



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Follow-up Information on Housing Authorities

OVERVIEW

On November 4, 2021, our Office issued IBA Report 21-25 entitled [*Comparative Analysis of Housing Authority Structures in California*](#) in response to a request from Council Districts 6 and 9. We presented our findings at the Housing Authority meeting on November 16, 2021. On November 19, 2021, our Office received another memorandum from Districts 6 and 9 requesting additional analysis on several items. This report responds to that request.

Specifically, the Council Offices requested additional analysis of the following:

1. A comparative review of employment contracts of the Executive Directors of the agencies previously reviewed in IBA Report 21-25.
 - a. Relatedly, a review of the policies and processes utilized to assess the performance of executives of the agencies reviewed (e.g. executive performance surveys, 360-degree performance reviews, etc.)
2. The ability to consolidate both agencies to one board (i.e. in addition to the requirement to that a housing authority have tenant representatives, can we also include the current commissioners on the Housing Authority board?)
3. A comparative review of those agencies that have a separate nonprofit development arm, and what protections are in place to ensure competitiveness amongst all affordable housing developers.

According to the Council Offices, this additional information is intended to allow the City Council, in its capacity as the Housing Authority, “to properly present potential reforms that serve in the best interests of the City of San Diego.” This report addresses each of the questions above.

FISCAL/POLICY DISCUSSION

1. A comparative review of employment contracts of the Executive Directors of the agencies reviewed in IBA Report 21-25.

In IBA Report 21-25, our Office compared the housing authority structures of 12 jurisdictions, including the City of San Diego. Of those, we reviewed Executive Director employment agreements for seven jurisdictions. We did not obtain employment contracts from the remaining five jurisdictions for the following reasons:

- Lack of response from one jurisdiction;
- Four jurisdictions do not have corresponding employment contracts. For two of them, the individual that administers the housing authority is an at-will employee of the city or county. The other two are at-will employees of the housing authority they administer, which is separate from the corresponding city or county.¹

In this section we summarize the key findings of our review of the employment contracts. For additional detail on each of the seven agreements please refer to Attachment 1. **It is important to note that our review of Executive Director employment contracts focused on the policy aspects of each contract, and we cannot offer a legal perspective or analysis.** We also note that aside from trying to obtain the most up-to-date salary information, we did not look at documents other than employment contracts, so other policies impacting the Executive Director outside of their employment contracts are not captured in our review.

The content of the seven Executive Director employment agreements we reviewed vary greatly, with some being more detailed than others. However, generally there are five major components consistently included in the contracts we reviewed:

1. Term of the agreement
2. Executive Director duties
3. Salary and benefits
4. Termination of agreement
5. Executive Director Performance Evaluation

Although *not* a major section of most of the employment contracts reviewed, our Office also looked for references to conflict of interest requirements as we thought it might be of interest to the City of San Diego Housing Authority.

¹ Our Office was unable to get explicit confirmation that the Executive Director of the Housing Authority of San Luis Obispo is an at-will employee. However, we believe it is likely. The Board of Commissioners appoints the Executive Director and it is likely that the director serves at the pleasure of the board.

Key Findings of our Review of Executive Director Employment Contracts

Term of Agreements

The terms of the seven contracts are typically about three years, though they can be extended. Both the housing authorities for Alameda County and Santa Clara County have automatic extensions if no action is taken upon expiration of the term. By contrast, both the San Diego Housing Commission (SDHC) and the Los Angeles County Development Authority have agreement terms that are effective until terminated.²

Executive Director Duties

All agreements outlined the high-level duties of the Executive Director, some in greater detail than others. The most common items included in the Duties section of the agreements were: 1) identifying the entity to which the Executive Director must report; 2) requiring the Executive Director to perform all powers and duties in accordance with applicable laws and the job description; and 3) requiring the Executive Director to identify ways to achieve greater efficiency or improvement to achieve the agency's vision and goals.

Two unique duties included the most recent SDHC Executive Director employment contract are:

- The Executive Director is accountable to both SDHC and the City of San Diego Housing Authority for overseeing the development and implementation of short and long term plans and budgets to accomplish the SDHC mission and to address the SDHC's and Authority's priorities and is responsible for coordinating housing policy among all housing entities within City.
- The SDHC and Housing Authority are entitled to relief in the event of a default by the Executive Director and/or their failure to adhere to standards of conduct.

Salary and Benefits

Each contract identifies the salary for the Executive Director. Because salaries often change, our Office tried to identify the most recent salary publicly available for each Executive Director. They range from \$194,000 as of 2020 to \$346,000 as of 2022. The 2022 salary of the Executive Director of the SDHC ranks third highest after the Executive Directors in the City of Los Angeles and Santa Clara County. However, this range increases to \$221,000 to \$356,000 if additional performance-based pay is included for four jurisdictions.³

All but one contract discusses the employee's benefits. Usually the contracts specify that the benefits provided are largely the same as other housing authority staff, while noting exceptions. We note that there is insufficient information and a lack of standardization among the agreements to thoroughly compare benefit packages of Executive Directors across jurisdictions. Therefore,

² We note that in this report we are referencing the most recent Executive Director employment contract for the SDHC which ended on March 31, 2022.

³ The following four jurisdictions have performance incentive pay: 1) the Executive Director in San Bernardino County receives \$2,250 per month pursuant to the Authority's Management Incentive Policy, 2) the Executive Director in San Diego received \$16,500 on November 27, 2020 based on performance, 3) the Executive Director in the City of Los Angeles received \$10,000 in 2022 based on performance, and 4) the Executive Director for Fresno Housing may receive a bonus incentive of up to \$20,000 per year based on goal achievement.

below we highlight two notable benefits that are generally unique to the Executive Director that were able to be compared across jurisdictions.

Relocation Benefits

Four out of the seven agencies outlined relocation benefits in the employment contract. They provided not-to-exceed amounts ranging from \$7,500 to \$57,000, with the average being about \$25,000. The Executive Director of the SDHC is ranked the highest at up to \$57,000 as this includes benefits for multiple items such as a house hunting trip, temporary housing, and closing costs for selling the director's previous home.

Automobile Allowance

Automobile allowances in six out of the seven agreements range from \$350 per month to \$800 per month, with the average being about \$600 per month. The SDHC Executive Director's allowance ranks the highest.

Termination

Each contract outlines how the employment agreement may be terminated. For all contracts reviewed, termination can be done by the governing board, with or without cause, or by the Executive Director. For termination *without cause* by the board, some contracts require the board to provide the Executive Director one to three months of written notice. In these instances, all contracts require severance to be paid to the Executive Director ranging from three months to one year's salary. The SDHC employment contract requires six months' salary and benefits. The Housing Authority of the County of Alameda can forego providing notice if an additional month's pay is provided. If an Executive Director is terminated *for cause*, six out of the seven contracts do not require severance pay. Uniquely, the Los Angeles County Development Authority requires six months' salary to be paid regardless of whether the agreement is terminated with, or without cause. In all contracts, the Executive Director may terminate the contract anytime upon written notice, typically anywhere between one to three months, and no severance is required.

Evaluation

Five out of the seven contracts have a section discussing the performance evaluation of the Executive Director. This section is very brief in most of the contracts indicating that evaluations will be done annually and will be used to determine changes to the Executive Director's compensation. Fresno Housing's employment contract includes the most detail by providing a description of the process, timing, and compensation increases. Exhibit B of Fresno Housing's employment agreement includes the evaluation and goal setting timelines which we have copied for reference in the Performance Evaluation section of Attachment 1.

Conflict of Interest References

All seven contracts have references to conflict of interest requirements, although some have more than others and the references varied. Provisions that appeared most frequently include:

- Prohibiting the Executive Director from receiving compensation outside of the employing Housing Authority, although two jurisdictions (including the City of San Diego) allow this as long as it does not constitute a conflict of interest.
- Requiring the Executive Director to comply with conflict of interest laws and policies.

- Prohibiting the Executive Director from engaging in any activity that would be a conflict of interest.

Item for Housing Authority Consideration

We do note one interesting element from Fresno Housing’s recently executed employment contract. Fresno Housing has one of the most complicated governance structure arrangements since it reports to both the City and County housing authorities. One unique aspect of its employment agreement is a section called “Board-CEO Relations” which provides clear expectations of the roles of each party. The roles and duties of the City of San Diego Housing Authority, SDHC, and the SDHC Executive Director are outlined in the San Diego Municipal Code, but to the extent that additional clarification is needed, the employment contract may offer an appropriate vehicle.

1.a. Relatedly, a review of the policies and processes utilized to assess the performance of executives of agencies reviewed (e.g. executive performance surveys, 360-degree performance reviews, etc.)

Of the 12 jurisdictions our Office reviewed in IBA Report 21-25, we reviewed the Executive Director performance evaluation process for 11 agencies. We summarize some of the major elements of each jurisdiction’s evaluation process in the table below and provide the key findings of our analysis in the following section. Please refer to Attachment 1 to find a description of each jurisdiction’s process in more detail.

Summary of Major Elements of Executive Director Performance Evaluations								
Housing Authority Jurisdiction	Creates Goals	Uses Ad Hoc Committee	Includes Self Assessment	Includes Status Update on Goals	Evaluation Same as Other Staff	360 Review	Use of 3rd Party Consultant	Has an Evaluation Policy
City of Los Angeles	X	X	-	X	-	-	-	-
Los Angeles County	-	-	X	-	X	-	-	-
City of San Diego	X	X	X	-	-	-	-	-
Santa Clara County ¹	X	-	X	X	-	-	-	-
Sacramento City/County	X	X	X	-	-	-	-	X
City of Oakland ²	-	-	-	-	-	-	-	-
San Bernardino County ²	X	X	-	-	-	-	-	-
City of Long Beach	-	-	-	-	X	-	-	-
Fresno City/County	X	X	-	X	-	X	X	-
Alameda County ¹	X	X	X	-	-	-	-	-
San Diego County	-	-	-	-	X	-	-	-
San Luis Obispo County ²	N/A							
Total	7	6	5	3	3	1	1	1

¹ Reflects the process that the agency is working to put in place.

² No response, or limited details received.

As shown in the table above, most evaluation processes begin by setting goals for the Executive Director for the upcoming year. Many also use an ad hoc committee, which is typically a subcommittee of the Board of Commissioners, to do an initial assessment of the Executive Director which is then presented to the full Board for consideration. In five out of the 11 jurisdictions reviewed, the Executive Director completes a self-assessment of their performance to inform the

Board's performance evaluation. Although the remaining elements do not have widespread use by jurisdictions, they still may be worth considering as potential enhancements to the City of San Diego's process for evaluating its Housing Commission Executive Director.

Key Findings of our Review of Performance Evaluation Processes

Fresno Housing Appears to have the most Robust Process

Fresno Housing includes a detailed description of performance evaluation process in the Executive Director's employment contract. It is the only jurisdiction to use a 360-degree process which incorporates feedback from both of its Boards as well as housing authority staff. The evaluation is conducted by a third-party consultant. The process also includes multiple updates to the Boards on progress towards achieving annual goals.

Several Agencies Obtain Feedback from Multiple Sources

Although not a 360-degree performance evaluation, three other agencies obtain feedback from multiple parties:

- The Housing Authority of the City of Los Angeles and the Santa Clara County Housing Authority obtain feedback from their housing authority Executive Team, in addition to the Board of Commissioners
- The Executive Director of the Los Angeles County Development Authority gets a combination of a self-rating, a rating by the Chief Executive Officer of the County, and a combined rating from all 5 county board offices

Two Authorities are Contemplating Changes to their own Process

Two housing authorities are currently working to change their Executive Director evaluation process. The Executive Director of the Housing Authority of the County of Alameda plans to make the process more formal and include in the process: 1) a self-assessment and 2) the creation of an evaluation committee to complete the initial performance review prior to presenting to the full Housing Commission. Santa Clara County Housing Authority is planning to add to the process: 1) the creation of measurable goals for the upcoming year, and 2) a mid-year review of Executive Director performance.

Some Require Mid-Year Reports on Progress of Achieving Goals

Santa Clara County Housing Authority, Fresno Housing, and the Housing Authority of the City of Los Angeles include opportunities for the Executive Director to provide a status update on achieving goals. Updates range in frequency from biannual to monthly.

One Agency Created an Evaluation Policy

The Sacramento Housing and Redevelopment Agency created a policy that outlines the process for evaluating the Executive Director which serves both the city and county of Sacramento.

Item for Housing Authority Consideration

In our review, we did not find that there is a single set of best practices for evaluating Executive Directors, as evaluation processes reflect the unique needs and preferences of each agency. However, reviewing the processes of other jurisdictions may allow the City of San Diego Housing Authority to find that certain elements may address specific desires the Authority has, such as

increasing transparency, strengthening accountability, and facilitating better communication among the Housing Authority, SDHC Board, and the Executive Director. These elements include:

- Creating opportunities for the Executive Director to provide an update on progress towards reaching performance goals established at the beginning of the year
- Using a 360-degree review process
- Creating an Executive Director evaluation process policy

Ultimately, the City of San Diego Housing Authority will need to identify where the current evaluation may fall short and determine which change will best address its concerns.

2. The ability to consolidate both agencies to one board (i.e. in addition to the requirement that a housing authority have tenant representatives, can we also include the current commissioners on the Housing Authority board?)

Because this is a legal issue, our Office sought a response to this question from the City Attorney's Office. We have included their response below.

Per the City Attorney's Office:

There is currently no legal mechanism to combine the Housing Authority and Board of Housing Commissioners in a manner that allows the Councilmembers and the current Housing Commissioners to serve on one board. The Council could pursue a legislative amendment to allow such a consolidated oversight board. Alternatively, the Council could consider a single oversight body pursuant to either mechanism established in the Housing Authorities Law.

The Housing Authorities Law establishes two mechanisms for a city to create a housing authority, which is the legal entity to administer and implement affordable housing programs. The process relied on by the City of San Diego, is located in Health and Safety Code sections 34290 – 34293. It allows the governing body of a city to “declare itself to be the commissioners of the authority”. HSC § 34290. If the governing body does this, “all the rights, powers, duties, privileges and immunities” vested by the Housing Authorities Law in the housing authority commissioners are vested in the governing body sitting as the housing authority instead. HSC § 34290(a). The governing body may choose to either appoint two tenant commissioners to sit with it as the housing authority or may create a housing commission and appoint the tenant commissioners to the housing commission. HSC §§ 34290(c), 34291, 34292. If the governing body determines that it will no longer function as the commissioners of the authority, the Housing Authorities Law requires the mayor to appoint commissioners to the housing authority pursuant to the default process and any housing commission that was created shall no longer function. HSC § 34293.

The second process is located in Health and Safety Code (HSC) sections 34270 – 34286. When a city's governing body declares the need for a housing authority, the Housing Authorities Law requires the elected mayor to appoint five individuals and two tenant commissioners to serve as commissioners of the housing authority. HSC § 34270. Housing

authorities created in this manner are not authorized to create a housing commission, but may delegate its authority to agents or employees. HSC § 34980, see also HSC §§ 34291 and 34293.

The Office of the City Attorney is available to assist with any action to consolidate the two bodies, if desired, but Council should consider the legal and practical impacts of such consolidation.

3. A comparative review of those agencies that have a separate nonprofit development arm, and what protections are in place to ensure competitiveness amongst all affordable housing developers.

After seeking additional guidance on this request, we understand the phrase “ensure competitiveness” to be in the context of a housing authority issuing a competitive Notice of Funding Availability (NOFA), whereby private developers apply and compete for housing authority funds to support their affordable housing projects. We were also provided with the following additional questions to focus our efforts:

- Are there any policies that guide what funds the nonprofit arm can apply for?
- Is there a firewall between the housing agency that reviews and selects projects for funding, and its nonprofit that is applying for funds?

Out of the 12 agencies we reviewed in IBA Report 21-25, eight have created nonprofit affiliates to facilitate development. The remaining four housing authorities that do not have nonprofit affiliates for development have a narrower focus and typically do not directly develop affordable housing.⁴ Of the eight housing authorities that have created nonprofit affiliates for development, only five authorities’ affiliates are active.

Key Findings of our Review of Housing Authority Nonprofit Affiliates used for Development

In response to one of the questions above, all five housing authorities indicate that there are no restrictions on typical affordable housing development funds that prohibit their use by a housing authority’s nonprofit affiliate. In other words, a housing authority’s nonprofit can generally pursue anything for which a 501(c)(3) is eligible as long as program requirements are being met.

We have the following summary statements that respond to the inquiry of how housing authorities ensure competitiveness among all affordable housing developers:

- The SDHC’s nonprofit does not typically apply for funding through a competitive SDHC NOFA process. Rather, SDHC funding is generally allocated directly to the development entity that the nonprofit is involved in as a policy decision for certain priority affordable housing projects, with the approval of the SDHC Board and/or Housing Authority. Therefore, SDHC’s nonprofit generally does not compete directly with other developers in

⁴ These housing authorities include: the Housing Authority of the City of Los Angeles (which is focused on redeveloping its existing public housing portfolio), the Housing Authority of the County of San Diego, the Housing Authority of the City of Long Beach, and the Housing Authority of the County of Alameda.

the NOFA process. However, we note that funds allocated to affiliate projects could otherwise be used to fund a NOFA to which private developers could apply.

- The Sacramento Housing Redevelopment Agency’s nonprofit is required to apply for funding from the Agency. The Agency ensures that the department that grants funding is distinctly separate from the department (which houses the nonprofit) that is applying for funding. Therefore, in response to one of the above questions, a firewall does exist. The nonprofit is held to the same objective standards in reviewing projects for potential funding.
- The housing authorities for San Bernardino County, Santa Clara County, and the City and County of Fresno *do not* issue competitive NOFAs to which private affordable housing developers can apply. Therefore, without holding a competitive process, they do not take action to ensure competitiveness among all affordable housing developers. Similar to SDHC’s nonprofit, the nonprofit development entities of these housing authorities receive funds from the housing authority for projects.
- Aside from the Sacramento Housing Redevelopment Agency, we did not find that housing authority development nonprofit affiliates compete for *internal* housing authority funds. However, we do note that they, either through the housing authority or the nonprofit, compete with private affordable housing developers for *external* funds available at the federal, state, and local level.

In the following sections, we provide additional information on the five housing authorities with active development nonprofit affiliates as well as two housing authorities with largely inactive affiliates. We begin by offering a bit more background and context for SDHC’s nonprofit affiliate as we believe it is helpful to both the City of San Diego Housing Authority and the public.

San Diego Housing Commission – Housing Development Partners

To better understand the past activity of SDHC’s nonprofit Housing Development Partners (HDP) our Office asked SDHC staff to provide a list of historical transactions involving HDP. As shown in the table below, HDP was a part of 10 transactions in roughly the past 10 years. Most of them are projects that preserved affordable housing except for “Scattered Sites” which represents the five SDHC sites that were used for the pilot program to construct accessory dwelling units to help interested homeowners build similar units. Additionally, although Parker Kier was a preservation project, HDP’s involvement is in operating the property, not its development.

Housing Development Partners of San Diego Schedule of Real Estate Holdings 12/31/2021							
Acquisition/ Ground Transfer Lease Date	Property Name	Transaction Type	Owner	Recv'd Low Income Housing Tax Credits	Received SDHC Loan	# of Units	# of Units for Formerly Homeless
12/7/2020	Scattered Sites	Purchase from SDHC	HDP ADU, LLC	No	No ²	10	-
1/28/2020	Mariner's Village	Ground lease from SDHC	HDP Mariner's Village, LP	Yes	No	172	-
12/19/2017	Village North Senior	Ground lease from SDHC	HDP Village North, LLC	No	No ²	120	44
12/14/2017	West Park Inn	Ground lease from SDHC	HDP West Park, LP	Yes	Yes	47	46
12/14/2017	Quality Inn	Ground lease from SDHC	HDP Quality Inn, LLC	No	Yes ²	92	91
11/21/2017	Town & Country	Purchase from SDHC	HDP Town & Country, LP	Yes	No	145	-
9/1/2017	New Palace Hotel	Purchase from third Party	HDP New Palace, LP	Yes	Yes	80	79
4/24/2015	Hotel Churchill	Ground lease from SDHC	HDP Churchill, LP	No	Yes ²	73	56
2/13/2014	San Diego Square	Ground lease from City ¹	HDP Broadway, LP	Yes	No	156	-
9/1/2013	Parker Kier	Ground lease from SDHC	HDP Parker Kier, LLC	No	No	34	22
Total						929	338

¹ In 2018, the City sold to SDHC the land leased to HDP. The rehabilitation occurred under the City's lease.

² Project also received SDHC Moving to Work funds or local funds as a grant.

Source: SDHC and publicly-available staff reports

General Overview of Past HDP Transactions

Each affordable housing project has unique complexities, and each is assessed individually on how best to structure the transaction. While there are complexities, SDHC does provide a general rationale for use of its nonprofit affiliate, HDP. According to staff, the main reasons to operate through HDP are: 1) to facilitate financing for affordable housing projects since SDHC cannot apply for tax credits or lend itself funding; 2) to insulate SDHC from liability related to any of the transactions in case a property goes into default; and 3) to complete projects that other affordable housing developers may not find desirable. Finally, it should be noted that any development done by SDHC or its affiliate has the benefit of allowing SDHC to retain cash flow from properties and revenue from developer fees which can be reinvested to produce additional affordable housing or support other SDHC programs.

In the table above, seven out of the 10 transactions are ground leases of SDHC-owned property (including San Diego Square which became SDHC-owned property after the City already had a lease in place with HDP). SDHC typically ground leases the property to a separate legal entity in which HDP is the sole member, or to a tax credit partnership where HDP is the general partner. The main benefit of ground leases is that once the lease expires, the property reverts back to SDHC and SDHC never loses possession of the property. SDHC benefits from keeping ownership of the property and receiving rental cash flow, a portion of which has helped support programs that do not have a funding source, such as homelessness. SDHC could offer ground leases to private affordable housing developers (and has done so in the past), but according to staff this is much less desirable for developers than outright ownership.

According to staff, the biggest benefit of HDP is that it generally has done projects that other affordable housing developers would not find desirable and that the affordable housing market therefore is not providing. HDP will do projects that only break-even financially as long as they

further SDHC’s mission of creating or preserving affordable housing; while other affordable housing developers generally only pursue projects that generate returns. As examples of break-even projects, SDHC cites West Park, Quality Inn, Hotel Churchill⁵, New Palace, and Parker Kier which were all Single Room Occupancy (SRO) hotels that would likely have turned market rate had SDHC and HDP not stepped in. Because some projects may not be capable of generating significant revenue, separating the assets of HDP from SDHC reduces financial liability to SDHC should a property go into default.

Assessing the Degree to which HDP Competes with Other Developers

SDHC partners with developers to build new affordable rental homes and rehabilitate existing buildings to preserve affordable rental housing in the City of San Diego. One of the ways that SDHC does this is by lending funds to developers to leverage with other resources for their affordable housing projects. Developers may apply for funds through a NOFA issued by SDHC.

Out of the 10 transactions in the table above, four received loan funds from SDHC: New Palace Hotel, West Park, Quality Inn, and Hotel Churchill. In speaking with SDHC staff, these loans were likely provided to HDP *directly* as a policy decision (approved by the SDHC Board and/or Housing Authority), as opposed to awarded over other affordable housing developers in a competitive NOFA process. Similarly, as noted in the table above, some projects were directly allocated SDHC Moving to Work or other grant funds. Therefore, for the transactions that were partially funded by SDHC loans and grants, it is unlikely that HDP competed with other private affordable housing developers for these funds. We note that allocating funds directly to SDHC through its affiliate for projects as opposed to having HDP go through the NOFA process, is a policy decision point for the Housing Authority.

Mariner’s Village and Town & Country did not receive any SDHC funds but were tax credit projects. All tax credit projects reflected in the table above also received multifamily housing revenue bond proceeds which has recently become a competitive funding source for developers in California beginning in 2020.

With this context in mind, it does not appear that HDP is a major competitor among private affordable housing developers. Rather, HDP is largely the vehicle by which SDHC uses to develop certain priority projects that were approved by the Housing Authority and/or the SDHC Board. The impact to private affordable housing developers primarily lies in the opportunity cost of allocating SDHC loan or grant funds directly to certain projects that could have instead gone into a NOFA for which private affordable housing developers could apply.

What Guides the Use of HDP?

According to SDHC staff, the acquisition, rehabilitation and operation by affiliates are in large part guided by whether there are any conflicts of interest under federal, state, and local law, and whether the funding sources have any specific restrictions that prohibit affiliates’ use of those funds. We note that each of HDP-related transactions referenced above included an “HDP Conflict Disclosure Statement” in the SDHC Board and/or Housing Authority staff report with a finding

⁵ Hotel Churchill was acquired by SDHC through a court settlement in a foreclosure proceeding. SDHC sued the previous owner for violation of the City’s Single Room Occupancy Ordinance. According to a [staff report](#), in 2012 the SDHC issued a Request for Proposal to select a development team to rehabilitate and operate the property. However, the SDHC Board rejected all proposals.

that no violations of conflict of interest laws would occur by approving the transactions. Additionally, according to the [FY 2021 Comprehensive Annual Financial Report](#), “While the Corporation (HDP) has substantially the same governing body as SDHC, the Corporation is managed differently than SDHC and operationally the Corporation has its own procurement practices, its own legal counsel and its own separate account system in place.”

As for funding restrictions, according to SDHC staff, there are no known funding sources that exclude a public housing authority’s nonprofit affiliate from being able to receive funds as long as the specific program requirements are met. We provide a more detailed explanation regarding typical funding sources used for affordable housing development in Attachment 1.

Sacramento Housing and Redevelopment Agency – Sacramento Housing Authority Repositioning Program

Sacramento Housing Authority Repositioning Program (SHARP) is a nonprofit public benefit corporation and component unit of the Sacramento Housing and Redevelopment Agency (SHRA). SHARP board members are appointed by SHRA’s Executive Director. According to the most recent [Comprehensive Annual Financial Report](#) available, SHARP was formed for the purpose of serving as the general partner of the entity that owns, rehabilitates and operates former public housing properties acquired through HUD’s assets demolition and disposition process. Assets transferred to SHARP are rehabilitated through various financing structures including the use of limited partnerships that are able to benefit from the use of tax credit financing.

According to staff, SHARP must apply to SHRA for housing authority funding, such as through a NOFA. The department that grants funding is distinctly separate from the department that applies for funding (which houses SHARP). In other words, the *approver* is not the same as the *applicant*. SHARP is held to the same, objective standards in reviewing projects for potential funding. SHARP’s activities are also guided by an external legal counsel, so that any legal recommendations or advice is not coming from the SHRA or the Housing Authority.

According to SHRA staff, there is nothing that precludes SHARP from applying for any funds. Eligibility is based on program requirements associated with those funds, and not based on the nature of the entity applying.

Housing Authority of the County of San Bernardino – Housing Partners I, Inc.

Established in 1991, Housing Partners I (HPI) Inc. is a nonprofit that develops, owns, and manages affordable housing and is an affiliate of the Housing Authority of the County of San Bernardino (HACSB). According to HACSB’s [2020 Annual Report](#), HPI has developed and acquired 1,512 units since its inception.

According to staff, HACSB’s typical development structure has been to “self-develop” affordable housing projects, where HACSB partners with HPI and establishes a development entity that uses HACSB funding. These are typically *not* low-income housing tax credit (LIHTC) projects. Staff indicated, among other things, that they prefer a broader mix of household incomes, whereas the LIHTC program typically supports projects comprising lower income households (at or below 60% of the area median income). However, as an exception, HACSB has one large project revitalizing a former public housing site that the authority solicited proposals from outside developers and intends to use tax credits for the various development phases. The selected

developer will include HPI is part of the tax credit partnership which will allow for a streamlined process for the authority to eventually provide project-based vouchers for the project.

The general rationale for HACSB and HPI partnering instead of using either entity exclusively, is that it allows for a property tax welfare exemption.⁶ Most affordable housing lenders require that new debt be with a “single-asset entity” such as a limited liability company or limited partnership. According to staff, if HACSB forms a single-asset entity, it loses its automatic property tax exemption of the public agency. HPI, as a nonprofit, maintains the tax exemption. Additionally, HPI is designated as a Community Housing Development Organization which allows it to apply for and receive federal HOME funds from the County of San Bernardino and other cities for the development of affordable housing. This has been used extensively for HACSB/HPI developments.

Although there are exceptions as mentioned above, generally HACSB does not solicit proposals from third party developers, like SDHC does by issuing NOFAs. Therefore, the question of how HACSB ensures competitiveness among all affordable housing developers does not apply. However, HPI does compete for *external* resources from other jurisdictions, such as HOME funds.

Santa Clara County Housing Authority – 9 Affiliate Nonprofit Corporations

According to staff, Santa Clara County Housing Authority (SCCHA) uses one of its 9 active nonprofit affiliates to be the General Partner in limited partnerships or the sole owner of a limited liability company for each affordable housing development transaction. One reason provided for using its nonprofit affiliate is to receive the welfare property tax exemption. SCCHA does not offer loan funds through a competitive process for private affordable housing developers, as SDHC does. However, similar to SDHC, it does lend funds to its own projects through separate development entities. Staff indicate that SCCHA tries to avoid competing for external local funds from cities and the county, but as costs have been increasing it has been hard to avoid. SCCHA does compete for funds at the state level.

Fresno Housing – Silvercrest, Inc.

According to Fresno Housing’s [2020 Comprehensive Annual Financial Report](#):

Over the past decade, Fresno Housing has been one of the most productive affordable housing developers in the Central Valley, building and renovating over 2,200 units and bringing close to \$510 million dollars of private investment to Fresno County. These efforts are mainly accomplished through the Low-Income Housing Tax Credit Program (LIHTC) and HUD’s Rental Assistance Demonstration (RAD)⁷. These two programs allow Fresno Housing to leverage public and private debt and equity in order to construct and/or rehabilitate affordable housing stock.

⁶ According to the California Board of Equalization, the welfare exemption is a property tax exemption for properties 1) used exclusively for charitable, hospital, or religious purposes, and 2) owned or held in trust by nonprofit organizations operating for those purposes.

⁷ According to the federal Housing and Urban Development Department, in the Rental Assistance Demonstration program, properties “convert” their public housing assistance to long-term, project-based Section 8 contracts. These new contracts provide a more reliable source of operating subsidy that allow housing authorities and owners to leverage private capital – typically debt and equity – in order to finance the property rehabilitation or replacement.

According to staff, Silvercrest, Inc. was created to act as the nonprofit Managing General Partner in their tax credit limited partnerships in order to protect the city and county Housing Authorities from the construction and operating risk of those developments.

Fresno Housing does not offer loan funds through a competitive process for private affordable housing developers. However, it can directly allocate loan and grant funds to its development entities. As an example, Homekey grants were passed through to Silvercrest, Inc. as the subrecipient to complete the acquisition and renovations of the respective properties.

Inactive Affiliates

Los Angeles County Development Authority – LA County Housing Development Corporation

LA County Housing Development Corporation was created in 1989, at a time when there were not many affordable housing developers. Staff has indicated that the corporation is rarely used today since the pool of affordable housing developers has grown. Therefore, its role is being reexamined.

Oakland Housing Authority

Only on rare occasions does the Oakland Housing Authority self-develop affordable housing. It is typically a partner in a development where the authority makes land or capital contributions and allocates project-based vouchers. However, the authority has created nonprofit affiliates around development projects or deals in the past.

Policy Considerations for the Housing Authority

Ultimately, the City of San Diego Housing Authority (i.e. the City Council) can determine to what extent SDHC and HDP are involved in directly developing affordable housing, if at all. The Housing Authority has final approval on issuing multifamily housing revenue bonds to support projects, has final budget authority over the SDHC, and can pull any SDHC matter, including requests to authorize acquisitions, within seven days of SDHC Board approval.

As the Housing Authority considers its policy toward SDHC's and HDP's role in development of affordable housing in the City of San Diego, we offer the following questions for thought or discussion:

- *Should SDHC or its nonprofit affiliate engage in self-development of affordable housing or should development be done completely by private affordable housing developers? What are the tradeoffs?*
- *Should HDP be able to receive funding directly as approved by the Housing Authority and/or SDHC Board or should HDP be required to go through a competitive NOFA process?*
- *Is there additional information (e.g. creation of a budget publication or annual report) that could be made available about HDP's activities so that the Housing Authority and the public can better understand its operations and finances?*

Our Office hopes that this is the beginning of a much a deeper conversation regarding HDP's role in development of affordable housing. If there is a desire for more information such as a discussion

of tradeoffs regarding HDP's involvement in development or lack thereof, the specifics of HDP-related transactions, and its operations, we recommend that SDHC staff present at a future meeting of the Select Committee on Housing Commission Oversight.

CONCLUSION


This report responds to a follow-up request for additional information comparing housing authorities on several key issues. We provide a detailed overview of the major elements of various Executive Director employment agreements and highlighted Fresno's contract since it has a unique section clarifying the relations of the Boards and the Executive Director which may be of interest to the City of San Diego Housing Authority. We also provide responses received from various agencies on how they evaluate the performance of their agency's Executive Director. The City of San Diego Housing Authority will need to identify where the current evaluation process might fall short and determine which change will best address its concerns. We do identify elements of other jurisdictions' processes that could be further explored with the intent of increasing transparency, strengthening accountability, and facilitating better communication among parties.

After reviewing five public housing authorities that have active nonprofit development arms, we found that most do not typically compete directly with private affordable housing developers for *internal* housing authority funding. As an exception, the Sacramento Housing Redevelopment Agency requires its nonprofit to apply for funding through a competitive process and ensures there are separate departments applying for funds and reviewing the decision to award grant funding. However, nonprofit development arms do compete for *external* funds made available at the federal, state, and local levels. For the City of San Diego, we found that the impact to private affordable housing developers primarily lies in the opportunity cost of allocating SDHC loan or grant funds directly to certain SDHC or HDP-related projects that could have instead gone into a NOFA for which private affordable housing developers could apply. If the Housing Authority is interested in having a deeper conversation about HDP's role in developing affordable housing, SDHC staff should be given the opportunity to present, perhaps at a future meeting of the Select Committee on Housing Commission Oversight. Finally, we raise related key policy questions that the Housing Authority may wish to consider as well.

Ultimately, the City of San Diego Housing Authority Board (i.e. the City Council) can determine the type of housing authority it wants to oversee. As discussed in IBA Report 21-25, there is wide variation in their structure, as well as how and to what degree housing authorities implement many activities. We look forward to continuing to work with the Housing Authority to achieve its desired outcomes.

Attachments:

1. Detailed Review of Executive Director Employment Agreements
Descriptions of Executive Director Performance Evaluation Processes
Overview of Funding HDP Can Pursue
2. Councilmember Request Memorandum


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Independent Budget Analyst

Detailed Review of Executive Director Employment Agreements

We have a few technical notes to keep in mind when reviewing the following tables. First, we refer to *every* head of housing authority or commission as Executive Director, abbreviated “ED”, for simplicity, even though the position may have a different title such as President or CEO. Second, each contract included an initial beginning salary, but the salaries reflected in our tables are the most recent salaries our Office was able to identify, which could have been implemented either through a contract amendment or a separate legislative action.

**City of San Diego
San Diego Housing Commission**

Governance Structure: Hybrid model where the governing board is the City Council, but housing authority programs are implemented by a separate agency, the San Diego Housing Commission. Therefore, the Commission is not completely separate from the City but has been delegated authorities to act on its own in some instances without City approval.

San Diego Housing Commission (SDHC)	
Term	<ul style="list-style-type: none"> • Effective September 19, 2008, continues until terminated (it was terminated as of March 31, 2022) • ED is employed jointly by both the SDHC and Housing Authority
Duties	<ul style="list-style-type: none"> • Use best judgment to act as President and CEO of SDHC and the ED of Housing Authority • Use experience of ED to the benefit of SDHC and Housing Authority • Be accountable to both SDHC and Housing Authority for overseeing the development and implementation of short and long term plans, budgets, etc. to accomplish SDHC's mission and to address the SDHC's and Authority's priorities, and being responsible for coordinating housing policy among all housing entities within City. • Loyal and conscientiously perform all of the duties required to benefit SDHC and Authority • SDHC and Housing Authority are entitled to relief in the event of a default by ED and/or failure to adhere to standards of conduct
Salary	<ul style="list-style-type: none"> • \$331,682 through 3/31/2022, plus performance incentive payment: \$16,500 (last received 11/27/2020) • Note: Each employee also received a cost of living increase as of 3.5% in 2021 and they can also receive incentive payments based on performance. • Salary is subject to review by the SDHC Board annually, which can change the salary as long as it is included in the budget, approved by the Housing Authority. Housing Authority may, in its discretion, review the determination made by the SDHC Board.
Notable Benefits	<ul style="list-style-type: none"> • \$9,600 annual car allowance (\$800 monthly) • Relocation: up to \$40,000 for closing costs from selling previous home; up to \$10,000 for temporary housing; up to \$5,000 for house hunting; up to \$2,000 in one-way airfare
Termination	<ul style="list-style-type: none"> • Power to terminate is exclusively vested in the Housing Authority Without Cause: At any time, agreement may be terminated by Housing Authority providing 30 days notice to ED. SDHC must provide severance of 6 months of base salary and benefits. With Cause: Agreement is terminable by Housing Authority upon delivery of written notice to ED Termination by ED: Agreement is terminable without cause with 30 days written notice to Housing Authority; does not receive severance pay Default by ED: If ED willfully breaches or neglects obligations, the Housing Authority may terminate agreement upon written notice without prejudice to any remedy that may exist
Evaluation	N/A
Conflict of Interest References	<ul style="list-style-type: none"> • ED is subject to the policies of SDHC's Board and Housing Authority, and all laws including conflict of interest laws • Employment is contingent upon, among other things, completing and filing a Form 700 • ED may not engage in outside employment or consulting for pay, unless expressly permitted, and does not create a conflict of interest

**Alameda County
Housing Authority of the County of Alameda**

Governance Structure: Hybrid model where the County of Alameda Board of Supervisors and two tenants make up the governing board (also referred to as the Authority Commission) and the housing authority programs are administered by a separate agency, the Housing Commission. However, the county has delegated almost all authority to the Housing Commission.

Housing Authority of the County of Alameda	
Term	<ul style="list-style-type: none"> • 3 years commencing with June 29, 2020 • 6 months prior to expiration, Commission must express intent to extend, or else it automatically extends for successive 6 month terms
Duties	<ul style="list-style-type: none"> • Responsible to the Housing and Authority Commissions for proper administration of all affairs • Perform duties established by the Housing Commission as reflected in the job classification, or as otherwise provided by law, ordinance, or regulation • Prepare the agenda and supporting materials for Housing Commission meetings and attend them • Direct work of all Housing Commission depts.; make changes that result in greater efficiency or improvement • Execute all documents, reports and certifications required by federal Housing and Urban Development • Develop professional relationships with local jurisdictions, affordable housing developers, social service orgs • Sign contracts binding the Housing Authority within the authority granted by Housing Commission • Recommend measures to Housing Commission necessary to conduct business or grow the Authority
Salary	\$225,000 as of 6/29/2020
Notable Benefits	<ul style="list-style-type: none"> • Largely the same as other management employees, except as specified • Automobile allowance of \$319 per pay period, or \$638 monthly (same as County department heads) • Relocation: \$7,500
Termination	<p>Authority Commission has authority to terminate the ED upon recommendation by Housing Commission.</p> <p><u>Involuntary Termination without Cause:</u> Housing Commission may recommend to the Authority Commission to terminate contract with 30 days' notice without cause and ED shall receive severance pay (3 months' salary)</p> <p><u>Pay in Lieu of Notice:</u> Termination may occur without cause and without notice by compensating ED with severance pay and 30 days of salary for the immediate cessation of the ED's employment</p> <p><u>Resignation Upon Request:</u> If ED resigns at the request of Housing Commission, ED to receive severance pay</p> <p><u>Termination for Cause:</u> If ED is recommended by Housing Commission for termination for cause, the ED shall not receive severance pay or other payment. "Cause" means willful misconduct, malfeasance, dishonesty, criminal activity, etc.</p> <p><u>Voluntary Resignation:</u> ED may, at any time, resign upon 60 days notice to the Chairs of Housing and Authority Commissions and will not receive severance pay. Housing Commission can relieve ED sooner by paying salary and benefits for the 60 day period.</p>
Evaluation	<ul style="list-style-type: none"> • Housing Authority through its Housing Commission, or separate committee shall use best efforts to undertake a performance of ED on approximately an annual basis. • Housing Commission may make changes to ED's compensation as a result of the evaluation.
Conflict of Interest References	ED shall not engage in any activity which is actually or potentially in conflict with, or which interferes with, the performance of the ED's duties.

**County of Los Angeles
Los Angeles County Development Authority**

Governance Structure: Hybrid model where the governing board is the County Board of Supervisors but housing authority programs are implemented by a separate agency, the Los Angeles County Development Authority.

Los Angeles County Development Authority	
Term	Effective January 5, 2021, continues until terminated
Duties	ED shall perform all of the duties provided by law and such additional duties as may be assigned by the Authority
Salary	<ul style="list-style-type: none"> • \$265,094 effective 1/5/2021 • ED may receive salary increases contingent upon performance
Notable Benefits	N/A
Termination	<ul style="list-style-type: none"> • Either party may cancel agreement at any time without cause upon written notice to the other party. • If terminated with or without cause, ED shall receive an amount equal to 6 months' salary in addition to those benefits specified in the Authority's policies
Evaluation	N/A
Conflict of Interest References	In addition to complying with all statutory financial disclosure and conflict of interest obligations, ED shall not accept employment or income or otherwise obtain a financial interest in, and shall not be financially compensated in any way to endorse or promote the products or services of, any business that contracts with the LACDA and the County.

City of Los Angeles
Housing Authority of the City of Los Angeles

Governance Structure: Separate model where the governing board is a separate Board of Commissioners who are appointed by the Mayor and confirmed by the City Council.

Housing Authority of the City of Los Angeles	
Term	<ul style="list-style-type: none"> • 40 months (or 3.3 years) commencing with November 26, 2019 (extended via amendment) • Executive Director has served since 2012
Duties	<ul style="list-style-type: none"> • Reports to and is supervised by Board of the Authority • Plans, directs, and manages Authority operations, while ensuring responsible use of resources • Develops and communicates long term vision and strategic plan for the Authority • Manages and develops staff to accomplish short term and long term vision • Monitors business affairs, ensures compliance with laws and achievement of vision • Identifies innovative practices to achieve vision • Is a visible leader of Authority to the public and at all levels of government • Directs the preparation and proper public notice of the agenda for board meetings, attends all meetings, and maintains records of the Board • Supervision of all funds and report to the Board the financial condition of the Authority
Salary	<ul style="list-style-type: none"> • \$346,176 as of 4/1/2022 • One-time Special Leadership Compensation: \$10,000
Notable Benefits	Can use Authority's automobile or receive \$350 per month, or another amount per policy
Termination	<p>Without Cause: At any time, the Authority may terminate this agreement for any reason, or for no reason, by providing ED with 3 months prior written notice. Or Authority may place Employee on paid leave status during the notice period. ED to receive severance of 3 months' pay or the remaining agreement term, whichever is less</p> <p>With Cause: At any time, the Authority may terminate agreement upon occurrence of certain specified events. ED does not receive severance.</p> <p>Termination by ED: May occur if other than a "Good Reason", as defined, by providing at least 90 days prior written notice. May occur for "Good Reason" by providing written notice to the Authority and the Authority's failure to remedy issues within 10 days following receipt of notice.</p>
Evaluation	Board to review ED's performance annually based on ED's duties, responsibilities, and goals. The ED goals are included in the agreement as an exhibit.
Conflict of Interest References	<ul style="list-style-type: none"> • ED and spouse must not have a financial interest in any contract to which the Authority is a party or is otherwise financially affected and does not have any conflict of interest with the Authority or its business or affairs, including affordable housing matters. • Except as specified, ED will not have a financial interest in, cause business to be done on behalf of or serve as a member of any corporation or other business entity that does affordable housing business in US. • Must comply with conflict of interest policies; cannot engage in other activities for compensation
Other Sections	<ul style="list-style-type: none"> • Dispute Resolution • Restrictive covenants, which among other things, restrict ED's disclosures or use of confidential information for personal benefit or the benefit of any other entity other than the Authority. • Inventions, Patent Rights, and Copyrights

**Santa Clara County
Santa Clara County Housing Authority**

Governance Structure: Separate model where the governing board is a separate Board of Commissioners who are appointed by the County Board of Supervisors.

Santa Clara County Housing Authority	
Term	<ul style="list-style-type: none"> • 3 Years: April 30, 2021 ending March 31, 2024 • Unless notice of termination is given, there will be an automatic one-year extension annually
Duties	<ul style="list-style-type: none"> • In addition to duties outlined in state law, ED has powers and duties that are delegated by the Authority, including administrative functions of the Authority • Provide leadership to achieve mission and goals of Authority; recommend and implement Authority-approved policy • Periodically review policies and make recommendations for changes • Periodically evaluate employees • Advise Authority of all possible funds to implement current or contemplated Authority programs
Salary	\$340,331 per year as of 2/4/2021
Notable Benefits	<ul style="list-style-type: none"> • Largely provided same benefits as are provided to all other non-bargaining unit employees, except as specified • Automobile allowance: \$650 per month • Relocation: \$15,000
Termination	<p>Either the Authority or ED may terminate the agreement at any time with or without cause and with or without the need of any explanation</p> <p>Without Cause: Authority must give ED 90 days written notice and severance pay of 6 months salary plus health insurance.</p> <p>For Cause: Authority does not need to give notice and ED does not receive severance</p> <p>Termination By ED: ED must provide at least 90 days notice to the Authority</p>
Evaluation	<ul style="list-style-type: none"> • Board provides ED with annual performance review • Board may adjust the ED's base salary to a higher step based on performance, merit, and sufficient revenues
Conflict of Interest References	ED may not engage in any employment including independent contracting as a consultant, outside working for Authority

County of San Bernardino
Housing Authority of the County of San Bernardino

Governance Structure: Separate model where the governing board is a separate Board of Commissioners who are appointed by the County Board of Supervisors.

Housing Authority of the County of San Bernardino	
Term	<ul style="list-style-type: none"> • 3 Years: September 27, 2020 - September 26, 2023 • May be extended through a contract amendment
Duties	<ul style="list-style-type: none"> • Perform the functions and duties specified in the Authority policies and resolutions and duties in the ED's job description • Perform duties to the best of ability and comply with Authority rules and regulations
Salary	<ul style="list-style-type: none"> • \$193,939 as of 9/27/2020 • Management Incentive Policy: \$2,250 per month (\$27,000 annually)
Notable Benefits	<ul style="list-style-type: none"> • Largely the same benefits as provided to executive employees of Authority • Automobile allowance: \$600 per month
Termination	<p>Termination By ED: May resign at any time and give 30 days' notice</p> <p>With or Without Cause: Board may terminate at any time, with or without cause, upon notice to Employee. For without cause termination, ED must receive 6 months of base salary</p>
Evaluation	Authority evaluates Employee's performance at least annually
Conflict of Interest References	<ul style="list-style-type: none"> • ED may not engage in any activity that is a conflict of interest, prohibited by contract, or may create an incompatibility of office as defined under state law • ED must complete disclosure forms required by law annually • ED must only work for Authority during the term of agreement

**Fresno City and County
Fresno Housing**

Governance Structure: The Housing Authority of the City and County of Fresno operates together under a Joint Exercise of Powers Agreement, collectively known as Fresno Housing. It is governed by two separate Board of Commissioners, but they meet together. The Executive Director reports to both boards.

Fresno Housing	
Term	3 years: November 1, 2021 - December 31, 2024
Duties <i>Executive Director</i>	<ul style="list-style-type: none"> • Administrative responsibility for the Housing Authority is delegated by the Boards to the ED • ED shall perform all powers and duties in accordance with applicable laws and the job description (Exhibit A of the agreement) including: 1) maintaining regular communication with Boards and its Chairs and 2) ensuring that commissioners have access to the education necessary to fulfill their role as board members • ED shall be held responsible for establishing programs and for managing the Housing Authority to meet the Board's expected outcomes including providing outcome data.
Duties <i>Boards</i>	<ul style="list-style-type: none"> • Boards accept responsibility for formulating policy and for taking action on matters • Boards recognize they are collective bodies and the power of each Board member is derived from the collective deliberation and action of the board as a whole • Individual board members shall not give direction to the ED or any staff regarding management of the Housing Authority or the solution of specific problems. The boards, individually or collectively, shall refer any criticism or suggestions to the ED for study and recommendation. • Boards shall provide the ED with periodic opportunities to discuss Board-ED relations as they relate to the Boards' productivity and effectiveness of the ED's leadership. An outside advisor may facilitate this.
Salary	<ul style="list-style-type: none"> • \$250,000 as of 11/1/2021 • ED may be entitled to additional compensation following performance evaluation of up to \$20,000
Notable Benefits	<ul style="list-style-type: none"> • Largely the same as unrepresented management employees • Automobile allowance: \$575 per month • Relocation: Up to \$20,000 for moving and/or temporary housing for up to 6 months
Termination	<p>Mutual Consent: Agreement may be terminated by mutual consent of the ED and Boards.</p> <p>Termination by ED: 60 day written notice required and Boards may waive or reduce this period.</p> <p>For Cause: Boards may end agreement at any time for breach of agreement or any of the disciplinary grounds set forth in policies. Boards must provide ED a statement of grounds for termination. ED is entitled to conference with the Boards to address concerns, with representation.</p> <p>Without Cause: Boards may end agreement without cause and must pay ED severance equal to 1 year's salary. Severance Agreement is included as Exhibit C to the employment agreement.</p>
Evaluation	This section details the evaluation process, timing, and related compensation increases. Exhibit B of the agreement includes the Evaluation/Goal Setting Timelines.
Conflict of Interest References	ED may receive compensation for serving on external boards of directors to the extent that such activities do not constitute a conflict of interest for the ED or the Housing Authority

Descriptions of Executive Director Performance Evaluation Processes

Information reflected in this section was produced through a combination of gathering information from housing authority staff and reviewing employment contracts and policies publicly available.

San Diego Housing Commission

The City of San Diego's housing authority is structured as a hybrid model where the City Council is the governing board, but significant authority is delegated to the San Diego Housing Commission (SDHC) Board to oversee and administer programs. We use the word "hybrid" since the SDHC is not completely separate from the City, but it is not embedded in the City either. In hybrid housing authority models, programs are administered by separate agencies that report to the governing board to varying degrees.

The President and CEO (Executive Director) of the SDHC is employed jointly by both the SDHC and the City of San Diego Housing Authority (i.e. City Council). Therefore, Housing Authority and SDHC Board share oversight of the Executive Director. The power to hire and terminate the Executive Director is vested in the Housing Authority, while the SDHC Board is responsible for reviewing the Executive Director's performance and compensation every year. However, the Housing Authority may ask to review the Executive Director's performance and the SDHC's recommendation for compensation, at which point the Housing Authority has decision-making authority over the matter.

Below we outline the process for annually evaluating the performance of the Executive Director and determining the Executive Director's compensation based on information provided by SDHC staff.

The SDHC Board has long used the Ad Hoc CEO Performance Evaluation Committee (Ad Hoc Committee) to evaluate the performance of the Executive Director of the SDHC. Recently, the Chair and Vice Chair of the SDHC Board have made up the Ad Hoc Committee.

The following are the typical steps for the evaluation process:

1. Executive Director provides a self-assessment to the Ad Hoc Committee.
2. Ad Hoc Committee meets with the Executive Director.
3. Chair of SDHC Board provides the General Counsel with ratings to be included on the Executive Performance Evaluation Form.
4. General Counsel submits to the Ad Hoc Committee for review and approval.
5. The final evaluation form is shared with the full SDHC Board before it is discussed in SDHC Board Closed Session.
6. The Executive Director's performance evaluation is discussed in closed session, at which time the Executive Director has time to discuss his performance.
7. The SDHC Board votes to approve or modify the evaluation.

8. Along with the approval of the evaluation, the SDHC Board discusses, and sets goals for the Executive Director for the following year which are referenced within the Executive Director Evaluation Form.
9. The evaluation form is reviewed and signed by the Executive Director and Chair of the Board.
10. In Open Session, the General Counsel reports that the SDHC Board's personnel evaluation has occurred in Closed Session.
11. Within seven days of this date, the Housing Authority may ask to perform the personnel evaluation. This request has never been made.

Following the personnel evaluation, the Ad Hoc Committee discusses the Executive Director's compensation with the Executive Director. The General Counsel creates a compensation matrix comparing the compensation of executives from other jurisdictions, as required by the U.S. Department of Housing and Urban Development (HUD), using both HUD-generated numbers and Open Government compensation amounts.

The following are the major steps in reviewing the Executive Director's compensation:

1. The Ad Hoc Committee reviews the compensation matrix and may discuss compensation directly with the Executive Director.
2. The Ad Hoc Committee makes a recommendation on the Executive Director's compensation which is forwarded to General Counsel for inclusion in an SDHC Board report, along with the compensation matrix, to be heard in Open Session, consistent with the Brown Act requirements.
3. The draft Board report is sent to the Executive Director for his review and comment; the Executive Director may discuss with the recommendation with Chair of the Ad Hoc Committee.
4. SDHC Board report with Ad Hoc Committee's recommendation is docketed for a SDHC Board public hearing.
5. At least four SDHC Board Commissioners must vote to approve the recommendation for it to be implemented. Salary may be set by the SDHC Board without further action by the Housing Authority provided that the salary is included in the SDHC's budget, approved by the Housing Authority.
6. Within seven days of the SDHC Board's vote, the item may be reviewed by the Housing Authority in accordance with the San Diego Municipal Code Section 98.0301. This request has never been made.

Housing Authority of the County of Alameda

The Housing Authority of the County of Alameda (HACA) has a hybrid governance model where the Board of Supervisors of Alameda County is the governing board, but the housing authority

programs are administered by a separate entity, the Housing Commission. However, in the case of HACA, almost all authority has been delegated to the Housing Commission and the County has very limited involvement. The County is not involved in the Executive Director performance evaluation process.

According to the Executive Director of HACA, the process for evaluating the Executive Director is currently informal. The Executive Director's employment contract calls for an annual evaluation and the Housing Commission may elect to make adjustments to the Executive Director's compensation as a result of such evaluation. However, the existing Executive Director is working with the Housing Commission on developing a more formal process.

Characteristics of the pending, new process include:

1. Annual evaluation will be based on performance towards mutually agreed upon goals.
2. The Executive Director will provide a self-assessment.
3. An evaluation tool will be used so that members of an evaluation committee can give their own review of performance.
4. The performance review by the evaluation committee is then presented to the full Housing Commission for approval.
5. The tool will also allow for adjustments to compensation based on performance.

Los Angeles County Development Authority

The housing authority for Los Angeles County is a hybrid model where the Los Angeles County Board of Supervisors is the governing board, but programs are implemented by a separate agency, called Los Angeles County Development Authority (LACDA). The County Board of Supervisors maintain significant control over LACDA's operations as compared to other hybrid options where the governing boards have delegated more authority to separate agencies.

According to LACDA staff, the Executive Director performance evaluation process is as follows:

- The Executive Director's performance is assessed using the same evaluation tool as for all other, roughly 30 County department heads.
- The tool includes County Initiatives that all department heads must meet (e.g. Gender Equity Initiative, Homeless Initiative, Sustainable Communities, etc.)
- Because LACDA is the community and economic development arm for the County, additional performance metrics are included related to Economic Development, Community Development, and Housing Development activities (which includes Housing Authority operations)
- Evaluation typically includes a combination of a self-rating, a rating by the Chief Executive Officer of the County, and a combined rating from all five board offices.

- Staff notes that the rating tool is currently being revised so changes will be occurring in the coming year.

Housing Authority of the City of Los Angeles

The Housing Authority of the City of Los Angeles (HACLA) is governed by a separate Board of Commissioners, appointed by the Mayor and confirmed by the City Council. Although HACLA has a separate governance model, the Mayor has influence over the agency.

According to HACLA staff, the process is as follows:

- The Chair of the Board of Commissioners appoints three Board members to a committee to evaluate the Executive Director.
- The committee then meets with selected members of HACLA's Executive Team to get their feedback and opinions of the Agency's success. The Executive Team consists of heads of departments within the housing authority that work closely with the Executive Director.
- At the end, the three committee members meet with the Board in a closed session to discuss their outcomes and recommendations.
- The Mayor and Board provide annual goals for the Executive Director for the next year.
- The Executive Director submits a monthly status update to the Mayor's Office.

Santa Clara County Housing Authority

The Santa Clara County Housing Authority (SCCHA) serves Santa Clara County, including the City of San Jose, and operates completely separate from the County. It is governed by a separate Board of Commissioners who are appointed by the County Board of Supervisors.

According to SCCHA staff, the Board of Commissioners generally asks for feedback from the SCCHA Executive Team and works with Human Resources to complete a performance evaluation form. The Executive Director is rated on things such as operations, relationships with community/other agencies, strategic initiatives, overall performance and leadership provided to the agency. The following is a timeline for the evaluation process:

- Executive Director completes a self-assessment and provides it to the Board (October)
- Each Board member is given an assessment form that they individually complete and sends it to the Vice-Chair of the Board. The Vice-Chair creates a single assessment. (November)
- The single assessment is reviewed by all of the commissioners to make sure it is accurate and includes the thoughts of all commissioners. (December)
- The assessment is finalized by the Board and provided to the Executive Director. (December)

- The Board decides on compensation adjustment, if warranted. (December)

Staff indicate that the following steps that will be added in the near future:

- Create measurable goals for the upcoming year. (December/January)
- Mid-year review of performance. (June)

Sacramento Housing and Redevelopment Agency

The Sacramento Housing and Redevelopment Agency (SHRA) is a Joint Powers Authority which consists of four legal entities: 1) City of Sacramento, 2) Housing Authority of the City of Sacramento, 3) County of Sacramento, and 4) Housing Authority of the County of Sacramento. SHRA administers the housing authority programs, among other things, for the City and County of Sacramento and its governing boards are the City Council and the County Board of Supervisors, therefore, it has a “hybrid model”.

In 2016 the City Council/Housing Authority and County Board of Supervisors/Housing Authority approved an Executive Director Performance Evaluation and Compensation Policy. The need for this policy arose in 2015 when the Executive Director was being assessed for a merit increase for the first time since her appointment in 2009 and no formal evaluation process existed at that time.

The annual performance evaluation process involves a joint City/County “2x2 Performance Evaluation Committee” in which two members from the City Council and two members from the Board of Supervisors serve on the committee to conduct a performance evaluation of the Executive Director.

Below is the evaluation process as outlined in the policy.

Creation of the 2x2 Performance Evaluation Committee:

- County – The Chair of the County Board of Supervisors may appoint two members of the Board of Supervisors and the County Executive.
- City – The Mayor of the City of Sacramento may appoint two members of the City Council and the City Manager.
- The Committee’s task is to review and evaluate the performance of the Executive Director.

The Executive Director will:

1. Prepare a summary of accomplishments for the period to be evaluated along with goals and objectives, and present the summary to the members of the Committee for review prior to any evaluation session with the committee.
2. Schedule an evaluation session with the Committee.

Responsibilities of the 2x2 Performance Evaluation Committee:

1. Evaluate the Executive Director's performance when directed by the Mayor and Chair of the Board of Supervisors.
2. Solicit feedback from their respective governing boards.
3. Provide feedback to the Executive Director.

Compensation Adjustments:

1. The Executive Director will receive step increases each year effective on their anniversary date.
2. Increases will not exceed the maximum of the approved Executive Director salary range.

SHRA Human Resources will:

1. Maintain the completed performance reviews in the Executive Director's personnel file.
2. Process annual step increases.

Oakland Housing Authority

The Oakland Housing Authority (OHA) serves the City of Oakland and is governed by a separate Board of Commissioners who are appointed by the Mayor and confirmed by the City Council. OAH operates separately from the City of Oakland.

According to staff, the Executive Director's performance evaluation is done by the Board of Commissioners. The Board does not use 360 evaluation process. Our Office was unable to obtain additional details on this process.

Housing Authority of the County of San Bernardino

From 2015 to 2020, the Housing Authority of the County of San Bernardino (HACSB) had a hybrid model where the County Board of Supervisors was the housing authority governing board and the housing authority programs were administered by a separate housing commission and overseen by the commission board. In 2020, the County made the Board of Commissioners the housing authority's sole governing board. Therefore, HACSB is run completely separate from the County of San Bernardino.

According to HACSB staff, a subcommittee of the Board of Commissioners prepares the Executive Director's performance evaluation. An annual report to the HACSB Board of Commissioners outlines the agency's accomplishments and progress toward agency-wide goals. The report is formally presented to the Board of Commissioners during a regular meeting.

Fresno Housing

Fresno Housing is governed by two separate Boards of Commissioners – one representing the City of Fresno, and one representing the County of Fresno – but they meet together.

According to Fresno Housing staff, the Executive Director is given an annual performance evaluation using a 360-degree evaluation process as feedback is provided by the Boards of Commissioners and Fresno Housing staff. The following are additional elements of the process provided by staff:

1. A third-party Human Resources consultant conducts surveys and interviews with Board members and staff.
2. The results are summarized onto an evaluation template agreed upon by the Boards and the Executive Director.
3. The Executive Director is also given goals at the beginning of each year and is awarded a bonus based on goal completion.

The following additional details are included in the Executive Director's employment agreement:

- Boards use their best judgment to score the performance of the Executive Director on competency and goal achievement during a one-year period.
- The Executive Director is evaluated on:
 - Performance of duties contained in Executive Director's job description
 - Agency competencies
 - Goals established by the Boards
 - Executive Director's goals report
 - Goals established by the Executive Director for senior-level Housing Authority staff
 - Other factors deemed appropriate by the Boards
- The implementation of the evaluation may be led by the Chairs of the Boards, the Executive Committee, or an ad hoc committee established by the Chairs.

The timeline for the evaluation process is included in the Executive Director employment contract and reflected below:

Evaluation:

- By September meeting of the Boards: Commence the Executive Director evaluation process
- By October meeting of the Boards: Board to review draft Executive Director evaluation
- By November meeting of the Boards: Boards complete Executive Director evaluation

Goal setting for the following year:

- By February meeting of the Boards: Executive Director provides report to Boards on status of goals.

- By May meeting of the Boards: Executive Director provides report to Boards on status of goals.
- By September meeting of the Boards: Executive Director provides final report to Boards on completion of goals. The Boards will consider this report when conducting the Executive Director's evaluation.
- By October 15 each year and concluded by end of year: Boards to conduct goal setting conference for next calendar year.

Housing Authority of the City of Long Beach

The Housing Authority of the City of Long Beach is embedded in the City's Health and Human Services Department. The Executive Director of the housing authority is the Long Beach City Manager. The Assistant Director of the Authority is the Director of the Health and Human Services Department. The administration of housing authority programs is led by the Deputy Executive Director of the Authority within the Health and Human Services Department. Because the Deputy Executive Director of the Authority administers its programs, we discuss the process for evaluating this position below.

The Deputy Executive Director receives an annual performance review consistent with other City managers, using a Management Performance Appraisal template. All reviews are approved by the respective department head and submitted to Human Resources. Managers are eligible for a pay-for-performance award of up to \$2,000 based on the appraisal rating demonstrating achievement of individual goals and required competencies. Awards are contingent upon available funds.

Housing Authority of the County of San Diego

Similar to the City of Long Beach, the County of San Diego's housing authority is embedded within a County department, specifically, the Housing and Community Development Services Department. The Executive Director is an unclassified employee of the county and is evaluated using the same process as other County unclassified employees.

Overview of Funding HDP Can Pursue

As discussed in this report, all five housing authorities with active nonprofit development arms indicate that there are no restrictions on typical affordable housing development funds that prohibit their use by a housing authority's nonprofit affiliate. In this section, we add to information that was provided to our Office from the San Diego Housing Commission (SDHC) detailing the major affordable housing funding sources available and the ability for them to be spent by HDP.

Federal Funds

According to the federal Department of Housing and Urban Development (HUD), Moving to Work (MTW) is a demonstration program for public housing authorities that provides them the opportunity to design and test locally-designed strategies that use federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low-income families. MTW allows public housing authorities exemptions from many existing public housing and voucher rules and provides funding flexibility with how they use their federal funds. SDHC is designated as an MTW agency.

Federal guidance provided in [PIH 2011-45](#) allows for MTW public housing authorities to use MTW funds to develop non-traditional affordable units.¹ In addition, it allows local, non-traditional affordable units to be owned by the PHA, an affiliate, or by another public or private entity. According to staff, similar to traditional, non-MTW public housing authorities, these funds can be awarded to an affiliate of a public housing authority on a non-competitive basis to encourage the development of additional affordable housing units.

Use of MTW funds must be approved by HUD. Each year SDHC develops an MTW plan which outlines, among other things, programs that may be implemented during the next fiscal year. After the SDHC Board approves the plan, it is sent to HUD for approval.

Another common federal funding source used for developing of affordable housing is HOME Investment Partnerships (HOME) funds which can support a variety of programs, including the creation and rehabilitation of affordable housing units. SDHC administers the funds on behalf of the City. Proposed uses of HOME funds for the upcoming fiscal year are included in the Annual Action Plan produced by the City, which is consistent with the City's FY 2020 – FY 2024 Consolidated Plan. Upon City Council approval of the Annual Action Plan, it is submitted to HUD for approval. Our Office did not find anything precluding the use of these funds by public housing authority nonprofit affiliates.

State Funds

According to staff, to their knowledge there has been no use of state funds for any of HDP's developments to date.

We note that the state has recently created a program called Homekey and is currently accepting applications for the second round of one-time funding to partially finance the purchase or rehabilitation of hotels, motels, and other buildings and convert them into housing for homeless

¹ Non-traditional affordable units are those that will be rented or sold to families whose incomes are at or below 80% of the area median income but are not public housing or project-based Housing Choice Voucher units.

individuals, or those at risk of being homeless. Nothing in the current NOFA prevents HDP from applying as a co-applicant with another local public entity (e.g. City Council/Housing Authority of San Diego, SDHC). SDHC issued a Request for Proposals to solicit applications from developers to collaborate on a joint application to the state for Homekey funds. Although eligible to apply, HDP did not seek these funds from the SDHC or the state.

In FY 2021, SDHC was awarded \$37.7 million from the *first round* of Homekey funding to support two hotel purchases that created over 330 permanent rental housing units for individuals experiencing homelessness. HDP was not involved in those purchases.

Local Funds

The Affordable Housing Fund is a funding source frequently used to create SDHC's Notices of Funding Availability (NOFA) for which developers can apply for loan funds to partially finance affordable housing projects. It is an ongoing funding source made up of three sources: 1) Housing Trust Funds funded from fees charged by the City to commercial development, 2) Inclusionary Housing Funds funded from fees charged by the City to residential development, and 3) loan repayments. Funds can be used for various programs, including the creation and preservation of affordable housing. The San Diego Municipal Code requires that SDHC create an Affordable Housing Fund Plan outlining the proposed uses of the funds for the upcoming fiscal year for Council approval. Nothing in the plan or the Municipal Code prohibits the use of these funds for development by HDP.

Bond Allocations

Tax-exempt multifamily housing revenue bonds enable affordable housing developers to obtain below-market financing by lowering the interest rate paid by developers. The bonds also qualify developments for non-competitive low-income housing tax credits to further finance affordable housing projects. However, only projects that successfully obtain a competitive bond allocation will receive a non-competitive tax credit.² Upon approval by the City of San Diego Housing Authority, the authority issues the bonds on behalf of developers. However, federal law limits how much tax-exempt debt a state can issue in a year, so the amount is capped, and developers must apply for a debt allocation for their project. For the first time in 2020, there were applications for debt allocations that exceeded the state cap, resulting in the need to institute a competitive process. HDP competed for and was awarded, a bond allocation to support the acquisition and rehabilitation of Mariner's Village in 2020.

² Frequently Asked Questions, 2022 CTCAC and CDLAC Applications and Attachments, as of 2.25.22, <https://www.treasurer.ca.gov/ctcac/2022/faq.pdf>



**COUNCILMEMBER SEAN ELO-RIVERA
NINTH DISTRICT**

**COUNCILMEMBER CHRIS CATE
SIXTH DISTRICT**

M E M O R A N D U M

DATE: November 19, 2021

TO: Jeff Kawar, Interim Independent Budget Analysis

FROM: Councilmember Chris Cate, District 6

Councilmember Sean Elo-Rivera, District 9

SUBJECT: Request for an IBA Report to Review and Analyze Various Models of
Housing Authorities and Housing Commissions

On November 4, 2021, the Office of the Independent Budget Analyst issued report number 21-25, Comparative Analysis of Housing Authority Structures in California. The report was in a response to a request from both of our offices to understand how other cities and jurisdictions structure their housing authority and, if applicable, housing commission, so that we can determine if updates and changes to our current structures are necessary to align with best practices across the State.

The City Council in its role as the Housing Authority, heard a presentation of this report at its meeting on November 16, 2021. As a follow-up to this report, we are further respectfully requesting additional analysis of the following items:

1. A comparative review of employment contracts of the Executive Directors of the agencies reviewed.
 - a. Relatedly, a review of the policies and processes utilized to assess the performance of executives of the agencies reviewed (e.g. executive performance surveys, 360-degree performance reviews, etc...)
2. The ability to consolidate both agencies to one board (i.e. in addition to the requirement to that a housing authority have tenant representatives, can we also include the current commissioners on the Housing Authority board?).

3. A comparative review of those agencies that have a separate non-profit development arm, and what protections are in place to ensure competitiveness amongst all affordable housing developers.

We believe this additional analysis will allow the Housing Authority to properly present potential reforms that serve in the best interests of the City of San Diego.

cc: Honorable Mayor Todd Gloria
Honorable City Attorney Mara Elliott
Jessica Lawrence, Director of Policy and Council Affairs, Office of the Mayor
Javier Gomez, Senior Policy Advisor & Council Affairs, Office of the Mayor