

HOUSING AUTHORITY FOR THE
CITY OF ALEXANDRIA



COMPLIANCE AUDIT
ISSUED AUGUST 3, 2011

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

August 3, 2011

**MS. CYNTHIA ROSENTHAL, EXECUTIVE DIRECTOR,
AND MEMBERS OF THE BOARD OF COMMISSIONERS
HOUSING AUTHORITY FOR THE CITY OF ALEXANDRIA**
Alexandria, Louisiana

We have audited certain transactions of the Housing Authority for the City of Alexandria. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain financial transactions.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*.

The accompanying report presents our findings and recommendations as well as management's response. This is a public report. Copies of this report have been delivered to the District Attorney for the Ninth Judicial District of Louisiana, the United States Attorney for the Western District of Louisiana, and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DD/dl

ALEXANDRIA HOUSING AUTHORITY 2011

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Executive Summary

Compensation to Executive Director and Others

From July 2002 to May 2011, Ms. Wanda Davis, former executive director of the Housing Authority for the City of Alexandria (HACA), made unauthorized payments to herself totaling \$185,357 in excess of her HACA Board of Commissioners (Board) approved salary. Ms. Davis received these additional amounts in the form of cost-of-living increases, an optional pay increase, a \$20,010 salary increase, an unclassified state service increase, and lump sum payments which she did not qualify for under HACA's Rewards and Recognition and Optional Pay policies. In addition, between February 2003 and December 2009, Ms. Davis authorized Rewards and Recognition payments totaling \$303,225 to HACA employees who were not entitled to receive the payments. Finally, between February 2009 and July 2009, Ms. Davis authorized Optional Pay Policy lump sum payments totaling \$45,299 to HACA employees without documentation supporting the services performed and without documentation indicating that HACA was obligated to make these payments. By increasing her salary and other compensation above the amounts approved by the Board and authorizing payments to other employees without authority and appropriate documentation, Ms. Davis violated her employment contracts, HACA policies, the Louisiana Constitution, and possibly state law.¹

Failure to Apply Bid Law (Contract Change Order)

In March 2010, the HACA contracted with Shreve Land Constructors, LLC, to construct the Legacy Heights-Phase 1 Project (Green Community Development). The project was put out for bid in compliance with the Louisiana public bid law. During our review, we noted that Shreve Land Constructors' contract with the HACA included a change order to construct a new road (Loblolly Lane) through the Legacy Heights complex. Because the change order to construct Loblolly Lane appears to have been outside the scope of the original contract, it should have been bid separately in accordance with the Louisiana public bid law. HACA's failure to bid the construction of Loblolly Lane may have violated the Louisiana public bid law.

¹ **Article 7, Section 14 of the Louisiana Constitution** provides, in part, that "except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private."

R.S. 14§67 states that "theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential."

Background and Methodology

The Housing Authority for the City of Alexandria (HACA) was chartered as a public corporation, under the state of Louisiana, for the purpose of providing safe and sanitary dwelling accommodations for the residents of the City of Alexandria. HACA is governed by a five-member board of commissioners and has an Executive Director to manage day-to-day operations. It is primarily dependent upon the United States Department of Housing and Urban Development (HUD) for funding.

Ms. Wanda Davis served as the executive director for HACA from 2002 to 2011.

The Louisiana Legislative Auditor (LLA) received information alleging improper expenditures of public funds. As a result, the LLA reviewed available HACA records to determine the credibility of the information. The procedures performed during this audit included:

- (1) interviewing employees of the HACA;
- (2) interviewing other persons as appropriate;
- (3) examining selected documents and records of the HACA;
- (4) gathering documents from external parties; and
- (5) reviewing applicable state laws and regulations.

Findings and Recommendations

Compensation to Executive Director and Others

From July 2002 to May 2011, Ms. Wanda Davis, former executive director of the HACA made unauthorized payments to herself totaling \$185,357 in excess of her HACA Board of Commissioners (Board) approved salary. Ms. Davis received these additional amounts in the form of cost-of-living increases, an optional pay increase, a \$20,010 salary increase, an unclassified state service increase, and lump sum payments which she did not qualify for under HACA's Rewards and Recognition and Optional Pay policies. In addition, between February 2003 and December 2009, Ms. Davis authorized Rewards and Recognition payments totaling \$303,225 to HACA employees who were not entitled to receive the payments. Finally, between February 2009 and July 2009, Ms. Davis authorized Optional Pay Policy lump sum payments totaling \$45,299 to HACA employees without documentation supporting the services performed and without documentation indicating that HACA was obligated to make these payments. By increasing her salary and other compensation above the amounts approved by the Board and authorizing payments to other employees without authority and appropriate

documentation, Ms. Davis violated her employment contracts, HACA policies, the Louisiana Constitution, and possibly state law.²

Ms. Davis served as the executive director for the HACA from March 2002 to May 2011. During this period, Ms. Davis and the Board signed three employment contracts covering the periods of March 23, 2002 to March 22, 2003; July 1, 2003 to June 30, 2004; and October 20, 2006 to October 19, 2009. There are no written contracts for the other periods of time in which Ms. Davis was employed by HACA. In addition, because Ms. Davis was an unclassified employee according to R.S. 40:539,³ her employment was not governed by State Civil Service rules which affords an employee due process protections before disciplinary action or termination, job advancement requirements and wages, as well as other employment standards. According to her contracts, Ms. Davis was to serve at the pleasure of the Board. Although the contracts provided for cost-of-living increases, these contracts required that the Board annually review her performance and fix her salary and compensation by Board resolution. In addition, Ms. Davis' contracts required her to prepare and keep records of all actions by the Board, including minutes of meetings, votes of the Board, and Board resolutions.

Unauthorized Payments to Executive Director and Others From July 2002 to May 2011		
Type of Increase	Wanda Davis	Other Employees
Cost-of-Living Increase	\$104,315	
Optional Pay Increase	5,567	
\$20,010 Salary Increase	32,623	
Unclassified State Service Increase	5,890	
Rewards and Recognition Increase	25,158	\$303,225
KDHAP/DVP Increase	11,804	45,299
Total	\$185,357	\$348,524

Cost-of-Living Increases

HACA records indicate that from March 2002 to July 2009, Ms. Davis gave herself six unauthorized cost-of-living increases ranging from three to 10 percent. As a result of these increases, Ms. Davis received payments totaling \$104,315 in excess of her Board approved salary during the period of her employment. Neither Ms. Davis nor HACA could provide annual performance appraisals or approved Board resolutions authorizing these cost-of-living increases.

² **Article 7, Section 14 of the Louisiana Constitution** provides, in part, that "except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private."

R.S. 14§67 states that "theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential."

³ **R.S. 40:539 (C) (8)** states that "except as provided in the Constitution of Louisiana and as may otherwise be authorized by the State Civil Service Commission, all employees of the authority, except authority members, the executive director, and one employee whom the authority shall designate and employ, and except professional employees employed on a contract basis, shall be in the classified state civil service."

Two examples of the cost-of-living increases were implemented in July 2002 and July 2006, as follows:

On July 1, 2002, approximately three-and-one-half months into her first employment contract, Ms. Davis gave herself a three percent cost-of-living increase that increased her salary from \$54,434 to \$56,137. As a result of this increase, from July 1, 2002, to June 30, 2003, Ms. Davis gave herself payments totaling \$1,696 in excess of her Board approved salary.

On July 1, 2006, Ms. Davis gave herself a 10 percent cost-of-living increase that adjusted her salary from \$87,422 to \$96,165. This increase remained in effect until October 20, 2006, when Ms. Davis signed a new employment contract with the Board. As a result of this increase, from July 1, 2006, to October 19, 2006, Ms. Davis made additional payments to herself totaling \$2,707 in excess of her Board approved salary.

Ms. Davis explained the cost-of-living increases, including the examples provided above as follows: She stated her contracts with the HACA provided for annual cost-of-living increases and explained the initial increase (July 2002) was based on a cost-of-living adjustment provided in her March 2002 contract that was prorated over the first quarter of the contract. Although she did not have a contract in effect when she received the increase in July 2006, Ms. Davis stated the increase was in anticipation of a new contract in October 2006. Ms. Davis initially stated she authorized the increases but later stated the increases were implemented annually by former Accounting Clerk Jackie Robinette. She indicated Ms. Robinette would automatically adjust her salary based on her contracts with HACA. Ms. Robinette stated she never increased Ms. Davis' pay without Ms. Davis' approval and indicated Ms. Davis' salary increases were the result of a request from Ms. Davis or a personnel document with Ms. Davis' initials and date approving the increase.

Ms. Davis provided us with two Payroll/Status Change Notices authorizing pay increases--one dated July 2007 and the other dated June 2009. Both notices appear to have been signed by former Board member Essie Iles authorizing the increases. However, Ms. Iles stated the July 2007 notice contained scratch outs and other handwriting that was not her writing and not part of the original document. These scratch outs and other handwritings supported Ms. Davis' salary increase. Ms. Iles indicated that if she had made the changes, she would have initialed them. Ms. Iles further stated the signature on the notice dated June 2009 was not her signature. Ms. Davis acknowledged the signature on this notice did not appear to be Ms. Iles' writing. Ms. Iles then stated during her term as a Board member, she does not recall a Board discussion to increase Ms. Davis' annual salary nor did the Board perform any type of annual review of Ms. Davis' work as provided for in her contracts.

Optional Pay Increase

On June 15, 2004, the HACA implemented a Board approved "Optional Pay Adjustment Policy." The policy was based on a State Civil Service rule that allowed up to a five percent pay increase to permanent, full-time, classified employees who are assigned additional work duties. The policy specifically excluded unclassified employees, administrators, or agency heads from receiving pay adjustments. As an unclassified employee, Ms. Davis does not appear to be eligible for a pay increase under this policy. However, on February 18, 2005, Ms. Davis gave herself a five percent pay adjustment to her annual salary. As a result of this increase, from February 18, 2005, to October 20, 2006, Ms. Davis gave herself additional payments totaling \$5,567 in excess of her Board approved salary.

Ms. Davis stated she established HACA's Optional Pay Policy and the policy applied to permanent, full-time classified employees. When asked why she gave herself an increase, Ms. Davis stated that she assumed additional duties in February 2005 as a result of the HACA's Revitalization Plan to construct the Legacy Heights Housing Complex.

\$20,010 Salary Increase

During April 2005, Ms. Davis did not have a written employment contract. On April 19, 2005, she gave herself a 30 percent pay increase that raised her salary from \$67,412 to \$87,422. This increase was implemented retroactively to March 17, 2005, the date the HACA Board adopted its operating budget for the next fiscal year (July 1, 2005, to June 30, 2006). The funds used for this salary increase were received through the United States Department of Housing and Urban Development (HUD) HOPE VI Program. As a result of this salary increase and allowing for other increases based on this adjustment, from April 19, 2005, until her next contract was signed on October 20, 2006, Ms. Davis made additional payments to herself totaling \$32,623 in excess of her Board approved salary.

Ms. Davis stated she instructed the payroll department to increase her salary to \$87,422 based on a budget she prepared that was approved by HUD and adopted by the Board. She explained the budget included a schedule of employee positions and salaries that listed her salary at \$87,422. She added that by adopting the budget, the Board thereby approved her pay increase. It should be noted that Ms. Davis' prior contracts required the Board to annually review her performance and fix her salary and compensation by Board resolution. In addition, neither Ms. Davis nor HACA could provide documentation supporting the additional duties performed by Ms. Davis during the HOPE VI Program. Though the Board approved the budget on March 17, 2005, the budget was not effective until July 1, 2005, the next fiscal year. If one accepts Ms. Davis' explanation that the Board approved a budget that included the pay increase, the budget referred to did not take effect until July 1, 2005; therefore, Ms. Davis had no authority to pay herself an additional \$5,849 for the period March 17, 2005, to June 30, 2005.

Former Board members Henry Lazarone, George Williams, and Lee Dotson stated that when the Board approved the operating budget, it was not their intention to increase Ms. Davis' pay. Each member stated the Board would not have approved a \$20,000 pay increase to Ms. Davis. Mr. Dotson further stated the Board was not informed of the pay increase and he did not become aware of the increase until 2010. Ms. Iles stated she does not recall Board members approving a \$20,000 pay increase for Ms. Davis nor would she have agreed to approve one.

Although Ms. Davis contends that the pay increase was based on a schedule of employees and their budgeted salaries, the Board as a whole could not recall reviewing that schedule. If the Board did not adequately review the budget before its approval, the Board may not have performed its duties to adequately safeguard public funds. However, if the budget presented to the Board by Ms. Davis did not contain the \$20,010 pay increase, Ms. Davis did not have the authority to increase her salary. In addition, it is clear that Ms. Davis did not have the authority to implement the salary increase retroactively as the approved budget did not take effect until July 1, 2005.

Unclassified State Service

On August 17, 2007, Ms. Davis gave herself a \$1,500 per year increase to her salary retroactive to July 2007. This increase was based on Executive Order - KBB 2007-15. According to KBB 2007-15, the Louisiana Legislature appropriated funds for \$1,500 per year general increase for employees in unclassified state service. State service as defined by the executive order requires the service of employment to be performed for a Louisiana public entity included in the state operating budget. Housing authorities are not included in the state operating budget. Therefore, Ms. Davis was not eligible for an increase pursuant to KBB 2007-15. In addition, this increase was not approved by the Board. Neither Ms. Davis nor HACA could provide annual performance appraisals or approved Board resolutions authorizing this salary increase. As a result of this increase, from August 17, 2007, through the end of her employment (May 20, 2011), Ms. Davis made additional payments to herself totaling \$5,890 in excess of her Board approved salary.

Employee Rewards and Recognition Payments

In January 2003, the Board approved a Rewards and Recognition program. Between February 2003 and December 2009, Ms. Davis made a total of \$25,158 in payments to herself and a total of \$303,225 to 76 other employees based on the HACA's Rewards and Recognition program. According to the Rewards and Recognition program, certain employees would be eligible to receive a lump sum payment if the HACA was designated by HUD as a "High Performer." However, according to HUD records, HACA never achieved this designation during the period in which these payments were made. Ms. Davis indicated she was aware of the policy and HACA did not achieve the "High Performer" designation but authorized the payments anyway.

KDHAP/DVP Payments

During the period of November 2005 through January 2008, the HACA operated a Katrina Disaster Housing Assistance Program/Disaster Voucher Program (KDHAP/DVP). In February and July 2009, subsequent to the program's expiration in January 2008, Ms. Davis authorized KDHAP/DVP payments totaling \$11,804 to herself and a total of \$45,299 to 13 other HACA employees (including one unclassified employee) based on the HACA's Optional Pay Policy. During the period in which the additional duties were performed, the Optional Pay Policy allowed for a lump sum payment up to five percent for classified employees who were assigned additional duties. HACA did not have any documentation supporting the additional duties that were performed or any documentation indicating that HACA was obligated to make these payments over a year after the end of the program. In addition, the program did not allow for unclassified employees; therefore, Ms. Davis and one other employee did not qualify for additional pay.

HACA's records indicate that in February 2009, subsequent to the end of the KDHAP/DVP programs in January 2008 (13 months later), Ms. Davis made, without authority, lump sum KDHAP/DVP payments totaling \$5,902 to herself and \$19,769 to other employees for additional work duties assumed during KDHAP/DVP. Then, in July 2009, Ms. Davis again made, without authority, an additional lump sum payment of \$5,902 to herself and \$25,530 to other employees for extra duties associated with KDHAP/DVP.

The Louisiana Attorney General's Office has historically opined that payments of additional compensation to public employees, to be constitutionally valid, must be in the form of salary increases for future services to be rendered, not extra compensation for past services already rendered and recompensed. In Opinion 09-0260, the attorney general opined that "paying an employee extra compensation in addition to what is owed to her for work that has been done in the past when the employer is under no legal obligation to do so is a payment of a bonus." The HACA could not provide documentation that it was legally obligated to pay these amounts. Therefore, the payments appear to have been bonus payments in violation of the Louisiana Constitution.

Again, it should be noted that as executive director of the HACA, Ms. Davis' salary and other compensation were to be determined by contractual agreement with the HACA. According to all contracts, pay increases to Ms. Davis' salary and other compensation required the HACA Board to review and fixed annually her increases by Board resolution. The HACA could not provide a Board resolution authorizing Ms. Davis' increase in pay for past services under KDHAP/DVP.

By increasing her salary and other compensation above the amounts approved by the Board and making payments to other employees without authorization and appropriate documentation, Ms. Davis violated her employment contracts, HACA policies, the Louisiana Constitution, and possibly state law.⁴

Failure to Apply Bid Law (Contract Change Order)

According to Louisiana Revised Statute (R.S.) 38:2212, projects exceeding \$150,000 shall be advertised and let by contract to the lowest responsible bidder who bid according to the contract, plans, and specifications as advertised.

In March 2010, the HACA contracted with Shreve Land Constructors, LLC, to construct the Legacy Heights-Phase 1 Project (Green Community Development). The project was put out for bid in compliance with Louisiana public bid law. Shreve Land Constructors was awarded the contract with a bid of \$5,263,000. The project's scope of work included constructing 64 apartment units including parking areas, sidewalks, water and sewer facilities, landscaping, and sodding.

During our examination of HACA records, we noted that Shreve Land Constructors' contract with the HACA included a change order for \$1,532,442 to construct a new road (Loblolly Lane) through the Legacy Heights complex. The change order was signed and approved by HACA's Executive Director Wanda Davis, the general contractor, and architect acknowledging acceptance of the changes and the added costs. However, based on employee interviews and records, it appears that the change order to construct Loblolly Lane was outside the scope of the original contract and should have been bid separately in accordance with the Louisiana public bid law.

According to R.S. 38:2211 (A)(3), a "change order outside the scope of the contract" means a change order which alters the nature of the thing to be constructed. . . ." The addition of the Loblolly Lane Road and \$1,532,442 to the project appears to be outside the scope of the original contract. The agency should have solicited new bids for this work. By not bidding the additional work, it appears that the HACA violated the Louisiana public bid law.

⁴ **Article 7, Section 14 of the Louisiana Constitution** provides, in part, that "except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private."

R.S. 14§67 states that "theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential."

Recommendations

The HACA should adopt policies and procedures to ensure public funds are spent according to appropriate policies and laws. Such procedures could include the following:

1. Ensure that the executive director is paid pursuant to written contract. The contract should be signed and include language specifying the directors' compensation, responsibilities, and duration of service.
2. Ensure that the HACA Board annually reviews salary adjustments to the executive director to determine if the adjustments were approved by the Board and comply with the terms of the director's employment contract.
3. Ensure that all salary increases are supported by proper documentation to include the reason for the increase and approval by the Board.
4. Seek recovery of all salary increases and lump sum payments made in violation of law and/or Board policy.
5. Ensure that payments made under the HACA's Optional Pay and Rewards and Recognition programs comply with agency policies and Civil Service rules.
6. Ensure that the HACA Board complies with the Louisiana public bid law.

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Appendix A
Management's Response



ALEXANDRIA HOUSING AUTHORITY

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July 20, 2011

Dan Daigle, CPA, CIA, CFE
Assistant Louisiana Legislative Auditor
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Dear Mr. Daigle:

This letter is provided as a follow-up to your office's Compliance and Audit Report (the "Report") concerning certain activities by Wanda Davis during her employment at the Alexandria Housing Authority (the "AHA").

The AHA appreciates the work performed by your office and employees. The AHA accepts the report and will make every effort to comply with your recommendations. As you know, the current AHA Board of Commissioners began their tenure in October 2010 and has taken numerous steps to ensure future compliance. We do believe the item in the Report related to the public bid law may be mitigated because the funds at issue were not state funds but HUD funds. We are researching this issue and will report back to you later.

Thank you again for the excellent work, and we look forward to working with you in the future.

Sincerely,

David Crutchfield
AHA Commissioner

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