



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued June 25, 2014

Fall River Housing Authority

For the period July 1, 2010 through June 30, 2012





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Mr. Leonard Aguiar, Chairman of the Board of Commissioners
Fall River Housing Authority
85 Morgan Street
Fall River, MA 02722

Dear Chairman Aguiar:

I am pleased to provide this performance audit of the Fall River Housing Authority. This report details the audit objectives, scope, and methodology for the audit period, July 1, 2010 through June 30, 2012. My audit staff discussed the contents of this report with management of the Authority.

I would also like to express my appreciation to the Fall River Housing Authority for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMBump".

Suzanne M. Bump
Auditor of the Commonwealth

TABLE OF CONTENTS

EXECUTIVE SUMMARY 1

OVERVIEW OF AUDITED AGENCY 2

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY 3

OTHER MATTERS 5

EXECUTIVE SUMMARY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor has conducted an audit of certain activities of the Fall River Housing Authority for the period July 1, 2010 through June 30, 2012.

The objectives of our audit were to review and analyze the Authority's internal controls over its procurement of goods and services, including those for the modernization/renovation of its housing units, and to determine whether its procurement activities were efficient and in compliance with the Department of Housing and Community Development's (DHCD's) procurement guidelines and laws, rules, and regulations applicable to state-aided housing programs.

Summary of Results

Our review of the Authority's internal controls over its procurement of goods and services, including those for the modernization/renovation of its housing units, revealed that the Authority maintained adequate internal controls in the areas reviewed and conducted its procurements in an efficient manner in compliance with DHCD procurement guidelines and laws, rules, and regulations applicable to state-aided housing programs.

OVERVIEW OF AUDITED AGENCY

Background

The Fall River Housing Authority's main office is located at 85 Morgan Street in Fall River, Massachusetts. The Authority oversees the following state housing units: 54 units of housing for elderly and handicapped residents, 360 units of family housing, and 39 units of housing for special-needs residents. The Authority also administers 104 housing vouchers through the Massachusetts Rental Voucher Program. The Authority was organized and established in 1938, when the City of Fall River recognized the need for a housing authority to address the shortage of safe, sanitary housing in the city for persons of low income.

The Authority is authorized by, and operates under, Chapter 121B, Section 3, of the Massachusetts General Laws and Department of Housing and Community Development (DHCD) regulations (Title 760 of the Code of Massachusetts Regulations). DHCD is the agency that has oversight of the Massachusetts housing and community-development programs and of state-funded housing authorities. DHCD enters into agreements with local housing authorities (LHAs) to plan, design, construct, manage, and administer programs to provide housing for persons of low income within the Commonwealth. The agreement between DHCD and an LHA for the development of new housing is known as the contract for financial assistance. This agreement gives a general overview of the scope of the LHA's responsibilities during the development and management periods and specifically details how these responsibilities are to be executed.

A five-member board of commissioners, selected from city residents, is responsible for governance of the Authority. Four of the board members are appointed by the mayor. One member must be a representative of organized labor, and another member must be a tenant of the Authority. The state appointee is appointed by the governor of Massachusetts. The board has hired an executive director to manage the Authority's day-to-day operations, and the executive director provides the board with monthly financial reporting.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Fall River Housing Authority for the period July 1, 2010 through June 30, 2012.

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We conducted this performance 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To achieve our audit objectives, we reviewed the following:

- The Authority's records related to its procurement of goods and services during the audit period to determine whether its activities in this area complied with DHCD guidelines and other applicable laws, rules, and regulations.
- Whether the Authority has explored group purchasing activities such as purchasing consortiums and the use of procurement contracts negotiated by the federal, state, or local governments to ensure that it receives the best value.
- The Authority's records to determine whether any procurement was conducted by parties affiliated with, or related to, the Authority such as housing associations, corporations, or other private entities and, if so, whether the procurement was conducted in compliance with applicable laws, rules, and regulations.

Additionally, we gained an understanding of the internal controls we deemed to be significant to our audit objectives and evaluated the design and effectiveness of those controls. Specifically, we performed procedures such as interviewing personnel, reviewing policies, analyzing records, and examining documentation supporting recorded transactions.

We did not rely on computer-processed data for our audit. Instead, we relied on data such as hardcopy source documents and interviews as supporting documentation on which we based our conclusions. Whenever sampling was used, we applied a non-statistical approach, and as a result, we were not able to project our results to the population.

Based on our audit, we have concluded that, for the period July 1, 2010 through June 30, 2012, the Authority maintained adequate internal controls in the areas reviewed and conducted its procurements in an efficient manner in compliance with DHCD guidelines and laws, rules, and regulations applicable to state-aided housing programs.

OTHER MATTERS

Employee Ethical Violations Regarding Procurement Practices

On May 14, 2012, the Fall River Housing Authority was informed by a local elected official of two possible ethical violations regarding its procurement practices. The alleged ethical violations were investigated by the Authority's staff. The Authority also hired a retired state housing court judge (hereinafter referred to as the investigator) to conduct an investigation and to report findings and make recommendations if applicable. The investigator confirmed that there had been ethical violations involving two maintenance employees who were involved in the procurement and/or administration of various small construction and rehabilitation projects. The ethical violations involved relationships between Authority employees and contractors awarded procurements and were breaches of the Authority's Procurement Policy, its Code of Ethics, and (since some of the procurements were paid from federal funds) 24 Code of Federal Regulations (CFR) 85.36(b)(3). The investigator's report, which was limited to "small procurements" (defined by the Authority as under \$10,000), identified payments to two different contractors, totaling \$26,972, that were problematic, but it did not disclose systemic problems. The Authority took the following corrective actions as a result of the investigations:

- suspending the employees involved
- debarring the contractors
- conducting ethics training for Authority personnel who are involved in small procurements
- amending its Procurement Policy by requiring all vendors to submit a pre-award application certifying various ethical business practices
- requiring all procurements over \$2,000 to be conducted by the Procurement department
- creating an additional staff position within the Procurement department
- establishing a procurement webpage (<http://www.fallriverha.org/procurement.html>) that shows current quote, bid, and competitive proposal opportunities as well as how to register for the Authority's approved-vendor program (supplies and services less than \$2,000) and/or bid list for larger annual contracts

Below is a brief description of each problem procurement.

a. Contractor A—Carpentry and Masonry Services

In November 2011, the Authority received a \$217,000 grant from the state's Affordable Housing Trust fund to repair/renovate 21 units. The purpose of the grant was to expedite the turnover of vacant housing units. The Authority was given a deadline of April 30, 2012 to finish the project. The work was to be performed by a combination of Authority staff and contractors. Because the house carpentry staff became shorthanded, the Authority determined that it would have to hire a contractor to complete the work by the deadline. In early April 2012, a maintenance supervisor was asked to prepare specifications and solicit three written quotes for the work. He received only one quote for the work (\$9,850) because other potential bidders believed they could not meet the April 30, 2012 completion deadline. Subsequently, it was discovered that the contractor chosen had a dating relationship with the maintenance supervisor. When the maintenance supervisor was questioned about the matter, he stated that he had previously disclosed the relationship to the director of Facilities and the Authority's procurement officer and that, after the bid was accepted, he turned over administration of the contract to another maintenance supervisor. The director of Facilities and the procurement officer both denied that the maintenance supervisor had informed them of the supervisor's relationship with the contractor. It was subsequently discovered that the maintenance supervisor signed off on the \$9,850 invoice submitted by the contractor. The procurement officer did contact the three other companies previously solicited; they confirmed that they did not bid because they could not complete the work by the requested deadline. The Authority and the investigator determined the maintenance supervisor's conduct to be a violation of the Authority's Code of Ethics, which requires employees to "avoid the appearance or actual occurrence of, any favoritism or special treatment towards any applicant, resident, vendor, or agent having business, or dealings of any kind with the Authority." The conduct also was not in compliance with Section 9B of the Authority's Procurement Policy, which states,

No employee, officer or agent of this FRHA shall participate directly or indirectly in the selection or in the award or administration of any contract if a conflict, real or apparent, would be involved. If any real or apparent conflict of interest arises the employee, officer, or agent of the FRHA shall immediately recuse oneself from the selection, award, or administration process and notify the Executive Director. Such conflict would arise when a financial or other interest in a firm selected for award is held by:

- 1. An employee, officer or agent involved in making the award;*
- 2. Any member of his/her immediate family;*

3. *His/her partner; or,*
4. *An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.*

b. Contractor B—General Repair Work and Handyman-Type Services

The investigator noted that a contractor, who is the brother-in-law of a different maintenance supervisor, was hired for 40 small projects from 2007 through 2012 and was paid a total of \$77,049. The investigator reported that some of these procurements were problematic because the maintenance supervisor's signature appeared on three purchase orders that resulted in payments totaling \$17,122, as follows:

July–August 2011	\$ 11,850
December 2007	2,362
October 2008	2,910
Total	<u>\$17,122</u>

The certified public accountant who conducted the Authority's single audit for fiscal years 2011–2012 reported the 2011 expenditures of \$11,850 as a violation of 24 CFR 85.36(b)(3), which states,

Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) *The employee, officer or agent,*
- (ii) *Any member of his immediate family,*
- (iii) *His or her partner, or*
- (iv) *An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.*

The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic

value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

The Authority was required by the United States Department of Housing and Urban Development (HUD) to develop a corrective action plan (CAP). The Authority sent the CAP (which was basically a restatement of the corrective actions noted above) to HUD. Officials at the Authority told us that HUD did not require further action regarding the finding.

During our audit period (July 1, 2010 through June 30, 2012), the Authority disbursed over \$4.7 million for non-payroll expenses and over \$13.5 million for modernization costs in its state projects. The aforementioned incidents appeared to be isolated, and the Authority implemented corrective action that included greater input and oversight by its Procurement office. In addition, modernization projects also appeared to have a high degree of oversight from the Department of Housing and Community Development.