



Saratoga Springs Housing Authority Board Oversight and Internal Controls Over Payroll and Employee Benefits

Report of Examination

Period Covered:

July 1, 2010 — February 21, 2012

2012M-136



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

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Dear Housing Authority Officials:

A top priority of the Office of the State Comptroller is to help public authority officials manage authorities efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support authority operations. The Comptroller oversees the fiscal affairs of authorities statewide, as well as authorities' compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished through our audits, which identify opportunities for improving operations and Board governance. Audits also can identify strategies to reduce authority costs and to strengthen controls intended to safeguard local authority assets.

Following is a report of our audit of the Saratoga Springs Housing Authority, entitled Board Oversight and Internal Controls Over Payroll and Employee Benefits. This audit was conducted pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution.

This audit's results and recommendations are resources for public authority officials to use in effectively managing operations and in meeting the expectations of taxpayers. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Saratoga Springs Housing Authority (Authority) is located in the City of Saratoga Springs (City) in Saratoga County. The Authority was established pursuant to Section 450 of the Public Housing Law to provide low-rent housing for qualified individuals in accordance with relevant provisions of State Public Housing Law and the rules and regulations prescribed by the Federal Department of Housing and Urban Development (HUD). The Authority receives the majority of its funding from HUD and the expenditure of those funds must comply with applicable HUD requirements. The Authority's 2011-12 operating budget for the low-income housing program totaled approximately \$2.3 million.

The Authority's Board of Commissioners (Board) is comprised of seven commissioners: five appointed by the City Mayor and two elected by the tenants. The Authority generally operates independently of the City, managing its own operational and financial affairs. The Authority's day-to-day operations are generally the sole responsibility of its Executive Director (Director). The Accountant is the Authority's chief financial officer.

Scope and Objective

The objective of the audit was to examine internal controls over selected Authority financial operations for the period July 1, 2010 to February 21, 2012. Our audit addressed the following related questions:

- Does the Board adequately monitor financial activities, including disbursements, to ensure that Authority assets are safeguarded?
- Are internal controls over payroll and employee benefits appropriately designed and operating effectively to adequately safeguard Authority assets?

Audit Results

Recently, the Authority has been the subject of a significant amount of media scrutiny expressing concerns of potential financial irregularities and spending practices on salaries, travel and business expenses.

While the Board was involved in overseeing Authority operations, we found areas for improvement. The Board did not institute the appropriate internal controls in regards to the approval of travel to conferences and the process of approving claims prior to payment. This resulted in the payment of nearly \$12,000 in questionable travel costs.

We tested 75 vendor payments totaling \$449,333 and found that claims were nearly always paid without any review by Board members. We also determined that the Authority violated its ethics policy when using a business owned by the Director's brother to service its vehicles.

The Board did not compensate the Director – whose 2011-12 salary was \$144,921 – in accordance with the Authority's personnel policy or at an amount similar to other Directors of neighboring housing authorities. Board members indicated that they paid him a higher salary amount because they did not back-fill his prior position as project manager, effectively combining the two positions. The Director's Board-approved five year rolling contract potentially exposes the Authority to pay four years' salary if it decides not to continue his employment.

We found that the Director's use of an Authority vehicle was authorized and in compliance with contractual provisions, and this benefit was not unusual by industry standards. We also determined that the Accountant's salary compares favorably with the City's Finance Director and with the chief financial officers in other housing authorities. Although the Accountant controls the entire payroll process with little or no oversight, our review of her payroll records disclosed no deficiencies.

Comments of Authority Officials

The results of our audit and recommendations have been discussed with Authority officials and their comments, which appear in Appendix C, have been considered in preparing this report. Except as specified in Appendix C, Authority officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix D includes our comments on issues raised in the Authority's response letter.

Introduction

Background

The Saratoga Springs Housing Authority (Authority) is located in the City of Saratoga Springs (City) in Saratoga County. The Authority was established pursuant to Section 450 of the Public Housing Law to provide low-rent housing for qualified individuals in accordance with relevant provisions of State Public Housing Law and the rules and regulations prescribed by the Federal Department of Housing and Urban Development (HUD). The Authority receives the majority of its funding from HUD and the expenditure of those funds must comply with applicable HUD requirements. The Authority's remaining funding consists primarily of rental income from tenants. The Authority's 2011-12 operating budget for the low-income housing program totaled approximately \$2.3 million. The Authority's fiscal year runs from July 1 to June 30.

The Authority's Board of Commissioners (Board) is comprised of seven commissioners: five appointed by the City Mayor and two elected by the tenants. The Authority generally operates independently of the City, managing its own operational and financial affairs. The Authority's day-to-day operations are generally the sole responsibility of its Executive Director (Director). The Accountant is the Authority's chief financial officer.

The Authority administers two main programs: the public housing program and the Section 8 housing program. The Authority maintains 339 public housing units and administers 90 Section 8 Housing Choice Vouchers.

Recently, the Authority has been the subject of a significant amount of media scrutiny. There were numerous news articles and public complaints alleging a lack of Board oversight that resulted in nepotism in the selection of vendors, improper travel expenditures, improper expenditure of Authority funds for the benefit of a related not-for-profit corporation, and an inadequate/untimely response to a major bed bug infestation in one of the public housing facilities.

Objective

The objective of the audit was to examine internal controls over selected Authority financial operations. Our audit addressed the following related questions:

- Does the Board adequately monitor financial activities, including disbursements, to ensure that Authority assets are safeguarded?

- Are internal controls over payroll and employee benefits appropriately designed and operating effectively to adequately safeguard Authority assets?

**Scope and
Methodology**

We examined the financial transactions of the Authority for the period July 1, 2010 to February 21, 2012.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix E of this report.

**Comments of
Authority Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with Authority officials and their comments, which appear in Appendix C, have been considered in preparing this report. Except as specified in Appendix C, Authority officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix D includes our comments on issues raised in the Authority's response letter.

Good management practices dictate that the Board has the responsibility to initiate corrective action. As such, the Board should prepare a plan of action that addresses the recommendations in this report and forward the plan to our office within 90 days.

Board Oversight

A good system of internal controls consists of policies, practices and procedures that allow an entity to provide reasonable assurance that its resources are being safeguarded and properly accounted for. The most important component of internal controls is the control environment, or the “tone at the top.” The Board is responsible for setting this tone through its management and oversight of the Authority’s financial operations and ensuring that the Authority’s financial resources are safeguarded. The Board fulfills this responsibility, in part, by instituting appropriate internal controls over Authority operations to ensure that financial transactions are properly authorized, recorded, and reported. According to the Federal Department of Housing and Urban Development directives, the Board also is responsible for ensuring that tenants are provided with decent, safe, and sanitary housing.

While the Board was involved in overseeing Authority operations, we found areas in need of improvement. For example, the Board did not institute the appropriate internal controls in regard to the approval of travel to conferences and the process of approving claims prior to payment. This resulted in the payment of nearly \$12,000 in questionable travel costs. We also tested 75 vendor payments totaling \$449,333 and found that claims were nearly always paid without any review by Board members.

Questionable Travel Costs

The Board should audit all claims prior to payment and ensure that all charges for conference attendance and travel are appropriate and necessary. The Authority’s travel policy states that employees or Commissioners must have specific prior authorization before travel expenses are paid. The policy also states that conferences, conventions, and meetings are limited to the number of persons necessary to cover the meetings adequately. Furthermore, all travel expenses must be recorded, signed by the traveler, and approved by the Director, or the Chairman or Vice-Chairman of the Board, prior to reimbursement. We found that the Authority did not have travel authorization forms that specifically stated dates of travel, purpose of travel, or dates in which travel authorization was approved.

The Authority spent approximately \$46,000 on travel during our scope period, of which nearly \$12,000 was questionable and may have been overspent. Appendix A includes a listing of questionable travel expenses.

For example, the 2011 Legislative Forum (Forum) was held in Washington, D.C. from September 11-13 at a cost of \$310 per attendee. Participants were encouraged to arrive in time for meetings that started Sunday morning, September 11. There also were options for attending classes on September 9 and 10 for an additional cost of up to \$1,350 for those participating in the Executive Director Education Program (EDEP). The Board Chairman, Director and Clerk attended the Forum. None were registered for any additional EDEP classes. The Director had already completed the EDEP, and neither the Chairman nor the Clerk had enrolled in the program.

The Chairman, Director, and Clerk traveled to Washington D.C. on September 7, 2011 and traveled back to New York on September 14, 2011, for a total trip of eight days and seven nights.¹ However, they only could provide us with adequate support for five days and four nights (September 10-14). We question the need for the additional days. These extra days resulted in a total potential over-expenditure of approximately \$3,000. Further, we found no evidence that clerks were invited to the Forum. If the trip had been shortened and the Clerk did not attend the Forum, the Authority would have saved approximately \$4,850 in unnecessary travel expenses for this trip.

The Director stated that they stayed the additional days to meet with policy makers and to attend EDEP classes on a walk-in, unregistered basis. However, the Forum agenda encouraged meetings with policy makers to be scheduled for September 12 and 13, in the afternoon during the Forum. Further, we found no evidence that any additional classes were registered for or attended. We did find evidence of a tour of the Capitol Building² on September 9, 2011 (two days before the Forum) indicating the Chairman, Director, Clerk, and possibly others took a tour of the Capitol Building instead of attending classes.³

As another example, the 2011 Commissioner's Conference (Conference) was held in Phoenix, Arizona from January 9-12 at a cost of \$440 per attendee. There also were options for attending classes on January 7 and 8 for an additional cost of up to \$1,450 for those participating in the EDEP. The Chairman and Director attended the Conference. Neither was registered for additional EDEP classes.

The Chairman and the Director flew into Las Vegas, Nevada on January 6, where they rented a hotel room with their own funds,

¹ Hotel bills show one adult for the Chairman, one adult for the Clerk, and three adults for the Director, indicating that family members may have accompanied the Director.

² The 2011 tour included six passes, indicating the three travelers and possibly others attended the tour.

³ The Chairman and Director took the tour during both the 2010 and the 2011 Forums.

but billed the Authority for meals and incidental expenses. They rented a car – which they used throughout the entire trip – with Authority funds, drove to the Phoenix hotel on January 7 and stayed in Phoenix until January 12, a total of five nights. They drove back to Las Vegas and stayed an additional three nights in Las Vegas, using their own funds for the Las Vegas hotel. We question the need for staying in Phoenix on January 7, as neither the Commissioner nor the Director was enrolled in the EDEP. Other questionable charges include the additional expense for flying into and out of Las Vegas, reimbursements for meals and incidental expenses for eight days, and airport parking and car expenses for the entire trip (including the time spent in Las Vegas), for a total potential over-expenditure of approximately \$1,100.

The Director also told us that his spouse accompanied him on this trip. The Director stated that they flew into Las Vegas because they could not get a direct flight into Phoenix. However, we found that there was a flight purchased by the Director directly into Phoenix on January 7. This ticket was canceled, and a different flight into Las Vegas was arranged for a day earlier.

The cause for these questionable travel costs totaling \$11,689⁴ lies in the Board not enforcing the required travel authorization policy and the lack of Board involvement in the claims audit process (see finding entitled Vendor Payment Processing). The Board's lack of oversight resulted in the Authority incurring conference and travel costs that are of a questionable nature or benefit.

Vendor Payment Processing

The objective of internal controls over vendor payments is to ensure that cash is disbursed only upon proper authorization, supported by sufficient documentation, for valid business purposes, and properly recorded. To help ensure that claims are for valid Authority purposes, the Board should audit all claims prior to authorizing payment. Claims should not be approved and paid unless there is an itemized voucher presented to the Board that has been approved by the officer or employee who initiated the claim.

During its monthly meeting, the Board reviews and approves the warrant⁵ by resolution. Although the Director and the Accountant are present to answer any questions regarding individual claims, the Board only reviews or audits an actual claim on a limited, exception basis. Further, this review and approval is done after the claim has already been paid. We judgmentally selected 75 vendor payments totaling \$449,333⁶ for review and found the following deficiencies:

⁴ If the Clerk's attendance at the 2011 Legislative Forum was allowed, the questionable costs would decrease to \$9,871.

⁵ A warrant is a listing of claims.

⁶ Out of a total population of 1,706 low-income housing vendor payments made during our audit period totaling \$4,474,358. See Appendix E, Audit Methodology and Standards, for details on our sample selection.

- None of the payments were reviewed by the Board prior to payment.
- Thirteen payments, totaling \$178,612, were not sufficiently itemized.
- There was no evidence that the Director verified that the goods or services were received for 17 payments totaling \$58,655.
- We also questioned the validity of \$8,549 in travel costs included in 17 of the payments tested. As a result of these findings, we reviewed additional charges related to these costs and reported on the entire questionable amount in the section entitled Questionable Travel Costs.

The deficiencies discussed above resulted from the Board’s lack of involvement in the claims audit process. The absence of Board oversight increases the possibility that payments may be made for unauthorized purposes, for goods or services which had not been received or performed, or for questionable purposes.

J & M Auto

The Authority’s ethics policy states that, “No Authority employee shall have an interest in a contract between any person and the Authority if, after employment, the employee has the power to authorize or approve payment under the contract.”⁷ Interest is defined in the policy as an economic or tangible benefit that a person or member of his family would gain from any decision or action by the Board or its employees. The policy includes brother in its definition of family.

The Authority did business with J & M Auto Repair Service (J & M), a firm owned and operated by the Director’s brother. During our audit period, the Authority made eight payments totaling \$2,598 to J & M. The Authority had been using J & M to service its vehicles since 2002, prior to the Director’s appointment in 2006.⁸

⁷ Public Housing Law Section 36 similarly states that no member or employee “shall have any interest direct or indirect in any contract for materials or services to be furnished or used in connection with any project.” Note that the conflict of interest provisions for municipalities in Article 18 of the General Municipal Law are not applicable to public housing authorities (see General Municipal Law Section 800[4]).

⁸ The Director was appointed as Acting Director in August 2006 and became permanent as Director in November 2006. The Chairman requested a waiver from HUD within 30 days of the Director’s appointment, but the Authority did not maintain documentation of HUD’s response. HUD officials advised us that they did not have a record of the Authority’s waiver request. However, because the Authority was doing business with J & M prior to the Director’s appointment, the Authority was not required to obtain a waiver to continue using this vendor.

We found that the Director approved J & M vouchers for payment and signed the Authority's checks. As a result, the Authority did not comply with its own ethics policy. The Director indicated that the Authority used J & M for service because it was located near his home in Watervliet and it was convenient for him to drop off vehicles for repair and walk home from the repair shop. However, we question the necessity for using J & M during our audit period because the Director moved to Halfmoon in January 2010.

We reviewed the eight invoices from J & M, totaling \$2,598, which were paid during our audit period and found that the prices charged appeared to be reasonable for the type of work or repair being done. However, the use of J & M was a violation of the Authority's ethics policy.

Recommendations

1. The Board should obtain reimbursement from Authority officials and employees for the excess travel costs identified in this report.
2. The Board should audit and approve all claims prior to payment and ensure that every claim is sufficiently itemized and contains necessary supporting documentation to ensure that it is a proper Authority charge and that the goods and/or services have been received.
3. The Authority should enforce its own ethics policy and discontinue utilizing J & M Auto Repair Service.

Payroll and Employee Benefits

Payroll and employee benefits are a significant operating cost to the Authority. Therefore, it is essential that management design and implement effective controls over the payroll process comprising well-developed policies, practices and procedures; adequate managerial oversight; and proper segregation of duties.

There were numerous news articles and public complaints alleging payroll abuse including overly generous salary and benefits for the Director and questionable provisions in his employment contract, and an overly generous salary for the Accountant.

The Board did not compensate the Director – whose 2011-12 salary was \$144,921 – in accordance with the Authority’s personnel policy or at an amount similar to other Directors of neighboring housing authorities. Board members indicated that they paid him a higher salary amount because they did not back-fill his prior position as Project Manager, effectively combining the two positions. The Director’s Board-approved five year rolling contract potentially exposes the Authority to pay four years’ salary if the Board decides not to continue his employment.

We found that the Director’s use of an Authority vehicle was authorized and in compliance with contractual provisions, and this benefit was not unusual by industry standards. We determined that the Accountant’s salary compares favorably with the City’s Finance Director and with the chief financial officers in other housing authorities. Although the Accountant controls the entire payroll process with little or no oversight, our review of her payroll records disclosed no deficiencies.

Director’s Compensation

Allegations were made that the Director was overpaid, his salary was not comparable with salaries of those in similar positions and his salary was too generous when compared to his prior salary as Project Manager.

Director’s Salary – To retain qualified staff, Authority employees should be paid commensurately with their workload and responsibilities. In addition, when determining compensation, the Authority must comply with the Federal Department of Housing and Urban Development (HUD) requirements regarding compensation levels.

The Authority’s personnel policy contains a provision equating the salaries of positions in the Authority with salaries of positions

either in the City government or the City School District. The policy equates the Director's salary with a Principal in the Saratoga Springs School District, but does not specify which of the eight Principals it intended to equate the Director's salary to. The Director's salary was \$140,700 for the 2010-11 fiscal year.⁹ Although there was one outlier among the Principals in the School District who had a 2011 salary of \$75,837, the salaries for the other seven Principals ranged from \$102,197 to \$127,219.¹⁰ Thus, the Director's salary exceeded the salaries of all the Principals in the Saratoga City School District by at least \$13,000.

It also was alleged that the Director's current salary was far too generous when compared with his prior salary of \$74,707 as Project Manager. All three Personnel Committee members¹¹ advised us that, when the Director was promoted from Project Manager in 2006, it was expected that he would perform his new duties as Director and continue to perform his prior Project Manager duties. This would effectively eliminate the Project Manager position. One Committee member also stated that there was an expectation that the Director also would be getting involved in some development work with the Saratoga Affordable Housing Group.

After his appointment to Director, the Project Manager position was not filled and is still vacant. When both positions were last filled in August 2006, they were budgeted at \$146,319 on a combined basis. For the first year of the Director's contract (2009-10), his salary was set at \$134,000.

HUD conducted a nation-wide survey of 2010 housing authority compensation levels, which determined that on a nation-wide basis, 93 percent of housing authority executive directors earned less than \$125,000. Therefore, the Director's compensation fell within the top 7 percent of housing authority executive directors on a nation-wide basis. Further, the HUD survey reported that, in the New York/New Jersey Region, the highest paid employee made less than \$116,926 in 75 percent of the housing authorities with 250 to 1,249 HUD units.¹² Therefore, the Director's compensation falls within at least the top 25 percent of housing authority executive directors on this basis.

⁹ We are comparing 2010-11 salaries because 2011-12 school district salaries were not yet available at the time of our audit.

¹⁰ According to the Seethroughny website

¹¹ The Personnel Committee consists of three Board members. We were told that, in their private lives, one is the Executive Director of Catholic Charities for Saratoga-Warren-Washington Counties, another is the Dean of Faculty (retired) for Skidmore College, and the third held positions as the Director of Social Work at St. Peter's Hospital and as Executive Director of the Saratoga County Equal Opportunity Council, a NFP corporation with 150 employees.

¹² The Saratoga Springs Housing Authority maintains 339 public housing units and administers 90 Section 8 Housing Choice Vouchers.

We conducted our own survey of 2011-12 wages and benefits at four local housing authorities: Plattsburgh, Troy, Schenectady, and Albany. Our review disclosed that salaries for their Executive Directors (whether using that title or another) were \$127,000, \$96,500, \$96,100, and \$139,000, respectively. Therefore, the Director's salary of \$144,921 exceeded all of the others that we surveyed. In each of these cases, the housing authorities were responsible for significantly more tenant rentals¹³ than in Saratoga.

In summary, the Authority did not pay the Director in accordance with its policy. Further, the Director's salary falls within the top 7 percent of housing authority directors nation-wide and is higher than the four local housing authorities we surveyed.

Performance Increases and Bonuses – The Director's contract calls for an annual performance evaluation by the Personnel Committee¹⁴ and authorizes the Committee to make recommendations to the full Board whether to grant salary increases and bonuses based on his evaluation. He received a 5 percent salary increase for 2010-11 and a 3 percent salary increase for 2011-12. For 2011-12, he also was awarded a 5 percent performance bonus. Salaries were frozen for all Authority staff for the 2012-13 fiscal year, so the Director's salary will be frozen at \$144,921 for the upcoming year.

We found that the Personnel Committee had prepared a performance evaluation justifying the Director's 2011-12 salary increase and bonus. Although documentation justifying the 2010-11 increase was not available, it appears that the increase resulted from a default provision in the Director's contract, as discussed in more detail in the finding entitled Director's Employment Contract.

Salary Cap – As mentioned above, HUD surveyed compensation levels of the housing authorities in August 2011. Shortly after, the Federal government established a temporary one-year cap of \$155,000 on the Federal contribution to a housing authority executive's salary. This cap applies only to salaries, excludes bonuses and any other forms of cash compensation, and applies only to HUD's 2011-12 fiscal year.¹⁵ Since the Executive Director's salary was \$144,921 during the Authority's 2011-12 fiscal year and has been frozen at the same level for the following year, it is below the cap.

¹³ Total public housing units and Section 8 vouchers are approximately 795 for Plattsburgh, 2,125 for Troy, 2,390 for Schenectady, and 4,700 for Albany.

¹⁴ All Personnel Committee members also are on the Board.

¹⁵ The Federal fiscal year runs from October 1 – September 30; thus, HUD's 2011-2012 fiscal year runs from October 1, 2011 – September 30, 2012.

HUD is currently proposing a permanent cap on housing authority staff salaries that will take effect during HUD's 2012-13 fiscal year. The permanent cap would be indexed to Federal government salary scales, impose limits on total cash compensation (not just salary), and use tiers based on the size and number of units in a housing authority to determine a particular housing authority's limit. HUD has announced that, if Congress does not take action, it will administratively impose the new cap. Under HUD's current proposal, Federal funding for the compensation of any Authority staff member would be limited to \$125,926 based on the Authority's tier and corresponding region. Therefore, if this cap is enacted, Federal funding for the Director's compensation would be limited to this amount.

Director's Employment Contract

Public employment contracts should be written with the best interest of the taxpayers in mind and should not expose them to substantial financial obligations if there is substandard performance or unacceptable conduct by the employee.

The Director's employment contract includes the following provisions:

- A five-year contract with an annual, automatic, one-year extension which becomes effective unless the Board gives the Director timely notice that the agreement is terminated
- If the Director has failed to perform his duties satisfactorily, the Board is only permitted to terminate the one-year extension of his contract. He would still have four years remaining on his contract.
- An automatic 5 percent increase to his salary if the Board fails to conduct an annual evaluation of his performance.

The Personnel Committee members told us that they had studied a number of other employment contracts and drafted the Director's contract based on this review. They acquired a contract that included a five-year rolling provision at a training conference for housing authorities. Board members agreed to these provisions because they felt it was good for both parties, as it protected the Board from an abrupt departure of a key staff member and the Director from arbitrary or politically-motivated actions. However, the Director may terminate his contract by giving 90 days' written notice to the Board, while in essence the Board must give the Director four years' notice.

In the event of substandard performance or serious misconduct, the first two contract provisions could potentially bind the Board to continue the Director's employment for four more years. At his

current salary, this would cost the Authority approximately \$580,000. Additionally, if the Board failed to provide an annual performance evaluation, the default would be a 5 percent raise totaling \$7,250, which would be added to his base salary.

In summary, these provisions expose the Authority to substantial financial liabilities and provide only minimal protection from the Director's abrupt departure because he only is required to give 90 days' notice to the Board to terminate his employment.

Director's Use of Vehicle

Vehicles can be provided to employees when warranted by their position or job duties or as part of a compensation package and should be used for authorized purposes.

The Director's employment contract¹⁶ provides him with an automobile at the Authority's expense with no restrictions or limits on its use except that he is required to report the taxable value for any personal mileage to the IRS. Although he primarily used the Authority's 2007 Jeep Cherokee and was allowed to take it home, the Authority did not have specific vehicle assignments.

We reviewed the Director's Wage and Tax Statement (W-2) filed for the 2011 calendar year and found that he was reporting personal mileage for his daily commute as income to the IRS. We also reviewed the Director's monthly mileage log for 2011 and found that he logged 20 personal miles for the daily round trip when he took a vehicle home. However, we determined that the round-trip mileage between the Director's home and the Authority's administrative offices was 32 miles. Therefore, the Director underreported the mileage to the IRS.

To gauge whether it was common practice to provide a vehicle for the Director's use, we surveyed four housing authorities.¹⁷ One of these housing authorities indicated that it provided its Executive Director with an authority vehicle without restrictions on personal use. A 2009 Public Housing Authorities Directors Association survey also indicated that 16 of 51 respondents (31 percent) in the New York/New Jersey region had exclusive use of a vehicle provided by their housing authority without restrictions on personal use of the vehicle.

To determine whether usage of the 2007 Jeep Cherokee was excessive or had the appearance of an abuse of Authority resources, we examined the number of miles the vehicle had been driven. The

¹⁶ The exact language is, "the Executive Director will be furnished an automobile at [the Authority's] expense to be used at his own discretion in accordance with IRS regulations."

¹⁷ Plattsburgh, Troy, Schenectady, and Albany

vehicle had been driven 45,398 miles as of April 6, 2012, which is indicative of light usage for a vehicle of its age.

In summary, it appears that the Director's use of an Authority vehicle was authorized and in compliance with contractual provisions, and this benefit was not unusual by industry standards.

Accountant

Allegations were made that the Authority's Accountant was overpaid, her salary was not in accordance with the Authority's Personnel Policy, and her salary increases were too large and too frequently given.

Salary – The Authority's Personnel Policy equates the salary of the Authority's Accountant with the Accountant position in the City of Saratoga Springs. The City's Accountant position was eliminated in 1991 and the corresponding duties were transferred to a new position of Director of Finance.¹⁸ The Authority's Accountant's salary was \$85,000 during the Authority's 2011-12 fiscal year, which was nearly identical to the City's Director of Finance's salary for the City's fiscal year ending December 31, 2011. These positions have similar responsibilities, except that the City's Director of Finance supervises a larger staff.

The Authority's Accountant functions as the Authority's Chief Financial Officer (CFO). The CFO is assisted by a clerk, who estimates that she spends 50 percent of her time assisting the CFO.¹⁹ We reviewed wages and benefits of CFOs at four other housing authorities: Plattsburgh, Troy, Schenectady, and Albany. These CFOs' salaries were \$65,000, \$81,000, \$93,000, and \$97,000, respectively. Although all of the other housing authorities were responsible for significantly more tenant rentals than in Saratoga, the CFOs' responsibilities were the same. In at least three instances, the CFOs of these other housing authorities had significantly larger staffs. The Authority's Accountant's salary of \$85,000 in the 2011-12 fiscal year falls within the range of the salaries of the other CFOs.

It also was alleged that the Authority Accountant's salary increases were too large and too frequently given, when compared with the duties performed by her predecessor in the position. We determined that this is not the case because the job duties changed significantly with the hiring of the current Accountant. The former Accountant indicated that, during her employment, the Authority had to contract with a certified public accountant for the performance

¹⁸ According to the Secretary of the City of Saratoga Springs Civil Service Commission

¹⁹ These duties consist of collecting receipts (window and mail), entering them into the financial system, preparing deposits, and contacting delinquents.

of many accounting and reporting functions²⁰ which were beyond her capabilities. These functions are now done in-house by the current Accountant. In addition, the Authority contracts the current Accountant out to perform accounting services for other housing authorities, which generates fees for the Authority. Table 1 compares the positions, costs and generated fees.

	Prior Accountant	Current Accountant	
Fiscal Year	2006-07	2010-11	2011-12
Salary	\$54,778	\$80,000	\$85,000
Cost Savings ^a	\$0	(\$13,620)	(\$13,620)
Revenues Generated ^b	\$0	(\$28,831)	(\$24,068 ^c)
Net Salary ^d	\$54,778	\$37,549	\$47,312

^a From accounting services that were formerly provided to the Authority by a CPA firm. Costs are unadjusted 2006-07 fees charged by the CPA firm.
^b From services provided by current accountant to other housing authorities pursuant to contract with the Authority
^c Includes estimated billings for May and June, 2012
^d Salary less cost savings and revenues generated

As shown in Table 1, the Authority's accounting costs have declined due to the hiring of the current Accountant. In summary, the current Accountant's salary compares favorably with the City's Finance Director and with the CFOs in the other housing authorities. In addition, the Authority has achieved significant cost efficiencies by employing this individual.

Segregation of Duties – It is important for the Board to ensure employees' duties are segregated so that no single individual controls most or all phases of a transaction. The concentration of key responsibilities (e.g., entering employees and pay rates into the computerized payroll system, processing payrolls, and having access to payroll checks) with one individual significantly increases the risk that errors or irregularities could occur and remain undetected and uncorrected. When circumstances do not permit for an adequate segregation of duties, the Board must ensure there are mitigating controls, such as management oversight.

The Accountant's payroll processing duties were not adequately segregated. During our audit period, she entered new employees and

²⁰ This included the performance of the year end closeout, the preparation of all Section 8 reports and low-rent reports for the Board and the independent auditors, the preparation of various budgets (the management budget, revisions for the Board, and subsidy budgets for the HUD Regional Office), the preparation of the annual financial report for submission to REAC, etc.

pay rates into the payroll system with minimal oversight; had access to the check stock, the check signing machine, and the signature plates; and processed the payroll. In addition, weekly payroll journals were not generated and weekly payrolls were not certified by the unit supervisor. The Authority had some mitigating controls in place. For example, the Director reviews each check and signs checks with the check signing machine. However, this is only done during normal business hours. Because the Accountant had unlimited access after-hours to the check signing machine, signature plates, and blank checks, this mitigating control was not sufficient to compensate for the control weaknesses we identified.

We conducted various tests to verify that those on the payroll were bona fide employees; payments made were for work actually performed, at the proper rates and in the proper amounts; and that payroll records and reports were accurate. Although our testing did not disclose any significant exceptions, the internal control weaknesses over payroll increase the chance that errors or irregularities could occur and not be detected and corrected in a timely manner.

Recommendations

4. The Board should review and amend the personnel policy to reflect the Authority's current staffing needs in compliance with HUD requirements.
5. In future negotiations, the Board should align the Director's salary with industry comparables and Federal requirements. The Board should not agree to contract language that prohibits the Board from dismissing an unsatisfactory employee without incurring a substantial financial burden or that establishes default mechanisms that result in automatic contract extensions or salary increases.
6. Authority officials should give full consideration to HUD requirements when making employment decisions and, when necessary, seek legal counsel.
7. Authority officials should adequately segregate payroll processing duties.

APPENDIX A

QUESTIONABLE TRAVEL COSTS

Table 2: Questionable Travel Costs						
Questionable Cost Description	2010 PHADA Legislative Forum, Washington D.C.	2011 PHADA Legislative Forum, Washington D.C. ^a	2011 PHADA Commissioner's Conference, Phoenix, AZ	2011 PHADA Annual Convention and Exhibition, New Orleans, LA	2012 PHADA Commissioner's Conference, Ft. Lauderdale, FL	Total
Meals and Incidental Expenses	\$426.00	\$958.50	\$426.00	\$284.00	\$426.00	\$2,520.50
Hotel	\$1,254.00	\$2,707.00	\$358.00	\$800.00	\$1,559.94	\$6,678.94
Hotel Tax	\$181.86	\$392.58	\$47.50	\$116.00	\$171.60	\$909.54
Hotel Parking	\$110.88	\$72.00	\$25.00	\$73.92	\$60.42	\$342.22
Airport Parking	\$28.50	\$28.50	\$33.33	\$19.00	\$28.67	\$138.00
Car Rental	\$95.25	\$240.34	\$121.62	\$62.14	\$77.28	\$596.63
Clerk's Registration Fee		\$310.00				\$310.00
Clerk's Airfare		\$139.40				\$139.40
Additional Airfare for Flying into Las Vegas			\$53.60			\$53.60
Total Questionable Costs	\$2,096.49	\$4,848.32	\$1,065.05	\$1,355.06	\$2,323.91	\$11,688.83

^a If it was necessary for the Clerk to attend this conference, total questionable costs would be \$9,871.

APPENDIX B

OTHER ISSUES OF PUBLIC INTEREST

Pest Control/Bed Bugs

Bed bugs are bloodsucking insects that infest households and require diligence to be eliminated. Although bed bug populations dropped dramatically during the mid-20th century, the United States is one of many countries now experiencing an alarming resurgence in the population of bed bugs. The cost of effectively eliminating bed bugs may be significantly more than the cost of eliminating other pests because bed bug control usually requires multiple visits by a licensed pest control operator and diligence on the part of those who are experiencing the infestation. Control in multi-family homes is much more difficult than in single-family homes because bed bugs frequently travel between units. Therefore, to help eliminate pest infestations in a timely manner, it is important for the Board to develop and implement a pest management plan²¹ that outlines the steps to take when infestations occur.

The Authority's first confirmed report of bed bugs at its Stonequist Apartments occurred in September, 2011. After the first report, the Board received monthly updates and discussed the bed bug situation at nearly every meeting. The Board relied on the Director and his staff to handle the situation. The Authority did not have an integrated pest management plan at the time of the bed bug outbreak, and the Authority had never dealt with bed bugs before.²² The staff began researching the problem and contacted HUD, the County Health Department, and Cornell²³ for guidance. However, HUD and the County provided little guidance at the time on how to eradicate bed bugs. Cornell suggested several alternative treatment options besides controlled pesticides including steaming, vacuuming, mattress encasements, etc., and agreed to provide training to staff.

Due to a lack of prior experience with bed bugs, a lack of guidance from oversight agencies, confusion due to multiple treatment options, and cost concerns,²⁴ Authority officials tried to initially address the problem internally using recommendations of a pest management plan which included educating residents, purchasing steamers that staff and tenants used to steam common areas (hallways, lounges, etc.) and apartments, applying diatomaceous earth along baseboards and inside walls/outlets, distributing mattress covers and installing climber cup interceptors under bed legs.

²¹ Integrated Pest Management (IPM) is an effective and environmentally sensitive approach to pest management that is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment. It is the approach recommended by the U. S. Department of Agriculture, U. S. Centers for Disease Control, and the U. S. Environmental Protection Agency. Methods for bed bug control may include using monitoring devices, removing clutter where bed bugs can hide, applying heat treatment, vacuuming, sealing cracks and crevices to remove hiding places, using non-chemical pesticides (such as diatomaceous earth) and judicious use of effective chemical pesticides.

²² Officials and maintenance staff indicated during interviews that bed bugs had not previously been an issue. The former pest control contractor had been hired to deal with cockroaches.

²³ Cornell University partners with the USDA to provide training on Integrated Pest Management.

²⁴ A HUD representative informed the Authority that there was no additional funding available for the treatment of bed bugs in the low income public housing program.

In December 2011, Authority officials had 14 complaints of infested apartments inspected by a professional exterminator. The inspection confirmed the presence of bed bugs in nine apartments and in one hallway. At the January 19, 2012 Board meeting, the Maintenance Supervisor reported that, during the past month, his staff had cleaned nearly 50 units from top to bottom including cabinets, closets, electrical receptacles, etc., and that 15 of them actually had a bed bug problem. He also stated that four of his employees had undergone pesticide treatment training. In January 2012, Authority officials met and held discussions with New York State Department of Environmental Conservation staff regarding this issue. In January 2012, despite the efforts of the maintenance staff, it became apparent to the Director that the problem was beyond their capability and professional exterminators would be needed.

The Authority hired a contractor, who began treatment in February 2012 and issued a summary report (dated February 15, 2012) that indicated his crew spent three days onsite in February, found and treated 42 infested units, and would do a 30-day follow-up on all units found to have bed bugs. It said that the majority of the infestations would be rated as light, five as medium, two as heavy, and none would be considered severe. The contractor's report also stated that it had no doubt that it would eliminate the bed bugs in the Stonequist building. The contractor's March 16, 2012 inspection report indicated that four units were retreated on that date. Total payments to this contractor exceeded \$61,000 as of April 27, 2012.²⁵

Although HUD required public housing authorities to provide "decent, safe, and sanitary" housing for their residents, there was no formal guidance by HUD on addressing bed bugs in low income housing at the time the Authority was experiencing its bed bug infestation. More recently, HUD has strongly encouraged housing authorities to develop integrated pest management plans and has issued guidance including timelines when dealing with reports of infestations.²⁶ Although the Authority now has procedures for dealing with bed bug complaints, the Board has not formally adopted an integrated pest management plan as of June 22, 2012.

In summary, Authority officials did not assess the extent of the infestation or bring in a professional exterminator as soon as they should have. Authority officials were aware of bed bug infestation in September 2011 and attempted several different methods to eliminate them before obtaining services from a professional exterminator in February 2012.

Saratoga Affordable Housing Group

HUD encourages public housing authorities to take innovative approaches to develop/expand public housing. This includes the formation and use of not-for-profit corporations to implement development activities and to access funding not available to public housing authorities. With the encouragement of HUD, the Authority created the Saratoga Affordable Housing Group (SAHG) to expand affordable housing in the City of Saratoga Springs.

SAHG is a not-for-profit corporation whose purpose is to provide quality, innovative housing for families in need, to promote opportunities for self-sufficiency and economic independence, and to build a thriving community in the City of Saratoga Springs and Saratoga County. It aims to achieve this by

²⁵ Total vendor payments for bed bug purposes from December 23, 2011 through April 27, 2012 were in excess of \$73,000. There were additional bed bug-related vendor payments in 2011.

²⁶ PIH-2012-17 Guidelines on Bed Bug Control and Prevention in Public Housing, issued February 28, 2012

developing, acquiring, constructing, renovating, operating, maintaining, and improving rental housing and facilitating home ownership opportunities for low-income families and individuals. During our audit period, SAHG was governed by a nine-member Board of Directors, four of whom were officers or employees of the Authority. Although the majority of SAHG Board members are independent from the Authority, there is a significant relationship between the two organizations.

A property management agreement has been in effect between SAHG and the Authority since 2009. For an annual management fee of \$12,000, the Authority has agreed to manage SAHG's rental units in Saratoga Springs. The Authority's responsibilities include the following:

- Collect the monthly rents²⁷ and provide SAHG with a monthly accounting of rents received and expenses paid
- Provide maintenance and repair services for the property (labor only); this includes grounds maintenance and snow removal
- Advertise for tenants and provide specified legal services regarding unpaid rents, property damage, etc.

Allegations have been made that the Authority was subsidizing SAHG, and Authority staff have performed maintenance work, particularly roofing work, on SAHG properties without reimbursement for either labor or materials.

We performed an analysis of the Authority's costs for the 2010-11 fiscal year, which was the last full year of operations during our audit period. We estimate the total cost of Authority staff time devoted to SAHG work to be approximately \$11,100,²⁸ which was less than the \$12,000 annual management fee for that year. In addition to the property management fee, the Authority earned \$11,035 in 2010-11 for its general contracting role for construction/rehabilitation work done for SAHG pursuant to a Community Development Block Grant (CDBG).²⁹

We also discussed the allegations regarding roofing work with Authority officials and the maintenance employees who were involved in the roofing work. From our discussions with them, it appears that Authority maintenance men did some roofing work on two buildings in the summer of 2009. Although they told us that they worked on two of the roofs,³⁰ they completed neither. The roofing work was completed by a subcontractor.

This roofing work was included in a SAHG construction/rehabilitation project funded with a CDBG grant that began in the summer of 2009. The Authority served as the general contractor on this project.

²⁷ 24 rental units during our audit period

²⁸ We estimated maintenance costs to be \$7,596 and accounting/collection costs to be \$3,528, thus totaling \$11,124. We were not aware of any significant advertising or legal costs related to SAHG rentals for that year and were informed that there were none.

²⁹ The NYS CDBG program provides financial assistance to eligible cities, towns, and villages with populations under 50,000 and counties with an area population under 200,000, in order to develop viable communities by providing decent, affordable housing and suitable living environments, as well as expanding economic opportunities, principally for persons of low and moderate income.

³⁰ We were told by the employees that two of them worked on two of the roofs and the other two worked on only one roof. One employee said that he worked on only one roof for no more than one day.

We reviewed the Authority's ledger and other financial records and determined that the Authority was fully reimbursed by the SAHG with CDBG moneys for its outlays for materials, including roofing materials, and for payments to subcontractors. In addition to being reimbursed for these costs, the Authority made a profit of \$25,817 as general contractor on this project,³¹ which appears to more than offset any labor costs incurred by its maintenance staff for roofing work on the project.

Finally, the Director notified SAHG on April 23, 2012 that the Authority would not be renewing its management contract for the upcoming year, which started on July 1, 2012. However, two of the Commissioners disputed the Director's authority to cancel the contract at the May 2012 meeting of the Authority's Board.

Nepotism

Public Housing Authorities in New York State are subject to the provisions of the Civil Service Law applicable to the municipality in which they are established.³² New York State Civil Service requirements, in particular, are designed to foster merit and fitness in the hiring and promotion of public employees, to the extent practicable. Because the Authority receives significant Federal funding, it also must observe Federal restrictions regarding nepotism³³ in employment³⁴ as set forth in its Annual Contributions Contract (ACC) with HUD. The Authority's ACC prohibits nepotism in employment but stipulates that this provision may be waived.

In April 2006, prior to the Director's appointment, his son was hired as a laborer. Because his son was hired prior to the father becoming Director, a waiver was not required from HUD. In 2011, the son assumed additional responsibilities for monitoring and security at the Stonequist Apartments. Since there was a potential for out-of-title work, the Saratoga Springs Civil Service Commission requested that Authority officials analyze their needs at the facility. The Civil Service Commission Secretary informed us that the issue was no longer pursued because the Director's son resigned in February 2012.

The Director's daughter was hired in 2009 and held two positions with the Authority. She was initially hired as a part-time clerk and, subsequently, was appointed to a Housing Authority Assistant position. Based on information provided by Saratoga Springs Civil Service, we determined that both of her appointments complied with Civil Service Law. The Board initially applied for a waiver from HUD for the Director's daughter on February 1, 2012, after public criticism. We were told that the lateness was due to confusion over the interpretation of the ACC. HUD initially rejected the waiver and requested additional documentation, including a legal opinion from the Authority's attorneys.

HUD requested that the legal opinion also address whether the son's promotion was a violation of State or local laws. The Authority received a legal opinion from its counsel in April 2012 which addressed the employment of both of the Director's children. It indicated that the son was no longer employed by the Authority. It also stated that Civil Service Law does not address the employment

³¹ The total project amount was \$150,000. For purposes of this report, we have assumed that it was permissible for the Authority to earn a profit under the CDBG program.

³² Public Housing Law Section 32(1)

³³ Favoritism shown on the basis of family relationship

³⁴ And in regard to vendor contracting

of family members and that there was no violation of other State or local laws.³⁵ Authority officials submitted this information, and HUD granted the waiver for the Director's daughter on April 25, 2012. HUD did not mention the Director's son's employment in its response.

³⁵ Public Housing Law Section 32, Public Officers Law Section 73(14)(a), or the Saratoga Springs City Code

APPENDIX C

RESPONSE FROM AUTHORITY OFFICIALS

The Authority officials' response to this audit can be found on the following pages.

SARATOGA SPRINGS HOUSING AUTHORITY

One South Federal Street
Saratoga Springs, NY 12866

Telephone: (518) 584-6600

Fax: (518) 583-3006

September 25, 2012

Office of the State Comptroller
Glens Falls Regional Office
One Broad Street Plaza
Glens Falls, NY 12801-4396

Dear Reviewer:

Enclosed is the Saratoga Springs Housing Authority's Board approved response to the draft audit report received September 17, 2012.

Please contact our office with any questions or if further information is required.

Respectfully,

SARATOGA SPRINGS HOUSING AUTHORITY

Eric Weller
Chairman of the Board

Executive Director: Edward J. Spsychalski

Legal Counsel: John Hicks - Scott Peterson

Board of Commissioners:

Eric Weller – Chairman
Sister Charla Commins
Lillian Miles
Olivine Wescott, Resident Commissioner

Johanna Dushlek – Co Chairman, Resident Commissioner
Albert Callucci
Ken Ivins

SSHA Response to OSC Draft Audit Report

We are in receipt of the Draft Audit Report from the Office of the State Comptroller and have discussed the results with the audit team. First, may we say that the auditors were totally professional in all their dealings with us and we are more than satisfied by the care they took to be accurate and complete in their examination and review of our records, procedures and policies. Our exit interview with them was also both professionally congenial and very helpful to us. Unlike past audits we have been acquainted with, which randomly sampled records in order to verify that proper procedures were being followed, this was a 100% forensic audit. Indeed, in some cases the team revisited the same issues and records several times. We feel vindicated to the degree that the audit found no fiscal mismanagement or inappropriate use of public funds. And with this result we are in total agreement.

We came to recognize that it is unusual for an audit team from your office to audit a Federal program such as ours, and so we were doubly appreciative of the care the audit team took in trying to understand and deal with the differences between the way we have to keep our records and run our operations and the way State agencies are supposed to keep their records and operate. HUD regulations are quite different and so operational expectations are accordingly quite different. In spite of this, while we do, respectfully, disagree with a few of the audit recommendations, mainly because of the factors addressed above, we respect the spirit of helpfulness that permeates it throughout and will respond, we trust, in similar vein inasmuch as it is in our and the public's best interests to operate as openly and efficiently as possible in pursuit of our agency's mission: to assist low and modest income individuals and families by providing safe, decent and affordable housing, providing resources for its residents as they seek economic and social opportunities to improve their quality of life.

The audit objective: to examine internal controls over Authority financial operations for the period July 1, 2010 to February 21, 2012 led to two distinct questions: 1) Is Board oversight of financial activities of the agency effectively in place and is it properly exercised? And 2) Are internal controls over payroll and employee benefits appropriately designed and effectively operating in a manner that safeguards the Authority assets? (Cf. OSC Audit Report – p. 4, hereafter referred to simply as OSC – p._, etc.)

The audit recommendations, summarized on pages 4 – 5, will be addressed in detail later on in the course of this response, but a few comments of a factual nature are in order at this point. Of the \$49,516 budgeted for conference travel costs over the period covered by the audit, only \$13,822 of it was charged to Federal Funds (i.e., taxpayer funds, defined by HUD as those funds constituted by the amount of rent subsidy provided by HUD plus the amount of rent actually paid by our residents). Of that \$13,822 expenditure, \$3,585 of it was used for Housing Choice Voucher (HCV) program travel for required training as directed by HUD. The rest was charged against the non-federal funds of central office and monies the agency earned from its own operations.

We have learned over the years, that keeping our staff abreast of current developments in the field leads to ideas for operational improvements, and in some cases, significant savings in operational costs. Keeping our Commissioners and our Executive Director informed and in contact with Commissioners and E.D's at other PHA's is an effective way of staying at the cutting edge of new policy initiatives such as our creation of a non-profit "affiliate", the Saratoga Affordable Housing Group, that now owns and operates a newly created housing stock of some 40 units devoted to affordable workforce housing, many of them under the Section 8 Program. Indeed, the State of New Jersey mandates training for new commissioners that must lead to certification within 3 years of appointment. Quite to the contrary of the popular notion, reinforced by sensationalistic headlines, that these conferences are no more than expensive 'boondoggles' indulged in by profligate plunderers of the public purse, I have never returned from a professional conference sponsored by NAHRO without at least a half-dozen new ideas to share with my colleagues, ideas either for new directions to pursue or more effective ways of pursuing goals we already espouse.

On the issue of vendor payments (OSC – p. 5), each month the Board reviews a complete list of such payments made in the previous month, and we cannot find a month when there were no questions asked by Board members and calling for clarification or further detail. That the Board, as a whole, does not review the invoices *before* they are paid is partly a matter of governing philosophy and partly a matter of practicality. Regarding the latter, the Board meets once a month, bills arrive daily, frequently have to be paid promptly and in any case are routine – such as bills for utilities, for the PILOT payment to the city, e.g.. These bills have, in effect, already been approved for payment by the whole Board when, once a year, it approves a budget for the coming fiscal year detailed by category. Regarding the former, to insist on prior approval by the whole board, invoice by invoice, suggests a stifling form of 'micro-management' which raises a serious question of why we bother to have an Executive Director at all. The E.D. is responsible for reviewing and approving each invoice, then directing the chief financial officer to execute the payment. By New York State law the Commissioners are unpaid public servants; the E.D. and CFO are paid to do their jobs. That is essentially the difference between their respective responsibilities – creation and monitoring of policy and *oversight* of practice for the Commissioners; attention to operational details and the following of Board-set policy for the paid staff. We would hasten to add that the E.D. or CFO who fails to provide agency leadership as well, ill serves its best interests.

See
Note 1
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On the somewhat tangential issue of the Authority's use of a business owned by the Director's brother being in violation of the Board's own Ethics Policy, suffice it to say that this arrangement was instituted by the previous Executive Director, unintentionally was allowed to continue, and was terminated in December of 2011 as soon as we became aware of it. As such, it is now a moot point.

On the issue of Board-approved salaries and compensation for the E.D. and CFO, we are pleased to note that the audit team made careful comparisons between our CFO and her equivalent in the local government of the City of Saratoga Springs, as well as with CFOs at

similar-sized PHA's in the region, and found her salary and compensation to be well within the upper and lower boundaries set by the comparison positions. We will address the issue of internal oversight of her activities when we review and respond to each of the seven detailed recommendations which flowed from the audit team's review of our operations and policies.

We are not sure what to make of the observation that our E.D. was not compensated 'in accordance with' our Personnel Policy (Cf. OSC – p. 5), since that policy dictates a process rather than a material result, and the concern seems to focus on the result. The issue of a 5-year rolling contract versus a 3-year rolling contract, versus some other multi-year period or a one year renewable contract such as existed prior to 2009, is, once again, an issue with both philosophical and practical dimensions.

Practically speaking, having just undergone a period of instability in 2006 where we were under pressure from HUD to raise our performance rating; when our Director had resigned and we were operating with an Acting Director while we mounted a regional search for a permanent replacement; and having completed that Affirmative Action Search which culminated in three finalists – two men and one woman – and having settled on the current Director as the most qualified; the Board at that time placed a premium on restoring employee and resident confidence in the stability of the agency. The Personnel Committee, comprised of two veteran Commissioners plus the then-Chair of the Board, discussed this issue over a period of weeks and, while there was some disagreement over the length of the contract (between 3 or 5 years), it agreed to recommend some form of rolling contract to the full Board, again in the interest of stabilizing the situation quickly by reassuring residents and employees, who strongly supported the new E.D., that no similarly abrupt, destabilizing and unnerving changes would be occurring again anytime soon.

From a philosophical point of view, the issue was a question of balance. We were concerned to protect the Executive Director, a very high-visibility public servant, from untoward interference from external sources, both social and political, while providing him with a secure time-frame to carry out the goals of the strategic plan the Board approved in 2009 and which risked bringing him into conflict with unsympathetic interests in the wider community (as we have recently witnessed). We needed to balance these considerations with our fiduciary responsibility for the financial health of the Authority and the safeguarding of its assets. One could argue this either way. But given solid evidence of the E.D.'s unflagging commitment to the SSHA – its employees, residents and Board - the Board at that time decided the five-year rolling contract provided the appropriate balance. Whether that opinion will prevail in the face of the audit team's conclusions and recommendations is a question we will face in the coming months.

Since the Executive Director was widely perceived, by HUD, by the Board, the residents and (as evidenced by the reception of our Affordable Housing initiative) by community leaders, as doing a first-rate job and would be eligible for retirement in 5 years from the date of the contract, we finally settled on the 5-year period subsequently approved by the full Board. When the E.D. recommended that a salary freeze be instituted for the coming fiscal year, due

to the substantial cut in the HUD rental subsidy allowance that he and the CFO anticipated while assembling the 2013 fiscal year budget, he also suggested that the five-year period be allowed to lapse back into a 4-year period and the Board agreed. Since both parties to the contract must agree to any substantive changes in it, should the Board decide that a further reduction in the period would be prudent, this would have to be negotiated between the Director and the Board at some point before next year's salaries are fixed. It will certainly be addressed in our Corrective Action Plan.

On the issue of the Director's total salary, this is an issue more complex in reality than may appear on the surface because of vagueness in HUD's most recent advisory on salary caps for E.D.s, based solely on agency size as measured by the number of housing units under its administration. It is also problematic because of legal questions that surround that advisory. Given the power delegated to the local Boards of Commissioners to 'fix' the salaries of its employees in the original enabling legislation which created the Public Housing Authority initiative under the FDR administration, does HUD even have the power to enforce salary caps? This is not just an idle question. Depending upon how HUD reacts to the questions it has been besieged by since that advisory was published it may well become the subject of extended litigation. We will reserve any further comment until we address recommendation number five.

The salary of the Executive Director was previously established and approved in 1981, both through City Council approval and vote and through the SSHA Board approval and vote. It was determined to be comparable to that of Saratoga Springs School Principal. The audit states that the eight Principal salaries in 2010-2011 range from \$75,837 to \$127,219. We have since received an answer to a foil request from the Saratoga Springs School District which documents salaries ranging from \$90,000 to \$141,978. Please see attached salary document.

See
Note 2
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Detailed Response to OSC Recommendations

We are not at this time attempting a complete reply that includes a Corrective Action Plan, which would comprehensively discuss these recommendations, plus the concrete steps we have taken and/or will take to address any deficiencies noted, and a timeline for full implementation, but reserve our right to reply within the 90-day time-frame allowed after this report is made public by the OSC. However we do have preliminary responses to the seven recommendations made by the audit team which we will present here in order. As we understand these recommendations, they are essentially suggestions for action at the Board level, either to remedy past problems as identified by the auditors, or to ensure greater security in safeguarding our assets by strengthening internal oversight procedures and distributing some operations among different employees to create counter-checks.

1. We believe we have followed the Federal Regulations pertaining to the outlined questionable travel costs. That being said, we are prepared to take the issue of reimbursement to the Authority, by officials and employees of SSHA, of the questionable travel costs identified in this report to the Board, pending refinement and verification of the data used in the

calculation that determined the questionable costs to be in the amount of \$11,689. In addition, we will in the meantime develop a pre-approval form and a reporting form that will require detailed explanation of any expenses incurred that were not pre-approved, or – if possible – a single form for pre-approval and reporting. In short, we agree that we can and will improve our procedures for reporting and approving travel expenses in the direction of the recommendation.

2. This recommendation assumes as desirable a level of micromanagement by the full Board that HUD does not require, and that makes us uncomfortable. The Director is currently responsible for making sure the goods and/or services have indeed been received and signs off on each invoice. Among other things, that is in his job description. Also, since April of this year the Vice-Chair of the Board began a practice of coming in every Friday morning, plus any additional days needed, to review invoices before they were paid, a practice which now also includes the Chairman of the Board so that one or the other is always available to perform this review. Given the routine nature of the vast majority of invoices and the monthly review of vendor payments by the full Board, plus the Board's prior approval of a detailed budget that governs the assignment of expenses, we fear that the delay caused in the timely payment of such obligations, by requiring pre-approval of the entire Board at its monthly meetings, might well outweigh any benefits flowing from this additional step. This poses an even greater problem if, as occasionally happens, we are unable to have a meeting because we lack a quorum. There is, in addition to the review process now in place, the spectre of the annual independent audit hovering over any would-be criminal to serve as a powerful deterrent to fraud. However we will ask our Board to study this issue further to see if there is some less cumbersome way available to achieve a similar level of security 'up-front', as it were. In short, we are open to considering additional controls, but are less sanguine about finding extra measures that don't compromise efficiency.

3. As earlier indicated, this is a moot point since the agreement with J&M Auto was discontinued after December of 2011. We agree with the auditors' last sentence of footnote 8 (Cf. OSC – p.11) that because the Authority was doing business with J&M prior to the current Director's appointment, the Authority was not required to obtain a waiver from HUD to continue using this vendor. If the Housing Authority was not required to complete a waiver, how could the Ethics Policy be violated? If a waiver was required to alleviate the issue with the Ethics Policy, it was requested on October 26, 2006. See attachments: waiver letters and copy of Ethics Policy.

See
Note 3
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4. We agree with this conclusion by the OSC. We are currently in the process of reviewing and revising both our Bylaws and our Personnel Policies and Procedures manual, and will shortly bring a motion to the full Board to update our Personnel Policy to reflect titles more appropriate to current staffing and job descriptions.

5 and 6. Rolling multi-year contracts are not unusual in the industry and in considering the nature of the contract we write to secure the services of our E.D. we have to consider the marketplace and what other PHA's are doing to recruit and retain the most qualified and

experienced directors. We agree that we should always do comparisons with comparable agencies and directors – what is less clear is what constitutes ‘comparability’. As we have learned from our past agreement with the local city council, what positions are regarded as comparable shifts over time, and what criteria should be used to identify ‘comparable agencies’ has already become a subject of discussion among industry professionals. As we have already indicated, the role of HUD in establishing a binding Federal standard that is legitimate, i.e., valid in law, is precisely one of the questions for which we are awaiting clarification, and that may well involve lengthy litigation. As it is, every contract that commits the Authority to significant expense and/or lengthy duration is submitted to SSHA legal counsel for review and an opinion.

The default mechanism built into the current Director’s contract, provides for an automatic 5% increase if the Board fails in its duty to administer a thorough performance review annually, and in a timely fashion, so that budget preparation for the ensuing year can progress as required by HUD. This is also not unheard of in the industry and, based on our prior experience where lack of timely performance reviews at all levels of our employee structure rendered disciplinary action or needed change - at best, very difficult to impossible, and at worst, downright unfair – it is, arguably, at least one way to keep pressure on the Board to carry out its policy of annual performance reviews diligently. We will, however, bring this policy back to the Board for further consideration, and will do so before filing our Corrective Action Plan. In sum, our response to recommendations 5 and 6 is less clear-cut and more guarded than to the other recommendations because of the sheer complexity – legal and otherwise – of the issues involved.

7. We have already begun taking measures to implement the recommendation that we need to further segregate payroll processing duties, though there was no finding of improprieties or mistakes during the audit period. Signature plates are now locked up in the Director’s Office, so that no one other than him can have access to them without his knowledge and consent; the check-signing machine and blank checks are kept under lock and key by the CFO; The Executive Director and the Facilities Manager certify their respective payrolls and either the Chair or Vice-Chair of the Board and the Executive Director review time sheets and verify payroll checks every Friday morning prior to distribution to employees. In short, we agree with this recommendation.

APPENDIX B.

A number of allegations had been made in the months leading up to the Mayor’s request for an audit by your office, inflamed by sensationalistic treatment by both the broadcast and print media, including misleading headlines and a seeming aversion to seeking hard facts from the very beginning. The accusers were accorded the benefit of the doubt while the Authority, with its small staff, was overwhelmed by the resulting media barrage. Accordingly, the OSC audit report includes an appendix dealing with three of the most serious allegations:

- 1) that the SSHA did not respond to resident's concerns about the discovery of bed bugs on its Stonequist property until long after they had constituted a major infestation and well after the media onslaught had begun;
- 2) that the SSHA had improperly performed work for the non –profit SAHG without appropriate compensation and had engaged in improper comingling of funds between itself and SAHG; and
- 3) that the Executive Director had engaged in unlawful nepotism in the hiring and promotion of members of his family and the use of his brother's garage for routine servicing of Authority vehicles. We will treat these in the order they appear in the Appendix.

Pest Control/Bed Bugs

We agree that the auditors' documentation of the efforts we engaged in to combat the bed bugs immediately after they were discovered is accurate. We do, however, question the logic of the conclusion that, "In summary, Authority officials *did not assess the extent* of the infestation or bring in a professional exterminator *as soon as they should have.*" (emphasis added.) This is a conclusion that hardly follows from the documentation provided. Also this conclusion could only be drawn from the documentation with supplementation of additional information (missing in this appendix) by an expert in the field of entomology or pest management. Moreover, it completely ignores the comments of experts in the field who *did* address the issue of the extent of the infestation and the timeliness of our measured, staged response to it.

The representative of the pest control company we eventually hired at the point we determined we could no longer keep up with the problem using just our own staff, stated, upon completion of the first phase of treatment: ""...infestation was not extreme. The majority of units had very low infestation. Most residents never knew they had (them). *The steps taken by the housing authority successfully kept the insects in check.*" (As quoted by the Saratogian, 2/16/12 – emphasis added.)

The final report from the same company concluded that only 42 units out of 176 in Stonequist showed signs of any infestation at all and broke that figure down as follows:

Low level....(a trace; dead bugs).....35 units
 Moderate....(noticeable).....5 units
 Moderate....(required treatment). ...2 units (As cited in The Gazette, 3/18/12)

In addition, the City Health Inspector opined that "...the units were appropriately treated." (As quoted in Spotlight News, 2/02/12)

Finally, a Cornell University entomologist working with us to train our employees to implement an Integrated Pest Management program of our own, concluded that "The Saratoga Springs Housing Authority did the best they could have done with the knowledge we had available at the time. The measures taken initially by the SSHA were effective and appropriate to the level of severity of the problem. Today, the problem has been resolved successfully." (May 3, 2012)

At the end of February 2012, HUD finally issued guidelines (Notice PIH 2012-17 dated February 28, 2012) specifically for the treatment of bed bugs, and it was then that we discovered that ‘flying blind’, with no guidance from health or government agencies, we had followed exactly the recommended protocol now made official by HUD.

The *conclusion* by the OSC, ostensibly drawn from the audit team’s examination of and stated account of documented actions based on our records, which we agree is substantially accurate, is both logically and factually wide of the mark, and we respectfully but firmly disagree with it.

See
Note 4
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Saratoga Affordable Housing Group

The audit team’s examination of the relationship between the SSHA and SAHG, including an analysis of the management contract that existed between them up until recently, and some roofing work that was earlier done under contract by SSHA and a sub-contractor, revealed **NO** irregularities, appropriate charges by the SSHA for its services under the management contract, and absolutely no co-mingling of funds between the SSHA and its independent affiliate, SAHG. We agree with this determination.

Nepotism

Under SSHA’s Annual Contributions Contract (ACC) with HUD, SSHA is prohibited from practicing nepotism (favoritism on the basis of familial relationship) in employment and in its awarding of vendor contracts, though the ban on employment of family members may, under some circumstances, be waived by HUD if so requested. The Executive Director’s son was hired as a laborer by the previous Executive Director in 2005, and so no waiver was required. The audit team’s account of what transpired thereafter is correct and we agree with its conclusion that the issue is now moot because of the son’s resignation in February of 2012. We also agree with its account of the employment of his daughter, following a local search and the daughter’s successfully being among the top three candidates as a result of a Civil Service Examination and then being hired when the two other candidates withdrew to take positions elsewhere. There was no violation of Civil Service Law – which doesn’t address nepotism issues, nor violation of other State or local laws. We find the audit team’s account of both cases to be accurate and agree with these determinations.

APPENDIX D

OSC COMMENTS ON THE AUTHORITY'S RESPONSE

Note 1

The level of detail in a budget category is not the same as in individual claims, which contain specific detail of a vendor being paid and the corresponding supporting documentation for that payment. A proper review of claims requires this level of detail.

Note 2

The salary schedule obtained by the Authority listed budgetary figures for salaries, while our report used the actual salaries paid.

Note 3

The Authority's ethics policy clearly prohibits an Authority employee from approving payments to a family member.

Note 4

Based on the timeline of events that occurred treating the bed bugs, it appears logical that the success of the professional exterminator would have been beneficial sooner rather than later. Furthermore, at least one Board member stated to us that, in hindsight, the Authority should have brought the professionals in sooner.

APPENDIX E

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard the assets of the Saratoga Springs Public Housing Authority (Authority). To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. During the initial assessment, we interviewed appropriate Authority officials and employees, and performed limited tests of transactions. We also reviewed pertinent documents, such as contracts, financial records and reports including the external audit report, respective work papers, payroll records, and travel documents. After reviewing the information gathered during our initial assessment, we determined that weaknesses in the areas of Board oversight, and payroll and employee benefits were most at risk. We evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. We performed the following procedures for each area:

Board Oversight:

- We reviewed all travel (conferences/trainings/forums/conventions) totaling \$46,000 during our scope period and found five conferences containing questionable expenses totaling \$11,689. We reviewed conference informational brochures to determine which days the forum/conference/convention/training trip was to take place. We also reviewed dates in which additional Executive Director Education Program training was available. We determined whether travelers were enrolled in additional training by examining each individual enrollment flyer. We reviewed travelers' travel documents to determine dates that mileage and incidental expenses were paid, hotel bills to determine the dates and number of nights rooms were paid for, prices of hotel stays, hotel parking rates, car rental receipts, and airport parking receipts. We also reviewed credit card statements to determine amounts of airfares paid. We determined if expenses were reasonable, supported, and necessary.
- We reviewed bank statements for two months and traced electronic transfers to other Authority bank accounts, direct deposit reports, or other support to verify that transfers were made for business purposes and to authorized accounts.
- We reviewed a non-biased judgmental sample of two bank reconciliations and traced reconciled balances to trial balances or ledgers to verify that bank reconciliations were performed, and that outstanding checks and deposits in transit were valid.
- We reviewed 100 percent of the Authority's Low Income Housing checking account sequence and 100 percent of the Section 8 Housing checking account during our scope period to determine if there were any sequential gaps, to document explanations, and to verify that voided checks were clearly defaced.
- We analyzed electronic payroll disbursements files with audit software and scanned the results to determine if there were any unusual payments or amounts; excessive payments to the Director, Accountant, and/or their family members; separation or balloon payments; or

employees receiving more than the normal number of payroll checks. We examined check stubs, bank statements, and general ledger entries, and also interviewed Authority officials regarding two questionable checks that came to our attention.

- We analyzed electronic vendor disbursements files with audit software and scanned the results to determine if any names, addresses, or phone numbers were similar to those of Authority officers and/or staff; any unusual vendors or amounts; any payments to Board members, the Director, the Accountant, and/or their spouses, families and business interests; any payments for professional services; any payments for credit cards, purchase cards, or gasoline cards; and any payments for capital projects which may have been subject to competitive purchasing requirements. We then judgmentally selected 75 payments meeting the criteria cited above to verify that checks, claims, and warrants were in agreement; that there was evidence of competitive pricing when necessary and that goods/services were actually received; that claims were properly itemized; that claims were properly audited prior to payment and all applicable documentation was included; and that goods/services were proper Authority charges.
- We scanned the entire Section 8 disbursements file for our audit period and selected 35 for testing (30 randomly and five judgmentally). We examined canceled checks, the Section 8 certified monthly rent rolls, and other supporting documentation, and reviewed the calculation of monthly rental payments to verify that the payments were legitimate, and properly authorized, supported, calculated and recorded.
- To determine if the Authority was adequately compensated for services rendered to the Saratoga Affordable Housing Group, we reviewed the property management agreement between the Authority and SAHG, Authority Board minutes, Allen Drive maintenance work orders, bank statements, ledger accounts, SAHG minutes and by laws, the 2011 CPA report, canceled checks, SAHG's Community Development Block Grant agreement with the City of Saratoga Springs and related contractor payment documentation, and Federal Department of Housing and Urban Development official guidance regarding the establishment of not-for-profit corporations by housing authorities for the purpose of furthering the development of low-income housing. We also interviewed Authority officials and maintenance staff regarding Allen Drive work orders and activities.
- To determine the adequacy and timeliness of the Authority's response regarding the bed bug infestation, we reviewed Board minutes, a Bed Bug Action Timeline provided by the Chairman, correspondence with HUD, contractor treatment proposals and payments, the exterminator's post-treatment report, the Joint Statement on Bed Bug Control in the United States from the U.S. Centers for Disease Control and Prevention and the U.S. Environmental Protection Agency (issued August 24, 2010), and HUD Guidelines on Bed Bug Control and Prevention in Public Housing (PIH-2012-17, issued February 28, 2012). We also interviewed Authority officials and maintenance staff.
- We reviewed bank statements, inspection reports, canceled check images, and a listing of all tenants who vacated during our audit period (and judgmentally selected 10 for testing), to determine if security deposits were properly handled upon a tenant's departure and remitted to the tenant, if appropriate. As part of our sample selection, we judgmentally selected five deceased tenants, as their security deposits were more likely to be stolen. We then selected a

cross-section of five other tenants to evaluate the security deposit refund process across many different vacating reasons.

Payroll and Employee Benefits:

- We viewed the most recent annual Civil Service Department certification to verify that those on the payroll were bona fide employees.
- We reviewed job descriptions, an examination announcement, an eligible list, Civil Service employment records, and minutes of Saratoga Springs Civil Service Commission Meetings, and interviewed the Secretary of the Commission to verify that the Authority had not inappropriately filled positions or employed family members contrary to Civil Service Law.
- We reviewed the Authority's Annual Contributions Contract with HUD, a waiver application, and other correspondence with HUD to determine if there had been a violation of the Annual Contributions Contract. We also interviewed Board members and other Authority officials for the same reason.
- We traced hours worked from the payroll to timesheets and verified that timesheets were signed by the employees' supervisors for two payrolls on a 100 percent basis to verify that payment was for work actually performed.
- We traced pay rates from the payroll to the adopted budget for the same transactions cited previously to verify that payment was at the proper rate.
- We verified the gross pay calculations for the same transactions cited previously to verify that payments were in the proper amount.
- We selected a non-biased judgmental sample of five salaried employees and compared their total annual earnings to the budget. We also selected a non-biased judgmental sample of two hourly employees and reviewed their total annual earnings for reasonableness to verify that payroll costs were accurately accounted for.
- We traced the annual earnings of all employees to their 2011 W-2s to verify the accuracy of payroll reporting.
- We reviewed the personnel policy, accrual records and signed timesheets to verify that leave time was properly carried over, granted, used, and accounted for.
- To verify the justification for the Accountant's salary, we interviewed the Secretary of the Saratoga Springs Civil Service Commission and reviewed official job descriptions on file there; reviewed the Authority's personnel policy, payroll records, operating budgets, and ledgers; visited the Seethroughny website for City of Saratoga Springs salary information; surveyed and analyzed wages, benefits and staffing at four other housing authorities in the region; and interviewed the Authority's present and previous Accountants regarding their job duties.

- To evaluate the justification for the Director's compensation, we reviewed the Authority's Board minutes, personnel policy, organization chart, payroll records, and operating budgets; reviewed the Director's employment contract and his performance evaluations for the 2010 and 2011 calendar years; surveyed and analyzed wages, benefits and staffing at four other housing authorities in the region; and reviewed comparative information provided by HUD and recently enacted Federal salary caps. We also interviewed Board members to determine their process of calculating his compensation package.
- We reviewed the Director's contract and analyzed its provisions, and discussed the contract with members of the Authority's Personnel Committee and the Authority's attorney to determine if it exposed the Authority to substantial financial liabilities.
- We reviewed the analyzed/summarized data generated by our audit software for unfamiliar names or unusual transactions, and traced the direct deposit amount from the payroll to the Automated Clearing House direct deposit receipt and to the bank statement for all employees who had direct deposit on the two payrolls mentioned previously to verify the legitimacy of direct deposits.
- We reviewed Board policies, the Director's contract, his mileage logs and calendars, his W-2s, and his personal EZ Pass Account on the internet to verify that the Director's vehicle was used appropriately. We also examined the Authority's 2007 Jeep Cherokee and its odometer and interviewed Authority officials.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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.

APPENDIX F

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