chart included as Exhibit 2 summarizes the results of the DEC's procurement review.

VII. Governance and Management

ACHA's Management and Board have failed to ensure the HUD subsidies are administered in accordance with the statutory and regulatory requirements as well as their own Commissioner's Handbook. The LRPH program is trending towards a non-sustainable financial position. The initial Results and Determination letter issued by CFO dated November 1, 2013 cited a number of Physical and Management issues. However, as of the date of this review, there is no evidence that ACHA's Management and Board have taken proper corrective measures to mitigate the situation.

The overall financial condition of ACHA has weakened over the review period. Overall net operating income, operating reserves, as well as cash and investments have decreased during the review period. Management and the Board should have been aware that the practice of loaning LRPH funds to the COCC is an unauthorized use of LRPH funds in accordance with the Supplement.

The overall Program operating expenses were less for FY 2013 than FY 2012; however, total personnel costs were actually higher in FY 2013 than in FY 2012. The increase in personnel costs were primarily due to retirement buyouts, post retirement contracts, and administration training and travel costs in FY 2013 during a period of reduced income from HUD operating and CFP grants and rent revenues. This also contributed to the decrease in operating reserves at September 30, 2013.

The overall occupancy of 97% in FY2012 has decreased to 88% as reported for July 2014. The decrease in occupancy was primarily due to the units not being in decent, safe, and sanitary condition, as found in the FY 2012 PHAS physical assessment. This is a result of Management and the Board's use of LRPH program funds for retirement buyouts, post retirement contracts, and administration training and travel costs rather than repairing and maintaining physically substandard units.

The ACHA Board approved non-compliant procurement policy also has significant deficiencies, especially related to major purchases over $100,000, including: Davis-Bacon wage requirements; use of required HUD contract forms; and documenting rationale for contract award.

The internal controls have been compromised due to lack of proper segregation of duties. The Internal Control policy details the cash functions and distribution of responsibilities among various positions. However, in actuality, there is no segregation of duties due to numerous positions have been filled by the same individual.

The ED, who is also the Finance Director, did not demonstrate having a sound knowledge of HUD Regulations, Program, and Accounting requirements, all necessary skills in managing Program funds.

VIII. Recommendations

1. PIH should consider repositioning the ACHA due to poor governance and management, as demonstrated by repeat findings of unauthorized use of LRPH program funds.

2. PIH should continue working with REAC to determine if a rescoring of the PHAS financial score for FY 2013 is warranted.

3. The DEC recommends ACHA take the following correction action:

- Make the accounting changes necessary to properly reflect the COCC fees due from the LRPH program and to eliminate the inter program payable of $404,538 at September 30, 2013 from the COCC to the LRPH program.
- Accurately record the early retirement buyouts, post retirement employment contracts, and post retirement benefits totaling $336,922 as of May 2014, as COCC expenses.
- Record the EEO settlement payments totaling $10,500 as of July 1, 2014, as COCC expenses.
- Pursue recovering all of the funds paid to the former ED, totaling $31,407 on the voided contract.

4. The Internal Control Policy needs to be updated to reflect the actual personnel currently performing the cash and check handling procedures. The policy should be dated, and approved by Board resolution.

5. The Procurement Policy needs to be modified in accordance with the requirements per 24 CFR 85.36 and 7460.8 REV 2 App3.

6. ACHA needs to develop and implement a plan to significantly increase occupancy to the 97% level required by HUD. If the public housing needs of Alexander County cannot support this level of occupancy, the ACHA should consider merging with a neighboring high performing PHA or other options to reduce operations to a sustainable level.

7. ACHA should add a separate Financial Director and separate Site Managers for AMP 1 and 3.

8. ACHA should revisit their budget and expenditures in light of their falling revenue and physically substandard units.

Exhibit 1 – Post Retirement Contract Payments
Exhibit 2 – ACHA Procurement