Commonwealth of Massachusetts
DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT
Maura T. Healey, Governor ◆ Kimberley Driscoll, Lieutenant Governor ◆ Jennifer D. Maddox, Undersecretary

PHN 2023-05

To: All Local Housing Authority Executive Directors and Board Members

From: Ben Stone, Director, Division of Public Housing & Acting Director, Division of Rental Assistance

Re: New Inspector General Guidance Regarding Fiscal Responsibilities of LHA Board Members

Date: April 11, 2023

Local Housing Authority ("LHA") Boards play a crucial role in providing affordable housing in the Commonwealth. In addition to providing oversight and policy direction to LHA management, the Board has an important fiduciary duty to safeguard the LHA.

In addition to the responsibilities of an LHA Board contained in M.G.L. c. 121B, 760 CMR 4.00, and as outlined in DHCD's Board Member Training Manual, page 42-3, Board members also serve as a check and balance to protect against fraud and abuse at LHAs. Examples of policies that protect the budget and sound management of the LHA include:

- Board members shall ascertain that bookkeeping and accounting practices include good internal controls, separation of duties, and a strong system of checks and balances, which will reduce the risk of thefts and embezzlements either externally or internally.
- Board members shall implement a policy regarding diligent hiring and screening process, including reference checks, as part of the LHAs Personnel Policy. The Board members shall follow at least as stringent procedures when hiring Executive Directors.
- Board members shall be aware of laws that require fair and competitive procurement of goods and services as well as construction projects and require that the LHA meets these procurement standards.
- Board members shall set a high standard for integrity and work with the LHA's Executive Director to ensure that ethical standards are upheld, conflicts of interest are avoided, and applicable rules are established and followed.
- Board members shall understand the purpose, intent, and significance of the Agreed Upon Procedures ("AUP") and Performance Management Review ("PMR") reviews. Board members should view results of an audit or review as a management tool.
- Board members shall ensure that there are strong policies and controls surrounding the use of the LHA's cash handling and credit cards.
- Board members shall safeguard the LHAs reputation and good will in the community.

- Review and approve major contracts.

The Inspector General asked that DHCD ensure that LHA Boards are aware of their fiduciary responsibility and developed recommended actions for all Massachusetts housing authorities in this regard. The recommendations are as follows:

Contracting Practices:

- *Retain legal counsel to review contracts as needed. Counsel should have expertise in:*
  (a) collective bargaining agreements and/or employment law, if applicable;
  (b) analysis of the financial and legal consequences of contract terms;
  (c) conflict of interest issues; and
  (d) compliance with Massachusetts law and DHCD regulations and guidelines.
- *Ensure that all contracts meet procurement requirements and are financially sound.*
- *Consistent with the LHA's procurement policies, require that Board members review contracts and periodically analyze contract costs.*

Ethical Standards:

- *Comply with state conflict of interest and ethics law.*

Employment Practices:

- *Update and maintain security standards and access policies to ensure the safety of housing authority records and IT resources.*
- *Develop written onboarding and offboarding procedures to ensure that, upon separation from employment, the agency terminates all physical, virtual and technology access held by an employee, including access to cloud-based records and email systems.*

An LHA Board's diligence in adopting and following these recommendations will safeguard the LHA, preventing fraud, waste, and abuse of LHA funds. To help LHAs meet these recommendations, DHCD assists small and medium LHAs access to experienced legal services through the Regional Legal Services Program, which provides a staff attorney in Worcester and most of Middlesex County and a budget exemption for hiring a pre-qualified attorney in the other regions of the state.

Please also note that LHAs that operate federally funded programs also may have stringent financial and fiduciary responsibilities applicable to those accounts. Publications from the HUD Office of Inspector General, such as Primer for PHA Commissioners, and Public Corruption brief provide further information.