San Diego
HOUSING COMMISSION

LAND USE & HOUSING REPORT

DATE ISSUED: August 21, 2009 **REPORT NO**: LUH09-006
ATTENTION: Chair and Members of the Land Use & Housing Committee
For the Agenda of September 2, 2009
SUBJECT: City Auditor's Performance Audit of the Housing Commission

REQUESTED ACTION: Recommend that the City Council accept the Performance Audit and responses including implementation of appropriate actions.

STAFF RECOMMENDATION: Review and accept the Performance Audit issued by the Office of the City Auditor, City of San Diego including the Housing Commission and City Administration responses to implement actions needed to address recommendations included in Parts I and II of the Audit Report.

SUMMARY:
In July 2008 the City's Audit Committee, chaired by Councilmember Faulconer, directed the City Auditor to undertake performance audits of the City's independent agencies including the Housing Commission, Southeast Development Corporation (SEDC), San Diego Data Processing, Convention Center, and Centre City Development Corporation (CCDC). Since the Housing Commission was in the process of hiring a new President and Chief Executive Officer, the Interim President recommended to the Audit Committee that the performance audit of the Housing Commission be conducted as soon as possible to ensure a smooth transition for the incoming President. The City Auditor's office developed the scope of the performance audit and assigned staff to begin the auditing process in October 2008.

The scope of the audit was limited to Fiscal Years 2006 through 2008 and encompassed the following areas: Executive compensation, governance, CDBG funding, new development projects as related to the public housing disposition project and the Affordable Housing Fund. Part I of the Performance Audit covers all areas except the Affordable Housing Fund, which is covered in Part II of the Audit Report.

Each recommendation has been addressed and includes a response/action along with a timetable for completion. Both parts of the Audit will require collaboration by the Housing Commission staff, City Administration staff and the City Attorney's office; every attempt will be made to complete the actions noted within the time established for completion.

Highlights of the Performance Audit Report include:

Part I
The most significant recommendations in Part I referred to the time delays between Housing Commission and Housing Authority approvals, the appointment process for new Commission board members, and the use by the City of $2 million in Housing Commission Local Funds for relocation assistance of De Anza Mobile Home Park owners.

The delay in approvals has been greatly improved by the delegation to the Housing Commission of additional policy oversight and authority to acquire property.

The Mayor's Office has developed a fourteen stage procedure regarding the process for new committee appointments (including Housing Commission board members) that is detailed in the July 28, 2009 memorandum from Jay Goldstone, Chief Operating Officer for the City to the City Auditor.

In addition, Mr. Goldstone's memorandum includes the process that will be followed to assess the use of Local Funds for the De Anza relocation project to determine if funds are owed to the Housing Commission.

Part II

There are several recommendations in Part II of the Performance Audit that relate to the collection and distribution of the two revenue sources for the Affordable Housing Fund – the Housing Trust Fund and the Inclusionary Housing Fee. All of these recommendations require collaborative efforts by City Administration and the Housing Commission.

The most significant recommendations refer to the Municipal Code requirements to update the Housing Trust Fund and Inclusionary Housing Fee Schedules. Housing Commission staff will initiate discussions with City Administration and the City Attorney's office to determine if and when revised fee schedules should be presented for review by the City Council. Should revisions to the Municipal Code be required, this effort will be coordinated through the City Attorney's office.

City Administration's response to those recommendations requiring City participation is included in Mr. Goldstone's July 28, 2009 memorandum, specific to Part II of the Performance Audit.

FISCAL CONSIDERATIONS: The cost to the Housing Commission for the Performance Audit is $59,000; a budget revision was done to fund this cost from Local Funds.

ENVIRONMENTAL REVIEW:

This activity is not a project within the meaning of the California Quality Act (CEQA) pursuant to Section 15060©(3) of the State CEQU guidelines. This activity is also exempt from review under the National Environmental Policy Act per 24.CFR 58.34(a)(3).

Respectfully submitted,

Carrol M. Vaughan
Executive Vice President &
Chief Operating Officer

Attachments: Performance Audit of the Housing Commission, Parts I and II

City of San Diego

AUDIT REPORT

PERFORMANCE AUDIT OF THE SAN DIEGO HOUSING COMMISSION – PART I

July 29, 2009

Office of the City Auditor
Eduardo Luna, CIA, CGFM, City Auditor

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THE CITY OF SAN DIEGO

July 29, 2009

Honorable Mayor, City Council, and Audit Committee Members
City of San Diego, California

Attached is our report regarding our audit of the San Diego Housing Commission's management and business practices and its relationship with the City of San Diego. A separate report will be issued subsequently to discuss Affordable Housing Fund matters. Management's response to our audit report can be found attached. The audit staff responsible for this audit report was John Teevan, Tiffany Chung, and Kyle Elser.

We would like to thank the San Diego Housing Commission staff, as well as representatives from other City departments for their assistance and cooperation during this audit. We also would like to thank officials from other municipalities and other government agencies that participated in our audit. All of their valuable time and efforts spent on providing us information is greatly appreciated.

Respectfully submitted,

Eduardo Luna
City Auditor

cc: William Anderson, Director, City Planning and Community Investment
James Barwick, Director, Real Estate Assets
Richard Gentry, Chief Executive Officer, San Diego Housing Commission
Jan Goldsmith, City Attorney
Jay M. Goldstone, Chief Operating Officer
Stan Keller, Independent Oversight Monitor
Mary Lewis, Chief Financial Officer
Kris Michell, Chief of Staff, Office of the Mayor
Andrea Tevlin, Independent Budget Analyst
Carrol Vaughan, Executive Vice President, San Diego Housing Commission

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EXECUTIVE SUMMARY

The San Diego Housing Commission (SDHC) was established by the City of San Diego City Council in 1979 and is charged with helping to bridge the gap between the high cost of housing in the City of San Diego and the high percentage of low wage earners, helping to correct an imbalance that threatens the stability of our work force. Based on our performance audit, we found that the Housing Commission faces unique administrative and functional challenges, including:

- SDHC governance is affected by excessive time delays between the Housing Board of Commissioners (Board) and Housing Authority approvals. We found that some of the delays may have been the result of inconsistencies between the Board appointment process and related legislative guidance. Furthermore, SDHC can improve the formal succession planning for its Executive Management personnel;

- Executive compensation adjustments were not always in compliance with SDHC policies, performance evaluation criteria was inconsistently applied, auto allowances were inconsistent with City practices, and the SDHC could better organize historical personnel documents;

- SDHC submitted incomplete and inaccurate Community Development Block Grant (CDBG) program related reimbursement documentation; however, the CDBG process and documentation requirements were not clearly defined. We also found that CDBG agreements for fiscal years 2008 and 2009 were not executed, and SDHC has not been reimbursed for $1.9 million in CDBG related expenses;

- New development of Public Housing disposition related properties could potentially be delayed; and public housing disposition tenant data inconsistencies were noted.

Other Issues

- We also found Housing Commission operational and managerial risks associated with the $2 million drawdown of SDHC reserves for the De Anza Harbor Resort.

INTRODUCTION

The San Diego Housing Commission (SDHC) is an organization established by the City of San Diego City Council (City Council) in 1979 which is charged with helping to bridge the gap between the high cost of housing in the City of San Diego and the high percentage of low wage earners, helping to correct an imbalance that threatens the stability of our work force. The organization operates under the direction of a Board of Commissioners appointed by the Mayor and confirmed by City Council. This report focuses on SDHC governance, executive compensation, Community Development Block Grant funding and the new development of Public Housing disposition related properties. A separate report will be issued at a later date to discuss Affordable Housing Fund matters.

The City Auditor's Office thanks the SDHC management and staff for giving their time, information, insight and cooperation during the audit process.

BACKGROUND

Established by the City Council in 1979, SDHC helps house more than 80,000 low-income San Diegans each year through a variety of programs. These include owning and managing approximately 1,800 housing units, providing rental assistance for more than 13,000 families and individuals, offering financial assistance for qualifying first-time homebuyers, and rendering both financial and technical assistance to low-income households whose older homes need rehabilitation.[1] Prior to the creation of SDHC, multiple departments within the city were tasked with providing housing administration and services, as depicted in Appendix A.

In addition, SDHC collaborates with nearly 11,000 businesses and investors to provide affordable housing in return for tax credits and other incentives. The agency also works with nonprofit organizations to help them achieve the housing components of their programs. As a provider of innovative job training and educational programs for residents, SDHC not only helps house families, but provides learning opportunities for them so they can become self-sufficient and free of government assistance.

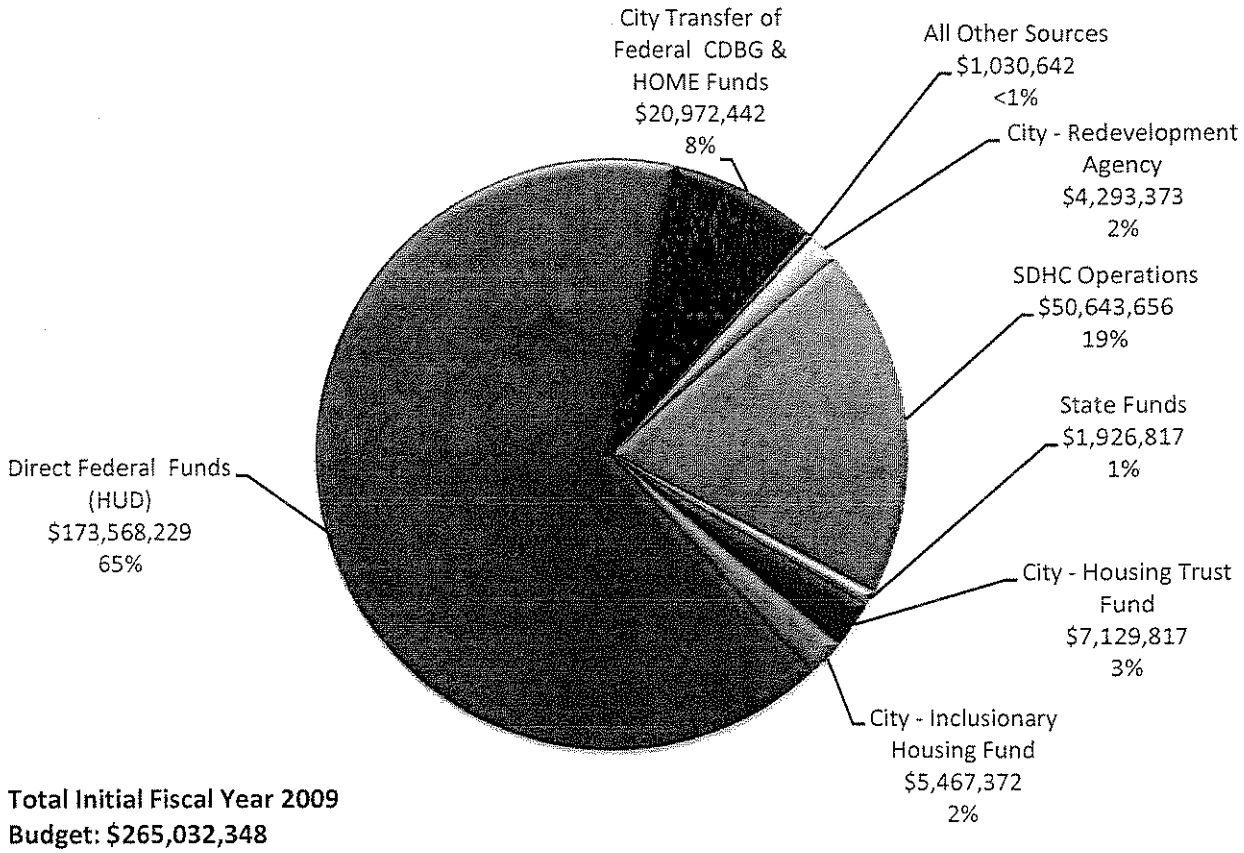
Budget and Organization

In fiscal year 2009, SDHC's initial budget was approximately $265 million, and included approximately 244 full-time equivalent employees. As exhibited in Figure 1, the agency's primary funding source is from Federal programs, which are administered by the U.S.

[1] These statistics are current as of June 2009, as provided by SDHC management.

Department of Housing and Urban Development (HUD). The major HUD funding to SDHC is through the Section 8 / Housing Choice Voucher and the Public Housing Asset Management programs, budgeted in fiscal year 2009 for $161,850,691 and $7,633,369, respectively. SDHC receives a relatively small amount of state funds. Local funds include development linkage fees, rents collected from public housing residents, and administrative fees. The agency receives no City General Fund monies, but does receive HUD HOME Investment Partnerships Program (HOME) and Community Development Block Grant (CDBG) funds passed through from the City budgeted in fiscal year 2009 for $17,842,827 and $3,129,615, respectively.

Figure 1:
Initial Budgeted Revenue Sources (by Total Dollars and Percentage) for the San Diego Housing Commission, Fiscal Year 2009



Source: Auditor generated from the fiscal year 2009 budget data provided by SDHC.

SDHC Overseen By the Board of Commissioners and the Housing Authority (City Council)

SDHC reports to the Board of Commissioners (Board), which consists of seven members appointed by the Mayor and confirmed by City Council. The Board currently serves an advisory role to the San Diego Housing Authority (Housing Authority), which is an overarching governing body on City housing matters and is composed of the eight City Council members. A graphical presentation of the City's housing organizational chart is presented in Figure 3.

Candidates for Board appointments can be recommended through nominations by City Council members or through applications received through various sources including SDHC, other Board members and community groups. Individuals can also apply for Board appointments directly through the mail or online through the City Clerk or the Mayor's Office. According to the City's Director of Boards and Commissions, if a Board or Commission has a Conflict of Interest Code, a separate background investigation application must be completed and processed as part of the

consideration process for serving on a board of commission. Prior to January 2009, completed background investigation applications were forwarded to the City Attorney's Office to perform the necessary criminal, financial, and background checks on the applicant based on the information provided. Effective January 23, 2009, this vetting process has been transitioned to the San Diego Police Department (SDPD), with a more limited review still being performed by the City Attorney's Office related to conflicts of interest.

If the vetting process is successful, with no issues raised, the Mayor's Office contacts the individual to proceed the appointment process which includes the announcement of the candidate's appointment via Mayoral appointment memo and, if applicable, the scheduling of a Council confirmation hearing. The Board member appointment process is depicted in Appendix B.

According to San Diego Municipal Code (SDMC) §98.0301, SDHC is granted all rights, powers and duties of the Housing Authority except those expressly retained by the Housing Authority or otherwise guided by the State of California Health and Safety Code. Essentially, all matters are taken up by SDHC and its Board; the Housing Authority specifically takes up matters relating to SDHC's budget, development projects and loan commitments exceeding $250,000, acquisition projects exceeding $100,000, and policy change proposals that significantly impact the operations of SDHC.

Other Board Responsibilities

The President and Chief Executive Officer (CEO) reports to the Board, which, according to the SDMC, was created to act as a Housing Commission under the Housing Authority Law of the State of California. Per the SDMC, the duties and functions of the Board generally include the following:

1) Investigatory and Advisory Functions of the Commission:
   a) Investigate living, dwelling and housing conditions in the City of San Diego and the means and methods of improving such conditions;
   b) Determine where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income;
   c) Engage in research, studies and experiments on the subject of housing;
   d) Make recommendations to the Housing Authority for changes or revisions in policies of the Housing Authority;
   e) Review and recommend revisions to personnel policies and procedures;
   f) Review and recommend action on annual administrative and operating budgets;
   g) Perform such other functions as may be delegated from time to time to the Commission by the Housing Authority;

h) Review and make recommendations on all matters to come before the Housing Authority prior to their action, except emergency matters and matters which the Commission, by resolution, excludes from Commission review and recommendation;

2) Administrative Functions of the Commission:
   a) Approve plans and specifications, authorize advertisements for bids and proposals, accept and reject bids and proposals, and approve expenditures for goods, services, public works, land clearance, loans, grants, claims, leases and other interests in real property, and other contracts and agreements; however, the programs, projects or activities for such expenditures shall have been previously approved by the Housing Authority, or the expenditures shall be for items included in budgets previously approved by the Housing Authority;
   b) Approve submission of applications for funds where such applications do not constitute a binding agreement to accept such funds, if awarded; and approve contracts for the receipt of such funds if the program, project or activity for which such funds are received has been previously approved by the Housing Authority;
   c) Approve guidelines for the administration of programs previously approved and funded by Housing Authority;
   d) Approve agreements assigning the rights and obligations of a party to a contract with the Housing Authority, to a new part;
   e) Approve conflict of interest codes prior to adoption by the Housing Authority;
   f) Approve lease forms, grievance procedures, occupancy policies, rent and utility schedules, tenant council agreements and other HUD–required documents for the administration of public housing and rent subsidy programs;
   g) Act upon such other matters as the Housing Authority may from time to time delegate by resolution to the Commission.
   h) Notwithstanding a) through g) above, the actions of the Board upon the following administrative matters shall be advisory only:
      1. Approval of any proposed acquisition, sale, or lease of real property for a term in excess of five (5) years;
      2. Approval of any development project or rehabilitation loan commitment involving the expenditure of more than $250,000 by SDHC;
      3. Approval of any contract for acquisition of goods or services (other than a construction contract for a development project) involving the expenditure of more than $100,000 by SDHC[2];
      4. The establishment or approval of any new major policy relating to the method of operations of the SDHC.

[2] This threshold has been increased to $250,000 and is reflected in SDHC's Administrative Regulation 000.003 "Delegation of Authority – Required Approval Level" and their Statement of Procurement Policy PO203.100, both of which were previously approved by the Housing Authority. As a result, neither document is consistent with the SDMC.

Per a City Attorney "Memorandum of Law" dated March 31, 1986 which references Section 34200 of the California Health and Safety Code and SDMC, the Housing Authority is a state entity and, thus, legally separate from the City. SDHC utilizes the services of a private legal firm for day-to-day and special project legal functions requiring such expertise. Appendix C lays out the nexus between the City of San Diego and SDHC.

SDHC Administration and Executive Management Services

SDHC's administrative offices are located at the "Smart Corner" building, as pictured in Figure 2.

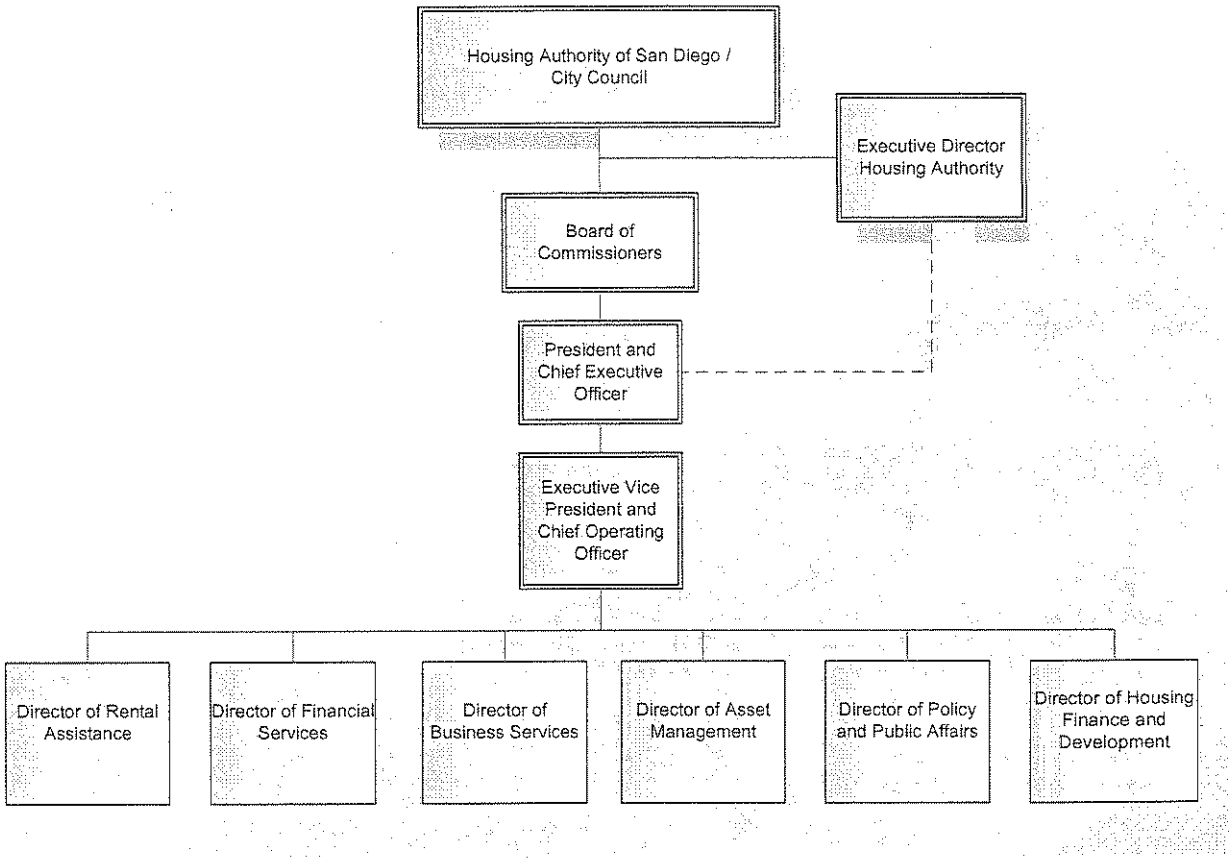
Figure 2:
SDHC's Administrative Offices at the Smart Corner

Source: San Diego Housing Commission [http://www.sdhc.org/giaboutus6.shtml]

As shown below in Figure 3, SDHC has a CEO who also acts as the Executive Director of the Housing Authority. There is also an Executive Vice President & Chief Operating Officer (COO), with six directors reporting to her responsible for the specific business functions and program services, including Asset Management, Business Services, Financial Services, Housing Finance, Policy & Public Affairs and Rental Assistance. These eight individuals and the Executive Secretary to the CEO make up SDHC's Executive Management Services (EMS) employee level.

SDHC is significantly restructuring its organization to promptly address upcoming challenges and opportunities, effective June 8, 2009. The SDHC organizational structure contained in this report reflects the agency's operations prior to this date. In addition, the description of the organization as presented in the report captures SDHC's operational structure in effect during our audit scope period of fiscal years 2006 through 2008.

Figure 3:
San Diego Housing Commission Organizational Chart



Note: The SDHC President and Chief Executive Officer is also the Executive Director of the Housing Authority

Source: Auditor generated from SDHC data

Executive Compensation

The EMS annualized compensation for fiscal years 2008 and 2009 is included in Figure 4 below:

Figure 4:
SDHC Executive Management Services Annual Compensation for Fiscal Years (FY) 2008 and 2009

	FY08	FY09			
Position	Salary ($)	Salary ($)	Auto Allowance ($)	Total ($)	Overall Increase (%)
CEO (current - hired during FY09)	N/A	240,000	N/A	240,000	N/A
CEO (prior - retired during FY08)	163,770	N/A	N/A	N/A	N/A
COO	144,624	152,984	9,600	162,584	12.42
Director of Asset Management	109,990	113,282	4,800	118,082	7.36
Director of Business Services	104,998	108,158	3,600	111,758	6.44
Director of Financial Services	100,006	103,000	3,600	106,600	6.59
Director of Housing Finance	104,998	108,144	4,800	112,944	7.57
Director of Policy and Public Affairs	95,846	98,243	4,800	103,043	7.51
Director of Rental Assistance	85,010	90,000	3,600	93,600	10.11
Executive Secretary (to CEO)	64,809	66,429	3,120	69,549	7.3

Note: The fiscal year 2009 compensation totals include each individual's automobile allowance (which was added to base compensation as of July 1, 2008).

Source: Auditor prepared based on available SDHC payroll data

On an annual basis, SDHC presents a budget including proposed compensation changes to the Board and Housing Authority for approval. According to SDHC Personnel Policies, with the exception of the current CEO, compensation for EMS personnel is established by the Housing Commission and prior approval of EMS compensation adjustments is required. The CEO is hired by, and reports directly to, the Board and Housing Authority. As such, these entities determine the CEO's compensation. Of note, the current CEO's compensation rate is outside the range established in SDHC's Classification and Pay Plan, but was approved by the Housing Authority on July 29, 2008. The higher compensation was deemed appropriate by the Board and Housing Authority due to the superior professional qualifications and experience held by the candidate.

SDHC operational areas are broken into the following six functional categories:

1. **Development and Asset Management** includes the following components:
   a. *Construction Services:* includes capital improvement and new development programs;
   b. *Workforce & Economic Development:* includes services to residents (e.g. finance readiness education for residents) which is almost completely funded by federal grants;
   c. *Property Management:* includes managing and maintaining approximately 2,000 residential units which are income restricted, employing semi-skilled workers for routine maintenance and contracting out maintenance work that requires more expertise.

On September 10, 2007, SDHC received approval of its disposition application from HUD relating to its stock of 1,366 "Conventional Public Housing" (PH) units. On September 30, 2007, SDHC received HUD approval of its Tenant Protection Voucher Application. On November 15, 2007, title for these same 1,366 units passed from the Housing Authority to SDHC and all eligible families residing in these units were issued Section 8 (rental assistance) based vouchers. As part of the disposition, SDHC is required to develop 350 additional units of affordable housing;

2. **Business Services** consists of administrative and support services to SDHC, including human resources (HR), information technology, organizational development and training, purchasing, contract monitoring, inventory control, disposition management and mail services;

Of note, specifically in relation to the human resources area, SDHC is scheduled to perform a classification and compensation study this fiscal year (2009). Staff and executive compensation will be included in the study. Koff and Associates, one of nine bids received, submitted the winning bid, and was approved by the Board in November 2008. Also of note, a class and compensation study was most recently performed in 1998. But, going forward, SDHC expects to perform them every two to three years (or as appropriate).

SDHC staff are reviewed annually on their anniversary date with the organization. There are two potential opportunities for compensation increases, including cost of living adjustments (COLA) and performance. Staff salaries are organized into seven step levels within each job category. Directors and executives are evaluated once a year, and all must be evaluated by July 1. Salary increases for directors and executives are based on performance and the previous year's goals and objectives. The salary of directors and executives are organized by a range, with a minimum on one end and a maximum on the other.

3. **Financial Services** includes the following components:
   a. *Accounts Payable / Payroll:* to ensure that fund and payroll disbursements are made only upon proper authorization, for valid Commission business, are properly recorded and any legal requirements are complied with;

b. *Accounts Receivable / Audit Management:* to ensure that all other receivables besides those for grants are received and properly recorded. Also to coordinate the annual external financial statement audit and related single audit;
c. *Budget:* to ensure that funds are spent according to Board approved plans and within the approved categories. Actual disbursements and revenues are reported against the approved budget. Budget also ensures that no funds are spent beyond the budget unless proper authorization has been provided;
d. *Section 8 Management:* to properly segregate duties of recording and authorizing monthly Section 8 payments to approximately 13,780 voucher recipients, primarily performed through the Automated Clearing House (ACH), a secure payment transfer system that connects all U.S. financial institutions;
e. *Grants Management:* to ensure that all grant funds are received and properly recorded, compliance with the terms of any related restrictions are adequately monitored and grant funds are properly deposited and maintained in appropriate bank accounts. On a quarterly basis, the grants supervisor provides reports for Resident Opportunities and Self Sufficiency (ROSS) grant program funds, capital funds, and lead abatement services to HUD. No specific reporting is required by HUD for the HOME Program, but a close-out report is generated for the Shelter Plus program and cost certification must be performed for the 350 local units (i.e. the units HUD allows SDHC to run locally; also known as the "New Development" program);

4. **Housing Finance** includes the following services:
   a. *Home Buyers Assistance:* assisting qualifying individuals and families in the purchase of homes, including deferred loans, grants for down payments and closing costs, mortgage credit certificates, and opportunities to purchase homes at below-market-rate prices. There are approximately 1,000 units in the SDHC loan portfolio that were generated through this program;
   b. *Home Rehabilitation:* assist qualifying homeowners and rental property owners by making homes safer and enhancing neighborhoods. Financial and project management assistance is available for repair needs such as leaking roofs, faulty plumbing, electrical or heating systems, broken windows, flooring, exterior or interior paint, or lead paint removal;
   c. *Rental Housing Development Assistance:* to help make it financially attractive for developers to create affordable rental units, SDHC offers permanent financing in the form of low-interest loans, tax-exempt bonds, and land-use incentives to aid in the acquisition and rehabilitation of existing units or for construction of new units. SDHC also provides technical assistance to affordable housing developers in securing tax credits and providing SDHC predevelopment loans;
   d. *Loan Management Services:* management of the various loans through SDHC services including products available to home buyers as mentioned above;

e. *Compliance and Monitoring:* responsible for reviewing financed housing for compliance with occupancy and affordability restrictions. This could also include late reporting by property management, and other violations of program requirements;

SDHC is considered a "coinvestor" in financed properties until that property is sold or refinanced, typically including a legal restriction that affordable rental levels are maintained for 55 years. Mechanisms are also in place to prevent borrowing against equity gained since the time of purchase, and postcards are mailed annually to homeowners to remind them of the formula to repay their loans;

5. **Policy and Public Affairs** directs internal and external SDHC policy and communication matters:
   a. *Communications:* responsibilities include creating and disseminating internal updates and trainings, handling media and Public Information Request inquiries, acting as resident ombudsperson, and organizing public relations opportunities that involves attendance by the Mayor and City Council;
   b. *Policy:* responsibilities include analysis and development of local ordinances (e.g. inclusion housing, single occupancy, and mobile home), community collaborations in the form of participation on housing community boards and committees, and more recently a focus on state and national issues. For example, the Neighborhood Stabilization funding that the City recently received in March 2009 and the Director of Policy and Public Affairs was tasked with advising City Council on how to spend the funds;

6. **Rental Assistance** administers the following programs:
   a. *Housing Choice Voucher (HCV) Program (formerly known as Section 8):* This program is aimed at providing rental assistance to very low to low income citizens of the City. SDHC currently has 13,780 vouchers for this federal program. The waitlist is approximately 5 to 6 years. The application process, once an applicant is moved off the waiting list, is extensive. Applicants and participants with drug or violent criminal histories may be declared ineligible and removed from the program at the discretion of SDHC and if supported by a third party mediator. Approximately 7,000 property owners are currently involved in this program;
   b. *Veteran Assistance Supportive Housing ("VASH") Program:* there are currently 105 vouchers for this program. This program is restricted to veteran clients referred by the local Veteran Affairs office;
   c. *Moderate Rehabilitation (Mod Rehab) Program:* this program provides project-based rental assistance for low income families. Assistance is limited to properties previously rehabilitated pursuant to a housing assistance payments contract between an owner and SDHC. There are 57 Mod Rehab units remaining for this program. The program is effectively discontinued, however, existing owners are offered one-year renewal

contracts each year. Residents are randomly chosen from the HCV Program waitlist. Participation in the Mod Rehab program does not disqualify clients from the HCV Program nor does it alter the client's position on the HCV Program waitlist;

d. *Project-Based Vouchers:* project-based vouchers are a component of SDHC's HCV program. SDHC can attach up to 20 percent of its voucher assistance to specific housing units if the owner agrees to either rehabilitate or construct the units, or the owner agrees to set-aside a portion of the units in an existing development. Rehabilitated units must require at least $1,000 of rehabilitation per unit to be subsidized, and all units must meet HUD housing quality standards. There are 39 SDHC project-based units with HCV vouchers attached to the unit; clients are randomly selected from the Project Based waiting list.

CDBG Funding Received by SDHC

The City receives a HUD entitlement grant through the CDBG program. The CDBG entitlement program allocates annual grants to larger cities and urban counties to develop viable communities by providing decent housing, a suitable living environment, and opportunities to expand economic opportunities, principally for low and moderate income persons.

The City then contracts with sub-recipients, including SDHC, to perform certain work. If the work is performed per the executed service agreement, then proper reimbursable expenses are paid to SDHC out of the CDBG funds provided to the City. As part of this funding, SDHC coordinated funding distributed to local not-for-profit entities through June 30, 2008 on behalf of the City. Per discussion with the City Planning & Community Investment department, effective July 1, 2008, SDHC will no longer be responsible for administering these funds provided to the not-for-profit entities. Instead, these funds will be administered by the City Planning & Community Investment department staff. According to City staff, new agreements have already been entered into by the City with most, if not all, of those not-for-profits for fiscal year 2009, for services beginning July 1, 2008.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

At the request of the Mayor and the Chair of the City's Audit Committee, the City Auditor included a performance audit of SDHC as part of the City Auditor's Fiscal Year 2009 Audit Work Plan. According to the City Auditor's Citywide Risk Assessment completed in July 2008, San Diego Housing Commission (SDHC) ranked 69 out of a possible 458 by the City Auditor as posing a risk to the City based on factors including budget and staff size.

To accomplish our objectives related to SDHC-related governance, executive compensation, CDBG funding sources and the development related to the recent HUD public housing disposition, we performed the following audit procedures:

- Reviewed pertinent regulations, laws, policies, and regulations related to SDHC programs, operations and related activities;
- Identified, collected, and analyzed financial information and reports related to SDHC operations;
- Reviewed minutes of the Board of Commissioners and San Diego Housing Authority for topics discussed and / or actions taken;
- Interviewed SDHC management and other staff related to programs, operations and related reporting;
- Evaluated administrative policies and procedures related to SDHC business practices and programs;
- Reviewed recent financial statement and single audits performed by external auditors;
- Contacted and surveyed housing authorities and commissions from other municipalities and agencies to compare governance, organizational structure, purpose and other comparable information.

We evaluated internal controls related to the audit objectives. Our conclusions on the effectiveness of these controls are detailed within the following audit results.

We focused our audit plan on five SDHC areas of responsibility, including executive compensation, governance, CDBG funding and the new development projects (related to the HUD Public Housing Disposition). The fifth area of responsibility in the audit plan was the Affordable Housing Fund, which will be covered through a subsequent report. We limited our review of SDHC services primarily to fiscal years 2006 through 2008. Current year financial information was reviewed to gain perspective on the current operating and reporting practices of SDHC.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate

evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT RESULTS

SDHC Governance Can Be Improved

We found that SDHC governance is affected by excessive time delays between the SDHC Board of Commissioners (Board) and San Diego Housing Authority (Housing Authority) approvals. Some of the delays may have been the result of inconsistencies between the Board appointment process and related legislative guidance. Furthermore, SDHC can improve the formal succession planning for its Executive Management personnel.

Excessive Time Delays Exist Between SDHC Board and Housing Authority Approvals

We compared all items that were approved by both the Board and the Housing Authority noted in meeting minutes from July 2007 through December 2008, calculated the difference between the approval dates by these bodies for each item, and isolated items that took unusually long to get approved by the Housing Authority. Forty-one items were reviewed by the Housing Authority following Board approval and 11 of those 41 items (27%) took 60 or more days to obtain Housing Authority approval, with an average of 81 days for those particular items. We found that the Housing Authority unanimously approved 38 of the 41 items during the initial reading, or 93% of items, that were forwarded from the Board.

SDMC §98.0301 stipulates that the Board serves an "advisory only" role to the Housing Authority on certain matters outlined in this section of the SDMC, including expenditures whether or not previously approved in prior budgets, activities requiring SDHC to engage in long term debt, project and contract commitments exceeding predetermined thresholds, and establishment of new policies that significantly impact SDHC operations. Therefore, all Board actions on "advisory only" matters must receive final approval from the Housing Authority at its next available meeting. But the SDMC allows the City Council to modify the items on which the Board is "advisory only" at any time by a resolution.

Likewise, to reduce delays in the finality of decisions, individuals identified in the SDMC, which includes the Executive Director, are authorized to refer other non-"advisory only" items for final action at the next available Housing Authority meeting.

The Executive Director is responsible for promptly setting matters for a formal hearing by the Housing Authority for both "advisory only" or referred items by designated individuals identified in SDMC.

The lack of timely approvals increases the risk of missed business opportunities for SDHC. Inefficient evaluation processes, the lack of an audit trail, and difficulty in performing supervisory monitoring and review are other potential effects of delayed approvals.

Recommendation:

1) The Executive Director of the Housing Authority should calendar matters for final action by the Housing Authority within the time parameters set forth in SDMC §98.0301 to avoid excessive time delays between Board and Housing Authority approvals and avoid jeopardizing housing business opportunities. As appropriate, the Executive Director should recommend that the Housing Authority and City Council adopt effective resolutions to delegate authority to the Board on "advisory only" issues that the Housing Authority identifies as routine, which would alleviate the Housing Authority docket for more significant matters.

Delays and Inconsistencies in the Board Appointment Process and Related Municipal Code for the Housing Commission

The SDHC Board appointment process can be improved to avoid future delays in both the timely fulfillment of vacancies and induction of new Board members. SDHC Board appointments have been affected by a lack of documented processes and inconsistent legislative guidance.

We observed two types of delays, including delays in actively filling vacancies when vacancies occur and delays in installing qualified SDHC Board candidates. With respect to delays in filling vacancies when vacancies occur, we noted two Board vacancies during the course of our audit, one vacancy since September 2007 and the other vacancy since December 2005. Although these vacancies were filled in February 2009, these serve as examples of time delays between when vacancies occur and when vacancies are filled.

As it relates to delays in inducting new SDHC Board members, we noted Board appointment process delays in our review of the three most recently installed Board members, particularly in completing background investigations. We found that these three board members were confirmed four to eight months after their applications were received by the City. Most of the delays are attributed to the background investigation stage of the appointment process, which took between three to six months to complete. Background investigation delays accounts for approximately 60 to 75 percent of the delays experienced in each Board member's mayoral appointment process.

Furthermore, several potential vacancies are anticipated in 2010. SDMC limits SDHC Board membership to two terms. Effective January 2010, two current Board members will be termed

out of their second term. Additionally, two other current Board members will be completing their first term in January 2010, but will be eligible for reappointment. Furthermore, the current Board Chair is past the expiration date of his second term; he has indicated his intent to serve as needed until he is formally replaced. To summarize, five SDHC Board positions will be potentially vacant as of January 2010.

SDMC §98.0301(f)(3) states that the Mayor will appoint members to boards and commissions, and that City Council must confirm a Mayor's nominee. We observed that the current SDHC Board appointment process is in compliance with SDMC – the Mayor has been appointing candidates to the SDHC Board and the City Council has been confirming the Mayor's nominee.

We noted that it took the Mayor at least one year and as much as three years to fill recent SDHC board vacancies. We did not find evidence that the City Council was directly involved in filling these positions. Board appointment delays of this type are not consistent with Article V Section 41 of the City Charter which states that vacancies shall be filled within 45 days by the City Council. Mayoral staff has indicated that these delays have been "attributed to an initial overwhelming backlog of appointments / reappointments to Boards and Commissions when the Mayor took office, difficulty identifying appropriate tenant candidates, and vetting concerns or delays."

Moreover, SDMC §98.0301(f)(1) indicates that "Two (2) commissioners appointed pursuant to this section shall be tenants of **housing authority** units. At least one (1) commissioner so appointed shall be over 62 years of age." Of note, in November 2007, the ownership for 1,366 units that were previously public housing passed from the Housing Authority to SDHC. As a result, since SDHC is transitioning from providing public housing to establishing itself as a private property management agency that currently manages 36 public housing units, the SDMC requirement is outdated.

Delays in the Board appointment process could result in inadequate oversight and delays in the Board, and subsequent Housing Authority approval process, due to the lack of Board quorum or other reasons for meeting cancellations. For example, fifteen of 57 Board meetings (or 26%) were cancelled over fiscal years 2006 through 2008 primarily for a lack of quorum. SDHC management has indicated that the lack of quorum represents 100% of these meeting cancellations.

The lack of an efficient Board appointment process results primarily from a lack of documented processes and inconsistent City legislative guidance (i.e. inconsistent language in the City Charter and SDMC).

Recommendations:

2) City Administration should formally draft, review, approve and implement adequate process documentation including procedures and communication standards between the City, the nominees and SDHC (or other City-related Board or Commission) to ensure transparency in government processes;
3) City Administration should clearly document the background investigation process to include roles, responsibilities, process flows and documentation and communication standards (including pre-established forms and checklists);
4) City Administration should either follow or facilitate the updating of the City Charter and SDMC and to more accurately reflect the actual process as discussed above (so that they are consistent with current practice). Any updates should include reference to the role of relevant City departments who are responsible for completing background investigations as part of the Board applicant vetting process;
5) The online Board member roster should be regularly updated by City Administration and SDHC to accurately reflect the current confirmed members;
6) SDHC management should facilitate the modification of SDMC §98.0301(f)(1) to indicate that "...commissioners appointed pursuant to this section shall be tenants of housing commission units or Section 8 rental assistance program voucher recipients."

The Disposition of $2 Million in Relocation Assistance Funds is Unclear

Per City Manager's Report 04-111 dated May 20, 2004, our audit revealed the following in relation to the De Anza Harbor Resort project: "On November 23, 2003 the lease and state legislation (Kapiloff Bill[3]) allowing residential use at De Anza Harbor Resort expired. The City of San Diego is mandated by state law as well as the San Diego City Charter to transition the property back to legal park and recreational use. As such, the City Council authorized the implementation of a transition plan. In order to facilitate and fund the departure of the mobile home residents, removal of the mobile homes from the property, and returning the property to legal park and recreational use, the settlement offer and transition plan allows for the orderly departure of residents beginning November 24, 2003 through May 31, 2008."

On November 18, 2003, City Council Resolution R-298609 directed $2 million from SDHC to the City to implement the transition plan for the De Anza Harbor Resort project. However, no subsequent action plan, agreement or reconciliation of appropriated funds has been noted as being developed to address the potential obligation to repay these funds or otherwise determine if SDHC should be expecting repayment.

[3] Kapiloff, Chapter 1008, Statutes of 1981

The City Manager's Report 03-229 dated November 13, 2003 indicates that this would be a "funding backstop until Coastal Commission staff approval can be obtained. There is also a nexus to affordable housing as many of the existing residents may income qualify for assistance."

Furthermore, the "Fiscal Impact" section of the November 14, 2003 Board report HCR03-106 indicates that "It is the stated intention of the City to use cash flow from operation of the resort and Sludge Mitigation Funds to the extent they are available to fund the transition plan." However, the "Discussion" section of the same report indicates that "There is, however, no firm guarantee of repayment to the Housing Commission if neither operating budget nor the Sludge Mitigation Fund is insufficient," but also indicates "Upon release of this funding commitment or reimbursement of expended funds, it is anticipated that the agency and Section 8 reserves will be restored to original levels."

A comprehensive framework of internal control should include effective communication of information, which includes the maintenance of open lines of communication with appropriate outside parties (Gauthier, 2005, p.386).

The City's appropriation of SDHC funding can have a negative fiscal impact on SDHC in emergency or unexpected situations.

Neither the City nor SDHC has properly managed, communicated or otherwise assessed the status of these funds and the expectations for repayment to SDHC, if applicable. Furthermore, SDHC does not appear to have taken any significant legal or administrative steps to determine whether the City will be repaying these funds.

Recommendation:

7) City Administration should actively assess the status of the De Anza Harbor Resort funding and whether repayment should be expected and engage SDHC in the process as feasible, and take action as appropriate. This assessment would include a review of the status of the De Anza project and the funds utilized since being appropriated from SDHC. Furthermore, City public websites and any other referential material should be updated to accurately reflect current contact and project status information.

SDHC Lacks Adequate Succession Planning for Executive Management Services Personnel

Beginning in 2006, SDHC implemented a "succession planning" program to enhance future viable and / or existing members of SDHC management (including supervisors and above). However, no specific formal or informal plans are in place to take into consideration the potential future departure of the CEO, COO or Directors due to retirement or other employment opportunities.

During our audit, we found that it took approximately 10 months to replace the former SDHC CEO from the date of her retirement announcement in September 2007. In addition, we found that the current COO announced her resignation approximately six months prior to the former CEO's retirement announcement, but reconsidered her resignation at the Board's request. She was offered a bonus, increased salary and automobile allowance, and additional one-time retirement contributions, as well as temporarily permitted flexibility in her work schedule.

According to the Fiscal Year 2009 to 2011 SDHC Business Plan (Business Plan), one of the measurements for the Organizational Development & Training Strategy is to "increase the number of targeted positions by three classifications each fiscal year."

Effective succession planning is important to the sustainability of any organization. The Employee Recruitment, Development, Retention & Succession Plan included within the SDHC Business Plan indicates that "SDHC is committed to the recruitment, development and retention of highly talented and skilled employees. The agency recently implemented a Succession Plan Program for leadership development by providing a reservoir of qualified candidates, selected through a competitive process, who will be prepared to assume the duties and responsibilities of higher level positions with minimal operational disruption." (San Diego Housing Commission, 2008).

Finally, the U.S. Department of Housing and Urban Development has included the following in its Revised "Human Capital Plan" for fiscal year 2008 to fiscal year 2009: "It is critical to implement effective succession planning. We must ensure retiring employees are succeeded by qualified employees who are prepared to continue quality service and program delivery; and that the technical knowledge of those departing is captured, documented, and institutionalized" (p.6).

The lack of a complete succession planning program to include existing EMS personnel can result in significant organizational inefficiencies, decision making delays, and the departure of significant organizational and historical knowledge otherwise undocumented or retained by SDHC.

The existing succession planning program in place at SDHC does not adequately address the eventual turnover of the CEO and COO, such as when the retirement age of key executives is reached and / or expected.

Recommendation:

8) SDHC should take steps to develop and implement a formal succession plan or strategy for EMS level positions, with particular focus on the CEO and COO since they would appear to be the most difficult positions to fill. This plan should include ongoing efforts to capture organizational knowledge from personnel at all levels, identifying and eliminating any barriers to the plan's success, and holding management accountable for results.

Controls over Executive Compensation Can Be Improved

Our audit revealed that executive compensation adjustments were not always in compliance with SDHC policies, performance evaluation criteria was inconsistently applied, auto allowances were inconsistent with City practices, and the SDHC could better organize historical personnel documents.

SDHC Personnel Records Require Better Organization

Our audit revealed that compensation increases, including auto allowances and bonuses, were consistent with supporting documentation. However, some of the historical documentation related to performance evaluations and compensation increases prior to fiscal year 2008 were not consistently completed, organized and readily available within SDHC personnel files. In particular, the former CEO's annual evaluations for both fiscal years 2006 and 2007 were not immediately available for review or properly incorporated into her personnel file. Additionally, evaluation documentation for three directors in fiscal year 2006, and for the COO in fiscal year 2007, lacked essential elements of a documentation trail when being processed, including the dates for appraisal completion and approval, and the dates received and recorded by the Human Resources Department.

Accurate, complete and timely personnel information, including performance evaluations and compensation increases, stored in a readily available centralized location should be the preferred business practice. The U.S General Accounting Office (1999) indicates that "internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained" (p.15).

The lack of complete, accurate and centralized documentation could increase the risk of inaccurate information being considered in annual performance and or compensation reviews, and may result in excessive or inappropriate salary adjustments. Additionally, inadequate documentation may lead to inefficient evaluation processes and a weak audit trail.

The inconsistent application of documentation controls over personnel records has resulted in the inadequately organized manner in which some records have been stored.

Recommendation:

9) To ensure the completeness and accuracy of centralized SDHC personnel files, SDHC should review and update the content of historical employee specific compensation and performance evaluation documentation, as appropriate.

Compensation Adjustments Were Not In Compliance With SDHC Personnel Policies

In fiscal years ending 2006 and 2007, we found that three compensation increases were given to EMS employees prior to the completion of each employee's performance evaluation.

SDHC Personnel Policy PO102.104(D)(1) indicates that "Executive and Management Service employees shall be eligible for a salary review each July 1 based upon performance, as determined by performance evaluation and other job related criteria to be determined by the President and Chief Executive Officer."

The granting of compensation increases prior to the completion of a performance evaluation is not in compliance with established SDHC personnel policies and could result in the receipt of excessive or undeserved compensation increases, personnel inequities and devalue the perception of the importance of the performance evaluation and its timely completion.

A lack of compliance with SDHC Personnel Policies has resulted in the granting of these compensation increases prior to the completion of the performance evaluation.

Recommendation:

10) SDHC should ensure that personnel have a completed performance appraisal consistently finalized and processed prior to receiving any compensation increase or to change personnel policies to reflect current performance appraisal and compensation increase practices.

Inconsistent Performance Evaluation Criteria

The timely completion of the individual performance evaluation for each EMS employee and the employees they are responsible for has not been adequately incorporated into the performance evaluation metrics of EMS personnel. Although "Completes Performance Evaluations on Time" is included in the Resource Management portion of the Performance Assessment on the SDHC EMS Performance Review Form, it is rarely incorporated as a measurable criterion in the narrative that corresponds to each evaluation.

Each job description includes specific reference to the planning and evaluation of the performance of assigned personnel. For example, the COO's job description indicates that he/she "plans and evaluates the performance of assigned managers and staff; establishes performance requirements and personal development targets; regularly monitors performance and provides coaching for performance improvement and development."

SDHC Personnel Policy PO102.204 also indicates that "Performance Evaluations are conducted annually for step/pay advancement purposes."

The lack of a definitive SDHC policy requiring the inclusion or reference to job description responsibilities in annual performance evaluations of employees has resulted in the potential to exclude these responsibilities from those evaluations.

Recommendations:

11) SDHC should review employee job descriptions and identify quantifiable and generally applicable criteria for all employees, such as performance evaluation completion, timing and compliance. SDHC should consider the creation of a performance appraisal template for use by all levels of personnel, to include universal evaluation criteria such as the timely completion of the performance evaluations.
12) SDHC should develop uniform and quantifiable management performance evaluation criteria as an objective measure to aid in the performance evaluations of executive management service (EMS) of subordinate staff (e.g. track the percentage of subordinate staff evaluations that are delinquent or still outstanding by EMS employee and use this metric to objectively compare EMS employee to one another).

Auto Allowances are Inconsistent with City Practices

We found that SDHC's practice of including auto allowances in the base compensation of EMS employees is not in step with auto allowance practices in the City of San Diego. Effective July 1, 2008, auto allowances have been formally incorporated into the base compensation rates for EMS employees to mirror City of San Diego practices. With the inclusion of the allowances in base compensation, EMS employees receive additional benefits in the form of additional employee and employer retirement contributions and related benefits derived from compensation, which is the result of not having these allowances calculated separately from base compensation. For fiscal year 2009, we estimate the additional employer pension contributions is approximately $5,309 ($37,920 aggregate auto allowance for EMS employees x 14% employer pension contribution rate).

In comparison, the few City of San Diego personnel eligible for auto allowances receive the allowance through a pay category separate from base compensation. As a result, auto allowances are not included in City pension and Supplemental Pension Savings Plan retirement funding calculations.

By not mirroring the City's practice of excluding auto allowances from base compensation, SDHC's practice has resulted in the improper inclusion of these amounts within base compensation.

Recommendation:

13) SDHC should segregate automobile allowances from inclusion in the base compensation of EMS personnel, or otherwise make them consistent with City practices as appropriate.

Federal Grant Related Issues Noted

Our audit also revealed that SDHC submitted incomplete and inaccurate Community Development Block Grant (CDBG) program related reimbursement documentation; however, the CDBG process and documentation requirements were not clearly defined. We also found that CDBG agreements for fiscal years 2008 and 2009 were not executed, and SDHC has not been reimbursed for $1.9 million in CDBG related expenses.

The City Has Not Reimbursed SDHC for $1.9 Million of Federal Community Development Block Grant Expenses

As of May 2009, there are no executed service agreements for fiscal year 2008 and / or 2009 between SDHC and the City. Service agreements are integral to the administration of CDBG activities because they establish a mutual understanding of expectations for the management and delivery of services. During our audit, we found an outstanding balance of approximately $1.9 million due to SDHC from the City related to CDBG expenses, and that SDHC and the City are currently negotiating the reimbursement terms for previously expended amounts. The $1,925,882 in total outstanding amounts (as of February 18, 2009) submitted by SDHC for reimbursement for fiscal year 2008 includes $1,277,478 for SDHC programs and $648,404 related to SDHC disbursements to grant sub-recipients.

According to minutes for the Regular Meeting of Tuesday, May 8, 2007, the City Council unanimously approved the proposed CDBG budget including recommendations for specific "Core City priorities;" this action appears to have been influenced by a staff memorandum issued on March 26, 2007 which proposed policy changes to grant approximately $15,424,594 of CDBG funds for fiscal year 2008 "Core City priorities," including a proposed allocation of $1,277,478 for SDHC.

The continued lack of a timely finalization and signing of the agreements for fiscal years 2008 and 2009 removes the legal obligation of the City to reimburse SDHC for prior CDBG program costs. Furthermore, the delay of the reimbursement for these funds can negatively impact the ongoing funding for SDHC due to the resulting necessity to draw from reserves to fund the shortfall.

The noted delays are a result of ongoing negotiations, in part due to poorly defined and unclear reporting, communication and roles and responsibilities between SDHC and the City.

Recommendation:

14) City Administration and SDHC should finalize the fiscal year 2008 and 2009 CDBG service agreements as soon as possible. The City Administration should consider disbursing the CDBG program specific funding totaling $1,277,478 to SDHC upon receipt of adequate supporting documentation, and expediting the review and disbursement approval for the remaining $648,404.

Inadequately Defined CDBG Process and Documentation

There is a lack of clear CDBG process documentation including procedures, communication standards and expectations from City personnel. Only recently has City Administration taken a greater interest in CDBG matters; this is largely due to a recent HUD Office of the Inspector General (OIG) review of misuse of CDBG funds previously granted to the City. Before the HUD OIG review, the City Administration did not play an active role in the preparation, review and approval of processes and internal control documentation related to CDBG funding.

Our discussions with City Planning & Community Investment personnel revealed HUD has recommended contracting with subject matter experts to develop and implement these types of internal control documents. As recommended by HUD, the City has engaged an outside consulting firm (ICF) to assist in the completion of this task.

Appropriate documentation of transactions and internal control requires that "internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained" (U.S. General Accounting Office, 1999, p.15).

Undocumented processes can result in poorly communicated results, ineffective business decisions and dissatisfaction with the results. Had the City Administration established clear guidance and expectations with SDHC for the performance of CDBG activities in the beginning, it would have likely prevented the need to negotiate service agreements with SDHC for the performance of CDBG activities.

Recommendation:

15) In collaboration with SDHC personnel, City Planning & Community Investment staff should clearly document the process and reporting expectations to facilitate the efficient and timely submission of reimbursement requests from SDHC. These should be in the form of formalized procedures or departmental guidelines.

Documentation of CDBG Expenses Submitted for Reimbursement is Incomplete and Inaccurate

Our audit revealed some missing and / or incomplete documentation in the CDBG transactions selected for review. Of the subsequent documentation received to date, it was noted that some of the information had to be subsequently requested from the grant sub-recipient. Complete documentation of CDBG transactions should have been included in the original submission for reimbursement to the sub-recipient.

City Planning & Community Investment personnel who review documentation for CDBG related reimbursement requests noted similar issues with the documentation, which is one of the primary reasons delaying City reimbursement to SDHC. This is in addition to the lack of an executed CDBG service agreement.

As stated in the May 24, 2007 service agreement - the latest executed agreement between the City and SDHC (the "Contractor") - "Contractor shall maintain, and require its Subcontractors to maintain, complete and accurate accounting records, in accordance with Generally Accepted Accounting Practices [GAAP] in the industry" (City of San Diego, 2007, p.5). Furthermore, essential effective control-related policies and procedures include properly designed records and periodic reconciliations and verifications of records (Gauthier, 2005, p.384-85).

Continued documentation deficiencies could have lasting negative impacts on future CDBG funding through upcoming HUD OIG reviews and other oversight.

The ongoing oversight and management of the documentation requirements related to CDBG funding has not been adequately performed by either SDHC or City departments.

Recommendation:

16) As part of the negotiations and communications to clarify the documentation supporting reimbursement requests, SDHC and City Planning and Community Investment staff should assess and correct any documentation inaccuracies or inconsistencies. The contract with the outside consulting firm (ICF) should clearly outline these expectations to develop appropriate and comprehensive internal controls to monitor these types of funding activities.

New Housing Projects May Be Subject To Delays

New development of Public Housing disposition related properties could potentially be delayed; and public housing disposition tenant data inconsistencies were noted.

Potential Delays in New Development of Public Housing Disposition

Our testing of the Request for Proposal (RFP) documentation indicates compliance with SDHC policies and processes. However, there have been some timing delays in the selection of the developers and financing companies for the initial phase of developing new affordable housing units.

Per the Public Housing (PH) disposition documentation, SDHC is required to develop 350 affordable low income housing units, but HUD did not define a timeframe. HUD requires that "In the event that such additional three hundred and fifty low income (350) units are not produced and / or acquired by the San Diego Housing Commission, or the San Diego Housing Commission is not making **reasonable progress** toward the acquisition and / or production of the additional affordable units, then the ownership of the property referenced within Exhibit "B" shall revert to the Housing Authority of the City of San Diego." SDHC has self-imposed a deadline of five years to establish 350 additional affordable units under this disposition agreement with HUD.

The lack of the timely completion or making "reasonable progress" in the development of these 350 affordable housing units would result in the reversion of the ownership of the original PH units back to the Housing Authority, and notification to HUD thereof.

The potential delays are a result of several factors including economic uncertainties in the development market, and that the creation of additional affordable units under the PH disposition with HUD has never been done – no models or prior experiences on this topic are available.

Recommendation:

17) To ensure compliance with HUD terms, SDHC should make the progress of the 350 required housing units a standing agenda item for discussion by the Board, which should include regular reporting from the responsible members of SDHC management;
18) SDHC should continue to make progress on new development to meet the 350 unit goal, within a five year timeline, and utilize existing undeveloped SDHC owned assets if necessary to accomplish that objective. These expectations should be clearly outlined in future budgetary and business planning documents, and should be included as a defined goal for the responsible members of management and staff as applicable.

Data Entry Inconsistencies for Public Housing Disposition Tenants

As noted in the Background, on September 10, 2007, SDHC received approval of its disposition application from HUD relating to its stock of 1,366 "Conventional Public Housing" (PH) units. On September 30, 2007, SDHC received HUD approval of its Tenant Protection Voucher Application, whereby existing PH tenants would be transitioned to Section 8 rental assistance and be issued Section 8 based vouchers. We tested a sample of the public housing to Section 8 voucher transition process and noted inaccurate data entry within the Section 8 Waiting List system. We tested 69 of the 1,332 unit records within the system, noting data input errors in 12 tenant records.

Per discussion with SDHC personnel, coding of these units is very important in order to receive the proper funding. SDHC reports the number of vouchers to the Voucher Management System, the agency responsible for approving funding.

Incomplete data entry may result in inaccurate reporting, which could result in negatively impacted funding amounts and non-compliance with reporting requirements.

The manual entry of 1,366 public housing tenants impacted by the HUD disposition significantly increases the likelihood of data entry errors.

Recommendation:

19) SDHC personnel should take actions to ensure that the data related to public housing disposition tenants are accurate within its information system. One potential solution to resolve this would be creating a data extract from the information system to identify any data discrepancies (including the above).

REFERENCES

City of San Diego. (1984, December 3). *Procedure for Mayor and Council appointments* (Council Policy Number 000-13). Retrieved January 1, 2009, from http://docs.sandiego.gov/councilpolicies/cpd_000-13.pdf

City of San Diego. (2007, May). *Agreement between the City of San Diego and the San Diego Housing Commission for the provisions of housing program services: Article VIII, Section 8.2.* (City Clerk Document No. C-14206).

Gauthier, S.J. (2005). *Governmental accounting, auditing, and financial reporting.* Chicago, IL: Government Finance Officers Association.

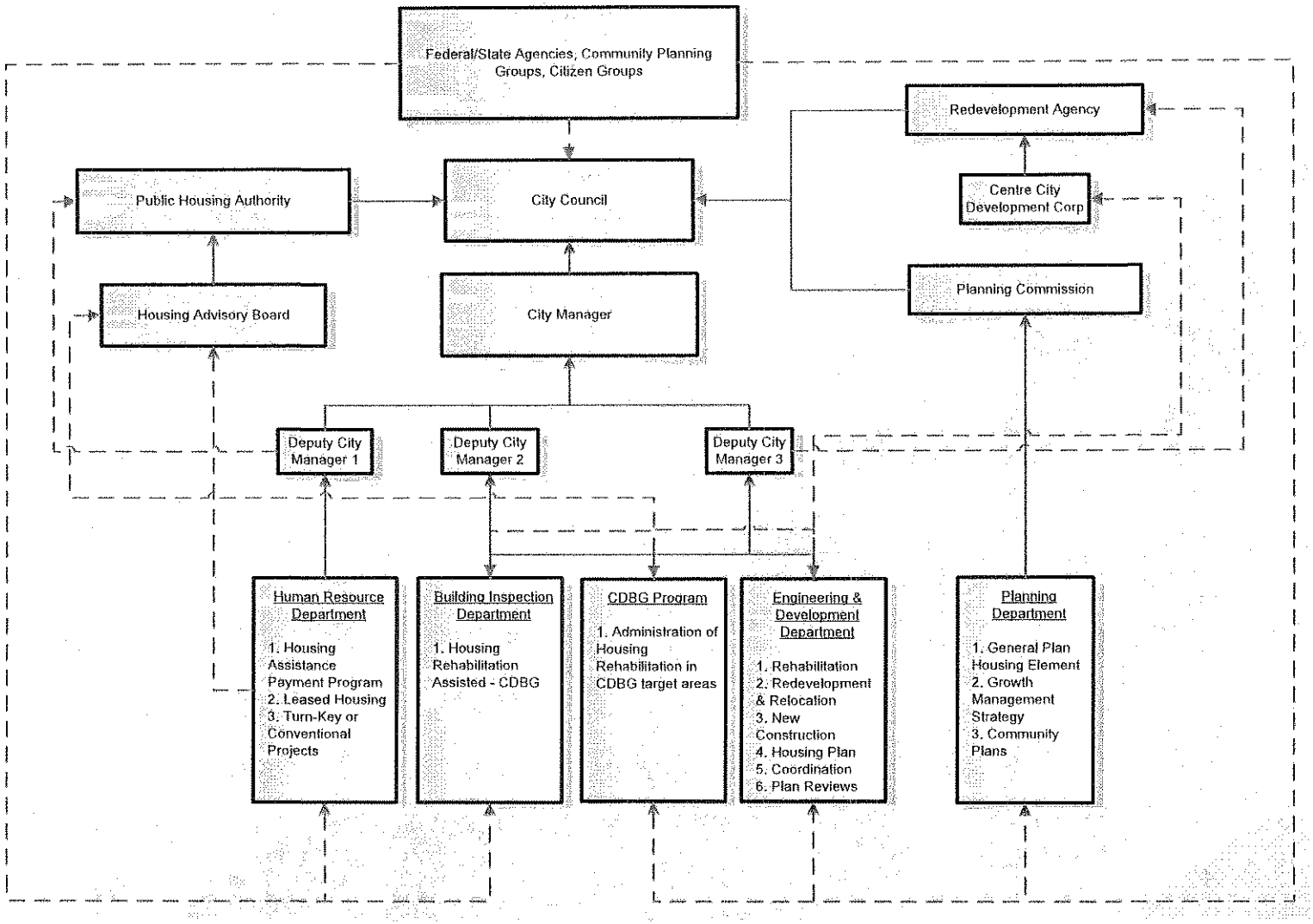
San Diego Housing Commission. (2008, March 4). *San Diego Housing Commission business plan.* (Housing Commission Report No. HCR 08-38). Retrieved January 1, 2009, from http://www.sdhc.org/Min&Agendas&Reports/Commission/Reports/HCR08-038.pdf

U.S. Department of Housing and Urban Development (2008, March) *Strategic human capital management: revised human capital plan FY 2008 – FY 2009.* Retrieved January 1, 2009, from http://www.hud.gov/offices/adm/omap/hshcp.cfm

U.S. General Accounting Office. (1999, November). *Standards of internal control in federal government* (Publication No. GAO/AIMD 00-21.3.1). Retrieved January 1, 2009, from http://www.gao.gov/special.pubs/ai00021p.pdf

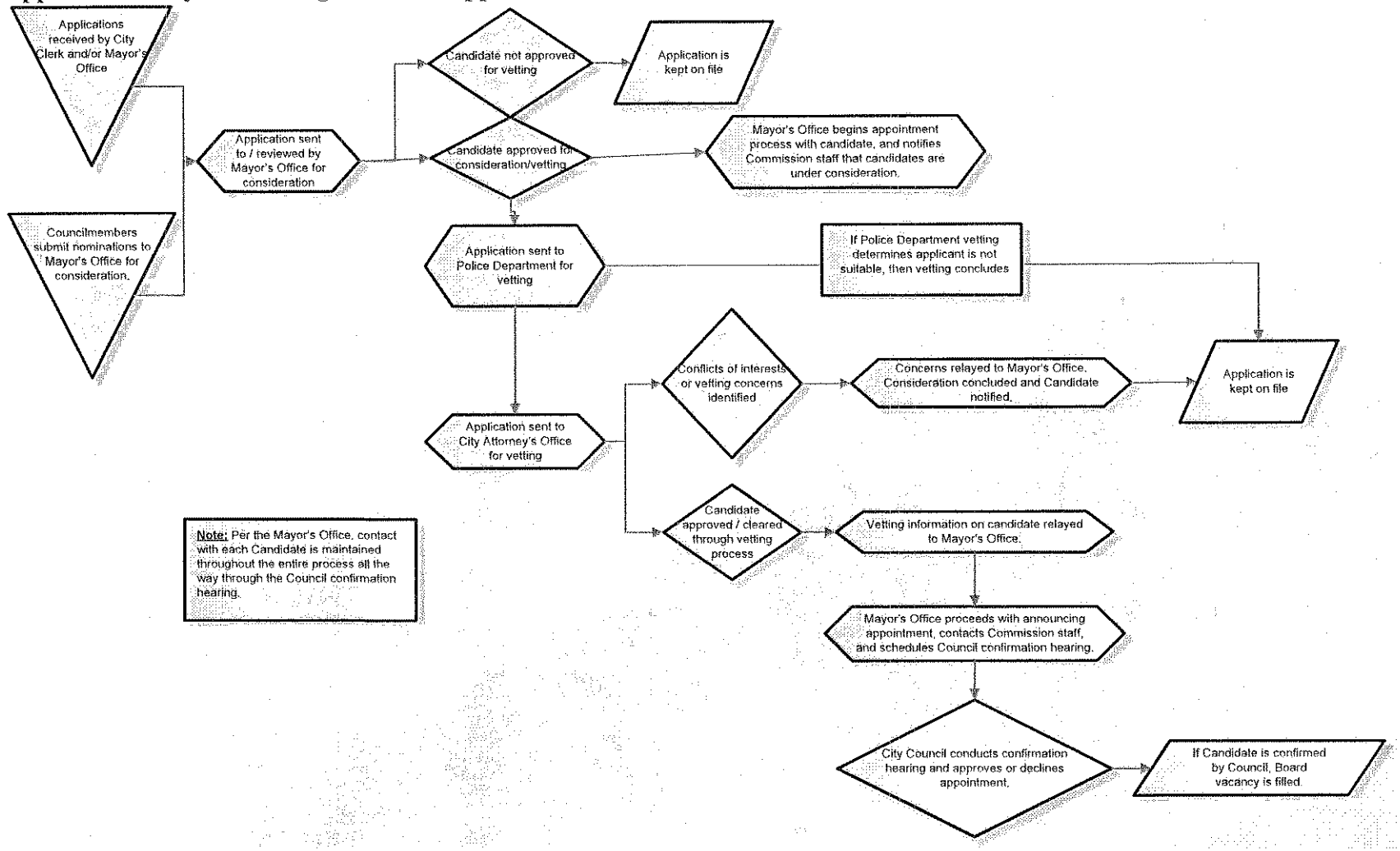
APPENDICES

Appendix A: City of San Diego Organizational Chart for Housing Administration and Service Prior to the Creation of SDHC



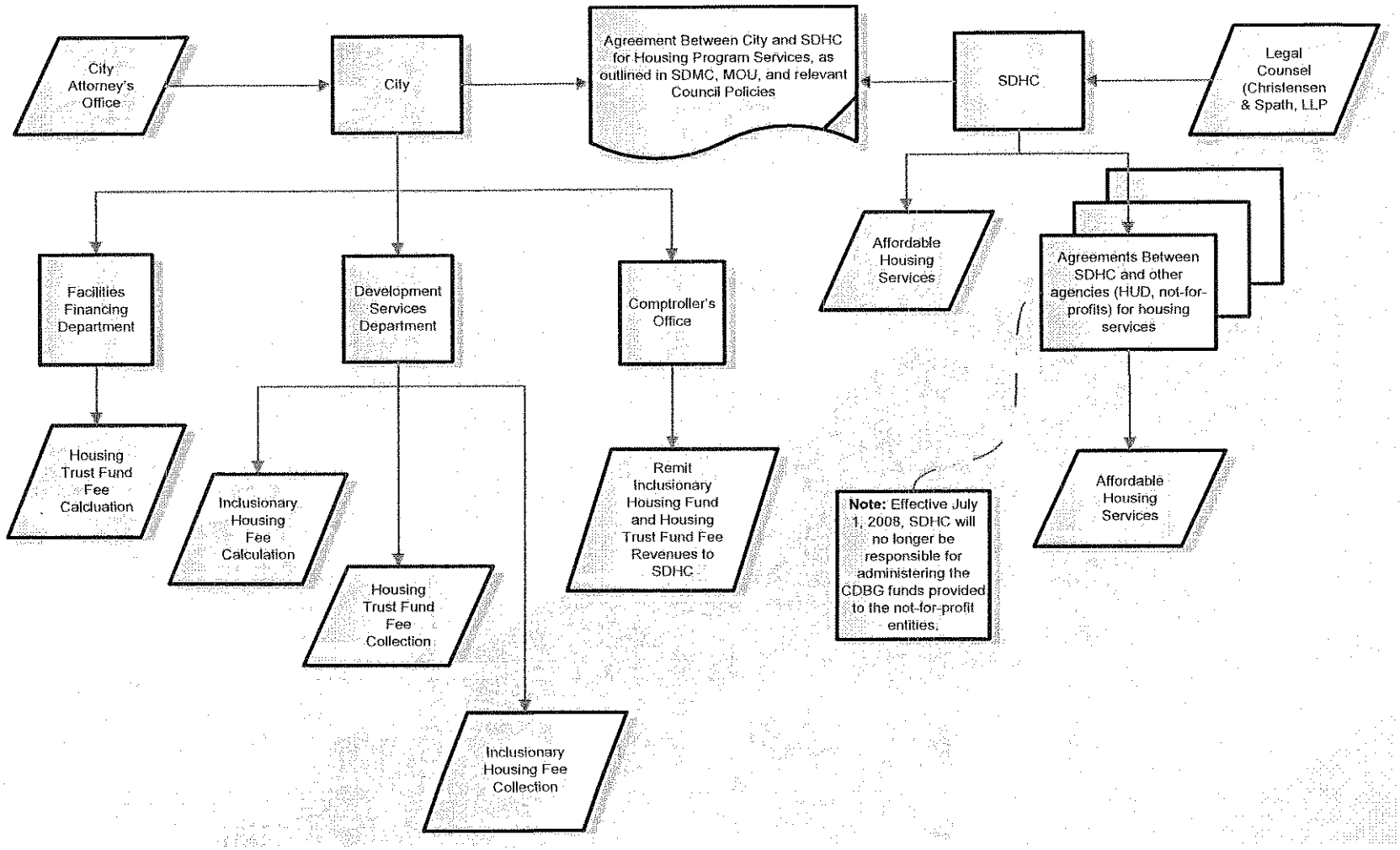
Source: Report to the Honorable Mayor and City Council from the City Manager, November 17, 1976

Appendix B: City of San Diego Current Appointment Process for SDHC Board Members



Source: Auditor generated based on conversations with Mayoral Office staff.

Appendix C: City of San Diego and SDHC Nexus for Housing Activities



Source: Auditor generated based on conversations with City and SDHC staff.

San Diego
HOUSING COMMISSION

July 10, 2009

Mr. Eduardo Luna
City Auditor
Office of the City Auditor
1010 Second Avenue, Suite 1400
San Diego, California 92101

Ref: Response to City Auditor's Report on Audit of San Diego Housing Commission's Management and Business Practices

Dear Mr. Luna:

Thank you for the opportunity to provide a response to the Audit Report prepared by your office. This response will address each of the recommendations in the report as well as an estimate of when appropriate actions will be completed. We are proposing aggressive time schedules for the completion of these actions. In those cases where we will need to work with City Administration and staff, we will endeavor to meet the proposed time schedules; however, these schedules may change based on City availability to work with the Housing Commission as noted.

We would like to thank your staff, particularly John Teevan and Tiffany Chung, for their professionalism and cooperation in the performance of this audit. This review provided an opportunity for the Housing Commission to not only review its internal processes and procedures but also to learn about ideas and methods employed by other agencies in the City of San Diego.

We look forward to working with your office in the future as we pursue implementation of the actions proposed.

Respectfully submitted,

Carrol M. Vaughan
Executive Vice President &
Chief Operating Officer

Cc: Richard C. Gentry, President & CEO, SDHC
Charles B. Christensen, General Counsel, SDHC
Andrea Dixon, City Attorney's Office
SDHC Vice Presidents

Response to City Auditor's Report on Audit of San Diego Housing Commission's Management and Business Practices

INTRODUCTION

As noted in the introductory sections of the Performance Audit Report, in late Fiscal Year 2009, the Housing Commission significantly restructured to more closely align related functions. A revised organization chart is included with this response.

This restructuring resulted in the establishment of the Real Estate Department that includes Asset Management & Facilities, Rehabilitation, Loan Management, Occupancy Monitoring, Land Use; the Special Housing Initiatives Department includes all activities related to housing for special needs populations including the homeless initiatives, transitional housing, Neighborhood Stabilization Program and the Homeless Prevention and Rapid Rehousing Program. The Rental Assistance Department has been expanded to include the Workforce and Economic Development Section that offers educational services to the clients of Housing Commission programs; finally Business Services will implement a centralized procurement and contract compliance section during FY2010.

At the end of Fiscal Year 2009, the Housing Commission's annual budget had grown to more than $300 million from the $265 million estimated at the beginning of the year as approved by the Housing Commission and Housing Authority. As stated, the Housing Commission does not receive City General Funds.

AUDIT RESULTS

Excessive time delays exist between SDHC Board and Housing Authority approvals.

Recommendation

1) The Executive Director of the Housing Authority should calendar matters for final action by the Housing Authority within the time parameters set forth in SDMC §98.0301 to avoid excessive time delays between Board and Housing Authority approvals and avoid jeopardizing housing business opportunities. As appropriate, the Executive Director should recommend that the Housing Authority and City Council adopt effective resolutions to delegate authority to the Board on "advisory only" issues that the Housing Authority identifies as routine, which would alleviate the Housing Authority docket for more significant matters.

Response:

1) The San Diego Municipal Code, Chapter 9, Section 98.0301, paragraph (e) (3) states that "If a matter is referred to the Housing Authority for final action, the Executive Director shall promptly set the matter on the next available agenda of the Housing Authority, and the action taken by the Commission shall be advisory." However, it has been the long term practice that Housing Authority agendas were set by the City Manager's office (past practice) and, more recently, by the Council President's office (current practice).

The Housing Commission will work with the City Attorney's office to recommend a procedure whereby matters can be calendared for Housing Authority review in a timelier manner. If an acceptable procedure cannot be identified, revision of the Municipal Code will be recommended to include the actual practice of scheduling Housing Authority agendas.

Further, the Housing Commission will prepare a report that identifies routine issues and recommend that the Housing Authority and City Council delegate authority for such issues to the Housing Commission Board. **Time for completion: December 2009.**

Delays and inconsistencies in the board appointment process and related Municipal Code for the Housing Commission

Recommendations

2) City Administration should formally draft, review, approve and implement adequate process documentation including procedures and communication standards between the City, the nominees and SDHC (or other City-related Board or Commission) to ensure transparency in government processes;
3)City Administration should clearly document the background investigation process to include roles, responsibilities, process flows and documentation and communication standards (including pre-established forms and checklists);
4) City Administration should either follow or facilitate the updating of the City Charter and SDMC and to more accurately reflect the actual process as discussed above (so that they are consistent with current practice). Any updates should include reference to the role of relevant City departments who are responsible for completing background investigations as part of the Board applicant vetting process;
5) The online Board member roster should be regularly updated by City Administration and SDHC to accurately reflect the current confirmed members;
6) SDHC management should facilitate the modification of SDMC §98.0301(f)(1) to indicate that "...commissioners appointed pursuant to this section shall be tenants of housing commission units or Section 8 rental assistance program voucher recipients."

Responses:

2-4) The Housing Commission will work collaboratively with City Administration to establish and document procedures to ensure the appointment process, including background investigations, is clear and available for public review through a variety of communication channels. In addition, the Housing Commission's General Counsel will work with the relevant City departments and/or City Attorney's office to explore updating the City Charter and SDHC

to more accurately reflect the actual process and practices used in this appointment process. **Time for Completion: April 2010**

5) The Housing Commission's website is currently being extensively rebuilt and when completed will include the current members of the Housing Commission; this information will be updated as needed. **Time for Completion: December 2009**

6) The Housing Commission's General Counsel will work with the City Attorney's office to modify SDMC 98.0301(f)(1) to state that commissioners appointed pursuant to that section shall be tenants of Housing Commission owned units or Section 8 Housing Choice Voucher program recipients. **Time for Completion: April 2010**

Disposition of $2 million in relocation assistance funds is unclear.

Recommendation

7) City Administration should actively assess the status of the De Anza Harbor Resort funding and whether repayment should be expected and engage SDHC in the process as feasible, and take action as appropriate. This assessment would include a review of the status of the De Anza project and the funds utilized since being appropriated from SDHC. Furthermore, City public websites and any other referential material should be updated to accurately reflect current contact and project status information.

Response:

7) The Housing Commission staff will be available to City Administration to review the status of the De Anza Harbor Resort funding, prepare a status report and make recommendations to the Housing Commission Board and Housing Authority regarding the potential repayment of these funds. **Time for Completion: June 2010**

SDHC lacks adequate succession planning for executive management services personnel.

Recommendation

8) *SDHC should take steps to develop and implement a formal succession plan or strategy for EMS level positions, with particular focus on the CEO and COO since they would appear to be the most difficult positions to fill. This plan should include ongoing efforts to capture organizational knowledge from personnel at all levels, identifying and eliminating any barriers to the plan's success, and holding management accountable for results.*

Response:

8) As a public agency in the State of California, the Housing Commission must ensure that any and all of its employment practices are non-discriminatory and are not, even by perception,

unfair and exclusive. As noted in the Audit Report, the Housing Commission piloted a detailed, specific Succession Plan, beginning in 2006. The pilot for the program focused on three positions at the Housing Commission including that of Executive Vice President & Chief Operating Officer. Participation in the Succession Plan Program was based on an employee's expressed interest in the opportunity and required significant time to be spent on special projects, training, and coaching sessions, in addition to maintaining the employee's assigned workload. Rather than expand the scope of the Succession Program, renewed focus has been given to an inclusive Professional Development Initiative. This initiative is open to all staff members who are interested in careers in affordable housing and in potential future assignments at the Housing Commission.

In addition, the Housing Commission is participating in an internship program with the National Association of Housing & Redevelopment Officials. This program offers persons who are interested in housing careers opportunities for specialized training, networking with other housing agency staff and rotation of assignments at the Housing Commission and other participating agencies.

Finally, the Housing Commission is collaborating with SANDAG to determine if that organization's professional development and succession programs offer additional opportunities for employees interested in leadership positions with the Housing Commission. **Time for Completion: Ongoing**

SDHC Personnel Records Require Better Organization

Recommendation

9) To ensure the completeness and accuracy of centralized SDHC personnel files, SDHC should review and update the content of historical employee specific compensation and performance evaluation documentation, as appropriate.

Response:

9) In 2006 the Housing Commission outsourced its Human Resources function in a cost saving effort. Unfortunately, the result of this outsourcing was very disappointing and resulted in the decision to reinstate Human Resources services using Housing Commission staff. One of the primary reasons for this decision was the loss of data and poor recordkeeping by the selected human resources vendor, the "low bidder" in the formal procurement process required to award this contract.. During the one year period of the contract, many errors were discovered and upon termination of the contract, a significant number of records were missing.

The Human Resources Department of the Housing Commission will complete a review of each employee's compensation and performance evaluation records to ensure a historical record is available for all employees. **Time for Completion: June 2010**

Compensation adjustments were not in compliance with SDHC personnel policies.

Recommendation

10) SDHC should ensure that personnel have a completed performance appraisal consistently finalized and processed prior to receiving any compensation increase or to change personnel policies to reflect current performance appraisal and compensation increase practices

Response:

10) The Housing Commission agrees that performance evaluations should be completed prior to receipt of increase in compensation. In the cases cited, performance evaluation discussions were completed prior to change in compensation. However, the actual "hard copy" of the evaluation document may have been signed and dated past the effective date of a salary increase. In addition, the date the evaluation information is entered into the human resources database may be several days later than the date of the performance discussion and/or sign off.

Human Resources provides monthly reports on upcoming evaluations and additional emphasis will be placed on ensuring all evaluation discussions and "sign offs" occur prior to any change in compensation. **Time for Completion: Ongoing**

Inconsistent Performance Evaluation Criteria

Recommendations

11) SDHC should review employee job descriptions and identify quantifiable and generally applicable criteria for all employees, such as performance evaluation completion, timing and compliance. SDHC should consider the creation of a performance appraisal template for use by all levels of personnel, to include universal evaluation criteria such as the timely completion of the performance evaluations.

12) SDHC should develop uniform and quantifiable management performance evaluation criteria as an objective measure to aid in the performance evaluations of executive management service (EMS) of subordinate staff (e.g. track the percentage of subordinate staff evaluations that are delinquent or still outstanding by EMS employee and use this metric to objectively compare EMS employee to one another).

Response:

11&12) Housing Commission Business Plan Strategy 52 includes the review and recommendation of new performance evaluations tools for all Housing Commission positions to include standardized performance measurements. **Time for Completion: June 2011**

Auto Allowances are Inconsistent with City Practices

Recommendation

13) SDHC should segregate automobile allowances from inclusion in the base compensation of EMS personnel, or otherwise make them consistent with City practices as appropriate.

Response:

13) As noted in the Audit Report, the Housing Commission intended to mirror the City of San Diego's auto allowance practices. While it was never intended to provide additional benefits to those Housing Commission employees who receive consideration for the use of their personal automobiles while on Housing Commission business, this was the outcome.

Once the Commission received the draft Audit Report, this practice was reviewed and immediately stopped and the prior practice of segregating auto allowances has been re-instated. This action ensures that no additional benefits will accrue to EMS employees.
Time for Completion: Completed

The City has not reimbursed SDHC for $1.9 million of federal community development block grant expenses.

Recommendation

14) *City Administration and SDHC should finalize the fiscal year 2008 and 2009 CDBG service agreements as soon as possible. The City Administration should consider disbursing the CDBG program specific funding totaling $1,277,478 to SDHC upon receipt of adequate supporting documentation, and expediting the review and disbursement approval for the remaining $648,404.*

Response:

14) All supporting documentation requested by the City CDBG Administration has been submitted. To date, the Fiscal Year 2008 agreement has not been executed by the City nor has the Housing Commission received the funding expected. Because FY2009 has closed, it has

been agreed that CDBG funds allocated to the Housing Commission in FY2009 will be combined with CDBG funds allocated for FY2010 and both fiscal year allocations will be included in one contract/service agreement. This agreement has not yet been received by the Housing Commission for review and/or execution. **Time for Completion: Unknown, depends on City process**

Inadequately defined CDBG process and documentation

Recommendation

15) In collaboration with SDHC personnel, City Planning & Community Investment staff should clearly document the process and reporting expectations to facilitate the efficient and timely submission of reimbursement requests from SDHC. These should be in the form of formalized procedures or departmental guidelines.

Response:

15) The Housing Commission staff would be pleased to work with the City staff and the City consultant to document the process and reporting requirements to ensure efficient submission of reimbursement requests. **Time for Completion: January 2010**

Documentation of CDBG expenses submitted for reimbursement is incomplete and inaccurate.

Recommendation

16) As part of the negotiations and communications to clarify the documentation supporting reimbursement requests, SDHC and City Planning and Community Investment staff should assess and correct any documentation inaccuracies or inconsistencies. The contract with the outside consulting firm (ICF) should clearly outline these expectations to develop appropriate and comprehensive internal controls to monitor these types of funding activities.

Response:

16) The Housing Commission will work with the City staff and the City's consultant in whatever way is desired to identify and correct any documentation or procedural inaccuracies. We clearly understand that the procedures set by the City in past years have been changed and will look forward to a collaborative working relationship in the immediate future. **Time for Completion: January 2010**

Potential delays in new development of public housing disposition

Recommendations

17) To ensure compliance with HUD terms, SDHC should make the progress of the 350 required housing units a standing agenda item for discussion by the Board, which should include regular reporting from the responsible members of SDHC management;

18) SDHC should continue to make progress on new development to meet the 350 unit goal, within a five year timeline, and utilize existing undeveloped SDHC owned assets if necessary to accomplish that objective. These expectations should be clearly outlined in future budgetary and business planning documents, and should be included as a defined goal for the responsible members of management and staff as applicable.

Response:

17&18) Effective in FY2010 (July 1, 2009), the Housing Commission Board will receive a quarterly written report on the progress of developing additional affordable housing units, as required by the disposition approval from HUD. In addition, the Board discusses the status of this effort each time a new project is brought forward for discussion and possible approval. **Time for Completion: Ongoing**

The 2009-2011 Business Plan, Strategy 4 requires the development of 210 of the 350 units required to be completed by the end of June 2012 (fiscal year end). To date, the Housing Commission Board has approved participation in projects that include a total of 242 units. These units will serve households in various income ranges – from 30% Area Median Income (AMI) to 80% AMI. The properties are located on several different sites within the City of San Diego. Also, the staff is working on a number of additional potential projects which will allow for development of affordable units beyond the requirement of 350 units. **Time for Completion: FY2012**

Data entry inconsistencies for public housing disposition tenants

Recommendation

19) SDHC personnel should take actions to ensure that the data related to public housing disposition tenants are accurate within its information system. One potential solution to resolve this would be creating a data extract from the information system to identify any data discrepancies.

Response:

19) Each of the former public housing tenants who received Housing Choice Vouchers as part of the disposition program has been "recertified" at least one additional time since the disposition process was completed. Consequently, all information has been updated and verified and transmitted to HUD as required for funding of the Section 8 program. It is important to note that while proper coding is extremely important for funding purposes, housing agencies are allowed to correct any inaccurate coding or reporting when it is discovered. Funding allocations are then adjusted once the accurate information is entered into the system.

The disposition process was a unique situation. Because the requirements of the public housing program and the Section 8 program vary somewhat, a complete data transfer between the two program databases was not possible. Whenever feasible, the Housing Commission's IT staff uses data transfer as a means of ensuring the most accurate, up to date information is utilized for client data management. **Time for Completion: Completed**

THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: July 28, 2009

TO: Eduardo Luna, City Auditor

FROM: Jay M. Goldstone, Chief Operating Officer

SUBJECT: Response to Part I of the Performance Audit of the San Diego Housing Commission

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This memorandum responds to the recommendations for City departments that were included in Part I of the June and July 2009 Performance Audit of the San Diego Housing Commission. The San Diego Housing Commission is responding separately to the recommendations directed to their organization.

Recommendation #2, Page 21

City Administration should formally draft, review, approve and implement adequate process documentation including procedures and communication standards between the City, the nominees and SDHC (or other City-related Board or Commission) to ensure transparency in government processes.

Response: The Mayor's Office concurs with this recommendation: The Director of Appointments to Boards & Commissions has been conducting and providing a clear, established Boards & Commission process and procedures but processes and procedures were not formally documented in writing. Through the process of the Housing Commission Audit, the Director of Appointments to Boards & Commissions was able to work with Audit staff to create a flow chart which accurately reflects the procedures in place to facilitate each appointment. The attached flow chart (Attachment A) is an accurate and current representation of the application, vetting, and appointment process and procedures undertaken for Housing Commission appointments and all appointments to city boards and commissions by the Director of Appointments to Boards & Commissions/Mayor's Office. To further support the flow chart and Recommendation #2, a detailed description of the application process, vetting procedures, communication standards, and appointment process have now been formally drafted and approved. The appointment process and procedures are outlined in the following 14 Stages:

Stage 1: Applications are provided to and received by the Mayor's Office through various methods including on-line submissions and mailed-in applications distributed via the Clerk's Office; nominations by City Council members; and applications e-mailed or mailed directly to the Mayor's Office. The general application ("Candidate for Public Service Appointment" application) for boards and commissions (Attachment B) is available on-line and can also be submitted electronically.

Stage 2: Each application is reviewed by the Director of Appointments to Boards & Commissions/Mayor's Office in consideration of a particular opportunity on a board or commission, and the most qualified applicants are selected to participate in the vetting/appointment process. All other applications that are not selected are kept on file.

Stage 3: Upon determining that an applicant meets qualifications (expertise sought, specified skills, residency, or specified qualifications as outlined in City Charter, Government Code, or board or commission Municipal Code or Bylaws), the Director of Appointments to Boards & Commissions contacts the applicant for a preliminary discussion regarding service on a particular board or commission and to obtain additional information about the applicant, as needed. An overview of the board or commission's role and responsibilities is provided during the discussion, along with information on the composition of the board, board members' term of service/length of term, term expiration dates, Mayor's appointment authority, council confirmation, and application process.

Stage 4: During the discussion, the Director of Appointments to Boards & Commissions also informs the applicant of the requirement that members of the particular Board or Commission annually complete a Statement of Economic Interest (as applicable) to ensure applicant is aware of required public disclosure of personal information should applicant be appointed to serve on the board or commission. The Director of Appointments to Boards & Commissions also provides information to applicant on the particular board or commission's Conflict of Interest Code which specifies the items/categories that each member of the board or commission must disclose on the Statement of Economic Interest. [Note: If a Conflict of Interest Code exists for a particular board or commission, there is an automatic requirement that an applicant must be "vetted" by the Police Department and City Attorney's Office to ensure candidate is appropriate and suitable for service on a particular board or commission and to identify any potential conflicts of interest should applicant become candidate that advances to the final stages of appointment process. (More information on the vetting process is discussed in response to Recommendation #3). If no Conflict of Interest Code exists for Board or Commission, then formal vetting of applicant is not required and Director of Appointments to Boards and Commissions advances candidate to Stage 11 of appointment process. The general application, resume of applicant, and nomination memo (if nominated) are documents utilized for the appointment process that does not require vetting.]

During the discussion, applicant must provide information on the community and council district in which they reside, whether they have any affiliation with any contracts with the City of San Diego by nature of their work, employment or involvement with non-city organizations (This part of the discussion helps provide preliminary information on whether a conflict of interest might exist), and any additional information needed pertaining to the applicant's expertise or qualifications. If the applicant understands and is comfortable in fulfilling the requirement to complete a Statement of Economic Interest on an annual basis, the Director of Appointments to

Boards & Commissions discusses the required formal application and vetting process that applicant must participate in and complete. The Director of Appointments to Boards & Commissions provides information on the 7-page "vetting application" (See Attachment C) which is described as "information one would normally provide on a resume and 15 questions (Questions 23-37 on application) toward end of application that help identify if applicant is suitable and qualified to serve on a City Board or Commission and whether potential conflicts of interest exist related to an applicant's service or participation on a particular board or commission."

The Director of Appointments to Boards & Commissions specifies to applicant that his/her application and resume will be submitted to the Police Department (Background & Investigations Unit) and the City Attorney's Office for confidential review, investigation ("light" background check), and to determine whether any conflict of interest exists. In addition, the Director of Appointments to Boards & Commissions explains the Confidential Financial Inquiry form (See Attachment D) that must be completed that waives Police Department liability and permits/allows for the Police Department to investigate the applicant's financial and credit history. The Director of Appointments to Boards and Commissions also explains that the vetting process can take an undetermined and unpredictable amount of time, but contact will be made to applicant via e-mail or phone call to inform of status, as appropriate. If applicant states that they are comfortable in providing their information and participating in the entire confidential vetting process, the Director of Appointments to Boards & Commissions/Mayor's Office determines if applicant is suitable and should advance to vetting stage based on discussion, and then informs applicant of next stage of process when appropriate. [Note: If during discussion, applicant or Director of Appointments to Boards & Commissions determines there are concerns with applicant participating in the vetting process or applicant has conflicts of interest not suitable for particular board or commission, discussion concludes and application is kept on file.]

Stage 5: If determination is made to advance applicant to vetting process, Director of Appointments to Boards & Commissions provides e-mail to applicant with the following forms and information:

- Office of Mayor Jerry Sanders Application Form – Boards and Commissions Appointment, also known as the "vetting application" (Attachment C)
- Confidential Financial Inquiry Form (Attachment D) – Police department financial inquiry waiver
- Specified Conflict of Interest Code for Board or Commission is attached or link to webpage is provided.
- Ethics Commission Fact Sheet for "Joining a City Board or Commission" (Attachment E) which provides information on disclosure requirements, Statement of Economic Interest, prohibitions and restrictions on gifts, financial interests and conflicts of interest codes for boards and commissions subject to the City's Ethics Ordinance (all boards and commissions with conflict of interest codes)
- Information on specified board or commission which typically includes duties of board, term, appointment authority, council confirmation, composition of board, disclosure requirements, link to specified board or commission's website, if available, and list of governing documents for board or commission (i.e. specified section of Charter or Municipal Code, Bylaws, Resolutions, and Council Policy 000-13)

- Information on how to address and send three letters of recommendation to Mayor's Office
- Request for resume, if not previously submitted.

Typically, this e-mail to the applicant is provided within 24-48 hours of initial phone call and discussion with applicant. Director of Appointments to Boards and Commissions also encourages applicant in e-mail to complete and submit the application form as soon as possible.

Stage 6: Director of Appointments to Boards and Commissions typically receives the emailed or faxed "vetting application" from applicant within two-five business days. Upon receiving the application, Director of Appointments to Boards and Commissions immediately e-mails completed application, applicant's resume, and Confidential Financial Inquiry Form to representative in Police Department's Investigative Unit overseeing vetting process and assignments to staff. Director of Appointments to Boards and Commissions also provides requested deadline date for vetting completion. Should any questions or concerns arise during the investigation into an applicant's background, the police department contacts the Director of Appointments to Boards and Commissions. The Police Department investigator may request contact with an applicant to directly clarify information, discuss same name instances found in public records or databases, or discuss the outcome of particular circumstances or judgments if not listed or conclusive within records accessible by Police Department. If contact with applicant is requested by Police Department, Director of Appointments to Boards and Commissions calls applicant to inform them of contact by police department. If Police Department determines concerns during vetting or phone call to applicant, the information is provided in Police Department's confidential vetting summary and may contact Director of Appointments to Boards and Commissions directly to discuss information or concerns. If concerns are identified or communicated in vetting summary, vetting concludes and application is kept on file. In addition, if Police Department is unable to determine outcome of a judgment, lawsuit, federal or superior court case, violation, circumstance, etc., they may state within their vetting summary of applicant the need for the City Attorney's Office to review specified information on file for applicant.

Stage 7: If applicant found suitable by Police Department, upon receiving the hard copy file of applicant and vetting summary from the police department, the Director of Appointments to Boards and Commissions immediately forwards applicant's package to City Attorney's Office for next stage of vetting process which is a Conflict of Interest analysis and necessary research not completed by Police Department. Director of Appointments to Boards and Commissions also provides e-mail to City Attorney's Office to request conflict of interest analysis vetting of applicant and provides a requested deadline date for completion of vetting of each applicant (usually within 5-10 business days). E-mail from Director of Appointments to Boards and Commissions may also pose specific questions related to whether an applicant's background, employment, service on an outside or non-city related board or commission may pose a conflict of interest in reference to the applicant's potential service on a board or commission.

Stage 8: City Attorney's Office reviews applicant's file and vetting summary received by Police Department and performs conflict analysis and other research, as applicable. Upon concluding analysis, City Attorney's Office provides confidential vetting summary to Director of Appointments to Boards & Commissions which is reviewed to determine if applicant is "cleared" and suitable to advance to final stages of appointment process.

Stage 9: During different stages or points of the application and appointment process, the Director of Appointments to Boards and Commissions is in contact with the Executive Director or Staff Liaisons for each board or commission to inform them that a candidate(s) has been identified or nominated and are being vetted to fill vacancies, or replace members who are termed out or not seeking reappointment.

Stage 10: If candidate is approved/ "cleared" through vetting by Police Department and City Attorney's Office, the appointment process proceeds.

Stage 11: If applicant determined not suitable, application is kept on file. If applicant meets qualifications, has appropriate expertise or skills sought for the Board, and is determined suitable for service on the specified board or commission, applicant is determined final candidate and Director of Appointments to Boards and Commissions/Mayor's Office proceeds with final stages of appointment process which includes Mayor's decision to appoint candidate, preparing for Mayor's Appointment Memo, contacting candidate, contacting board or commission executive director or staff liaison and specified staff, and scheduling of Council Confirmation Hearing, if applicable. All required paperwork is submitted via the electronic 1472 docketing process by Director of Appointments to Boards & Commissions. The paperwork required for the docketing process includes the memo announcing the Mayor's appointment of candidate and the candidate's resume.

Stage 12: Director of Appointments calls candidate to announce appointment and e-mails Mayor's appointment memo. Mayor's appointment memo is distributed to City Council Offices to announce appointment. Director of Appointments to Boards and Commissions may also call specified Council members' Chief of Staff to announce appointment of candidate if candidate was nominated by Councilmember (as applicable) and also provides Mayor's Appointment Memo to board or commission executive director or staff liaison and specified staff.

Stage 13: Director of Appointments to Boards & Commissions contacts candidate, and confirms and provides detailed information regarding the Council Confirmation Hearing. Director of Appointments to Boards & Commissions also notifies Executive Director and/or staff liaison for board or commission of confirmed date of Council Confirmation Hearing.

Stage 14: Day of Council Confirmation Hearing: candidate(s) meet Director of Appointments on morning of Council Confirmation Hearing and are provided with additional details of the hearing. Appointments and reappointments to Boards and Commissions typically occur on Tuesday mornings at 10:00 a.m. and are typically listed on the Consent Agenda of the docket. During the Consent agenda discussion, City Council members discuss the appointments/reappointments and vote to confirm or decline the appointments/reappointments of candidates. If vote is affirmative, the appointment/reappointment of candidate is confirmed by City Council, and board or commission vacancy/opportunity is fulfilled. If appointment/reappointment of candidate is declined, the vote is communicated to the Mayor for consideration, and the entire process to identify suitable candidate and application process begins again.

Recommendation #3, Page 21
City Administration should clearly document the background investigation process to include roles, responsibilities, process flows and documentation and communication standards (including pre-established forms and checklists).

Response: The Mayor's Office concurs with this recommendation. (See Stages 4-10 of Recommendation #2 for complete description of the confidential vetting/background investigation process, forms, and communication standards.) As of December 2005, the City Attorney's Office performed all vetting for the City's Boards & Commissions. With the election of the new City Attorney in November 2008, that office initially declined to direct resources to the vetting process. As a result, in January 2009, the Police Department officially took over the vetting process and during that month and in early February certain limitations were realized and expressed. In February, the Mayor's Office again sought and requested the assistance of the City Attorney's Office to participate in the vetting process. In March 2009, the City Attorney's Office agreed to participate and solely provide Conflict of Interest vetting. There was some confusion through March regarding the vetting the Police Department could perform, the type of vetting and resources the City Attorney's Office could provide, and staff/resource support for both departments. There were certain areas of the vetting process in which the Police Department did not have the staff, expertise or resources to perform or complete. In March, one Deputy City Attorney was officially assigned to perform the Conflict of Interest vetting on behalf of the City Attorney's Office. The City Attorney's Office commitment to the process became more formal and refined in early April 2009.

Recommendation #4, Page 21
City Administration should either follow or facilitate the updating of the City Charter and SDMC and to more accurately reflect the actual process as discussed above (so that they are consistent with current practice). Any updates should include reference to the role of relevant City departments who are responsible for completing background investigations as part of the Board applicant vetting process.

Response: The Mayor's Office could review a possible City Charter amendment in reference to the 45-day appointment guideline. However, no amendments are recommended for updates to the Housing Commission Municipal Code as it relates to the appointment or vetting process. The Director of Appointments to Boards & Commissions/Mayor's Office makes every effort to facilitate the Mayor's appointment of an applicant to a board or commission within a 45-day period; however, when the Mayor took office, the boards and commissions process was in a dire state of disarray and there was a backlog of several hundreds of appointments and reappointments from previous years that had not been implemented. Based on the circumstances, the Mayor's Office was unable to meet the 45-day appointment guideline as specified in the City Charter. In addition, the 45-day guideline was drafted during a time when a much smaller number of boards and commissions existed and there was no requirement to vet candidates.

Today, there are 46 active Boards and Commissions, and an extensive vetting process of applicants that has historically delayed the process for appointing members to boards and commissions. Due to the Mayor's commitment to remedy the backlog of the appointments/reappointments, the Mayor put staff in place to work as diligently and timely as possible to ensure the backlog of appointments/reappointments would occur, get back on

schedule, and up to date. To date, the Mayor has made more than 600 appointments and reappointments to city boards and commissions since taking office, and will be on time or ahead of schedule for many appointments/reappointments to boards and commissions in 2009 and future years.

Recommendation #5, Page 21
The online Board member roster should be regularly updated by City Administration and SDHC to accurately reflect the current confirmed members.

Response: The on-line roster for the Housing Commission is updated and maintained by the City Clerk's Office, and the Clerk's Office has typically been very responsive in updating the Housing Commission roster and all other rosters for boards and commissions when appointments/reappointments occur. Typically, the Clerk's Office updates the register within 1-3 business days. There may have been some confusion when Todd Gloria, who was serving as a Housing Commissioner in 2008, was elected as a Councilmember in November 2008, and a resignation notice was not yet on receipt with the Clerk's Office. It was determined that the letter had been sent to Housing Commission staff, but neither the Clerk's Office nor the Mayor's Office received the letter or notification that a letter had been submitted. The resignation letter was later received by the Mayor's Office and Clerk's Office in January 2009 and a replacement for Todd Gloria was identified and subsequently appointed to the Commission in March 2009. The Clerk's Office did update the roster in a timely manner upon the confirmation of the new replacement candidate in March 2009.

Recommendation #6, Page 21
SDHC management should facilitate the modification of SDMC §98.0301(f)(1) to indicate that "...commissioners appointed pursuant to this section shall be tenants of housing commission units or Section 8 rental assistance program voucher recipients.

Response: This recommendation applies to San Diego Housing Commission Management; however, the Mayor's Office concurs with this recommendation as this will help clarify and support efforts to identify appropriate tenants to serve on the Commission.

Recommendation #7, Page 22
City Administration should actively assess the status of the De Anza Harbor Resort funding and whether repayment should be expected and engage SDHC in the process as feasible, and take action as appropriate. This assessment would include a review of the status of the De Anza project and the funds utilized since being appropriated from SDHC. Furthermore, City public websites and any other referential material should be updated to accurately reflect current contact and project status information.

Response: Management agrees with the recommendation.
City Administration is unaware of any approval or transfer of funds from the Sludge Mitigation Fund to any De Anza related account. The balance in the De Anza Operating fund as of the end of FY09 was sufficient to cover the funds allocated from the SDHC in 2003 should it be determined that this money should be repaid. More than $1 million remains from the original allocation from SDHC. The City Attorney's Office has the responsibility of negotiating the settlement agreements with residents. Real Estate Assets processes paperwork for the payment of

the settlement. An updated status of the settlement matrix will be requested from the City Attorney's Office. Due to the litigation which is currently prohibiting any changes at the Park, an updated status on the litigation will be requested from the City Attorney's office. Real Estate Assets' web site is in the process of being updated and will include any necessary updates for any De Anza related information.

City Administration will actively assess the status of the De Anza Harbor Resort funding to determine the disposition of all funds utilized in this project. A determination will be made as to whether funds are owed or due to SDHC. This assessment and remediation of any possible De Anza Harbor Resort funding issues will be completed by the end of December 2009.

Recommendation #14, Page 30
City Administration and SDHC should finalize the fiscal year 2008 and 2009 CDBG service agreements as soon as possible. The City Administration should consider disbursing the CDBG program specific funding totaling $1,277,478 to SDHC upon receipt of adequate supporting documentation, and expediting the review and disbursement approval for the remaining $648,404.

Response:
Management agrees with this recommendation.
The CDBG administrative office received SDHC's final funding supporting documentation for the fiscal year 2008 agreement on June 26, 2009. This documentation includes expenditures that if determined to be eligible, will finalize the fiscal year 2008 service agreement between the City and SDHC. The CDBG administration will expedite SDHC's reimbursement upon execution of the final agreement.

At the request of the SDHC, CDBG administration has put SDHC's fiscal year 2009 service agreement on hold. SDHC requested that CDBG administration combine fiscal year 2009 and 2010 allocations into one agreement.

The CDBG administration and SDHC are coordinating efforts to finalize a timeline for the negotiation and execution of the fiscal year 2010 agreement.

Recommendation #15, Page 31
In collaboration with SDHC personnel, City Planning & Community Investment staff should clearly document the process and reporting expectations to facilitate the efficient and timely submission of reimbursement requests from SDHC. These should be in the form of formalized procedures or departmental guidelines.

Response:
Management agrees with this recommendation.
Since 2007, the CDBG administration has been providing application and contract workshops that has included the Housing Commission. These mandatory workshops have included details on reporting and record keeping requirements per U.S Department of Housing and Urban Development's (HUD) CDBG Playing by the Rules Handbook and other Federal Regulations. All CDBG sub-recipients, including SDHC were required to attend the workshop as a prerequisite to the City executing an agreement.

Additionally, the City has recognized that the contracting and reporting process for the CDBG Program is in need of further reform. In February 2009, the City hired a HUD-certified consultant (ICF Consulting) to develop management and monitoring plans which would address these issues. These plans are expected to be implemented during fiscal year 2010.

Recommendation #16, Page 32

As part of the negotiations and communications to clarify the documentation supporting reimbursement requests, SDHC and City Planning and Community Investment staff should assess and correct any documentation inaccuracies or inconsistencies. The contract with the outside consulting firm (ICF) should clearly outline these expectations to develop appropriate and comprehensive internal controls to monitor these types of funding activities.

Response:

Management agrees with this recommendation.

As stated in the response provided for Recommendation #15, the management and monitoring plans developed by ICF will clearly outline what is expected of sub-recipients. In addition, the CDBG administration will continue to work closely with SDHC staff to clearly communicate the required internal controls necessary for proper documentation and reporting.

cc: Honorable Mayor Jerry Sanders

City of San Diego

AUDIT REPORT

PERFORMANCE AUDIT OF THE SAN DIEGO HOUSING COMMISSION – PART II

July 29, 2009

Office of the City Auditor
Eduardo Luna, CIA, CGFM, City Auditor

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THE CITY OF SAN DIEGO

July 29, 2009

Honorable Mayor, City Council, and Audit Committee Members
City of San Diego, California

Attached is our report regarding our audit of the Affordable Housing Fund. This is the second and final report related to the performance audit of the San Diego Housing Commission. A separate report was issued previously to discuss San Diego Housing Commission's management and business practices and its relationship with the City of San Diego. Management's response to our audit report can be found attached. The audit staff responsible for this audit report was John Teevan, Tiffany Chung, and Kyle Elser.

We would like to thank the San Diego Housing Commission staff, as well as representatives from other City departments for their assistance and cooperation during this audit. We also would like to thank officials from other municipalities and other government agencies that participated in our audit. All of their valuable time and efforts spent on providing us information is greatly appreciated.

Respectfully submitted,

Eduardo Luna
City Auditor

cc: William Anderson, Director, City Planning and Community Investment
Kelly Broughton, Director, Development Services Department
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EXECUTIVE SUMMARY

The San Diego Housing Commission (SDHC) was established by the City of San Diego City Council in 1979 and is charged with helping to bridge the gap between the high cost of housing in the City of San Diego and the high percentage of low wage earners, helping to correct an imbalance that threatens the stability of our work force. Based on our performance audit, we found that the Housing Commission faces unique challenges related to the accounting for the Affordable Housing Fund, comprised of the Housing Trust Fund and Inclusionary Housing Fund, which needs to be improved and may not have been fully funded. We found that:

- Housing Trust Fund-related commercial linkage fees are outdated, substantially lower than comparable cities, and were not adjusted as required by the municipal code resulting in an estimated underfunding of $2.79 million for fiscal years 2006 through 2008;
- SDHC receipt of direct payments from developers is inconsistent with the municipal code;
- The City and SDHC reported, but did not reconcile, different fee revenue amounts;
- SDHC Inclusionary Housing Fund policies and regulations are inadequate or poorly defined;
- The City's Inclusionary Affordable Housing Regulations need to be updated; and,
- City and SDHC reporting, monitoring, and disbursements of Affordable Housing Fund revenues are fragmented and disjointed.

INTRODUCTION

The San Diego Housing Commission (SDHC) is an organization established by the City of San Diego City Council (City Council) in 1979 which is charged with helping to bridge the gap between the high cost of housing in the City of San Diego and the high percentage of low wage earners, helping to correct an imbalance that threatens the stability of our work force. The organization operates under the direction of a Board of Commissioners appointed by the Mayor and confirmed by City Council. This report focuses on the accounting and reporting related to the Affordable Housing Fund. This is the second and final report related to the performance audit of the San Diego Housing Commission. A separate report was issued at an earlier date to discuss San Diego Housing Commission's management and business practices and its relationship with the City of San Diego.

The City Auditor's Office thanks SDHC and City management and staff for giving their time, information, insight and cooperation during the audit process.

BACKGROUND

Established by the City Council in 1979, SDHC helps house more than 75,000 low-income San Diegans each year through a variety of programs. These include owning and managing approximately 1,800 housing units, providing rental assistance for more than 12,000 families and individuals, offering financial assistance for qualifying first-time homebuyers, and rendering both financial and technical assistance to low-income households whose older homes need rehabilitation.

In addition, SDHC collaborates with nearly 11,000 businesses and investors to provide affordable housing in return for tax credits and other incentives. The agency also works with nonprofit organizations to help them achieve the housing components of their programs. As a provider of innovative job training and educational programs for residents, SDHC not only helps house families, but provides learning opportunities for them so they can become self-sufficient and free of government assistance.

The Affordable Housing Fund

The Affordable Housing Fund (AHF) is a permanent, annually renewable source of funds to help meet the housing assistance needs of the City's very low, low and median income households. The City Council expressed this intent in San Diego Municipal Code (SDMC) §98.0501 - §98.0518. In general, the AHF's purposes are to:

- Meet a portion of the need for housing affordable to households with very low to median incomes;
- Leverage every one dollar of City funds with two dollars of non-City subsidy capital funds;
- Support the Balanced Communities Policy by fostering a mix of family incomes in projects assisted by the Fund and dispersing affordable housing projects throughout the City;
- Preserve and maintain renter and ownership of affordable housing; and,
- Encourage private sector activities that advance these goals.

The City of San Diego Annual Plan (Annual Plan) implements the City Council's intent by adopting an annual overall strategy for use of AHF moneys. Development of this Annual Plan is guided by SDHC's annual budget process, current Business Plan, and the Consolidated Annual Performance and Evaluation Report (CAPER), which is required by HUD. The flexibility of the AHF allows revenues to be spent on local needs, including transitional housing programs, housing rehabilitation loans and grants, and assists first-time home buyers to purchase homes in the City.

The AHF contains two main revenue accounts: the Housing Trust Fund (HTF) account and the Inclusionary Housing Fund (IHF) account. Revenues generated from commercial linkage fees, fees assessed on non-residential developments on a square foot basis, are deposited into the HTF. The City Council expressed this intent in SDMC §98.0501 - §98.0518. The IHF contains revenues generated from "in lieu" fees[1] paid by contractors who decide not to set aside 10 percent of their residential homes at affordable rates for modest income families, as required by SDMC §142.1301 - §142.1312.

SDHC generally receives payments (in the form of a paper bank check) from the City for each quarterly reporting period for AHF fee revenues collected. Prior to the latter part of fiscal year 2007, the City sent two quarterly checks, one for IHF fee revenues and one for HTF fee revenues. Starting with the April 2007 payment, the City had made it a standard practice of sending one quarterly check to SDHC which includes fee revenues collected for both HTF and IHF. Effective January 1, 2009, this practice has been discontinued and the City has reinstated separate payments for the HTF and IHF.

The following City departments have been identified as being involved in the different steps of the AHF processes, including their roles and responsibilities:

[1] The amount of the in lieu fee shall be the sum of the applicable per square foot charge multiplied by the aggregate gross floor area of all of the units within the development.

- *Development Services Department (DSD):* In lieu fees related to the IHF are assessed by DSD before applications are approved. All fees for the AHF as a whole are collected at DSD for SDHC at the time when building permits are issued to non-residential (for the HTF) and residential (for the IHF) developers;
- *Facilities Financing (City Planning & Community Investment Department):* Assesses HTF fees before applications are approved;
- *Treasurer's Office:* Receives deposits from DSD and records deposits by fund name (e.g. HTF, IHF) and subaccount (i.e. by Community Plan Area in the case of IHF fee revenues);
- *Comptroller's Office:* Reviews AHF funding balances and then prepares disbursements and fund reporting to SDHC.

Appendices B and C which were both prepared by city audit staff have been included to outline the flow of processes related to fee collections, reporting and disbursements for the HTF and IHF, respectively.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

At the request of the Mayor and the Chair of the City's Audit Committee, the City Auditor included a performance audit of the San Diego Housing Commission (SDHC) as part of the City Auditor's Fiscal Year 2009 Audit Work Plan. According to the City Auditor's Citywide Risk Assessment completed in July 2008, SDHC ranked 69 out of a possible 458 by the City Auditor as posing a risk to the City based on factors including budget and staff size.

To accomplish our objectives related to SDHC-related affordable housing funding sources, we performed the following audit procedures:

- Reviewed pertinent regulations, laws, and policies related to SDHC programs, operations and related activities;
- Identified, collected, and analyzed financial information and reports related to SDHC operations;
- Reviewed minutes of the Board of Commissioners and San Diego Housing Authority for topics discussed and / or actions taken;
- Interviewed SDHC management and other personnel as well as other City staff related to programs, operations and related reporting;
- Evaluated administrative policies and procedures related to SDHC business practices and programs;
- Reviewed recent financial statement and single audits performed by external auditors;
- Contacted and surveyed housing authorities and commissions from other municipalities and agencies to compare governance, organizational structure, purpose and other comparable information.

We evaluated internal controls related to the audit objectives. Our conclusions on the effectiveness of these controls are detailed within the following audit results.

We focused our audit plan on five SDHC areas of responsibility, including executive compensation, governance, the Affordable Housing Fund, CDBG funding and the New Development projects (related to the HUD Public Housing Disposition). As disclosed earlier, this report focuses solely on the area of the Affordable Housing Fund. Additional findings and recommendations for our performance audit of SDHC can been viewed in the previously released SDHC report. We limited our review of SDHC services primarily to fiscal years 2006 through 2008. Current year financial information was reviewed to gain perspective on the current operating and reporting practices of SDHC.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate

evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT RESULTS

Affordable Housing Fund Accounting Issues Need Immediate Attention

We found that the accounting for the Affordable Housing Fund (AHF), comprised of the Housing Trust Fund (HTF) and Inclusionary Housing Fund (IHF), needs to be improved and may not have been fully funded. We found the following:

- HTF-related commercial linkage fees are outdated, substantially lower than comparable cities, and were not adjusted as required by the municipal code resulting in an estimated underfunding of $2.79 million for fiscal years 2006 through 2008;
- SDHC receipt of direct payments from developers is inconsistent with the municipal code;
- The City and SDHC reported, but did not reconcile, different fee revenue amounts;
- SDHC IHF policies and regulations are inadequate or poorly defined;
- The City's Inclusionary Affordable Housing Regulations need to be updated; and,
- City and SDHC reporting, monitoring, and disbursements of AHF revenues are fragmented and disjointed.

The above audit observations have had a significant negative financial impact on the SDHC mission to provide quality housing opportunities to improve the lives of those in need and the SDHC vision for an affordable home for every San Diegan. The underfunding of the AHF restricts SDHC's capacity to provide more quality housing to the City's most vulnerable population and limits the agency's ability to leverage AHF funds with other government and community resources to create more housing and economic opportunities for residents and builders alike.

Housing Trust Fund Commercial Linkage Fees Are Outdated and Substantially Lower Than Comparable Cities

Our review of commercial linkage fees charged by the City revealed that the City's commercial linkage fee schedule has not been updated since 1996. Furthermore, we found that the current development fee schedule published by the City's Planning and Community Investment Department has the same outdated fee schedule for commercial linkage (City Planning and Community Investment Facilities Financing, 2008). As a result, the City has underfunded the HTF due to the ongoing use of outdated housing impact fees, resulting in unrealized revenue. We estimated the 1996 fees in the SDMC would be increased by approximately 41% when

updated through 2008, representing approximately $2.79 million in fees otherwise unrealized from or not charged to developers between fiscal years 2006 through 2008[2].

Revisions to Appendix A of SDMC §98.0618 indicates: "The fees set forth in Appendix A **shall be revised effective March 1 of each year** by the percentage increase or decrease in the building cost Index of the Cost Indices for Twenty Cities published by M.C. McGraw–Hill, Inc. or its successor for the twelve–month period ending January 1 of each year. The Commission, in consultation with the City Engineer shall prepare a recommendation to the Council for such revision on an annual basis." Appendix A of SDMC §98.0618 includes the following rates as shown in Table 1. These rates were made effective July 1, 1996:

Table 1:
Housing Trust Fund Commercial Linkage Fee, SDMC §98.0618, Appendix A

Type of Use	Fee/Building Square Foot
Office	$1.06
Hotel	$0.64
Research and Development	$0.80
Retail	$0.64
Manufacturing	$0.64
Warehouse	$0.27

As it relates to the City Engineer's role in providing HTF fee adjustment consultation to SDHC, we found that the City's Development Service Department does not coordinate with SDHC to adjust HTF fees based on the building cost "Index of the Cost Indices for Twenty Cities" published by M.C. McGraw–Hill, Inc. as directed by the SDMC.

Moreover, the SDMC does not accurately document the responsibility for the collection and maintenance of the HTF fees by the Comptroller in a specific subaccount after collection by the City. This could result in ineffective processing of transactions since these processes are not formally documented as noted separately.

SDHC and City personnel have not actively coordinated the update of these fees as prescribed by the municipal code on a regular basis. The most recent documented attempt by SDHC to update these linkage fees occurred in May 2005. At that time, SDHC personnel presented recommendations on an information only basis to the Land Use & Housing Committee (LU&H)

[2] We noted that there was litigation, *Building Industry Association of San Diego County, Inc., v. City of San Diego*, Superior Court Case No. GIC 817064, which was settled in 2006, which dealt with the inclusionary "in lieu" fees charged by the City. As a result, it would not appear to be directly related to the Housing Trust Fund linkage fees.

of the San Diego City Council, and additional analyses were requested from members of LU&H. The requested analyses were completed, but no subsequent opportunities were made available to discuss this issue further at LU&H.[3] We found no evidence that City personnel followed up on this issue, and, as a result, these fees were not updated.

San Diego Commercial Linkage Fees are Low Compared to Other Municipal Jurisdictions

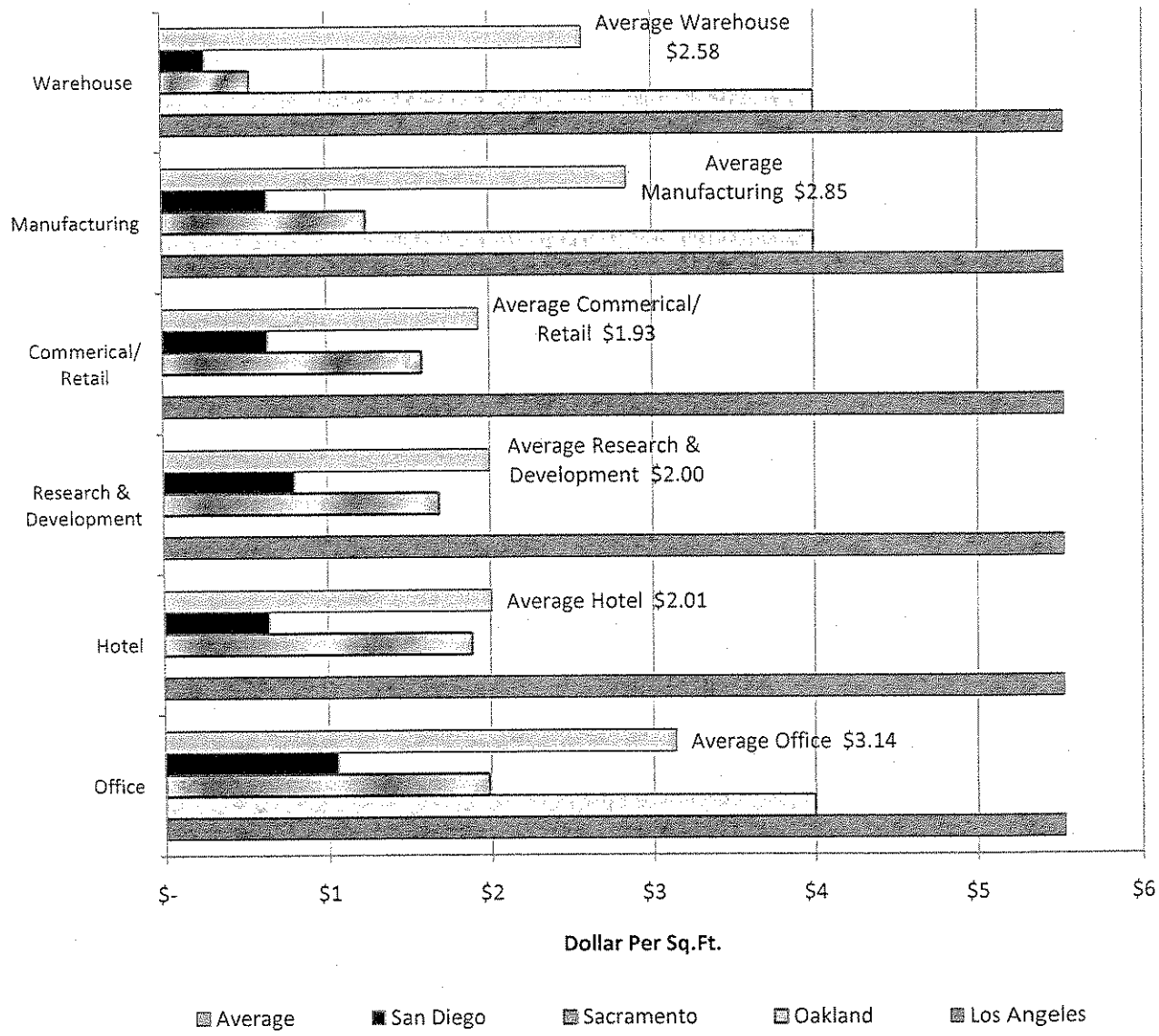
From our analysis of commercial linkage fees assessed by a sample of comparable cities[4] in California (see Figure 1), we found that the City of San Diego's linkage fees for all use types were substantially lower, in some cases up to 195% lower than the second lowest fee in our list of sample cities.

Figure 1 is a chart which summarizes the comparative linkage fee data considered.

[3] Per the Housing Commission Board report HCR05-62 dated June 29, 2005, SDHC staff indicated that "Representatives of the Building Industry Association (BIA) suggested the city should continue to utilize the Twenty Cities [Indices], also known as the Engineering News-Record (ENR), cited in the 1990 Housing Trust Fund ordinance. As stated earlier, the Planning Commission also recommends the use of the ENR."

[4] The cities included in the sample possessed similar population demographics and economic characteristics to the City of San Diego.

Figure 1:
Comparison of San Diego Linkage Fees to Comparable Cities by Building Type



Source: Auditor prepared [5]

[5] The City of San Francisco was excluded from these analyses since their fees were determined to be far in excess of the other cities reviewed, including the City of Los Angeles (Los Angeles), and would statistically skew the results. The City of San Jose was also excluded since they do not assess these types of fees. Furthermore, the amounts included for Los Angeles only represents the "Central City West Project Area", since this is the only project area in Los Angeles with this type of linkage fee assessed on non-residential developers. Finally, the amounts included for the City of Sacramento represent the general fees for that city and do not include the fees applied to the project area of North Natomas.

Recommendations:

1) SDHC, in collaboration with City Administration, should perform a review of the Housing Impact Fee schedule, and assess reasonableness and consistency with SDMC §98.0618. The fees should be updated through 2009 to be consistent with the SDMC. If the updates are not practical or feasible, the communication of the current intent to request updates through City Council should be clearly documented and retained by both the City Administration and SDHC;
2) SDHC, in collaboration with City Administration, should develop and implement procedures so that Housing Impact Fee updates are recalculated March 1 of each year by the appropriate percentage increase or decrease as indicated in the SDMC and prepare a recommendation to the City Council for such revision on an annual basis. If the updates are not accepted or processed by the City Council, the annual communication of the requested updates through City Council should be clearly documented and retained. If the SDMC will not be followed, then it should be amended to reflect the current fee expectations in relation to the Housing Trust Fund, a change that would require City Council action to amend the SDMC;
3) City Administration should facilitate the update of the SDMC to accurately reflect the current process for the collection and maintenance of the Housing Trust Fund fees by the Comptroller in a specific subaccount after collection by the City.

The Receipt of Direct Payments to the Housing Commission from Developers is Inconsistent with the Municipal Code

Historically, SDHC has accepted direct payments of IHF fees from developers. Although no policy was found that directly prohibits this practice, SDHC's collection of IHF fees directly from developers can be interpreted as a violation of SDMC §98.0502. Based on the information provided by SDHC, 28 payments totaling $1,939,557 in IHF transactions were received directly from developers between fiscal years 2006 and 2008. These include 24 payments totaling $1,792,122 (and a refund of $12,800) in fiscal year 2006, two payments totaling $58,331 in fiscal year 2007 and two payments totaling $89,104 in fiscal year 2008. Furthermore, Coastal Affordable Housing Replacement Program fees (Coastal) transactions were also processed through the IHF accounts maintained by both the City and SDHC. The $12,800 Coastal fee incorrectly paid to the City was transferred out in fiscal year 2006 and two Coastal payments totaling $188,000 that were incorrectly paid to the City in fiscal year 2006 were subsequently transferred out in fiscal year 2007.

SDMC §98.0502(a) states "The Affordable Housing Fund shall consist of funds derived from the commercial development linkage fees **paid to the City** pursuant to Chapter 9, Division 6, Article 8 of the SDMC; revenues from the Transient Occupancy Tax as provided in Section 35.0128 of the SDMC; funds derived from in lieu fees **paid to the City** pursuant to Chapter 14, Article 2, Division 13; revenues received from the use of a shared-equity program pursuant to Section

142.1309(e) of the SDMC; and any other appropriations as determined from time to time by legislative action of the City Council."

Further, SDMC §98.0502(a) also states that "The Affordable Housing Fund **shall be administered by** the San Diego Housing Commission pursuant to the provisions of this Division, the appropriation ordinances and Council policies applicable thereto."

The only apparent SDHC policy related to either the IHF or HTF, jointly representing the AHF, is "Commission Responsibilities Related to the Housing Trust Fund" policy number PO300.501 which indicates in Section 2.1 that "The Commission shall be responsible for oversight and support of the Housing Trust Fund and its Board of Trustees in accordance with the provisions of this policy, Ordinance Number 0-17454, and Resolution Number R-275565." Of note, both City Ordinance 0-17454 and Resolution R-275565 establish the current language in Article 8 Division 5 of the SDMC pertaining to the San Diego Housing Trust Fund. This policy does not include any specific reference to direct payments.

Allowing developers to make payments directly to the SDHC bypasses the City's internal controls and related processes, and can result in additional ongoing differences in reporting between the SDHC and City recorded amounts. Since SDHC is the City's primary provider of affordable housing, it is imperative that the City be able to account for affordable housing funds and related services to ensure that SDHC complies with the SDMC and affordable housing regulations. Direct payments of AHF to SDHC by developers creates a difficulty for the City to accurately account for how much City fee revenue is collected and, ultimately, how much affordable housing and related services the people of San Diego should anticipate receiving.

The receipt of payments by SDHC directly from developers has resulted from the inconsistent application of the expectation of the SDMC for fees to be paid to the City and not to SDHC.

Recommendations:

4) SDHC personnel should immediately discontinue the practice of receiving payments directly from developers. Any future attempted payments of that type should be directed to the City DSD;
5) SDHC should develop additional policy and departmental guidance to detail the process and documentation requirements in relation to the Affordable Housing Fund (inclusive of both the Housing Trust Fund and Inclusionary Housing Fund), which would include reference to the proper handling of direct payments from developers and the timely reconciliation of Affordable Housing Fund funds to include comparing City-provided periodic reporting to actual payments received on a quarterly or annual basis;
6) The SDHC Policy "Commission Responsibilities Related to the Housing Trust Fund" (PO300.501) should be updated as needed to accurately reflect the current process including

a prohibition against the receipt of direct payments from developers and the reporting relationship with the City, as applicable;

The City and SDHC Report Different Amounts of Fee Revenues

Neither the City nor SDHC have reconciled AHF revenues. To assess the accuracy of AHF revenue collection, remittance amounts and process, we attempted to reconcile the IHF and HTF fee revenue collections by the City with the fee revenues SDHC reported receiving from the City. We found a net discrepancy of approximately $1.3 million between those amounts reported by the City and SDHC between fiscal years 2006 and 2008. The IHF fee discrepancies we observed are summarized below in Table 2:

Table 2:
Summary Comparison of City and SDHC Inclusionary Housing Fund In Lieu Fee Reporting

Fiscal Year	Total Per City	Total Per SDHC	Difference
2006	$6,896,254	$8,589,727	$1,693,473
2007	$4,656,105	$4,549,880	($ 106,225)
2008	$3,451,263	$3,202,676	($ 248,587)
Totals	$15,003,622	$16,342,283	$1,338,661

Note: Fiscal year totals do not include interest earned on the IHF fee revenue accounts. The standard practice is for interest to be included in disbursements from the City to SDHC.

Source: Auditor generated from City Comptroller Simpler financial data and SDHC fee reporting.

The "Total per SDHC" amounts include payments received directly from developers to SDHC. In order to properly estimate the amount of difference between City and SDHC, the net overall direct payment for the three fiscal years – $1,738,757 – was deducted from the total for SDHC, resulting in an overall difference of $400,096 (City reporting in excess of SDHC amounts received). This remaining difference includes the following:

1) a payment of $12,800 paid out directly by SDHC in fiscal year 2006 from this fund for a refund of Coastal fees (unrelated to the IHF) incorrectly received by the City;
2) payments totaling $188,000 paid out directly by SDHC in fiscal year 2007 from this fund for refunds of Coastal fees (unrelated to the IHF) of $188,000 incorrectly received in fiscal year 2006 by the City.

In comparison, the commercial linkage fees accounted for within the HTF exhibited a difference of $3,373 for the $8,991,518 (or .03%) in excess received by SDHC from the City for the same period.

SDMC §98.0503(b) indicates that "The City's Annual Appropriation Ordinance shall provide for the transfer of designated funds to the Affordable Housing Fund. Transfers shall be made quarterly or upon direction of the City Manager."

The "Internal Controls Procedures" prepared by the SDHC finance department indicates that "accounting controls are a set of procedures designed to promote and protect effective and efficient financial management practices. Following these procedures will significantly increase the likelihood that financial information is reliable."

Moreover, the elements of a comprehensive framework of internal control include, but are not limited to, the following: 1) design, implementation and maintenance of control-related policies and procedures; 2) effective communication of information and ongoing monitoring of the effectiveness of control-related policies and procedures; 3) resolution of any potential problems identified (Gauthier, 2005, p.382).

Inadequately performed reconciliations of financial information can result in inappropriate disbursements and related reporting and, subsequently, ineffective or inappropriate business decisions. Moreover, inaccurate financial information makes it increasingly challenging to identify specific areas of weakness and to uphold accountability, especially when many parties are involved.

These effects may be mitigated by having formal processes and procedures in place that give guidance to the current and best practice of preparing financial disbursements and reports. To date, however, complete processes and procedures have not been developed and implemented for the timely reconciliation of AHF funding amounts at SDHC and the City.

Recommendation:

7) City Administration and SDHC personnel should reconcile the current differences in historical reported amounts for Inclusionary Housing Fund funding. If warranted, disbursement to or from SDHC or the City should be made to settle any outstanding payment discrepancies. Procedures should be established to perform this reconciliation at least annually.

SDHC Policies Related to the Affordable Housing Fund Need to be Improved

As noted earlier, SDHC has one formalized policy that relates to AHF: PO300.501. This policy focuses solely on HTF; SDHC does not have a formal policy on IHF.

Two key requirements from the SDMC[6] that are not included in PO300.501 are statements about SDHC's responsibility to account for and report separately the HTF in the San Diego Housing Commission's annual audited financial report and that such funds shall be audited for compliance with the AHF Ordinances and any related policies and regulations. SDHC has not been in compliance with either of these requirements to date.

Of note, an essential element of a comprehensive framework of internal control is monitoring, which should include the verification by management that policies and procedures have been "updated to adequately address new challenges identified as the result of the government's ongoing risk-assessment process." (Gauthier, 2005, p.387) As such, policies and procedures should be formalized to document expectations related to both the IHF **and** the HTF.

Undocumented policies and related internal controls and processes can result in unclear roles and responsibilities and ineffective business transactions.

SDHC policies have not been established in relation to the IHF. Also, the responsibility to account for and report separately on the HTF on the audited financial statements as well as fund compliance auditing has not been included in PO300.501. Moreover, these requirements have not been actively fulfilled in the preparation of SDHC's annual audited financial statements.

Recommendation:

8) A new SDHC policy should be drafted, approved and implemented to accurately reflect the SDHC "Responsibilities Related to the Inclusionary Housing Fund" (similar to PO300.501 and including any updates thereof);
9) The existing policy PO300.501 (and the new Inclusionary Housing Fund policy recommended separately) should be updated to include the requirements to account for and report separately both the Inclusionary Housing Fund and the Housing Trust Fund in the audited financial statements as well as the audit for compliance with the AHF Ordinances and any related policies and regulations;

[6] SDMC §98.0515(b) indicates that SDHC "shall maintain and report within their accounts a separate Affordable Housing Fund and the subsidy funds of the Housing Trust Fund, the Inclusionary Housing Fund, and any other required related subsidiary funds for all related financing transferred from the City and any related income. Such funds shall be accounted for and reported separately on the San Diego Housing Commission's annual audited financial report, and such funds shall be audited for compliance with the Affordable Housing Fund Ordinance, Inclusionary Housing Ordinance, and related policies and regulations."

10) The requirements to account for and report separately both the Inclusionary Housing Fund and the Housing Trust Fund in the audited financial statements as well as the audit for compliance with the AHF Ordinances and any related policies and regulations should be implemented for the fiscal year 2009 and future annual audits.

The City's Inclusionary Affordable Housing Regulations Need to be Updated

Our audit revealed that, although the IHF fees have been updated regularly consistent with SDMC §142.1310(e), the SDMC has not been updated to reflect the changes in fees. Instead, the updated fees are published in the publically available "Information Regarding Inclusionary Housing" newsletter by DSD (City Development Services Department, 2008). However, reference to that newsletter or the City department responsible for that update (or any other related reference documentation) is not included in the above SDMC.

Another essential element of a comprehensive framework of internal control is communication which "can take various forms, from policy memos and formally documented procedures, to highly informal oral updates." Furthermore, "it is very important that governments maintain open lines of communication with appropriate outside parties" (Gauthier, 2005, p.386).

Developers or other interested parties may not be adequately informed of the current rates due to the lack of appropriate, timely referential material available in the SDMC.

SDHC and City Administration have not actively coordinated the update of the SDMC to reflect the updated fees and / or a reference to how the new fees can be obtained. It should also be noted that the municipal code is ambiguous about where officially updated fees can be found and the entity ultimately responsible for ensuring that updates are conducted and appropriately recorded.

Recommendation:

11) SDHC and City Administration should review SDMC §142.1310(e) and have the applicable SDMC sections updated to reflect the current fees or make reference to the source document or department for the updated fees, a change that would require City Council action.

Controls over the Transfer of Affordable Housing Funds Can Be Improved

As illustrated in Appendices B and C, our audit revealed that the reporting and disbursements made in relation to collected AHF fee revenues are fragmented and unaligned between various City departments, including the Comptroller, Facilities Financing and DSD. Each of these departments submit fee revenue information to SDHC that differ in fee type, amount of fee revenues collected, and timeframe in which fee revenues were collected. Facilities Financing and DSD generate quarterly HTF and IHF fee revenue reports, respectively. The Comptroller produces periodic AHF fee revenue reports which are used to determine the total AHF revenue to remit to SDHC. The quarterly and periodic reporting directly to SDHC from each department is performed independently. The different fee types, fee revenue amounts, and collection timeframes reported by each department creates fragmented and unaligned communication about HTF, IHF, and AHF, collectively.

For instance, instead of forwarding quarterly reports to the Comptroller for reconciliation between available revenue and subsequent disbursement to SDHC, Facilities Financing and DSD send quarterly information to SDHC. Independent of that reporting, and on occasion prompted or otherwise urged by inquiries or communications directly from SDHC, the Comptroller reviews the funding in and prepares a consolidated transfer from the HTF and IHF to SDHC.

Furthermore, there is a lack of clear process documentation including procedures and communication standards related to AHF transfers from the City to SDHC. Our review of these transfers shows that the City does not remit AHF revenues to SDHC on a consistent quarterly basis[7], nor did the City process these transfers in a timely manner. Between fiscal year 2006 and 2008, the City remitted 15 transfers to SDHC for AHF fee revenues collected. Of the 15 transfers reviewed, 14 transfers were sent to SDHC late[8] and six of the 14 late transfers were paid over 25 business days late. Based on our discussion with SDHC personnel and review of documentation, transfers have often been facilitated by repeated reminders from SDHC.

The U.S. General Accounting Office (1999) internal control standards explain that appropriate documentation of transactions and internal control requires "internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained" (p.15).

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[7] SDMC §98.0503(b) indicates "Transfers shall be made quarterly or upon direction of the City Manager."

[8] Our audit assumed that the City would remit transfers to SDHC within 10 business days after the period end date noted on supporting documentation obtained from the Comptroller's Office.

In general, the elements of a comprehensive framework of internal control includes, but is not limited to, the design, implementation and maintenance of control-related policies and procedures, effective communication of information and ongoing monitoring of the effectiveness of control-related policies and procedures, as well as the resolution of any potential problems identified (Gauthier, 2005, p.382).

City departments involved in this process have historically operated independently of one another without consideration for the unification or streamlining of processes, resulting in less than efficient or effective communications, reporting and disbursements to SDHC. Mutually agreed-upon goals and expectations for the timing of the transfers from the AHF funds have not been clearly established and formalized. Furthermore, process and internal control documentation related to AHF funding and reporting, including timing of transfers, have not been formalized.

Disjointed processes and communications can result in untimely transfers and related reporting. This could also lead to ineffective business decisions being made. Additionally, poor communication among city departments creates redundancies that can become costly to the City both financially and in terms of public trust.

Recommendation:

12) City Administration should draft, approve and implement departmental guidelines (across multiple departments as needed) to accurately identify and document the process roles and responsibilities for City departments, including the Treasurer, Comptroller, Facilities Financing and Development Services Department (DSD) in Affordable Housing Fund - related processes. These processes should include the reporting of quarterly and annual Housing Trust Fund and Inclusionary Housing Fund activity by Facilities Financing and DSD to SDHC and the Comptroller. The Comptroller should reconcile fund levels and make disbursements based upon mutually agreed upon amounts from that reporting on a consistent and timely basis.

REFERENCES

City Development Services. (2008). *Information regarding inclusionary housing*. Retrieved Jan. 1, 2009, from http://www.sandiego.gov/development-services/industry/pdf/infobulletin/ib532.pdf

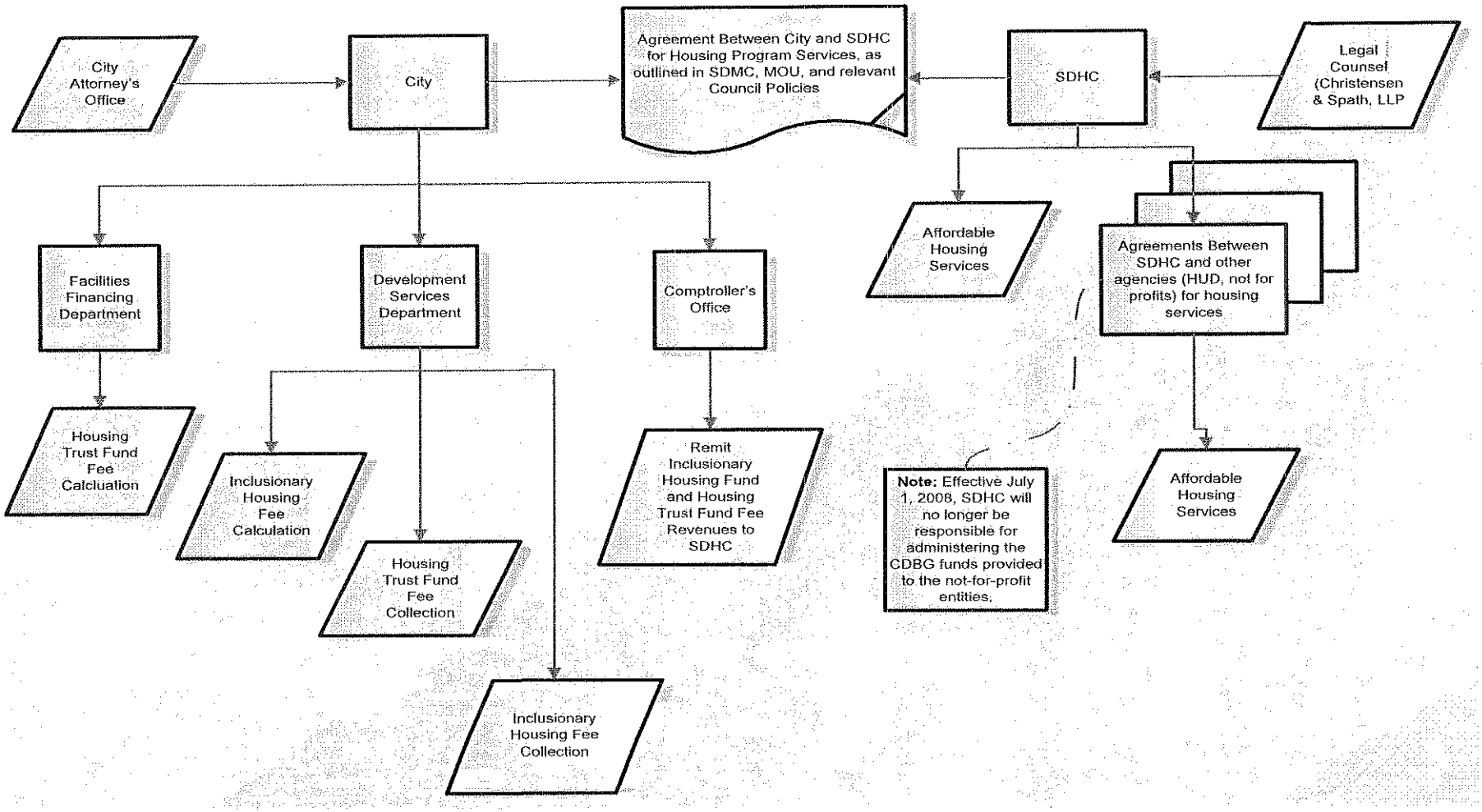
City Planning and Community Investment, (2008). *Facilities financing section: Development fees*. Retrieved Jan. 1, 2009, from http://www.sandiego.gov/planning/facilitiesfinancing/pdf/feeschedule.pdf

Gauthier, S.J. (2005). *Governmental accounting, auditing, and financial reporting*. Chicago, IL: Government Finance Officers Association.

U.S. General Accounting Office. (1999, November). *Standards of internal control in federal government* (Publication No. GAO/AIMD 00-21.3.1). Retrieved January 1, 2009, from http://www.gao.gov/special.pubs/ai00021p.pdf

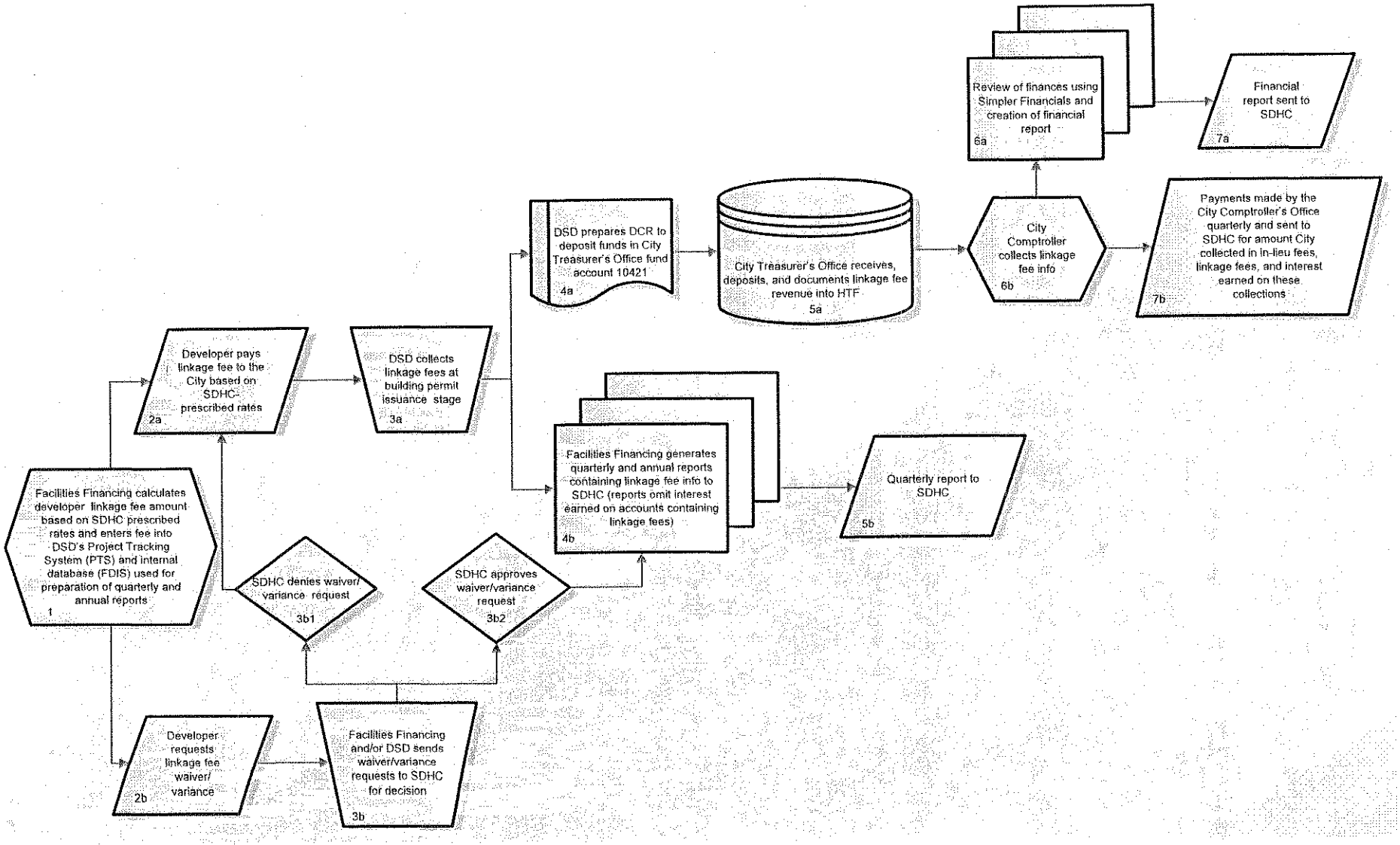
APPENDICES

Appendix A: City of San Diego and SDHC Nexus for Housing Activities

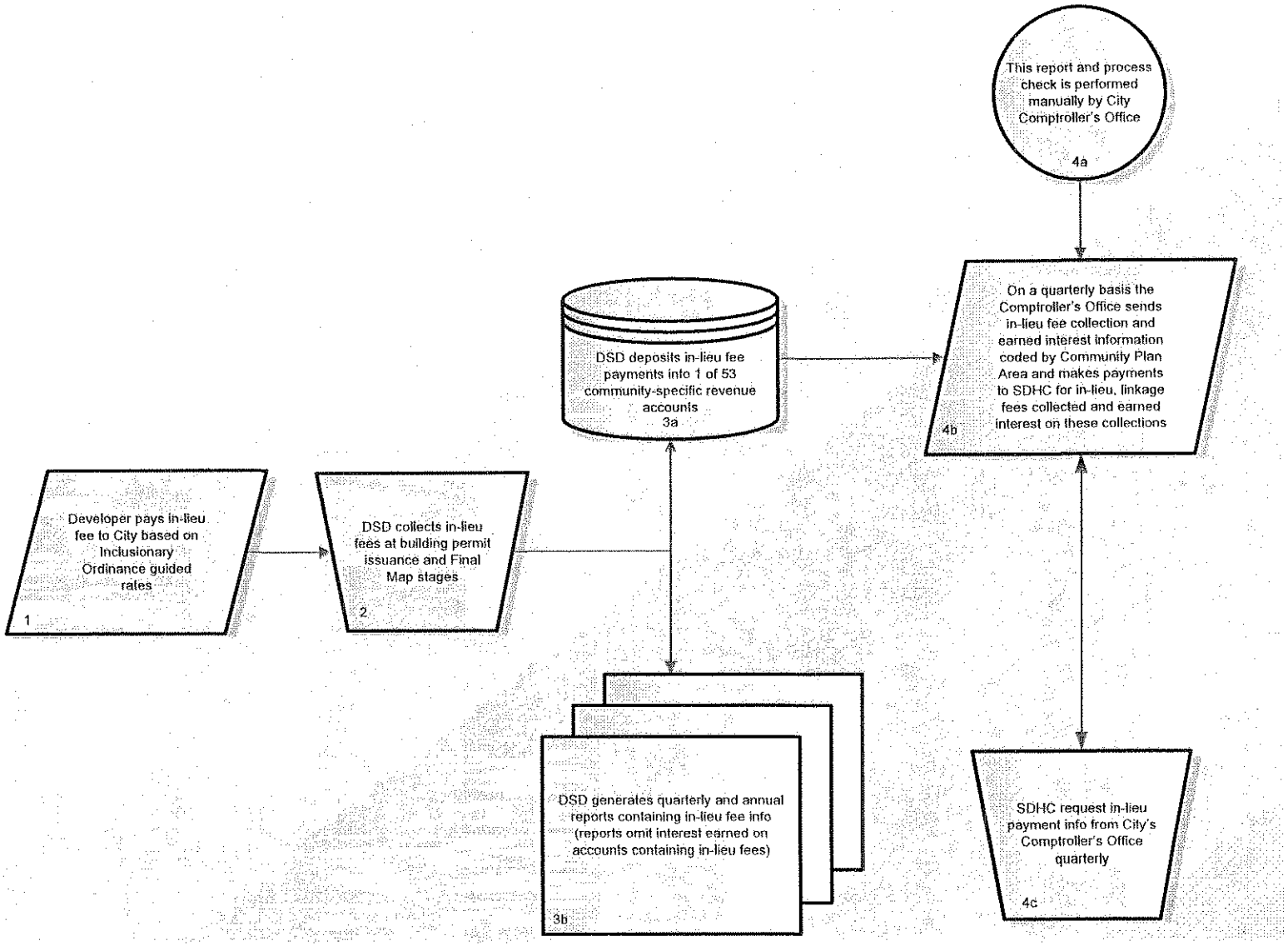


Source: Auditor generated based on conversations with City and SDHC staff.

Appendix B: Housing Trust Fund Linkage Fee Collection Process



Appendix C: Inclusionary Housing Fund In Lieu Fee Collection Process



San Diego
HOUSING COMMISSION

July 23, 2009

Mr. Eduardo Luna
City Auditor
Office of the City Auditor
1010 Second Avenue, Suite 1400
San Diego, California 92101

Ref: Response to City Auditor's Report on Audit of Affordable Housing Fund

Dear Mr. Luna:

Thank you for the opportunity to provide a response to the Audit Report prepared by your office. This response will address each of the recommendations in the report as well as an estimate of when appropriate actions will be completed. We are proposing aggressive time schedules for the completion of these actions. In those cases where we will need to work with City Administration and staff, we will endeavor to meet the proposed time schedules; however, these schedules may change based on City availability to work with the Housing Commission as noted.

We would like to thank your staff, particularly John Teevan and Tiffany Chung, for their professionalism and cooperation in the performance of this audit. This report provided an opportunity for the Housing Commission to review its internal processes and procedures and to improve the administration of this important resource.

We look forward to working with your office in the future as we pursue implementation of the actions proposed.

Respectfully submitted,

Carrol M. Vaughan
Executive Vice President &
Chief Operating Officer

Cc: Richard C. Gentry, President & CEO, SDHC
Charles B. Christensen, General Counsel, SDHC
Andrea Dixon, City Attorney's Office
SDHC Vice Presidents

Response to City Auitor's Report on Audit of San Diego Housing Commission's Management and Business Practices – Part II: Affordable Housing Fund

Introduction

The Affordable Housing Fund (AHF) includes both the Housing Trust Fund revenue and revenues from the Inclusionary Housing Fund. The Housing Trust Fund (HTF) was established by the City Council in 1989 and is funded only by the commercial linkage fee. The Inclusionary Housing Ordinance was adopted by the City Council in 2003 and the in lieu housing fee is the only source of funding for the Inclusionary Housing Fund (IHF). As noted in the report, the Housing Commission was given primary responsibility for management and utilization of these important resources for the development of additional affordable housing and related services in the City of San Diego.

To date, these combined resources have produced over 18,500 units of affordable housing opportunities for San Diego residents. These opportunities include:

- 6,389 rental units
- 914 homebuyers
- 1,958 homes rehabilitated
- 9,032 transitional housing beds
- 139 pre development loans
- 9 Target of Opportunity grants
- 95 mobile home space purchases

Significant documentation is available to demonstrate that attempts have been made to clarify and update the processes and procedures regarding the Affordable Housing Fund. While some progress has been made, it is clear that a less bureaucratic process would be in the best interests of the City, the Housing Commission and the residents served by these resources.

Audit Recommendations and Responses

Housing Trust Fund Commercial Linkage Fees are Outdated and Substantially Lower than Comparable Cities

Recommendations:

1) SDHC, in collaboration with City Administration, should perform a review of the Housing Impact Fee schedule, and assess reasonableness and consistency with SDMC §98.0618. The fees should be updated through 2009 to be consistent with the SDMC. If the updates are not practical or feasible, the communication of the current intent to request updates through City Council should be clearly documented and retained by both the City Administration and SDHC;

2) SDHC, in collaboration with City Administration, should develop and implement procedures so that Housing Impact Fee updates are recalculated March 1 of each year by the appropriate

percentage increase or decrease as indicated in the SDMC and prepare a recommendation to the City Council for such revision on an annual basis. If the updates are not accepted or processed by the City Council, the annual communication of the requested updates through City Council should be clearly documented and retained. If the SDMC will not be followed, then it should be amended to reflect the current fee expectations in relation to the Housing Trust Fund, a change that would require City Council action to amend the SDMC;

3) City Administration should facilitate the update of the SDMC to accurately reflect the current process for the collection and maintenance of the Housing Trust Fund fees by the Comptroller in a specific subaccount after collection by the City

Responses:

1. As noted in the report, the commercial linkage fee schedule has not been updated since 1996. In June 1996 the City Council approved a recommendation from the Land Use & Housing Committee to reduce the Commercial Development Linkage Fee by 50% (beginning July 1, 1996). The discussion preceding the reduction in the fee centered around the Linkage Fee being a very strong disincentive to attracting high wage jobs into the City of San Diego.

   Following the decision to reduce the fee, there was little interest in updating the fees as prescribed in the municipal code. The Housing Commission did have the nexus study updated and presented recommendations to the Land Use & Housing Committee in 2005. However, at that time it was decided to hold the recommendations until the City Council had an opportunity to address several major issues facing the City at that time. The Housing Commission did not bring this issue forward in subsequent years.

   The Housing Commission will collaborate with City Administration and the City Attorney's office to review SDMC 98.0618 and determine if the Linkage Fee should be updated or if the municipal code should be revised.

2. Once it is determined if the municipal code should be revised, the Housing Commission staff will work with City Administration to develop and implement procedures so that fees are reviewed and updated in accordance with the revised municipal code. If the code will not be revised, SDHC will prepare annual fee recommendations for the City Council's consideration and will implement as approved.

3. Following City Administration's updating of the municipal code to reflect the current process to collect and maintain HTF fees, the Housing Commission will review and update internal policies, if necessary, to reflect the changes to the code.

   All contact with City Administration and the City Attorney's office will be documented and retained for historical reference.

Time for Completion: June 2010

The Receipt of Direct Payments to the Housing Commission from Developers is Inconsistent with the Municipal Code

Recommendations:

4) SDHC personnel should immediately discontinue the practice of receiving payments directly from developers. Any future attempted payments of that type should be directed to the City DSD;

5) SDHC should develop additional policy and departmental guidance to detail the process and documentation requirements in relation to the Affordable Housing Fund (inclusive of both the Housing Trust Fund and Inclusionary Housing Fund), which would include reference to the proper handling of direct payments from developers and the timely reconciliation of Affordable Housing Fund funds to include comparing City-provided periodic reporting to actual payments received on a quarterly or annual basis;

6) The SDHC Policy "Commission Responsibilities Related to the Housing Trust Fund" (PO300.501) should be updated as needed to accurately reflect the current process including a prohibition against the receipt of direct payments from developers and the reporting relationship with the City, as applicable.

Responses:

4. The Housing Commission discontinued taking receipt of payments directly from developers upon receipt of the audit report and will direct any future attempted payments to DSD. **Time for Completion: Completed**

5. & 6. Housing Commission staff will revise the current policy (PO300.501) and procedures to prohibit receipt of direct payments from developers and provide specific guidance on the handling of direct payments. The Housing Commission reconciles City reports on the fee payments on a quarterly basis. This practice will be incorporated into the policy and procedures noted above. **Time for Completion: January 2010**

The City & SDHC Report Different Amounts of Fee Revenues

Recommendation:

7) City Administration and SDHC personnel should reconcile the current differences in historical reported amounts for Inclusionary Housing Fund funding. If warranted, disbursement to or from SDHC or the City should be made to settle any outstanding payment discrepancies. Procedures should be established to perform this reconciliation at least annually.

Response:

7. Housing Commission staff will work with City staff in the Comptroller's office and other appropriate City departments to reconcile the reported amounts for the Inclusionary Housing Fund. If necessary, the Housing Commission will prepare a billing to the City for amounts that have not been received by the Housing Commission.

As part of the revised procedures, the Housing Commission will request a report of payments from the City on a semi-annual basis to ensure up to date and accurate collection of these funds. **Time for Completion: January 2010**

SDHC Policies Related to the Affordable Housing Fund Need to be Improved

Recommendation:

8) A new SDHC policy should be drafted, approved and implemented to accurately reflect the SDHC "Responsibilities Related to the Inclusionary Housing Fund" (similar to PO300.501 and including any updates thereof);

9) The existing policy PO300.501 (and the new Inclusionary Housing Fund policy recommended separately) should be updated to include the requirements to account for and report separately both the Inclusionary Housing Fund and the Housing Trust Fund in the audited financial statements as well as the audit for compliance with the AHF Ordinances and any related policies and regulations;

10) The requirements to account for and report separately both the Inclusionary Housing Fund and the Housing Trust Fund in the audited financial statements as well as the audit for compliance with the AHF Ordinances and any related policies and regulations should be implemented for the fiscal year 2009 and future annual audits.

Responses:

8. Attached to this response is a copy of the current procedures that address the Housing Commission's responsibilities in administration of the Inclusionary Housing Fund. The policy will be reviewed and updated to include all appropriate recommendations made in this report. **Time for Completion: February 2010**

9. The Housing Commission currently accounts for the Housing Trust Fund and the Inclusionary Housing Fund separately. An audit of the Affordable Housing Fund is included with the annual audit done by the Housing Commission's independent auditor. The revisions to Policy 300.501 and the new policy to be updated for the Inclusionary Housing Fund will include a requirement to report separately in the financial statements on the Inclusionary Housing Fund and the Housing Trust Fund. **Time for Completion: February 2009**

10. The scope of the audit engagement beginning in FY2009 will be expanded to include these funds in the audited financial statements as well as a compliance audit for the AHF ordinances and policies. **Time for Completion: November 2009**

The City's Inclusionary Affordable Housing Regulations Need to be Updated

Recommendation:

11) SDHC and City Administration should review SDMC §142.1310(e) and have the applicable SDMC sections updated to reflect the current fees or make reference to the source document or department for the updated fees, a change that would require City Council action;

Response:

11. Housing Commission staff will work with City Administration to update the Municipal Code to reflect fee structure going forward and will include identification of the source document. This

action will require City Council action and completion will be determined by staff availability and docket scheduling. **Time for Completion: Unknown**

Controls over the Transfer of Affordable Housing Funds Can Be Improved

Recommendation:

12) City Administration should draft, approve and implement departmental guidelines (across multiple departments as needed) to accurately identify and document the process roles and responsibilities for City departments, including the Treasurer, Comptroller, Facilities Financing and Development Services Department (DSD) in Affordable Housing Fund -related processes. These processes should include the reporting of quarterly and annual Housing Trust Fund and Inclusionary Housing Fund activity by Facilities Financing and DSD to SDHC and the Comptroller. The Comptroller should reconcile fund levels and make disbursements based upon mutually agreed upon amounts from that reporting on a consistent and timely basis.

Response:

12. This recommendation refers to the City organization of the roles and responsibilities for Affordable Housing Fund activities. The Housing Commission will provide support as needed to the City to implement this recommendation. **Time for Completion: Unknown**

EXHIBIT "A"

INCLUSIONARY AFFORDABLE HOUSING IMPLEMENTATION AND MONITORING PROCEDURES MANUAL

Regulations pertaining to the City of San Diego's Inclusionary Housing Program ("Program") are incorporated in San Diego Municipal Code Chapter 14, Article 2, Division 13. The purpose of the Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual ("Procedures Manual") is to provide additional detail in the implementation and administration of the Program.

Development Review Procedures

Specific development procedures are summarized in the Development Services Department Information Bulletin 532. Applicants constructing affordable units pursuant to the requirements of the Program will be eligible for expedited permit processing through the Affordable/Infill Housing and Sustainable Buildings Expedite Program as implemented by Council Policy 600-27 (See Information Bulletin 538).

Targeted Rental Households and Targeted Ownership Households

Program requirements can be fulfilled through the provision of rental or for-sale housing. Rental units meeting program requirements shall be affordable at rents affordable to households earning 65% or less of the Area Median Income ("AMI"). For-sale units meeting program requirements shall be affordable to households earning 100% AMI or less. Income restrictions shall be adjusted annually based upon the revisions to Area Median Income limits as promulgated from time to time by HCD.

Targeted Rental Household

Targeted Rental Household rent calculations shall be based on the updated AMI limits as adjusted for household size by the U.S. Department of Housing and Urban Development (HUD) for San Diego County at 65% AMI. Current rent levels as of 2008 as adjusted by household size and utility allowance are as follows:

2008 65% Area Median Income and Rent Restrictions			
Household Size	**Unit Size**	**Income**	**Gross Rent***
One	Studio	$35,950	$899
Two	1 bedroom	$41,100	$1,028
Three	2 bedroom	$46,200	$1,155
Four	3 bedroom	$51,350	$1,284

*Gross rent is equal to cash rent plus all tenant-paid utilities. See the "San Diego Housing Commission Utility Allocation Schedule" to calculate the tenant-paid utilities based on the project's actual utilities mix.

The eligibility of each prospective tenant and/or household under the restrictions set forth above shall be certified by the San Diego Housing Commission. Applicants shall submit documentation for certification to the San Diego Housing Commission for a determination of tenant eligibility, prior to tenant occupancy. No Affordable Unit may be rented to a prospective tenant or occupied by any person unless and until the San Diego Housing Commission has determined that the prospective tenant or occupant has satisfied the eligibility requirements.

Targeted Ownership Household

Targeted Ownership Household price restrictions shall be based on the updated AMI limits adjusted for household size by HUD for San Diego MSA at 100% AMI. Program sales price restrictions as of 2008 are as follows:

2008 MAXIMUM INCOME
100% AREA MEDIAN INCOME

Household Size	Income
One	$50,450
Two	$57,700
Three	$64,900
Four	$72,100
Five	$77,850

The sales price restrictions shall be established based on housing costs that do not exceed 35% of the annual median household income, including mortgage principal and interests, taxes, insurance, HOA and assessments. Purchase price assumes 5% down payment and the prevailing fixed-rate interest rates. Upon request, the San Diego Housing Commission shall prepare and make available to Applicant any general information that the San Diego Housing Commission possesses regarding income limitations, sales prices, occupancy policies and restrictions which are applicable to the affected units. Actual sales prices for units restricted at 100% AMI will be calculated on a project-by-project basis.

The eligibility of each prospective buyer and the sales price under the restrictions set forth above shall be certified by the San Diego Housing Commission. Applicants shall submit documentation for certification to the San Diego Housing Commission for a determination of buyer eligibility prior to close of Escrow on each restricted unit. Affordable Units must be owner occupied unless the San Diego Housing Commission has determined a hardship on a case-by-case basis. Except where authorized by the San Diego Housing Commission for a specific unit, renting a restricted unit would trigger a recapture in equity pursuant to San Diego Municipal Code Section 142.1309 (e).

Exemption of Naturally Affordable For-Sale Units

Pursuant to Section 143.1303 of the Municipal Code, any portion of a residential development project that meets all of the following criteria shall be exempted from the requirements of the Program, including payment of the in-lieu fee:

- The units contained within the residential development project are for-sale to private household(s), who owns no other real property, for use as the buyer's primary residence;
- The units are specifically targeted for, sold to, and occupied by households earning less than 150% AMI; and
- Each qualifying unit must have two (2) or more bedrooms (not required for condo conversions).

The unit(s) subject to this exemption has recorded against it an agreement between the *Applicant* and the Chief Executive Officer of the San Diego Housing Commission assuring that the provisions above have been met. The San Diego Housing Commission will certify the eligibility of the prospective buyers.

In the event that the Applicant is unable to fulfill the requirements of this provision, the Program requirements will be applied to the units that would have been exempted. The Applicant may choose to pay the then-current, applicable in-lieu fee or provide the affordable units as provided for in the Inclusionary Housing Ordinance.

Qualifying 150% units shall be sold at prices at or below the "Maximum Sales Price". The Maximum Sales Price shall be the sales price determined and published by the San Diego Housing Commission on an annual basis to be the Maximum Sales Price for a unit affordable to a household with income at 150% AMI, adjusted for unit size, based upon the number of bedrooms located within the 150% Unit(s). The Maximum Sales Price shall be determined by the San Diego Housing Commission in its reasonable discretion as the amount which will result in an annual housing cost to the purchaser of the 150% Unit, which does not exceed the thirty-five percent (35%) of one hundred fifty percent (150%) of Area Median Income adjusted for household size, determined as of the date of the execution of a binding purchase and sale agreement for the 150% Unit and shall include, without limitation, mortgage principal and interest, taxes, insurance, HOA and assessments.

Maximum eligible incomes and Maximum Sales Price restrictions shall be adjusted based upon the revisions to Area Median Income limits as promulgated from time to time by HUD.

All units qualifying for this exemption for the year 2008 shall be affordable at or below the maximum sales prices shown in the chart below.

2008 SALES PRICE RESTRICTIONS
150% AREA MEDIAN INCOME

Unit Size (bedrooms)	Maximum Sales Price
Studio	$269,822
One	$305,568
Two	$341,623
Three	$381,228
Four	$412,140

The maximum eligible incomes for 2008 are as follows:

2008 MAXIMUM INCOME
150% AREA MEDIAN INCOME

Household Size	Income
One	$75,675
Two	$86,550
Three	$97,350
Four	$108,150
Five	$116,775

Condominium Conversions

Pursuant to Section 143.1306 of the Municipal Code, condominium conversion units affordable to and sold to households earning less than 150% AMI shall be exempted from the requirements of the Program, including payment of the in-lieu fee. Qualifying units shall be sold to private household(s), who owns no other real property, for use as a primary residence.

Applicants with qualifying condominium conversion units ("150% units") as described above shall be allowed to self-certify that units meet the required affordability level and eligibility of buyers.

Compliance with the exemption from the provisions of the Inclusionary Housing Ordinance shall be determined at the time of the execution of the purchase and sale agreement, when the purchase price is fixed. Applicants shall enter into an agreement with the San Diego Housing Commission to ensure compliance.

The San Diego Housing Commission may, but shall not be obligated to, perform the following monitoring functions and services, on a periodic basis: (A) reviewing the applications of prospective or actual occupants and/or purchasers of the affected units, to spot check the eligibility of such persons and/or households as eligible occupants and/or households; (B) reviewing the documentation submitted by Applicants in connection with the certification process for eligible households and/or occupants. Notwithstanding the foregoing description of the San Diego Housing Commission's functions, no person or entity, including the Applicant shall have any claim or right of action against the San Diego Housing Commission based on any alleged failure to perform such function, except that Applicant may reasonably rely upon the San Diego Housing Commission's tenant eligibility determination and the Applicant shall not be liable to the San Diego Housing Commission for any damages, attributable to the San Diego Housing Commission's sole negligence or willful misconduct in conducting any eligibility determinations and/or monitoring.)

Off-Site Housing

If the Applicant elects, pursuant to Section 142.1306 (b)(2) of the San Diego Municipal Code, to construct Off-Site Units to satisfy the requirements of this Program, the Applicant shall construct the Units within the same Community Planning Area, as delineated in the General Plan of the City of San Diego, as the Principal Project. An alternate site for the construction of the Affordable Units shall be subject to the advance written approval of the Planning Director of the City of San Diego and the Chief Executive Officer of the San Diego Housing Commission or the Redevelopment Agency and the Chief Executive Officer of the San Diego Housing Commission, in the event the Affordable Development Project is located in a Redevelopment Project Area.

An Applicant may satisfy the requirements of this Program by the use of Affordable Units constructed by other developers, in addition to any to be built to meet their respective affordable housing requirements as set forth in the Ordinance, by transfer of credits between developers, if and when approved by the Planning Director of the City of San Diego and the CEO of the San Diego Housing Commission. The Receiver Applicant would be precluded from utilizing any local public funds to meet the Program's affordability requirements. The approval of the Receiver Site would be subject to all applicable approvals set forth in this Procedures Manual and the Ordinance.

If the Applicant elects, pursuant to Section 142.1306 (b)(3) of the San Diego Municipal Code, to construct the affordable units on a site different from the primary development site and outside the community planning area, the applicant must obtain a variance in accordance with Section 142.1304 in accordance with Process Four. An alternate site for the construction of the Affordable Units shall be subject to the advance written approval of the Planning Director of the City of San Diego and the Chief Executive Officer of the San Diego Housing Commission or the Redevelopment Agency and the Chief Executive Officer of the San Diego Housing Commission, in the event the Affordable Residential Development Project is located in a Redevelopment Project Area. The use of an alternate site for the construction of the Affordable Units outside of the Community Planning Area of the Principal Project must be found to support the community and economic balance and/or transit orientation goals.

Alternative Development Schedule and Phasing of Units

Pursuant to San Diego Municipal Code Section 142.1309(a)(1), an Applicant may seek approval for an alternative development schedule subject to a Process Two approval. An Applicant approved for an alternative development schedule may provide Affordable Units in accordance with the following:

Affordable Units built subject to this Program shall be constructed, completed, and ready for occupancy no later than the date that the Market Rate Housing is constructed, completed and ready for occupancy unless there is an otherwise acceptable agreement for an alternative development schedule which is satisfactory to the CEO of the Housing Commission or the CEO of the San Diego Housing Commission and the Redevelopment Agency in the event that the Principal Project is located within a Redevelopment Project Area.

The timely construction of the affordable housing shall be assured by the posting of a bond and the execution of agreements satisfactory to the CEO of the San Diego Housing Commission on or before the issuance of the first building permit for any unit in the Residential Development Project.

In the event that the development is proposed to be constructed in phases or the affordable housing is proposed to be constructed off-site, an alternative development schedule may be approved, subject to a written agreement between the Applicant and the CEO of the San Diego Housing Commission, such as the following:

The issuance of building permit for the Affordable Housing Project shall occur on or before the earlier of: (i) the issuance of building permits for construction of the number which represents 50% of the Market Rate Units within the Project; or (ii) the date which is eighteen (18) months after the filing of final map for the Market Rate Project, or (iii) a date which is eighteen months after the receipt of the building permit for the first Market Rate Unit if no final map is filed;

Completion of construction of the Affordable Housing Project shall occur upon the earlier of twelve (12) months after the issuance of building permits for the Affordable Housing Project as described above; or the date which is two and one-half years after the earliest date determined above.

The issuance of building permits for the construction of the number which represents 75% of market rate units for the Project shall not occur until the completion of all of the Affordable Units is authorized by the City.

Occupancy of the Affordable Housing Project by persons meeting the Program Eligibility requirements shall occur not later than 180 days after the completion of construction as determined above.

In-Lieu Fees

Pursuant to Section 143.1310, an Applicant may pay a fee in lieu of constructing affordable units.

Where no building permit application is filed in connection with a condominium conversion project, the in-lieu fees shall be paid in full no later than the close of escrow of the first unit sold within the project, subject to an agreement with the San Diego Housing Commission. The Applicant shall pay the then current, applicable in-lieu fee amount

The amount of the in lieu fees to be charged and collected for each Residential Development Project shall be the product of the applicable per square foot charge multiplied by the aggregate gross floor area, as defined in the San Diego Municipal Code, of all of the units within the Residential Development Project (excluding garages and carports).

The following In Lieu Fees shall be collected during the first three (3) years after the Program is effective:

PROJECTS OF 10 OR MORE UNITS	
YEAR ONE	$1.00/ SQ. FOOT
YEAR TWO	$1.75/SQ. FOOT
YEAR THREE	$2.50/SQ FOOT

PROJECTS OF LESS THAN 10 UNITS	
YEAR ONE	$0.50/SQ FOOT
YEAR TWO	$0.875/SQ FOOT
YEAR THREE	$1.25/SQ FOOT

The level of the in-lieu fee shall be revised annually commencing on the fourth year based on the following formula:

- Fifty percent of the difference between the median sales price of all homes sales in the City of San Diego for the last quarter of the year prior to the time of adjustment (as established by an independent and reputable real estate data firm that publishes data on no less than a quarterly basis) and the amount of money a median-income family of four is able to afford to purchase a home.
- The product of the above calculation shall then be divided by 10, in order to represent the level of obligation under the Program.
- The product of the above calculation shall then be divided by 2,000 Square Feet which represents the average size (Square Feet) of a unit constructed within the City of San Diego, in order to determine the level of the in-lieu fee for projects of ten or more units. Average size of a unit may be adjusted from time to time.
- The level of the in-lieu fee for projects of less than 10 units shall be 50% of the amount set for projects of 10 or more units.

Example:

Assume that the median income household can afford to purchase a home priced at $174,000. The median home price within the City of San Diego is $274,000. Fifty percent of the difference between the median home price and that which the median income household can afford is $50,000. Ten percent of this number is $5,000. This number is divided by 2,000 SF to produce an in-lieu fee level of $2.50 per square foot for projects of 10 or more. The level of the in-lieu fee for projects of less than 10 units would be 50% of this or $1.25 per square foot.

Pursuant to the above formula, the in-lieu fee from July 3, 2008 to July 2, 2008 is $6.31/square foot for projects with 10 or more units and $3.16 for projects with 9 or fewer units.

Determining Amount of In Lieu Fee(s)

The San Diego Municipal Code Section 142.1310(a), provides "the rate of the in lieu fee shall be determined at the time the building permit application is filed". Therefore, at the time the building permit application is filed, Development Services shall determine the amount of the in lieu fee and will advise the applicant of the amount of the applicable in lieu fee, in accordance with the following:

(1) For building permits that are obtained within three (3) years of the date that the subject application for the first tentative map or development permit was deemed complete, the rate of the in lieu fee shall be the rate in effect at the time the application for that first tentative map or development permit was deemed completed.

(2) For building permits that are not obtained within three (3) years of the date that the subject application for the first tentative map or development permit was deemed complete , but are issued within three (3) years of the date of approval of the first tentative map or development permit, the rate of the in lieu fee shall be the rate in effect at the time that first tentative map or development permit was approved.

(3) For building permits that are not obtained within three (3) years of the date that the subject application for the first tentative map or development permit was deemed complete, and that are not issued within three (3) years of the date of the approval of the first tentative map or development permit, the rate of the in lieu fee shall be the rate in effect at the time the application for the building permit is deemed complete.

(4) For any tentative map or development permit approved on or before July 3, 2006, that contains a condition to pay the inclusionary housing in lieu fees, the rate of the in lieu fee at building permit issuance shall be fixed at not more than $1.25 per square foot for projects of nine (9) or less residential units or $2.50 per square foot for projects of ten (10) or more residential units for a period of three (3) years from the date the tentative map or development permit was approved, or until July 3, 2006, whichever occurs later. The rate of the in lieu fee thereafter shall be the rate in effect at the time the application for the building permit is deemed complete.

Conversion of Tenure Type for Affordable Units

Any Affordable Units constructed pursuant to the Program, proposed to change the type of tenure from rental to for-sale or for-sale to rental must satisfy the requirements of this Procedures Manual.

Any Affordable Rental Units to be converted to ownership units must satisfy the requirements of this Procedures Manual. Any Rental Units to be converted to For-Sale Units shall be sold at or below the Maximum Purchase Price to Targeted Ownership Households meeting the income qualifications specified in the Notice of Affordable Restrictions or conditions of approval, with a right of first refusal for the occupant(s) of such Units at the time of conversion. All provisions of the Program at the time of said conversion shall apply to the conversion of the Unit, including sales price and length and method of restriction.

Any Affordable Ownership Units to be converted to rental units must satisfy the requirements of this Procedures Manual. Any Affordable Ownership Units to be converted to Rental Units shall be rented at or below the Maximum Rental Rate to Targeted Rental Households meeting the income qualifications specified in the Notice of Affordable Restrictions or conditions of approval. All provisions of the Program at the time of said conversion shall apply to the conversion of the Unit, including rental rate and length and method of restriction.

Affirmative Marketing Requirements

The conditions of approval shall specify that Applicant shall adhere to the marketing, monitoring, and enforcement procedures outlined in this section. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability. Applicants shall comply with the terms of their approved affirmative marketing plan, as may be amended from time to time, consistent with City Council Policy 600-20 and Fair Housing Law. The requirements of the affirmative marketing program shall be binding on the original Applicant's successors in interest to the extent that the first sales to the general public are covered.

Ongoing Monitoring

An initial monitoring fee of $500 will be assessed as a one-time charge to cover costs for developing the compliance monitoring plan, computer database program and reporting system for the project, and training sessions for owner/manager. This fee is only applicable to rental properties.

Annual Monitoring will be required for all rental affordable units developed under the Program. The base monitoring fee per unit is $65 for the first 40 units. The base fee charged decreases $10 for each unit more than 40 units, and decreases $20 for each unit more than 80 units.

1 to 40 Units $65 per unit

41 to 80 Units $55 per unit

81+ Units $45 per unit

The Annual Monitoring fee shall be adjusted upward annually for increased costs due to inflation. The adjustment shall reflect the change in the Consumer Price Index for all Urban Consumers (CPI-U) for the County of San Diego.

For projects that contain affordable for-sale units, a $1,000 per unit fee will be required for monitoring and determining eligibility for price restricted units. The fee is due upon execution of a cooperation agreement between the Applicant and the Housing Commission.

Waivers, Adjustments and/or Reductions

The City Council of the City of San Diego desires to clarify the procedures that allow potential lack of nexus challenges to the constitutionality of the Inclusionary Ordinance under the provisions of San Diego Municipal Code Section 142.1305. The Council declares that this amendment to the Procedures Manual is declaratory of its existing intent and policy and remedies that exist under the current ordinance and under state law. This Procedures Manual was adopted by Resolution Number R-298003, adopted on May 20, 2003, and may be updated, revised and/or clarified by resolution.

An applicant for or developer of any development, project or property subject to the requirements of the Inclusionary Ordinance may appeal for a reduction, adjustment or waiver of the requirements of the Inclusionary Ordinance by following the procedures outlined in Section 142.1304 and/or 142.1305, based upon the absence of any reasonable relationship or nexus between the impact of the development and either the amount of the in lieu fee or the inclusionary housing requirement. If such lack of nexus is established under either Section 142.1304(d)(1) (variance) and/or 142.1305(d)(1) (waiver), then the findings required under 142.1304(d)(2), (3) and (4) for a variance and/or Section 142.1305(d)(2), (3) and (4) for a waiver, shall automatically be deemed established by the decision makers.

It is the intent of this policy to be applicable until the City Council amends the Inclusionary Ordinance to reflect this policy concerning reduction, adjustment and waivers.

THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: July 28, 2009

TO: Eduardo Luna, City Auditor

FROM: Jay M. Goldstone, Chief Operating Officer

SUBJECT: Response to Part II of the Performance Audit of the San Diego Housing Commission

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This memorandum responds to the recommendations for City departments that were included in Part II of the June and July 2009 Performance Audit of the San Diego Housing Commission. The San Diego Housing Commission is responding separately to the recommendations directed to their organization.

Executive Summary, Page 2 – SDHC Inclusionary Housing Fund Policies and Regulations are Inadequate or Poorly Defined.

Response: Although DSD does not disagree with this finding, please note that DSD refers to the following publications for policy and regulation direction. All of these publications are available to the public and staff on the City's website:

1. Municipal Code Section 142.1300 – The Inclusionary Housing Ordinance;
2. DSD's Information Bulletin 532 – Summary of the Inclusionary Ordinance;
3. The Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual-Published by the Housing Commission.

Executive Summary, Page 2 – The City's Inclusionary Affordable Housing Regulations need to be updated.

Response: Although DSD does not disagree with this finding, please note that DSD believes that adequate and complete information regarding in-lieu fees is readily available to the public in the form of Information Bulletin 532. The purpose of DSD's Information Bulletin system is to provide an easy-to-understand, simple explanation of the innumerable and often-times complex domain of building codes and regulations. As a result, the information provided within the

Bulletins has shown to be more readily available, easier to understand, and more efficiently updated than are the actual Municipal Code sections from which they are derived. In terms of updates to the in-lieu fees, Information Bulletin 532 is updated each year in July. DSD believes that the current Information Bulletin system provides adequate information to the public, and that updating the Inclusionary Housing Ordinance each year to reflect the updated fees would be an inefficient use of staff time and the public hearing process.

Housing Trust Fund Commercial Linkage Fee, Page 9 – "As it relates to the City Engineer's role in providing HTF fee adjustment consultation to SDHC, we found that the City's Development Service Department does not coordinate with SDHC to adjust HTF fees based on the building cost "Index of the Cost Indices for Twenty Cities" published by M.C. McGraw–Hill, Inc. as directed by the SDMC."

Response: The Development Services Department's role and responsibility as it pertains to the Housing Trust Fund (as well as the Inclusionary Housing In-lieu fee) is limited only to the actual collection of those fees at the time building permits are issued. Neither the City Engineer nor the Development Services Department is involved in coordinating with the Housing Commission to adjust those fees.

Although the entire Municipal Code section referred to in the Auditor's Report (Chapter 9, Article 8, Division 6 – Housing Impact Fees on Commercial Development) indicates that the City Engineer is fundamentally involved in the Housing Trust Fund adjustment process, this is not the case. Therefore, Development Services Department recommends that the San Diego Housing Commission amend this Chapter of the Municipal Code to describe the actual process as it exists, and to delete any reference to the City Engineer's role in the fee adjustment process.

Recommendation #3, Page 12
City Administration should facilitate the update of the SDMC to accurately reflect the current process for the collection and maintenance of the Housing Trust Fund fees by the Comptroller in a specific subaccount after collection by the City.

Response: Management agrees with the recommendation. City Administration will work with SDHC to accurately reflect the process for collection and maintenance of the Housing Trust Fund fees and review and update, if necessary, the San Diego Municipal Code (SDMC) for accuracy in terms of authority and process clarity. We will produce a process procedure aligned with the new OneSD coding structure to detail the transaction accounting of the Housing Trust Fund fees and the individual responsibilities for collecting, maintaining, dispositioning and reconciling these fees and accounts. This work will be completed by the end of October 2009.

Recommendation #7, Page 15
City Administration and SDHC personnel should reconcile the current differences in historical reported amounts for Inclusionary Housing Fund funding. If warranted, disbursement to or from SDHC or the City should be made to settle any outstanding payment discrepancies. Procedures should be established to perform this reconciliation at least annually.

Response: Management agrees with the recommendation. City Administration will reconcile its records with SDHC records in regards to current differences in historical reported amounts for Inclusionary Housing Fund (IHF) funding. Any discrepancies will be settled into the proper accounts on either the City's books or SDHC's books. A process procedure for regular (at least annually) reconciliation of the IHF funding between the City and SDHC will be developed to ensure that the accounts are properly balanced. This work will be completed by the end of September 2009.

Recommendation #11, Page 17
SDHC and City Administration should review SDMC § 142.1310(e) and have the applicable SDMC sections updated to reflect the current fees or make reference to the source document or department for the updated fees, a change that would require City Council action.

Response: Although DSD does not disagree with this finding, please note that DSD believes that adequate and complete information regarding in-lieu fees is readily available to the public in the form of Information Bulletin 532. The purpose of DSD's Information Bulletin system is to provide an easy-to-understand, simple explanation of the innumerable and often-times complex domain of building codes and regulations. As a result, the information provided within the Bulletins has shown to be more readily available, easier to understand, and more efficiently updated than are the actual Municipal Code sections from which they are derived. In terms of updates to the in-lieu fees, Information Bulletin 532 is updated each year in July. DSD believes that the current Information Bulletin system provides adequate information to the public, and that updating the Inclusionary Housing Ordinance each year to reflect the updated fees would be an inefficient use of staff time and the public hearing process.

Recommendation #12, Page 19
City Administration should draft, approve and implement departmental guidelines (across multiple departments as needed) to accurately identify and document the process roles and responsibilities for City departments, including the Treasurer, Comptroller, Facilities Financing and Development Services Department (DSD) in Affordable Housing Fund-related processes. These processes should include the reporting of quarterly and annual Housing Trust Fund and Inclusionary Housing Fund activity by Facilities Financing and DSD to SDHC and the Comptroller. The Comptroller should reconcile fund levels and make disbursements based upon mutually agreed upon amounts from that reporting on a consistent and timely basis.

Response: Management agrees with the recommendation. City Administration will develop one or a series of process flow procedures to ensure that all City departments and the SDHC are coordinated with the collection, disposition, reconciliation, and reporting of Housing Trust Fund and Inclusionary Housing Fund activity. City Administration will also ensure that all required payments to SDHC are done on time and according to a payment schedule agreed to by the City and SDHC. These procedures will be written and in place by the end of November 2009.

cc: Honorable Mayor Jerry Sanders