



Berkeley Housing Authority

1936 University Avenue, Suite 150, Berkeley, CA 94704
Telephone: (510) 981 5470 Fax: (510) 981 5480

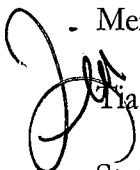
Office of the Executive Director

Item 4

MEMORANDUM

Date: February 12, 2015

To: Honorable Chairperson and
Members of the Berkeley Housing Authority Board

From:  Tia M. Ingram, Executive Director

Subject: Status of Berkeley Housing Authority Operations

This report summarizes the highlights of our current activities and advises upcoming projects:

HUD REPORTING/COMPLIANCE

1. 50058 Reporting. As required, we submit certifications to HUD via the PIC system – documenting (a) program utilization, and (b) completion of the annual tasks recertification for continued eligibility, and unit inspection for habitability:

		<u>Jul 2014</u>	<u>Aug 2014</u>	<u>Sept 2014</u>	<u>Oct 2014</u>	<u>Dec 2014</u>
A	Utilization % (Units)	93.20 (1,804)	93.90 (1,816)	93.60 (1,812)	92.60 (1,792)	90.86 (1,758)
B	Utilization (\$)	92%	93%	94%	95%	98%
C	Port Outs	154	177	154	139	94
D	Late/Missing Annual Recert	11	11	12	12	22
E	Late/Missing Annual Inspect	5	6	10	4	2

A = the decline in utilization is of concern (1) because we are not providing assistance to the maximum number of households, and (2) we are not realizing the maximum income potential from administrative fee.

B = the decline in HAP expense is a concern because HUD uses actual expense to project future need. This phase of under-leasing will result in less funding next year, when we hope leasing will have improved, and our per unit subsidy may be greater under a 120% exception Payment Standard.

*If both A or B are below 95%, we forfeit points under the SEMAP *Lease-up Indicator*.

C = the decline reflects outgoing portable contracts that were absorbed, not a reduction in the number of households transferring assistance to another jurisdiction.

D = the fluctuation is largely a factor of families that do not respond to the first or second request for documents/delays in obtaining required verifications.

2. Davis-Bacon Wage Compliance. As required, we submitted the Semi-Annual Labor Standards Enforcement Report to HUD on October 2, 2014, covering the six month period beginning April 1, 2014 and ending on September 30, 2014. As previously reported, at the time, there was one violation: an \$84,000 wage violation on the Berkeley 75 rehabilitation project. Related has advised that this violation has been corrected.

However, on Jan. 5, 2015 we were served with notice from the California Labor Commissioner – that there is an open investigation of a wage violation (Attachment 1). We confirmed with the Labor Commissioner that the alleged violation associated with the “Pintar Casas” project (Spanish translation: “Housepainting”) arises from the Related contract with Spectrum Painting for work performed at 1903 Ward St (former public housing unit). We shared the investigation with Related and asked them to cooperate with the Labor Commission in resolving this issue. Some work has been done; Related advises they have done all they can do, and their belief that they do not have any involvement in “pintar cases” project. We continue to work with the Labor Commission to have BHA cleared of any wrong doing, and to confirm that every employee on the project was compensated properly.

ADMINISTRATION

1. Disposition Proceeds. We fought long and hard to have HUD issue formal approval that proceeds from the disposition could be used to cover operating deficits in the Section 8 Voucher Program. In performing the annual audit, our Auditor, Wally Rowe (Wallace Rowe & Associates) raised questions about how the proceeds should be classified, and who controls their use. Mr. Rowe’s persistent questions lead us to revisit the January 14, 2014 approval letter from HUD that addressed use of proceeds. After several conversations and emails, we were advised by the HUD SF Field Office that our interpretation of the absolute approval is *subject to further review* (perhaps annual and approval). The SF Field Office is a strong supporter of our position, and is helping us engage with HUD Headquarters. We will continue to report on this matter until resolved. Staff is very appreciative of Mr. Rowe, who could have issued a qualified opinion, and left resolution of this issue to BHA. Instead, he has and continues to spend considerable time researching this issue, advocating on behalf of BHA, and suspending the audit until we have an affirmative resolution.
2. CDBG Request for Proposals.
The last award of CDBG funds to BHA occurred previous to our separation from the City. The award, \$160,000 per year, was a pass through back to the City for repayment of the Section 108 loan (obtained years ago to fund modernization of the Public Housing units). We advised the Board in September of the upcoming application round for the next 2-year funding cycle. We met with City staff to share our interest,

and discuss potential projects. We shared the nature of five potential projects (applications) with the Board in December. The Commission echoed, and gave context to what we already knew in terms of how very competitive the process is; the fierce competition with other entities, possibly city departments; the fact that any award to BHA would mean a reduction in funding being received by another entity; the importance of having community partners on board; and the stringent reporting requirements required when CDBG funds are used. Our most ready project (transitioning households from temporary, to permanent affordable housing via a S8 voucher) would require HUD approval before implementation, and support and active engagement by at least one other community partner. Given the short time to prepare an application, and obtain all the required concurrences, we did not submit an application. We intend to continue discussion with the City about other options for funding this program – if we obtain HUD approval.

3. Section 8 Project Based Vouchers/Low Income Tax Credits. Development of affordable housing units often include Section 8 Project Based Vouchers (S8PB) and Low Income Tax Credits (Tax Credits) as primary funding sources. With the upcoming deadlines for submission of applications for Tax Credits (March 4th and late June), non-profits are inquiring about our plans to award S8PB Vouchers. There is a collective understanding of the tremendous cash value that S8PB vouchers provide the owner. What is yet to be determined is how we can leverage the remaining capacity 75-80 vouchers (this number is subject to change) to: (a) create new affordable housing units; (b) increase the supply of rental units for new and current Voucher holders; and (c) generate revenue for BHA operations. Believing that we would conclude our Strategic Planning effort in the last quarter of 2014, we previously advised a tentative schedule for award of S8PB vouchers in February or March. That said, I strongly urge the Board not to award (or renew) any S8PB vouchers until such time that we (a) are able to participate financially, or (b) declare there is no possibility or interest in doing so. If the Board so directs, we will respond accordingly.
4. State Rental Housing Construction Program (RHCP) Loan. The issue of the balance of the 20+ year RHCP loan emerged early in the negotiations with Related. Unfortunately, the transaction closed with \$763,689 in potential BHA proceeds held in escrow. BHA has aggressively sought to have these funds released, or at least to get a definitive answer from the State (Housing and Community Development) with regard to repayment. Our Board chair has been actively involved, as has the Honorable Senator Loni Hancock. Notwithstanding all the effort to date, the funds remain in escrow, and there is no definitive decision about repayment. Had the funds been under BHA control (February - December 2014), in a long-term investment instrument (say 1% interest) we could have earned \$7,000. As it stands now, no one is benefitting from the funds.
5. Labor Contracts. We have two unions representing 10 of our 12 staff (the Executive Director and Executive Assistant are not represented). In October the parties, BHA and SEIU 1021 and Local One, reached agreement on new three year contracts (retroactive to July 2014). The Board approved the economic terms at the November meeting. The only remaining item is executing (signing) the actual contracts: one Memorandum of Understanding with SEIU Local 1021 and another with Local One. We prepared and shared a red-line and clean version with both unions in January.

Each document is approximately 100 pages; Board members can request a hard copy, or we can provide you a link to view the draft on line. Upon approval from the Commission, and execution by the Union, we will move forward with implementation of the COLA and transfer of the Management Analyst from SEIU 1021 to Local One.

OPERATIONS

1. Utilization/Leasing. The skyrocketing rental market, and false perceptions about the inability to terminate a failed Section 8 assisted tenancy are making it increasingly difficult for families to utilize their S8 assistance to rent a unit in Berkeley. As of December 31, 2014, the number of voucher in service was 1,756 (of 1,935)– with a family receiving rental assistance; another 60 households have Vouchers and are searching for a unit.

Leasing is currently below 95% in terms of actual units under contract, and below 95% actual HAP expense. Troubling in terms of the families not being served, and the loss of administrative fee earning. Staff is making every effort to address this decline through enhanced customer service; discussions/dialogue with our landlord base and Berkeley Property Owners Association; and reaching out to owners of units with affordability requirements. For more discussion about under leasing, and current market conditions – please see agenda item 5.E. “120% Exception Payment Standard.”

I am pleased to report some positive results from our owner outreach, customer service efforts. In the last quarter of the calendar year (October and December) we added 8 new owners. Three owners are new to the program; five are owners that acquired properties with existing S8 tenancies – and assumed an existing contract(s). At least one new owner has or is acquiring additional units in Berkeley, and has expressed an interest in bringing them into the program as well [if things go well]. An existing owner advised he is contemplating purchasing a property in Berkeley, and will likely use the S8 program to fill vacancies. We are optimistic that the 120% Exception Payment Standard (if approved) will help further our recruitment/retention goals. We have experienced waves such as this in the past; thus we are focusing on strategies that deliver units in today’s market (as opposed to new construction that could take 12-36 months to come on line).

2. Portability
The Section 8 Program, high on “family choice,” includes a provision allowing households to “port” or take their voucher and move to another jurisdiction (city or state). Low vacancy rates, high rents, and proximity to Oakland and other cities in Northern Alameda County, result in a high level of *exchange* of clients with the Oakland and Alameda County Housing Authorities. For Fiscal Year 2014-15 we assumed a net of 120 outgoing portable contracts that would be managed by the receiving Housing Authority [if the voucher is managed, BHA continues to receive 20% of the administrative fee]. Instead, we had upwards of 93 households port-out, and 30 households port-in, through December 2014. To date, 85 of the outgoing contracts have been absorbed. That means BHA’s expenditure of HAP (subsidy) is reduced, and BHA loses the 20% admin fee that was earned. At present there are 79 outgoing managed contracts; we are cautiously watching to see if the receiving HA will absorb them as we collectively near the end of the fiscal year.

Outgoing contracts	Oakland	Alameda County	Contra Costa County	Other Jurisdiction
September	85	55	3	11
October	67	57	4	11
November	22	56	4	11
December	14	56	0	9

3. Family Self Sufficiency Program


The BHA of pre-2007 incurred an obligation to administer a Family Self Sufficiency (FSS) Program serving a minimum of 37 households. Facing major challenges to with improving performance in the Section 8 Voucher program, we obtained a three year waiver allowing us to delay implementation until April 2013. In 2013, our focus switched to completing the public housing disposition; again we requested and obtained a three year waiver through May 2016. While we fully embrace the tenets and values of the FSS program, it is important to note the program is an *unfunded* HUD mandate, though there a possibility of applying for competitive HUD funds for an “FSS Coordinator.” That said, we have assigned our Management Analyst lead responsibility for developing our program; there will be a corresponding Housing Specialist role (case management) once we begin enrolling families, and increased accounting for Finance (managing and reporting on the individual escrow accounts). To that end, we have begun developing the necessary capacity having staff attend meetings of FSS Coordinators, and the recent NAHRO conference that offered a FSS track (Attachment 2).

CONTACT PERSON

Tia M. Ingram, Executive Director, (510) 981-5471

Attachments:

1. Labor Commissioner, State of California, Request for Information Dec. 31, 2014
2. NAHRO FSS Training Agenda, Jan. 29 & 30, 2015

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Avenue, Suite 100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
Berkeley Housing Authority 1936 University Ave. #150 Berkeley, CA 94704	2015 JAN 5 PM 3 47 AUTHORITY
DATE: December 31, 2014	In Reply Refer to Case No: 40-43861/137

REQUEST FOR INFORMATION, AWARDING BODY

PROJECT NAME Pintar Casas		Project No. 0
Prime Contractor 0		
Subcontractor Spectrum Painting and Decorating Inc.		

This office is currently conducting an investigation to determine if the above-mentioned contractor(s) are in violation of the Public Work Laws, Labor Code sections 1720 through 1861.


To assist us in our investigation, copies of the noted (x) documents and information are hereby requested:

- Contract (excluding specifications)
- Performance Bond and Payment Bond (Labor/Material Bond)
- Bid Notice and Date First Published _____
- Page(s) Listing Prevailing Wage Rate for the Project
- Page(s) Advising Contractor of Legal Requirements to Pay Prevailing Wage
- ____ Name(s) and Address(es) of all Subcontractor(s) performing work on this project
- Certified Payroll Records Received by Your Agency From Contractor
- Notice of Completion (County Recorder Filing) or Acceptance Document (Please attach copy)
- Date Project Began _____
- Completion Date _____ IF NOT, Estimated Date _____
- Amount of Money Still Being Held by Your Agency \$ _____
- Inspector's Daily Log(s)
- ____ Actual Location of Project _____
- Please advise if this project's funding requires the use of an approved Labor Compliance Program
- ____ Other _____

Please be assured that the above requested information will be utilized for official purposes only. Thank you for your assistance.

STATE LABOR COMMISSIONER

By Jerry McClain
 Jerry McClain
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Avenue, Suite 100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	AUTHORITY: Edmund G. Brown Jr., Governor 2015 JAN 5 PM 3 
David Chan	
DATE: December 31, 2014	In Reply Refer to Case No: 40-43861.137


NOTICE OF INVESTIGATION

PROJECT NAME Pintar Casas		Project No. 0
Prime Contractor 0		
Subcontractor Spectrum Painting and Decorating Inc.		

You are hereby advised that the Division of Labor Standards Enforcement is commencing an investigation to confirm compliance with the Public Work Laws (California Labor Code, Division 2, Part 7) by the above-named contractor(s). After an investigation, if it is determined that wages and/or penalties are due, a Civil Wage and Penalty Assessment will be issued pursuant to Labor Code section 1741 and/or a Determination of Civil Penalty will be issued pursuant to Labor Code section 1777.7.

STATE LABOR COMMISSIONER

By *Jerry McClain*
 Jerry McClain
 Deputy Labor Commissioner I

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Avenue, Suite 100 Sacramento, CA 95825 TEL: (916) 263-2901 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor  2015 JAN 5 PM 3 47
Spectrum Painting and Decorating Inc. 1325 Howard Ave. #336 Burlingame, CA 94010	
DATE: December 31, 2014	In Reply Refer to Case No: 44-43862/137

NOTICE OF APPRENTICESHIP COMPLIANCE

PROJECT NAME Pintar Casas		Project No. 0
Prime Contractor		
Subcontractor Spectrum Painting and Decorating Inc.		

- The Division of Labor Standards Enforcement (DLSE) has received a complaint alleging that you are not in compliance with Labor Code Section 1777.5. The alleged violation(s) is/are as follows:
- Failure to provide the applicable Apprenticeship Committee(s) with notice of contract award in a timely manner.
 - Failure to properly request dispatch of apprentices from the applicable Apprenticeship Committee(s) in a timely manner.
 - Failure to employ apprentices in compliance with required apprentice to journeyman ratio.
 - Failure to properly employ apprentice(s) by assigning apprentice(s) to perform work outside the craft or trade of the apprenticeable occupation.
 - Failure to make the required training fund contributions to an approved apprenticeship program or to the California Apprenticeship Council (CAC).

The Division of Labor Standards Enforcement (DLSE) is charged with ensuring compliance with the apprenticeship requirements of Labor Code Section 1777.5 and California Code of Regulations Title 8, §227 et seq. for public works projects. Verification of compliance with these requirements is a routine part of DLSE's public works monitoring and investigation.

Please submit a response to the allegations above, if any, and the following evidence of compliance with the apprenticeship requirements of Labor Code Section 1777.5 postmarked by January 12, 2015 :

1. DAS140 – Contract Award Information (or equivalent) with proof of submission to applicable apprenticeship committees;
2. DAS142 – Request for Dispatch of an Apprentice (or equivalent) with proof of submission to applicable apprenticeship committees;
3. Accounting and proof of payment of the training fund contributions to California Apprenticeship Council or approved apprenticeship program.

Non-compliance will result in civil penalties and/or denial of the right to bid on or receive public works contracts for a period of up to three (3) years per California Labor Code Section 1777.7.

STATE LABOR COMMISSIONER

By Jerry McClain
 Jerry McClain
 Deputy Labor Commissioner I

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL

BERKELEY
AUTHENTICATED
2015 JAN 5 PM 3 47

I, Kay Tsen, do hereby certify that I am a resident of or employed in the County of Alameda, over 18 years of age, and not a party to the within action, and that I am employed at _____ and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement - Public Works
1515 Clay Street Suite 1302
Oakland, CA 94612

On December 31, 2014, I served the within: (1) Notice of Investigation; (2) Request for Information, Awarding Body; (3) Request for Payroll Records; (4) Statement of Employer Payments; (5) Public Works Payroll Reporting Form A1-131; and (6) Notice of Apprenticeship Compliance by placing a true copy thereof in an envelope addressed as follows:

Berkeley Housing Authority
1936 University Ave. #150
Berkeley, CA 94704
Planning
Documents 1, 2 and 6 only

Spectrum Painting and Decorating Inc.
1325 Howard Ave. #336
Burlingame, CA 94010
David Chan
Documents 1, 3, 4, 5 and 6 only

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid, and then depositing it in the United States mail in Oakland by:

- Ordinary first class mail
- Certified mail
- Registered mail

I certify under penalty of perjury that the foregoing is true and correct

Executed on December 31, 2014, at Oakland, County of Alameda, California

Kay Tsen
SIGNATURE

STATE CASE NO.
40-43861/137

Napa Valley Marriott
3425 Solano Ave, Napa

NATIONAL ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS



FAMILY SELF-SUFFICIENCY

DAILY SCHEDULE

Day One

8:00am – 8:30am Check-in/Registration

8:30am – 4:30pm Program (includes lunch time and breaks)

Day Two

8:30am – 4:30pm Program (includes lunch time and breaks)

Exam usually starts between 2:30 pm and 3:30 pm

DAY ONE AGENDA

- Overview and Introductions
- The History of FSS
- Changes Under QHWRA
- Program Models: Mandatory vs. Voluntary
- FSS Action Plan
- Program Options
 - Exercises on program options
- Interface with Homeownership Programs
- Program Coordinating Committee (PCC)
- Contract of Participation
 - Individual Training and Service Plan (ITSP)
 - Compliances
 - Case Management (exercises)
- TTP and the beginning of Escrow Calculations
 - Case Management and exercises

DAY TWO AGENDA

- Managing the Case File
 - Interim re-certifications
 - Escrow Adjustments
 - Case management and exercises
- Managing the Escrow Account
- Terminations
- Escrow Payments

- SEMAP and FSS Performance
- Getting Started
- Promoting and Building Partnerships
- Making the Business Connection
- The Counseling Component
- The Training Component
- Child Care Component
- Other Supportive Services
- Logic Model and Program Evaluation
- Review and Proficiency Examination