

U.S. Department of Housing and Urban Development

Office of Inspector General for Investigation

Inspections and Evaluations Division



ACORN Housing Corporation, Inc.

Evaluation of HUD Housing Counseling Grant Expenditures

September 21, 2010

IED-10-002

Executive Summary

The Office of Inspector General, Inspections and Evaluations Division, conducts independent, objective examinations of U.S. Department of Housing and Urban Development (HUD) activities, programs, operations, and organizational issues.

In response to a congressional request, we performed an evaluation of grant funds awarded under HUD's Housing Counseling Program to ACORN Housing Corporation, Inc. (AHC), of Chicago, IL, now operating as Affordable Housing Centers of America (AHCOA). We wanted to know whether AHC used HUD grant funds in compliance with grant agreement requirements.

During fiscal years (FY) 2008 and 2009, AHC was awarded \$3,252,399 in HUD comprehensive housing counseling grants. Our tests focused on HUD funds used to pay the salary and fringe benefit costs (salary expenses) of AHC staff that provided housing counseling directly to clients. More than \$2.544 million was charged to the HUD grants as salary expenses (\$1.353 million or 83 percent in FY 2008 and \$1.191 million or 73 percent in FY 2009).

Since many of AHC's counselors also provided counseling services funded through other Federal and non-Federal sources,¹ we reviewed the cost allocation methodology of and examined available documentation to support AHC's quarterly billings to the HUD grants. We also examined AHC's other expenditures for accounting and legal services, office leases, and employee benefits for compliance with the procurement provisions of the HUD grant agreements. We observed the following during the course of our evaluation:

- Salary expenses charged to the HUD housing counseling grants were not fully supported. Payroll records requested did not comply with Office of Management and Budget (OMB) Circular A-122, for example, time sheets did not distribute hours by grant. The caseload allocation method used by AHC for HUD-chargeable salary expenses was problematic and unsupported. Consequently, HUD had no assurance that the counselors' salary expenses totaling \$2.544 million charged to the HUD grants reflected grant-eligible services.
- Ineligible salary expenses totaling \$65,548.37 were charged to the FY 2009 HUD grant. Salary costs for counselors' services included pay periods after employment termination for six employees totaling \$13,717.55. Also, \$51,830.82 in salary expenses for counselor services incurred in FY 2008 was billed to the FY 2009 grant. Costs charged to the HUD grants must be allowable, reasonable, and allocable according to OMB Circular A-122.
- Federal procurement standards were not met. AHC did not meet the procurement standards outlined at 24 CFR (Code of Federal Regulations) Part 84 when it obtained accounting and legal services, leased office space, and sought health care and retirement benefits from "associated" nonprofit organizations. These services were obtained by AHC without ensuring, to the maximum extent practical, open and free competition.

¹AHC also received funding from other Federal and non-Federal sources totaling more than \$27.269 million during FY 2008 and 2009.

Further, cost or price analysis and documentation to support the basis and justification for the services were not readily available. As a result, AHC could not ensure that it had obtained services for the lowest, most reasonable cost.

To confirm counseling services reported to HUD, we interviewed 50 randomly selected AHC clients. With one exception, clients said that they had received AHC's counseling services and most considered the counseling helpful. Sixteen clients succeeded in finding and purchasing homes and were also still living in those homes a year after seeking counseling.

For continued approval as a HUD-approved housing counseling agency and for future awards consideration, AHC must bring its operations into full compliance with applicable laws, regulations, and policies governing HUD's Housing Counseling Program. This includes reimbursing the program for unsupported and ineligible salary expenses charged to the HUD housing counseling grants and implementing a time and activities reporting system that meets OMB Circular A-122 requirements. Further, AHCOA needs to implement a procurement system that complies with 24 CFR Part 84.

We provided a draft copy of the report to the Assistant Secretary, Office of Housing – Federal Housing Commissioner and the executive director of AHCOA on August 16, 2010, and have included their full responses in appendixes A and B, respectively. HUD's Office of Single Family Housing (Single Family) agreed with our observations, while AHC generally disagreed. OIG considers Single Family's response and planned corrective action sufficient to close recommendation 2b. Recommendations 1A through 1C, and 2A remain open. The "Comments and OIG Response" section of this report contains an evaluation of the responses.

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Introduction

HUD's Housing Counseling Program

The U.S. Department of Housing and Urban Development's (HUD) Housing Counseling Program is authorized under section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. (United States Code) 1701x). On September 28, 2007, a final rule was published in the Federal Register at 72 FR 55638. Current regulations governing program eligibility and administration are codified at 24 CFR (Code of Federal Regulations) Part 214.

In carrying out a HUD-approved counseling program, a grantee is subject to the terms and conditions of the grant agreement with HUD, which is governed by section 106 of the Act, applicable Federal regulations, notices of funding availability for the program, HUD Handbook 7610.1, the grantee's application submission, Assistance Award/Amendment (form HUD-1044), and the grantee's current HUD-approved housing counseling plan.

Regulations at 24 CFR Part 84 provide the uniform administrative requirements for grants between HUD and nonprofit organizations. The regulations require nonprofit grantees to use Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit Organizations, in determining whether costs incurred are allowable, reasonable, and allocable. OMB Circular A-122 outlines specific guidelines for grant expenditures and the records needed to support those expenditures. Part 84 also prescribes the procurement standards for nonprofit organizations.

ACORN Housing Corporation, Inc.

ACORN Housing Corporation, Inc. (AHC) was established as a nonprofit corporation in the State of Louisiana on March 20, 1985. AHC's primary mission is "...to empower low and moderate income individuals, families, and communities to obtain and keep affordable, stable, safe, and decent housing. [They] accomplish this through homeownership education and counseling, access to finance, housing development, and advocacy." These services are provided through its offices located nationwide.² AHC received its 501(c)(3) status on March 9, 1990, retroactive to March 13, 1985, the date of registration.

AHC was founded by organizers that worked for the Association of Community Organizations for Reform Now (ACORN) and, until recent months, maintained an "association" with that organization. During our review period, the "association" included leasing space for some branch offices from or to ACORN or "associated" entities and sharing certain common areas and conference rooms. In addition, accounting and legal services and employee benefits were obtained from other "associated" nonprofit organizations that also provided similar services to ACORN.

² In November and December of 2009, AHC closed 10 of its branch offices (El Paso, Kansas City, Las Vegas, New Orleans, Oakland, Portland, Providence, Seattle, Springfield, and Tampa), leaving its Chicago office and 18 branch offices open (Albuquerque, Baltimore, Bridgeport, Milwaukee, New York City, Orlando, Dallas, Philadelphia, Phoenix, Sacramento, Fresno, Houston, Los Angeles, San Antonio, San Jose, St. Paul, Miami, and Washington, DC).

AHC's corporate office, located at 209 West Jackson Blvd, Chicago, IL, provides administrative and centralized management of its branch offices. All expenses (e.g., vendor payments, employee salaries) are paid out of the Chicago (national) office. Funds are not distributed to the branch offices; the only distribution of funding that occurs is for budgetary purposes. On January 8, 2010, AHC changed its corporate name and now operates as Affordable Housing Centers of America (AHCOA). AHCOA has offices in 19 cities, 14 States, and the District of Columbia.³

Funding Sources

HUD has been a substantial funding resource for AHC, awarding more than \$19 million in housing counseling grants since 1995. During fiscal years (FY) 2008 and 2009, AHC received \$3,252,399 from HUD to provide comprehensive housing counseling services as a national intermediary.⁴

- \$1,628,829 (effective October 1, 2007, through September 30, 2008, or FY 2008)
- \$1,623,570 (effective October 1, 2008, through September 30, 2009, or FY 2009)

AHC also received funding from other Federal and non-Federal sources, totaling more than \$27.269 million, during the same period.⁵ NeighborWorks® America (NeighborWorks), a congressionally chartered nonprofit organization headquartered in Washington, DC, was the source for 95 percent (or \$25.857 million) of these funds.

NeighborWorks administers the National Foreclosure Mitigation Counseling (NFMC) program created by the Consolidated Appropriations Act of 2008 (P.L. (Public Law) 110-161). The NFMC program awards grants to HUD-approved housing counseling intermediaries, State housing finance agencies, and NeighborWorks organizations to provide foreclosure mitigation counseling and legal assistance to homeowners at risk of foreclosure.

Eligible Activities

Under the terms of the HUD housing counseling grants, AHC was eligible to seek reimbursement for individual counseling or group education/classes, marketing and outreach initiatives, training, computer equipment/systems, and administrative costs.⁶ AHC provides five types of comprehensive housing counseling—prepurchase counseling, predatory lending housing counseling, home equity and refinance housing counseling for existing homeowners, delinquency and default counseling, and HECM (home equity conversion mortgage) and reverse mortgage counseling. AHC's executive management emphasized that all "first-time" home

³ Affordable Housing Centers of America, "Who We Are," http://www.ahcoa.org/about/who_we_are.cfm, (content current as of September 21, 2010)

⁴ National intermediaries offer housing counseling services directly through their branch offices or indirectly through smaller affiliates operating in multiple regions of the country.

⁵ See appendix C – Other Federal and Non-Federal Funding Sources.

⁶ Notices of Funding Availability for the Housing Counseling Programs, published for the FY 2008 and 2009 grants.

buyers were serviced under the HUD grants, while the NFMC grants were restricted to delinquency and foreclosure mitigation counseling.

Expenditures

AHC used the HUD housing counseling grants primarily to reimburse the salary and fringe benefit costs (salary expenses) of its counseling staff. More than \$2.544 million was charged to the HUD grants as salary expenses (\$1.353 million or 83 percent in FY 2008 and \$1.191 million or 73 percent in FY 2009). AHC expended both HUD grants in full by the end of the third quarter (June 30th) each fiscal year. The HUD grants were funded on a cost reimbursable basis, permitting AHC to recover the salary expenses incurred and paid to its counselors. For the NFMC grants, AHC was paid fees based on a three-tiered structure that defines the estimated cost for a counseling activity, capped at \$350 per individual client counseled.

In early 2008, AHC's national office received the first of two direct grants totaling more than \$25.05 million from NeighborWorks. An additional \$806,519 in NFMC grant funds was indirectly awarded to AHC's branch offices located in California, Florida, Minnesota, and Missouri. AHC attempted to use the same system (Housing Counseling Online or HCO) that it uses to track its HUD cases for its NFMC cases. However, according to AHC the HCO system did not operate well with the delinquency and foreclosure cases. In October 2008, AHC began to use the HELP (Home Equity Loss Prevention) system for its NFMC cases. AHC indicated that the HCO system was used to track time spent on HUD counseling activities but determined in March 2008 that HCO "...was far too burdensome for counselors to use...to track minutes that they worked on each case. With the foreclosure crisis exploding, and counselor caseloads doing the same, it simply was not feasible to expect a counselor to log into HCO and then record every minute worked on every activity...."

According to AHC executive management, the nonprofit was deeply impacted by the housing market collapse in 2008 and 2009. Its primary service—prepurchase counseling for first-time and minority home buyers—was quickly supplanted by families in default on their mortgages and facing foreclosure. Counseling staff services were shifted to address this challenge, and caseload allocation procedures were put in place to determine the percentage of employee expenses billable to the HUD housing counseling grants and other grants, primarily the NFMC grants. AHC believed that the caseload allocation methodology was acceptable given the urgency of increasing foreclosure and delinquency cases under the NFMC grants.

Scope and Methodology

The objective of our evaluation was to determine whether AHC used its HUD comprehensive housing counseling grant funds in compliance with grant agreement requirements. To accomplish this objective, we examined the accounting and administrative records and documents supporting AHC's use of the HUD funds.⁷ Our examination covered the expenditure of HUD funds from October 1, 2008, through September 30, 2009; specifically, salary expenses funded by the HUD grants for staff that provided housing counseling to AHC clients.

⁷ Testing was limited in some instances due to the availability of records.

Because many of these counselors also provided counseling services funded through other sources, we focused on the caseload allocation methodology used and the documentation to support AHC's quarterly billings to the HUD grants. We also examined AHC's expenditures for accounting and legal services, office leases, and employee benefits for compliance with the procurement provisions of the HUD grant agreements.

We met with and interviewed AHC's executive management, comptroller, and accounting consultant to gain an understanding of the billing processes and associated controls to ensure proper cost allocation. We also interviewed current/former regional directors, branch office managers,⁸ housing counselors, and a random sample of prepurchase housing counseling clients.⁹ We interviewed staff from HUD's Office of Single Family Program Development, Program Support Division, responsible for overseeing AHC's housing counseling services, and examined related records of AHC's quarterly LOCCS (Line of Credit Control System) draws from the two grant awards.

We conducted the evaluation in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

⁸ We granted a request by AHC's general counsel to be present during interviews of current regional directors and branch office managers.

⁹ See appendix D – Client Case Sampling Methodology and Results.

Observations

Observation 1: Salary Expenses Were Not Fully Supported

AHC could not fully support its salary and fringe benefit costs (salary expenses) charged to the FY 2008 and 2009 HUD comprehensive housing counseling grants. Payroll records requested did not comply with OMB Circular A-122, for example, the time sheets did not distribute hours by grant. Also, the caseload allocation methodology used by AHC for HUD-chargeable salary expenses was problematic and unsupported. As a result, there was no assurance that the \$2.544 million in salary expenses allocated (charged) to the HUD grants (\$1.353 million in FY 2008 and \$1.191 million in FY 2009) reflected grant-eligible services.

OMB Circular A-122

OMB Circular A-122, attachment B, paragraph 8. Personal Services, M. Support of Salary and Wages, requires that

Charges to awards for salaries and wages, whether treated as direct costs or indirect costs, will be based on documented payrolls approved by a responsible official(s) of the organization. The distribution of salaries and wages to awards must be supported by personnel activity reports....

Reports reflecting the distribution of activity of each employee must be maintained for all staff members (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to awards. Reports maintained ...must reflect an after-the-fact determination of the actual activity of each employee.... Each report must account for the total activity for which employees are compensated and in fulfillment of their obligations to the organization. The reports must be signed by the individual employee, or by a responsible supervisory official.... The reports must be prepared at least monthly and must coincide with one or more pay periods.

FY 2008 and 2009 Housing Counseling Grant Agreements

Article X—Payment Requests, E. Documentation of Expenses, requires AHC to

...maintain source documentation of direct costs, such as invoices, receipts, cancelled checks, and salary reports, to support all LOCCS draw requests for payment. This information must be made available to HUD upon request and maintained for a period of at least three years after the expiration of the grant period or date of last payment, whichever occurs first.

Payroll Records Requested Noncompliant

AHC's summary schedules of counselors' salary expenses, submitted to HUD to support its quarterly draws of housing counseling grant funds for FY 2008 and 2009, were based on time sheets that documented the number of hours worked and leave taken by counselors. We

requested payroll records for two test pay periods: (1) January 27 through February 9, 2008 (FY 2008), and (2) December 14 through December 27, 2008 (FY 2009). In all but three cases, the time sheets provided did not account for total activities (e.g., distribute hours by grant) of each counselor on a daily basis. A determination could not be made as to what activities the employees performed or which grant to charge for those activities. Consequently, HUD had no assurance that it did not bear more than its fair share of the costs incurred for salary expenses of AHC’s counselors.

FY 2008 Test Pay Period

For the test pay period, salary expenses totaling \$85,145 for 66 employees were charged to the FY 2008 HUD grant. AHC provided time sheets for 65 employees and payroll register extracts for 66 employees.¹⁰ The time sheets documented the number of hours worked and leave taken and were generally signed by the employees and their supervisor. Only one of the time sheets specified time by grant funding source on a daily basis. It appears that AHC did not charge the full amount to the HUD housing counseling grant. The remaining 64 time sheets did not account for the total activities of each counselor on daily basis.

FY 2009 Test Pay Period

For the test pay period, salary expenses totaling \$74,538.56 for 66 employees were charged to the FY 2009 HUD grant. AHC provided time sheets and payroll register extracts for 60 of the 66 employees. The time sheets documented the number of hours worked and leave taken and were generally signed by the employee and the supervisor. Only 2 of the 60 time sheets specified time by grant funding source on a daily basis.

| | | Employee A | Hours | % |
|--|---------------------------------|------------|-------|------------|
| Charged to HUD housing counseling grant | | 90 hours | 86 | 96% |
| Time sheet | Housing counseling grant | 44 hours | 44 | 49% |
| | “Road Home” | 46 hours | 46 | 51% |
| | | Employee B | Hours | % |
| Charged to HUD housing counseling grant | | 90 hours | 68 | 75% |
| Time sheet | Housing counseling grant | 45 hours | 45 | 50% |
| | “Houston – CDBG”* | 45 hours | 45 | 50% |

* CDBG = Community Development Block Grant

The two time sheets did not agree with the allocation of salary expenses (e.g., 96 percent versus 49 percent for employee A) by AHC to the HUD housing counseling grant using the caseload allocation methodology (described below). The remaining 58 time sheets did not account for the total activities of each counselor on a daily basis.

¹⁰ Payroll register extracts provided for the two test pay periods were reviewed to confirm existence of entries for the respective employees.

Caseload Allocation Methodology Problematic and Unsupported

AHC's caseload allocation methodology for salary expenses to the HUD housing counseling grants proved problematic in an environment of multiple funding sources and was unsupported. In addition to the more than \$3.252 million in FY 2008 and 2009 HUD grants, AHC received funds from other Federal and non-Federal sources totaling more than \$27.269 million.¹¹ NeighborWorks was the source for 95 percent (or \$25.857 million) of these funds.

The housing counseling service costs were either charged as salary expenses to the HUD housing counseling grants or as fees to the NeighborWorks' NFMC grants. For counselors who provided services under both grants, reimbursement of their salary costs for HUD billing purposes was based on a percentage derived from the ratio of HUD to NFMC cases as opposed to using the actual number of hours attributable to the HUD housing counseling grant. For example, AHC billed HUD for the services of 66 employees during the test pay period in FY 2009. The percentage of salary expenses to HUD was

- 17 employees billed at 100 percent,
- 17 employees billed at 70 to 99 percent,
- 17 employees billed at 50 to 69 percent, and
- 15 employees billed under 49 percent.

Also, missing was documentation of the actual activities to support the percentages of allocations to the HUD grant. As noted above, review of payroll records for 60 employees for the FY 2009 test pay period showed that time sheets were maintained; however, there were only two cases in which employees' time sheets specified time by grant funding source on a daily basis. Despite the breakout of time by grant funding source, AHC charged the HUD housing counseling grant the amount of salary expenses using the caseload allocation methodology instead of the actual numbers of hours reported by the counselors on their time sheets. Because of the multiple funding sources, careful control of cost allocation was imperative to reduce the risk of inequitable charges when counselors' time was split between HUD, NFMC, and/or other funding sources.

Availability of records impeded our attempt to trace AHC's summary schedules of counselors' salary expenses to the housing counseling activities that occurred during the two test pay periods. AHC's deputy director explained that it would be difficult to provide the information for some cases due to office closures and dismissal of personnel, which resulted in the transfer of client cases to other counselors, and the nature of the system used to record case activities. According to the deputy director, the historical data (electronic records) for the transferred cases no longer existed in the HCO system.

We interviewed a random sample of 50 clients that AHC reported to HUD as having received one-on-one prepurchase housing counseling during the period April 1 to June 30, 2009.¹² Of the clients interviewed, 13 said they spent 50 minutes or less with a counselor in face-to-face

¹¹ See appendix C – Other Federal and Non-Federal Funding Sources.

¹² These clients received counseling from 21 branch offices located nationwide, including Albuquerque, Springfield, Providence, and Tampa. Refer to appendix D – Client Case Sampling Methodology and Results.

interviews, 19 stated that they spent 1 to 2 hours, and another 4 clients said 3 to 5 hours. Five recalled spending between 2 and 8 hours total in group and face-to-face counseling sessions. Six other clients, who participated in the group session only, recalled spending between 1 and 8 hours in the seminars.

Observation 2: Ineligible Salary Expenses Were Charged

AHC billed the FY 2009 HUD housing counseling grant for the salaries of six employees who were no longer employed with the nonprofit. It also billed the grant for salary expenses incurred before the October 1, 2008, the start date of the grant. For a cost to be eligible for reimbursement under the HUD grant, it must be allowable, reasonable, and allocable according to OMB Circular A-122. The ineligible salary expenses totaled \$65,548.37.

Costs Billed for Salaries of Terminated Employees

AHC’s billing of salary expenses for counselor services included pay periods after employment termination for six employees, resulting in the grant being overbilled \$13,717.55 (see table below). AHC billed the services of 105 counselors to HUD in FY 2009. We examined 18 employee personnel files, which included 8 employees that were identified as potential overbilling cases, during our analysis of AHC records. For the eight employees, documentation confirming termination dates consistent with our prior analysis was present for four employees, the termination date was not in the personnel file of one employee, and the personnel file of one employee was missing. Documentation for two employees supported a conclusion that no overbilling occurred.

| Employee | Office | Termination Date | Overpaid Pay Periods | Billed | | | Overbilled Amount |
|--------------|----------------|------------------|----------------------|--------|---------|------|--------------------|
| | | | | Hours | Rate | HUD | |
| 1 | Atlanta | 2/27/2009 | 2 | 180 | \$20.93 | 100% | \$3,767.40 |
| 2 | Chicago | 3/13/2009 | 6 | 540 | \$11.65 | 52% | \$3,271.32 |
| 3 | Dallas | 3/13/2009 | 1 | 90 | \$23.19 | 75% | \$1,565.33 |
| 4 | Providence | 2/13/2009 | 3 | 270 | \$12.53 | 67% | \$2,266.68 |
| 5 | Seattle | 12/5/2008 | 2 | 90 | \$17.77 | 100% | \$1,599.30 |
| 6 | Washington, DC | 12/15/2008 | 1 | 90 | \$14.29 | 97% | \$1,247.52 |
| Total | | | | | | | \$13,717.55 |

We interviewed three of the terminated employees. Two confirmed the date of termination. The third said that she had terminated her employment 2 weeks earlier than the date cited in AHC’s records.

Costs Incurred in FY 2008 Billed to FY 2009 Grant

AHC billed salary expenses for services performed in FY 2008—September 22 through September 30, 2008—to its FY 2009 grant award. Article III of the HUD grant provides that “[t]he Period of Performance shall begin on October 1, 2008 and expires at midnight on September 30, 2009.” Further, article IX – Price, D. 3, Period of Availability of Funds, states

that the “Grantee may charge to the Grant only Allowable Costs resulting from obligations incurred during the Performance Period.”

Because AHC counseling services were performed and costs incurred before the authorized start date of the FY 2009 HUD grant, the costs were ineligible for reimbursement. The ineligible costs totaled \$51,830.82. AHC had drawn its FY 2008 housing counseling award in full as of June 30, 2008. As stipulated in the grant agreements (article IV – Statement of Work), HUD handbook, and other guidance, HUD funds are not intended to cover the total costs of carrying out a grantee’s counseling program.

Observation 3: Federal Procurement Standards Were Not Met

AHC did not meet the procurement standards outlined at 24 CFR Part 84 when it obtained accounting and legal services, leased office space, and sought health care and retirement benefits from “associated” nonprofit organizations.¹³ These services were obtained by AHC without ensuring, to the maximum extent practical, “open and free” competition. Further, cost or price analysis and documentation to support the basis and justification for the services was not readily available. AHC’s executive director told us that AHC operated in this manner because its managers believed that these transactions met Federal procurement requirements and resulted in lower costs to AHC. As a result, AHC could not ensure that it had obtained services for the lowest, most reasonable cost.

24 CFR Part 84

Article VI of the HUD grant agreements provides in paragraph A that the recipient is subject to the requirements of 24 CFR Part 84, as applicable. Section 84.43 of these regulations provides that

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade.

Section 84.45 requires the recipient to perform some form of cost or price analysis in connection with every procurement action. Moreover, section 84.46 requires the “procurement records and files for purchases in excess of the small purchase threshold to include... (a) basis for contractor selection, (b) justification for lack of competition when competitive bids or offers are not obtained, and (c) basis for award cost or price.”

Accounting and Legal Services

AHC obtained accounting and legal services from a nonprofit organization, Citizens Consulting, Incorporated (CCI), during part of our review period. The accounting services that CCI provided included accounts payable and payroll functions. CCI charged AHC fees based on a percentage

¹³ “Associated” organizations are described in AHC’s financial statements as nonprofits that are controlled by independent boards of directors but share certain common operating costs.

of AHC's total expenditures (3.84 and 4.55 percent during FY 2008 and 2009). AHC's financial statements showed that CCI was paid in total \$345,174. A portion of these costs was charged to the HUD housing counseling grants through AHC's indirect cost rate.

AHC obtained CCI's services without soliciting "open and free" offers from other accounting and legal services firms. As a consequence, AHC could not demonstrate that the costs of CCI's services reflected a required competitive pricing process.

According to AHC's executive director, the arrangement with CCI was intended to provide AHC with quality services at a reasonable price because it specialized in servicing only AHC and other ACORN-related organizations. AHC also surveyed the financial statements of other nonprofit organizations in 2007 and concluded that it generally spent a lower percentage of its total expenditures on these services.

Given the variances in the types and structures of the nonprofit organizations surveyed and quality of services obtained, we did not consider AHC's conclusions compelling or consistent with the expectations of pricing based on "open and free" competition. Rather, as an associated nonprofit, CCI's services were essentially a sole source arrangement that lacked an "arms length" basis for demonstrating cost reasonableness. According to the executive director, the quality of CCI's services deteriorated substantially after hurricane Katrina in 2005, prompting AHC to end its relationship with CCI in 2009.

Office Leases

AHC leased branch office space from "associated" nonprofit organizations without obtaining competitive bids or quotes from other office space providers. The nonprofit organizations included ACORN in San Jose and Sacramento, CA; Elysian Fields Corporation, Inc., in New Orleans, LA; and New Mexico Organizing and Support Center, Inc., in Albuquerque, NM. Leasing arrangements, in some instances, included sharing the use of common areas and conference rooms with the other nonprofit organization. Branch office leasing costs were charged directly to the HUD housing counseling grants based on the ratio of total payroll costs to payroll costs attributable to the HUD grants.¹⁴

In a letter, dated July 14, 2010, AHC's general counsel asserted that AHC managers who found space for branch offices "...looked at competitors' offerings. The problem is that it was not documented, not that it did not happen." Attached to the letter was information showing comparisons of rents per square foot paid by AHC in 2008 and 2009 to market rent data for "class B office space" provided by two commercial real estate firms for cities where branch offices were located. In most instances, these comparisons showed that rental rates paid by AHC were less than the market rates provided by the real estate firms. For some locations, however, no comparable data were available.

We believe that the market rate comparisons were an inadequate substitute for a competitive procurement process. The market data provided averages; the data did not necessarily provide information specific to the locations and timeframes for which AHC leased branch office space.

¹⁴Refer to observation 1 – Salary Expenses Were Not Fully Supported.

Moreover, because the cited leasing arrangements were with “associated” nonprofits, the lease arrangements were essentially sole source transactions, not “arms length” competition.

Health Care and Retirement Benefits

AHC obtained health care benefits for its employees from two “associated” nonprofit organizations during our review period: the Council Health Plan and Community Health Insurance Plan (CHIP). According to AHC’s financial statements, Council Health Plan was paid \$829,660 during FY 2008 and 2009, ending in June 2009. HUD records showed that CHIP charged AHC at a set rate (\$442.62) each month for each employee on the payroll. The costs of both plans were billed to the HUD counseling grants based on percentages of employee gross pay charged to the HUD grants. AHC ended its relationship with CHIP and was in the process of obtaining health insurance for its employees by soliciting quotes from independent providers in early 2010. AHC provided no evidence that it had solicited quotes from other health care providers, as required, before entering into these arrangements with Council Health Plan and CHIP.

AHC’s retirement funds were managed by an associated organization called Council Benefit Association (CBA) during part of the review period. Contributions were made generally on the basis of 10 percent of a participating employee’s gross pay. In FY 2008 and 2009, AHC incurred costs in connection with this retirement plan of \$460,630 and \$384,693, respectively. These costs were charged to the HUD grants based on the percentage of an employee’s gross pay charged to HUD. Again, AHC did not seek to obtain the retirement plan services provided by CBA from other providers.

Attached to the AHC general counsel’s July 14, 2010, letter was a July 13, 2010, memorandum from AHC’s outside legal counsel regarding health care and retirement benefit services provided by the “associated” nonprofits. The memorandum described the “...considerable efforts taken by the boards of trustees responsible for the administration of CHP [Council Health Plan] and CBA and responsible for replacing CHP with CHIP. One of the four trustees was the president of AHC.” As an example, the memorandum stated that “...selection of accountants for CBA was the subject of a formal Request for Proposal.” However, the nonprofits for AHC’s health care and retirement benefits were not the HUD grantee. As the grantee, AHC was obligated to follow procurement requirements in the selection of these providers. No evidence was presented indicating that it had done so before participating in Council Health Plan, CHIP, or CBA.

CBA stopped accepting payroll contributions in 2009 and began a process of dissolution. At the end of 2009, AHC established its own qualified Employee Retirement Income Security Act retirement plan with the assistance of independent providers of retirement services.

Recommendations

For continued approval as a HUD-approved housing counseling agency and for future awards consideration, AHC (now operating as AHCOA) must bring its operations into full compliance with applicable laws, regulations, and policies governing HUD's Housing Counseling Program. The inability to fully support salary expenses allocated to the HUD grants raises serious concerns about the integrity of those charges, particularly given the millions of Federal and non-Federal dollars made available to AHC in FY 2008 and 2009. Further, services procured from ACORN "associated" organizations failed to meet the required tests of "open and free competition." Cost or price analysis and documentation to support the basis for the services procured were not readily available. As a result, AHC could not ensure that it had obtained services for the lowest, most reasonable cost.

We recommend that HUD's Office of Single Family Housing, Program Support Division, require AHCOA to

- 1A. Provide support for the salary and fringe benefit costs (salary expenses) allocated to the FY 2008 and 2009 HUD grants or reimburse the HUD Housing Counseling Program for amounts unsupported from non-Federal funds. At a minimum, the amount of reimbursement should include the \$159,683 for the two test pay periods (\$85,145 for FY 2008 and \$74,538 for FY 2009).
- 1B. Reimburse the HUD Housing Counseling Program \$65,548.37 from non-Federal funds for the ineligible salary expenses (\$13,717.55 and \$51,830.82) charged to the FY 2009 grant.
- 1C. Implement a time and activities reporting system that complies with OMB Circular A-122 and a procurement system that complies with the terms of 24 CFR Part 84.

We recommend that HUD's Office of Single Family Housing, Program Support Division

- 2A. Consider placing AHCOA in "inactive" status while it initiates corrective actions to address the exceptions and recommendations (1A through 1C) in this report.
- 2B. Provide AHCOA with technical assistance and guidance as needed.

Comments and OIG Response

HUD's Office of Single Family Housing

We commend HUD's Office of Single Family Housing's (Single Family) efforts to expand oversight through contract services to ensure ongoing compliance reviews of all housing counseling intermediaries' financial and administrative practices. Expansion of oversight efforts to include review of financial and administrative practices will help to improve and further strengthen HUD's Housing Counseling Grant program. Single Family's response to the draft report is included in appendix A.

OIG Response

Single Family asserts that appendix D is not relevant to the OIG's major observations and recommends removal of the appendix from the final evaluation report. We disagree with Single Family's assertion. The appendix provides a description of the sampling methodology used and reflects the results of the interviews performed. The appendix was adjusted accordingly with additional information, as deemed necessary.

We agree with Single Family's planned actions to require AHCOA to provide documentation to address observations and resolve the related recommendations. OIG considers Single Family's response and planned corrective action sufficient to close recommendation 2b. However, regarding recommendation 2A, a follow-up performance review by Single Family is crucial to determine whether AHCOA has taken actions to correct the deficiencies identified in this report and to ensure compliance with Federal requirements. Recommendations 1A through 1C, and 2A remain open. OIG will follow-up with Single Family to determine the status of the corrective actions taken.

Affordable Housing Corporation of America (AHCOA)

AHCOA's response to the draft report did not change the reported observations: (1) salary expenses charged to the HUD housing counseling grants were not fully supported; (2) ineligible salary expenses totaling \$65,548.37 were charged to the FY 2009 HUD grant; and (3) Federal procurement standards were not met. While AHCOA generally does not agree with several of the observations, the response purports that they have completed many of the corrective measures suggested by the OIG. HUD Single Family is responsible for ensuring resolution and implementation of the evaluation recommendations. We commend AHCOA's efforts to bring its operations into compliance with Federal requirements and its willingness to resolve the issues identified in the report.

AHCOA's response to the draft report is included in appendix B. Names of individuals contained within the body of the response have been redacted. In addition to the formal response, AHCOA provided various supplemental documents that are referenced as attachments in its response to the draft report. These supplemental documents, identified as "Confidential – Not for Public Dissemination" by AHCOA's legal counsel, are being provided separately to Single Family's Program Support Division.

OIG Response

1. Allocation of Salary Expenses to Grants

The observation was adjusted accordingly to reflect the additional payroll records submitted by AHCOA for the FY 2008 test pay period.

AHCOA's response states that its records support the allocation of counselor salary expenses to the HUD grant. We disagree with AHCOA's assertion, the observation and related recommendations remain. In all but three cases, the time sheets did not reflect the total activities (e.g., distribution of activities) of each counselor on a daily basis as required by OMB Circular A-122. A determination could not be made as to what activities the employees performed or which grant to charge for those activities. HUD has no assurance that the salary expenses charged to the HUD grants reflected grant-eligible services.

We also disagree with AHCOA's assertion that its caseload allocation method meets Federal grant requirements. AHCOA's claim that the impracticality of tracking time spent by grant was the impetus for the caseload methodology does not absolve AHCOA from maintaining auditable records of client services and related grant expenditures as required by the terms of the HUD housing counseling grants. The observation and related recommendations remain.

Salary expenses at AHCOA for its counselors represent direct costs to be charged directly to the grant for which the counseling service was provided. AHCOA's assertion that the counselor salary expenses are shared or joint costs and the inference that OMB Circular A-122's treatment of indirect costs applies is incorrect. Indirect costs are costs incurred for common or joint objectives (e.g., accounting, human resources, and salaries of executive management) that cannot be specifically attributed to a particular final cost objective.

AHCOA's claim that its caseload allocation system meets the criteria of OMB Circular A-122 and results in equitable distribution of joint costs is not proven. As stated in AHCOA's response the salary expenses are direct costs. In effect, AHCOA's response supports our position that the system does not comply with the Circular. The caseload allocation system in place used a percentage derived from the ratio of HUD to NFMC cases, instead of the actual number of hours worked by employees attributable to a particular grant, to determine the amount of salary expenses to charge the HUD grants. Further, the time sheets (pre- and post-caseload allocation system) did not distribute counselors' time by activity. The time sheets only captured the total hours worked per day and did not contain any details (with the exception of three cases) as to how the time should be charged by grant or other funding source.

AHCOA's response asserted that OIG's chart on p. 12 of the draft report did not include delinquency cases that were handled by AHCOA counselors. The response specifically states that these cases were handled pursuant to HUD funding. Based on that assertion, the table has been removed. However, the table's removal does not invalidate our observation that salary expenses charged to the HUD grants were unsupported. We also note the delinquency list reviewed by OIG did not include any information to differentiate a case by branch office.

2. Specific Salary Expenses

AHCOA did not dispute that ineligible salary expenses were charged to the FY 2009 HUD housing counseling grant. Based on the supplemental information provided by AHCOA, we determined that the total ineligible salary expenses charged to the grant was \$ 65,548.37. AHCOA charged the grant \$13,717.55 for terminated employees' salaries and \$51,830.82 for counseling services costs that were incurred before the FY 2009 authorized start date.

3. Procurement

AHCOA asserts that services and rental space were procured at fair and reasonable rates for all instances cited. However, based on review and consideration of AHCOA's response the observation remains the same. The procurement of accounting and legal services, office space, and benefits through "associated" nonprofits did not demonstrate "open and free" competition in accordance with 24 CFR Part 84.

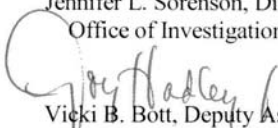
Appendix A – HUD’s Office of Single Family Housing’s Comments



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

SEP 07 2010

MEMORANDUM FOR: Jennifer L. Sorenson, Director, Inspections and Evaluations Division,
Office of Investigations, GIS

FROM: 
Vicki B. Bott, Deputy Assistant Secretary for Single Family
Housing, HU

SUBJECT: Discussion Draft-Audit Report - ACORN Housing Corporation,
Incorporated Evaluation of HUD Housing Counseling Grant
Expenditures.

The Office of Inspector General performed the subject evaluation of ACORN Housing Corporation (currently Affordable Housing Centers of America-AHCOA) to determine whether AHCOA of Chicago, Illinois utilized HUD grant funds in compliance with the grant agreement requirements. OIG concluded that AHCOA was not in full compliance with grant agreement requirements.

The Office of Single Family Housing (Single Family) takes very seriously its responsibility to ensure that housing counseling grant funding is spent in a responsible manner that complies with programmatic requirements and has, with limited resources, taken several significant steps to improve oversight. During this fiscal year funds were secured to expand oversight through contract services which will assure, beginning in FY2011, ongoing compliance reviews of all housing counseling intermediaries' financial and administrative practices.

Single Family's response to specific evaluation results is as follows:

OIG's Determination:

The report states that salary expenses charged to HUD Housing Counseling grants were not fully supported.

Single Family's Response:

Single Family acknowledges the OIG's determination regarding insufficient salary expense support by AHCOA-Chicago, and agrees that grantees must be able to document grant funds expenditure with detailed salary and other expense documentation and support.

OIG's Determination:

The draft report indicates that ineligible salary expenses (post termination) were charged to the FY 2009 HUD housing counseling grant.

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Single Family's Response:

Single Family acknowledges the OIG's determination regarding ineligible salary expenses by AHCOA-Chicago. Single Family agrees that salary costs for counselors cannot include periods after employment termination.

OIG's Determination:

The draft report indicates that federal procurement standards were not met.

Single Family's Response:

Single Family acknowledges the OIG's determination regarding improper procurement by AHCOA- Chicago, and agrees that grantees must comply with 24 CFR Part 84 and other applicable procurement regulations, circulars and requirements.

OIG's Determination:

The draft report in Appendix D describes the methodology utilized to sample and interview counseling services recipients. Appendix D also communicates the "results" of these conversations.

Single Family's Response:

Single Family questions the methodology used to obtain and report these results. The OIG did not provide a list of the questions used or indicate whether all interviews involved the same standard questions. It is unclear if all results of the interviews were reported in Appendix D or only select responses. Moreover, several results aren't quantified. For example, the report says "other clients attributed ...lack of follow-up from the AHC counselors as reasons..." Without this and additional information, it is difficult to evaluate the validity and meaning of the results. It is also unclear if those interviewed were clients attributable to the HUD housing counseling grant; AHCOA's compliance with the grant agreement requirements is the subject of the audit. Given these concerns, and the fact that Appendix D is not particularly relevant to the OIG's major observations and recommendations, Single Family recommends that Appendix D be removed from the final evaluation report.

Single Family will implement OIG's recommendations as follows.

Recommendation 1A:

Provide support for the salary and fringe benefit costs (salary expenses) allocated to the FY 2008 and 2009 HUD grants or reimburse the HUD Housing Counseling Program for amounts unsupported from non-Federal funds. At a minimum, the amount of reimbursement should include the \$159,683 for the two test pay periods (\$85,145 for FY 2008 and \$74,538 for FY 2009).

Description of Planned Actions:

Single Family will require AHCOA to provide documentation supporting the \$159,683 or reimburse the Department for the funds.

OIG Recommendation 1B:

Reimburse the HUD Housing Counseling Program \$66,174 from non-Federal funds for the ineligible salary expenses (\$14,176.71 and \$51,987.36) charged to the FY 2009 grant.

Description of Planned Actions:

Single Family will require AHCOA to provide documentation supporting the \$66,174 or reimburse the Department for the funds.

OIG Recommendation 1C:

Implement a time and activities reporting system that complies with OMB Circular A-122 and a procurement system that complies with the terms of 24 CFR Part 84.

Description of Planned Actions:

Single Family will require AHCOA to provide the documentation that shows its entity has in place a time and activities reporting system that complies with OMB circular A-122 and a procurement system that complies with 24 CFR Part 84.

OIG Recommendation 2A:

Consider placing AHCOA in “inactive” status while it initiates corrective actions to address the exceptions and recommendations (1A through 1C) in this report.

Description of Planned Actions:

Single Family will require AHCOA to provide documentation per recommendations 1A through 1C and/or perform a follow-up performance review, to ensure the grantee is in compliance with Federal requirements.. Single Family will evaluate if “inactive” status” is warranted.

OIG Recommendation 2B:

Provide AHCOA with technical assistance and guidance as needed.

Description of Planned Actions:

Single Family will provide AHCOA with technical assistance and guidance as needed.

Appendix B – Affordable Housing Corporation of America’s Comments



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EDWARD T. WATERS
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September 10, 2010

Jennifer L. Sorenson
Director, Inspections and Evaluations Division
Office of Investigation
U.S. Department of Housing and Urban Development
Office of Inspector General
451 7th St. SW
Washington, DC 20410-4500

**SUBJECT: ACORN HOUSING CORPORATION, INC. - EVALUATION OF HUD
HOUSING COUNSELING GRANT EXPENDITURES, IED-10-002**

Dear Ms. Sorenson:

On behalf of Affordable Housing Centers of America (AHCOA) we submit this response to the August 16, 2010 draft report entitled “ACORN Housing Corporation, Inc., Evaluation of HUD Housing Counseling Grant Expenditures.”¹ As an initial matter, AHCOA recognizes the value of the OIG audit process and supports the review and assessment of AHCOA’s practices related to counseling low-income individuals seeking to buy a home for the first time or remain in their homes in the face of foreclosure. While AHCOA does not agree with several of the findings in the draft report, it acknowledges that the report identifies some areas of potential improvement in addition to those already undertaken by AHCOA, and AHCOA is committed to making continual progress in its administrative processes. As noted in greater detail in the responses to the specific findings and recommendations, many of the corrective measures suggested by the OIG have in fact already been completed.

EXECUTIVE SUMMARY

AHCOA’s responses to the specific findings of the OIG are summarized briefly here, and set forth more fully below.

The first area of concern cited by the OIG was salary expenses. Almost all of the personnel records that could not be located during the audit have now been located and provided to the OIG. As to the OIG’s main concern, the use of the caseload allocation method to charge salaries to grants, as discussed below this method meets applicable federal requirements and

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¹ In December 2009 ACORN Housing Corporation, Inc. changed its name to Affordable Housing Centers of America. This was one of the last steps in a process that took place over several years, resulting in the complete separation of AHCOA from the Association of Community Organizations for Reform Now (ACORN). To avoid confusion, throughout this report the name Affordable Housing Centers of America (AHCOA) is used to refer to the actions and positions of the organization before and after the name was changed.

fairly allocated housing counselors' salaries to the proper funding source for the period in which it was used.

As to OIG's second set of observations, concerning specific salary expenses for a small number of terminated employees and for a single pay period that straddled two separate grant years, AHC has a substantial amount of previously unbilled allowable costs from FY 2009 with which to offset any eventual disallowance taken by HUD.

The OIG's final area of concern centered on AHCOA's procurement practices. AHCOA believes that in all of the instances cited, it procured services and rental space at fair and reasonable rates. AHCOA has nevertheless instituted numerous changes to its procurement process, which should alleviate OIG's concerns in this area.

AHCOA HISTORY

For over 25 years, Affordable Housing Centers of America has worked to build and preserve the housing assets of low- and moderate-income Americans. With offices in sixteen cities, Affordable Housing Centers of America is a not-for-profit, §501(c)(3) charitable organization, headquartered in the state of Illinois and certified by the U.S. Department of Housing and Urban Development as a HUD-approved housing counseling agency.

AHCOA helps low- and moderate-income individuals and families to obtain and keep affordable, stable, safe, and decent housing. It accomplishes this through home ownership education and counseling, access to financing, housing development, and advocacy. Underscoring AHCOA's mission are its values and commitment to social justice. AHCOA believes that everyone should have the opportunity to own and maintain a home when they are ready. Life's stumbling blocks, such as temporary unemployment or sickness, should not eliminate one from the American dream of home ownership.

Throughout its history, AHCOA has only qualified clients for 30 year, fixed rate, fully amortizing mortgages offered by federally insured, fully regulated lending institutions. AHCOA has never referred clients to lenders offering exploding subprime ARMs, alt-A, payment-option ARMs, or any of the other exotic and unsafe offerings. Of the more than 404,000 people who have received homebuyer education counseling from Affordable Housing Centers of America, over 100,000 of them qualified and bought homes with safe, affordable mortgage products.

Prior to the onset of the financial crisis in late 2007, ninety percent of AHC's housing counseling clients were families seeking to buy or refinance a home. By the end of 2009, the vast majority of AHCOA's clients were families who had fallen behind on their mortgage payments. Since 2008, AHCOA has provided assistance to more than 65,000 homeowners seeking to save their homes from foreclosure.

AHCOA takes pride in tackling the toughest foreclosure cases and in going the extra mile for its clients. AHCOA works with homeowners to determine what they can afford to pay, and then

advocates an affordable solution to the loan servicer. AHCOA counselors stay on the case until there is a decision—which on average takes six to nine months, but can take up to two years. This dedication to the client consistently earns AHCOA counselors high marks for customer satisfaction. AHCOA is gratified that the HUD OIG reports similar findings in its survey of clients.

AHCOA RESPONSES TO SPECIFIC OIG OBSERVATIONS

This section of the response corresponds to the three Observations contained in the draft OIG report.

1) Allocation of Salary Expenses to Grants

Previously Missing Time Sheets Have Been Located and Provided to the OIG

The first specific concern cited by OIG was the lack of time sheets and accompanying payroll register extracts for the majority of employees in the FY 2008 sample and for 6 employees in the FY 2009 sample. Over 90% of those records have now been located and provided to OIG.

AHCOA's Records Support the Allocation of Counselor Salaries to HUD Grants

The primary finding in this section was that the sample of time sheets reviewed by OIG, while they contained the elements required by OMB Circular A-122 such as number of hours, leave taken, and employee and supervisor signatures, did not contain information that could be used to allocate the counselor's time to a specific grant. OIG has recommended that HUD require AHCOA to provide support for how counselors' time was allocated and charged to the HUD grant, or face disallowance of some of those counselors' salary costs for FY 2008 and FY 2009.

As an initial matter, it must be emphasized that AHCOA's employee time sheets contain the basic information required under OMB Circular A-122 to support a claim that the employee was performing counseling services. The time sheets were prepared after the fact, were signed by the employee and a supervisor, and accounted for all of the employees' time. AHCOA then charged the cost of the employees' time to its various funding sources through a cost allocation system that was refined over the course of the audit period.

In this regard, the chart on page 12 of the draft report purports to show that AHCOA's cost allocation system resulted in wide variations in hours worked per client. In fact, the chart is missing a substantial amount of data. Specifically, OIG failed to include the delinquency cases that AHCOA housing counselors were working on pursuant to HUD funding, a substantial number of cases.² Thus the first column, "HUD clients served," which is the basis for much that follows, is inaccurate and significantly understates the number of clients served. The

² AHCOA provided to the OIG client lists that were sent at the end of the year to HUD. In addition to lists labeled by office, there were two lists labeled as delinquency cases. One of those delinquency lists included HUD delinquency cases. OIG apparently did not realize that those were HUD delinquency cases and did not count those HUD delinquency cases when OIG prepared its chart.

charts below show how dramatically the picture changes when all of the relevant data is included.

Figure A. Chart from p. 12 of draft OIG report

| Office | Number of | | Total | | Average | |
|-----------------|--------------------|------------------|---------------------------|-----------------------|-------------------------|-----------------------------------|
| | HUD clients served | AHCOA Counselors | Hours worked on HUD grant | Salary charged to HUD | Hours worked per client | Counselor salary costs per client |
| Tampa, FL | 8 | 2 | 664 | \$12,693.72 | 83 | \$1,586.72 |
| Boston, MA | 12 | 2 | 859 | \$10,823.72 | 72 | \$901.98 |
| Springfield, MA | 20 | 5 | 1661 | \$28,905.07 | 83 | \$1,445.25 |
| Atlanta, GA | 23 | 1 | 587 | \$12,094.09 | 25 | \$525.83 |
| Albuquerque, NM | 30 | 1 | 1064 | \$21,438.17 | 35 | \$714.61 |
| Providence, RI | 45 | 2 | 1149 | \$18,780.64 | 25 | \$417.35 |
| New York, NY | 1250 | 4 | 2209 | \$66,612.11 | 2 | \$53.29 |
| Chicago, IL | 1203 | 17 | 8406 | \$155,692.42 | 7 | \$129.42 |

Figure B. Revised chart with complete AHCOA data³

| Office | Number of | | Total | | Average | |
|-----------------|--------------------|------------------|---------------------------|-----------------------|--------------------------|-----------------------------------|
| | HUD clients served | AHCOA Counselors | Hours worked on HUD grant | Salary charged to HUD | Hours worked per client | Counselor salary costs per client |
| Tampa, FL | 109 | 2 | 664 | \$12,693.72 | 6.09 | \$116.45 |
| Boston, MA | 171 | 2 | 859 | \$10,823.72 | 5.02 | \$63.30 |
| Springfield, MA | 241 | 5 | 1661 | \$28,905.07 | 6.89 | \$119.94 |
| Atlanta, GA | 13 | 1 | 587 | \$12,094.09 | 45.15⁴ | \$930.31 |
| Albuquerque, NM | 86 | 1 | 1064 | \$21,438.17 | 12.37⁵ | \$249.28 |
| Providence, RI | 201 | 2 | 1149 | \$18,780.64 | 5.72 | \$93.44 |
| New York, NY | 453 | 4 | 2209 | \$66,612.11 | 4.88 | \$147.05 |
| Chicago, IL | 1562 | 17 | 8406 | \$155,692.42 | 5.38 | \$99.68 |

Figure B, the revised chart with the correct data, shows that AHCOA's system produced reasonable and fairly consistent results with respect to the amount of effort and resources devoted to each case.

³ Supporting documentation for the data in this revised chart is found in Attachment 1.

⁴ AHCOA believes that the data reported from the Atlanta office were inaccurate. The Atlanta office was closed for poor performance on February 28, 2009.

⁵ Staff from the Albuquerque office spent considerable time assisting with the closing of other offices, including the Atlanta office, which affected the number of counseling cases she worked on. For a period of time she worked in Dallas to assist in managing that office.

The primary focus of this portion of the OIG report is on AHCOA's use of the caseload allocation method to determine how to charge counselor salary time to various grants. The caseload method allocated payroll in proportion to the number of cases assigned to a counselor for each different kind of grant. For instance, if 25% of a counselor's cases were HUD grant cases, and 75% were NFMC delinquency cases, 25% of the counselor's salary was allocated to the HUD grant.

In order to respond more generally to OIG's concerns regarding the caseload allocation method, it is necessary to separate the time period in question (October 1, 2007 through September 30, 2009) into discrete sub-periods, as AHCOA's record-keeping and billing methods changed over the course of the two fiscal years in question. Prior to April 1, 2008, in offices where AHCOA had counselors working under both the HUD grant and other grants, AHCOA tracked the time counselors spent on each grant's cases in order to allocate their salaries to the appropriate grant. The time was tracked using the software Home Counselor Online (HCO). Thus prior to April 1, 2008, the caseload allocation method was not in place. Stated differently, 25% of the audit period occurred prior to implementation of the caseload allocation method.

The first of the two test pay periods identified by the OIG in the draft report fell into this pre-caseload method time period. While it is true that the counselor time sheets from this test period do not show a breakdown in time between various grants, AHCOA has other documentation of how much time each counselor spent on cases attributable to each grant to support how their salary time was billed. This documentation is in the form of individual case files in AHCOA's databases.

The second test pay period, December 14 through December 27, 2008, occurred following AHCOA's implementation of the caseload allocation method. The impetus for the implementation of the caseload method was the impracticality of tracking time spent by grant. Again, AHCOA has documentation of how many cases each counselor handled and which grants funded those cases, to support the charging of each counselor's time to the appropriate grants. See Attachment 1 hereto, data from FY2009 showing counselor caseloads and salary allocations to grant. Importantly, as described in the Declaration of [REDACTED] Attachment 4 hereto, it takes AHCOA counselors about the same amount of time to handle either type of case (new home buyer or foreclosure).

In April of 2010, AHCOA instituted an electronic time-keeping system in which counselors record time by grant. An example of an electronic time sheet from the new system and an explanation of the codes used are provided in Attachment 2. Should AHCOA receive HUD funding in the future, this new system would be used rather than the caseload allocation method described above. It satisfies OIG's recommendation 1C that AHCOA develop and implement a new time and activities reporting system.

The Caseload Allocation Method Meets Federal Grant Requirements

It is important to reiterate the exceptional circumstances that led AHCOA to adopt the caseload allocation method in April 2008. Because of the collapse of the nation's housing market, not only did AHCOA's work shift dramatically from assisting would-be homebuyers to assisting those facing foreclosure, the sheer volume of its work skyrocketed. By late March 2008 AHCOA faced the reality that continuing to utilize HCO to track minutes spent on each case was simply impracticable. While counselors were capturing minutes interacting with clients directly, they were missing substantial amounts of time doing other tasks related to those cases, such as communicating with mortgage servicers, reviewing documents, sending documents to various parties, and the like. It was often necessary for counselors to shift rapidly between case files due to the receipt of telephone calls, faxes and emails. It was more critical for counselors to spend their time responding to client needs than to expend the considerable time it would have required to record each and every discrete action in HCO. With the assistance of an outside accounting firm, AHCOA developed a detailed procedure for grant billing and allocation of costs, including the caseload allocation method, which was put into place on April 1, 2008. See Attachment 3 hereto, "Grant Billing & Costs/Expenses Procedures."

While the caseload method was adopted out of practical necessity, AHCOA did not implement this method without first undertaking a thorough review to ensure that it complied with all applicable grant requirements, including OMB Circular A-122. The factual premises for its analysis were as follows: 1) both the HUD and NFMF grants provide funding for AHCOA to provide housing counseling to individuals and families, 2) the level of effort devoted by AHCOA's housing counselors to each case arising under either program, on average, is about the same,⁶ 3) the counselors frequently switch between the two types of counseling during the day and often during the same hour making it extremely difficult for the counselors to track their time on a time and effort report, and, 4) the type of cases is carefully tracked by AHCOA, with each case being assigned to the appropriate grant, and then assigned to a counselor.

Under OMB Circular A-122, Cost Principles for Non-Profit Organizations (*codified at 2 C.F.R. Part 230*), costs charged to an award must be reasonable, allocable, and allowable. Costs may be direct or indirect. The salary and fringe benefit costs at issue here are direct costs. Because these salary costs are shared or joint costs, a fair distribution of these costs can be accomplished through the use of a cost allocation methodology. Although found in the section on indirect costs, Circular A-122 contains extensive guidance on factors that should be considered in constructing a cost allocation methodology. Most importantly, the allocation base must accurately measure the benefits provided by the shared costs to each award or activity and must be supported by current, after-the-fact data. The goal of a cost allocation system is that it "produces results that are equitable to both the Federal Government and the organization." *Id.*

AHCOA's caseload allocation system meets these criteria and achieves the result of an equitable distribution of joint costs (i.e. the time of the counselors). First, upon intake, cases are assigned to counselors and to one program or another, thus giving AHCOA current, after-the-fact data with which to allocate costs. Second, experienced AHCOA management, with

⁶ See Declaration [REDACTED] Attachment 4 hereto.

supervisory responsibility over all AHCOA housing counselors, have observed that the level of effort that goes into each case, on average, is about the same, allowing caseload to be an accurate measure of the effort devoted to each grant program. Finally, given the foregoing, there is a clear cause and effect relationship between caseload and the efforts of the counselors, as required by the Circular. Stated otherwise, given that there is not any significant difference between the effort that goes into one type of case or another, utilizing caseload as a measure of effort is both fair and reasonable.

2) Specific Salary Expenses

The HUD OIG report notes two types of salary expenses that were erroneously charged to HUD. First, there is \$14,176.71 in payroll expense that was inadvertently charged for terminated employees, AHCOA does not dispute that these expenses were charged in error.

AHCOA also does not contest that it charged to the FY 2009 grant some payroll costs that were incurred in FY 2008. This occurred because AHCOA's bi-weekly payroll payment date of October 3 fell into FY 2009, even though the first week and a half of the 2-week pay period occurred during 2008. OIG calculates that amount as \$51,987.36. Our review of the payroll shows that the amount is \$51,830.82.

AHCOA does not dispute these questioned costs totaling \$66,007.53. However, AHCOA incurred substantial other allowable costs in FY 2009 that were not charged to the HUD grant. These costs can be substituted for the disallowed salary costs, obviating the need for any repayment. Those unbilled FY 2009 costs are enumerated in Attachment 5 hereto. As shown on the Attachment, AHCOA had \$107,213.41 in allocable payroll from the 4th quarter (July – September, 2009) that was not billed to HUD. That is more than enough to substitute and cover the disallowed expenses.

The Government Accountability Office has expressly stated that previously unbilled allowable costs may be substituted for disallowed costs. "A grantee may generally substitute other allowable costs for costs which have been disallowed, subject to any applicable cost ceiling. If additional funds become available as the result of a cost disallowance, those funds should be used to pay any 'excess' allowable costs which could not be paid previously because of the ceiling." GAO Office of the General Counsel, *Principles of Federal Appropriations Law*, 3rd Ed., Vol. II, 2006, p. 10-113. Substitute costs have been allowed by numerous federal agencies either through decisions of their own departmental appeal boards or through opinions by GAO or federal courts. *See, e.g., In re Central Piedmont Action Council, Inc.*, Dept. of Health and Human Services Departmental Appeals Board, App. Div., Docket No. A-02-124, April 16, 2004 ("The Board has recognized that a grantee may reduce or offset a disallowance by documenting that it incurred unclaimed, allowable and allocable costs that it paid for with its own funds. In effect, a grantee may substitute, for unallowable costs, allowable costs for which it did not claim federal funding.") (internal citations omitted); GAO Decision B-208871.2, Feb. 9, 1989, 68 Comp. Gen. 247 ("A contracting officer is required to pay all allowable costs under a grant or contract up to the maximum amounts authorized and allocated for the contract. If additional amounts become available as a result of some audited cost disallowances, the

contracting officer must apply them to any excess costs that are otherwise allowable but which could not previously be paid because they exceeded the cost ceiling.”) (Department of Labor); *Inst. for Technology Dev. v. Brown*, 63 F.3d 445 (5th Cir. 1995) (recognizing the Department of Commerce allows for substitution of allowable costs for disallowed costs); *New York v. Riley*, 53 F.3d 520 (2d Cir. 1995) (recognizing “equitable offset,” under which grantee may offset disallowed costs with allowable costs not previously charged to federal grant) (Department of Education).

AHCOA intends to substitute previously unclaimed but allowable FY 2009 costs against the salary costs that OIG has questioned.

3) Procurement

To address the issues it identified with respect to certain of AHCOA’s procurement activities, OIG did not recommend any disallowance, but rather that AHCOA establish a system that is compliant with the terms of future grant awards and federal regulations. In this section of the response we outline steps that have already been taken to address these concerns.

Accounting and Legal Services

The corrective action recommended by the OIG has already taken place with respect to the services AHCOA formerly obtained from Citizens Consulting, Inc. (CCI). Separation from CCI began in April, 2007, when AHCOA hired a controller in its Chicago headquarters to assume management of AHCOA’s financial accounting needs. The AHCOA Board of Directors discussed severing ties with CCI in October, 2007, but was advised by several accountants with whom AHC consulted not to make the transition until the beginning of the new fiscal year (July 1, 2008).

In June 2008, AHCOA hired the accounting firm of RSM McGladrey to help build AHC’s accounting and financial management capacity, and to help in transitioning all accounting functions away from CCI and into an internal accounting unit. AHCOA brought its accounting and financial management in-house at the start of its fiscal year on July 1, 2008. AHCOA has contracted with ADP to handle all payroll functions since then. In January 2009, AHCOA revised its contract with RSM McGladrey to receive CFO services, which it continues to receive. (AHCOA is interviewing candidates to fill a permanent, in-house CFO position.)

In July 2008, AHCOA entered into a new contract with CCI making it clear that CCI’s only role thereafter was to give AHCOA direct access to its records and to cooperate in providing records needed to complete AHCOA’s financial audits.

Human resources and legal functions have also been removed from CCI. In 2007, AHCOA engaged [REDACTED] an attorney with an employment specialization, to provide human resources and legal services. During 2007 all legal matters were assigned to outside counsel, rather than CCI. AHCOA hired a General Counsel and a Human Resources Director in the spring and summer of 2008, respectively.

At this point AHCOA does not receive any services from CCI and makes no payments to CCI.

Office Leases

The OIG draft report cites concerns that AHCOA leased office space from associated non-profit organizations without obtaining competitive bids. First, it should be noted that AHCOA did not lease office space only from or with associated non-profits; in the majority of its locations, space was rented without any connection to an associated entity. When space was leased without any connection to an associated entity, offerings from various competitors were considered. Most importantly, AHCOA consistently leased space at rates below prevailing market averages. See Declaration of [REDACTED] at Attachment 6.

AHCOA adopted a comprehensive procurement policy on January 15, 2009. (See Attachment 7 hereto.) In addition, the AHCOA Board of Directors on July 23, 2010 adopted a new policy to govern renting of space. The new policy, "Policy and Procedure for Rental Costs of Buildings, Space, or Facilities," is Attachment 8 hereto. AHCOA no longer has any office space that is rented from or shared with ACORN or any other related organization.

Health Care and Retirement Benefits

The OIG draft report also states concerns over AHCOA having obtained health and retirement benefits from associated non-profit organizations, and suggests that federal procurement requirements for free and open competition and price analysis were not met. In fact, however, as outlined in a letter from AHCOA's General Counsel and further explicated in an attached letter from AHCOA's outside counsel, examination of proposals from competing providers and, in many instances, a formal RFP process, took place when selecting providers for these benefits. RFPs were used to select third-party administrators for the health and retirement plans, to select health care consultants for the design and administration of the health plan, to select a new health plan, and to obtain accounting services for both the health and retirement plans. When a formal RFP process was not used, competitive examination of possible providers took place.

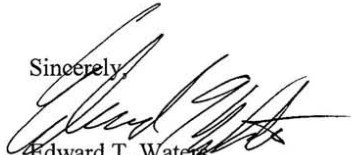
AHCOA assured, through its representation on the boards of trustees of the health care and pensions plans in which it participated, that those plans engaged in competitive selection of vendors to the plans. Because it had processes in place to ensure open and free competition for these services, AHC believes that it was in substantial compliance with the requirements of 24 CFR Part 84. Documents reflecting the processes undertaken and the bids received for various services can be provided if HUD believes they would be helpful.

To the extent that AHCOA's practices were not fully compliant, OIG acknowledges in its draft report that AHCOA has already taken corrective action with respect to the acquisition of health care and retirement benefits for its employees. For health care, AHCOA solicited quotes from independent providers in late 2009 and now has a new health plan in place. For retirement funds, AHCOA established its own ERISA plan in late 2009 with the assistance of outside counsel and an independent actuarial/consulting firm.

CONCLUSION

AHCOA takes very seriously both its commitment to assisting low-income families with home ownership and its obligations as a federal grant recipient to diligently administer the public funds with which it is entrusted. Importantly, none of the findings suggest that funds were misused or that counseling work was not performed. AHCOA is prepared to work constructively with your office and with the HUD program offices to improve services to low-income families and looks forward to resolving the issues identified in your report.

Sincerely,



Edward T. Waters

Appendix C – Other Federal and Non-Federal Funding Sources

| Entity | Location | Period | Amount | Purpose |
|---|------------------|---------------------|-----------------|--|
| Connecticut Housing Finance Authority | Connecticut | 03/27/08 - 10/31/09 | \$ 127,000.00 | ■ |
| Connecticut Housing Finance Authority | Connecticut | 06/30/08 - 09/30/08 | ◆ | Urban rehabilitation homeownership program |
| Connecticut Housing Finance Authority | Connecticut | 06/30/08 - 09/30/08 | ◆ | Home buyer's seminars |
| Connecticut Housing Finance Authority | Connecticut | 03/27/08 - 10/31/09 | ◆ | Family foreclosure/subprime counseling |
| Louisiana - Road Home Program | Louisiana | 11/01/07 - 10/31/08 | \$ 590,000.00 | ■ |
| Louisiana - Road Home Program | Louisiana | 11/01/07 - 10/31/09 | \$10,000.00 | ■ |
| Commonwealth of Massachusetts, Dept. of Housing & Community Development | Boston, MA | 07/01/08 - 06/30/09 | \$33,000.00 | ■ |
| HECAT* - Minnesota Housing Finance Agency | St. Paul, MN | 01/01/08 - 12/31/08 | \$48,000.00 | Foreclosure prevention assistance program |
| HECAT - Minnesota Housing Finance Agency | St. Paul, MN | 10/01/07 - 09/30/08 | \$ 15,000.00 | Foreclosure prevention assistance program |
| Minnesota – FHIP** | ■ | 01/01/09 - 12/31/09 | \$100,000.00 | ■ |
| NFMC - National/Chicago | Chicago/National | 03/01/08 - 12/31/08 | \$ 7,850,939.00 | ■ |
| NFMC - National/Chicago Round 2 | Chicago/National | 07/01/08 - 12/31/09 | \$16,000,000.00 | Counseling funds |
| NFMC - National/Chicago Round 2 | Chicago/National | 07/01/08 - 12/31/09 | \$1,200,000.00 | Legal assistance |
| NFMC - California - Rural Community Assistance Corporation | Sacramento, CA | 03/03/08 - 12/31/08 | \$315,000.00 | ■ |
| NFMC - Florida | Orlando/Miami | 04/01/08 - 12/31/08 | \$162,464.00 | ■ |
| NFMC - Minnesota - Minnesota Housing Finance Agency | St. Paul, MN | 04/30/08 - 06/30/10 | \$126,255.00 | ■ |
| NFMC - Missouri - Missouri Housing Development Commission | St. Louis, MO | 03/01/08 - 12/31/08 | \$101,400.00 | ■ |
| NFMC - Missouri - Missouri Housing Development Commission | Kansas City, MO | 03/01/08 - 12/31/08 | \$101,400.00 | ■ |

| Entity | Location | Period | Amount | Purpose |
|---|-----------------|---------------------|------------------------|---|
| Minnesota - FHIP | ■ | 01/01/08 - 12/31/08 | \$100,000.00 | ■ |
| Jersey City | Jersey City, NJ | 10/01/08 - 09/30/09 | \$25,000.00 | Home-buyer counseling & education program |
| Jersey City | Jersey City, NJ | 10/01/07 - 09/30/08 | \$25,000.00 | Home-buyer counseling & education program |
| CDBG - Houston | Houston, TX | 07/01/08 - 06/30/09 | \$31,546.00 | First-time home buyer |
| CDBG - Houston | Houston, TX | 07/01/08 - 06/30/09 | \$ 5,370.50 | First-time home buyer |
| City of Houston Housing & Community Development | Houston, TX | 06/23/08 -06/23/09 | \$155,000.00 | Delinquency |
| Chicago CDBG | ■ | 01/01/08 - 12/31/08 | \$22,500.00 | ■ |
| Illinois Housing Development Agency | Chicago, IL | 07/01/09 - 06/30/11 | \$50,000.00 | ■ |
| Milwaukee Ross Grant | ■ | 03/01/07 - 06/30/08 | \$25,000.00 | ■ |
| Housing Authority of the City of San Bernardino | ■ | 01/01/07 - 12/31/07 | \$5,000.00 | ■ |
| Orange County CDBG | Orlando, FL | 03/08 - 02/09 | \$45,000.00 | ■ |
| Total | | | \$27,269,874.50 | |

- ◆ Fee for service, total award amount not provided
- Information not provided
- * HECAT= Homeownership Education, Counseling and Training
- ** FHIP= Fair Housing Initiatives Program

Appendix D – Client Case Sampling Methodology and Results¹⁵

The objective of our evaluation was to determine whether AHC used its HUD comprehensive housing counseling grant funds in compliance with grant agreement requirements. To accomplish this objective, we performed additional procedures to confirm AHC’s client counseling services reported to HUD and funded through HUD housing counseling grants. From AHC’s data records, we selected a random sample of 169 clients that received one-on-one prepurchase housing counseling at AHC offices nationwide between April 1 and June 30, 2009. We attempted to contact all 169 AHC clients for interview. We were successful in speaking with 50 clients or 30 percent of the sample.

Sampling Methodology

We obtained and analyzed the housing counseling agency fiscal year activity reports¹⁶ for FY 2009 that AHC submitted to HUD and corresponding client data (e.g., contact information) maintained in AHC records. The activity reports contained 21,134 records, reflecting 10,645 client cases and 32 AHC branch offices. AHC reported 12 types of counseling services.

| Services | Count |
|---|---------------|
| Completed prepurchase home-buyer education workshop | 7,820 |
| Completed financial literacy workshop, including home financing, budgeting, and/or credit repair | 190 |
| Completed resolving or preventing mortgage delinquency workshop | 60 |
| Completed nondelinquency postpurchase workshop, including home maintenance and/or financial management for homeowners | 128 |
| Completed fair housing workshop | 92 |
| Completed predatory lending workshop | 1,383 |
| Completed rental workshop | 3 |
| Other workshop | 6 |
| Seeking prepurchase home-buyer counseling | 10,619 |
| Seeking help with resolving or preventing mortgage delinquency | 190 |
| Seeking help with home maintenance and financial management for homeowners | 641 |
| Seeking help in locating, securing, or maintaining residence in rental housing | 2 |
| Total | 21,134 |

To contact AHC clients who were seeking assistance in becoming homeowners, we limited our sample selection to the 10,619 records labeled as “Seeking Pre-purchase Homebuyer Counseling.” We performed procedures to remove duplicate case numbers and records that did not have a case number, resulting in a universe of client cases totaling 9,410.

¹⁵ The client case sampling methodology and results are presented for informational purposes only; the results were not projected to the universe of clients that received pre-purchase counseling.

¹⁶ Form HUD-9902 client case data reported by AHC as being attributable to the HUD housing counseling grant for each office location was obtained and analyzed.

We selected clients from two sample pools: AHC offices with 30 or more cases and offices with fewer than 30 cases.¹⁷

| Housing counseling services - October 1, 2008, through June 30, 2009 | | | |
|---|------------------|--------------------------|-------------------|
| Sample population | Segment | Number of offices | Case count |
| 1 | 30 or more cases | 25 | 9,314 |
| 2 | Under 30 cases | 7 | 96 |
| Totals | | 32 | 9,410 |

To increase the likelihood that clients would remember the services they received from AHC, we narrowed the sample population to prepurchase counseling services conducted between April 1 and June 30, 2009. Of the 9,410 cases, we identified 3,519 clients that received counseling during the 3-month period. The following table represents our two sample populations.

| Housing counseling services - April 1 through June 30, 2009 | | | |
|--|------------------|--------------------------|-------------------|
| Sample population | Segment | Number of offices | Case count |
| 1 | 30 or more cases | 24 | 3,483 |
| 2 | Under 30 cases | 5 | 36 |
| Totals | | 29 | 3,519 |

For sample population 1, we determined that an attribute sample of 133 cases was sufficient, using a 95 percent confidence level and 5 percent sampling error rate. We then applied a random number generator, using computerized software, to identify specific sample cases. Since sample population 2 was under 100, we selected all 36 cases for review. We matched the total sample of 169 cases to AHC's FY 2009 client records to obtain contact information associated with the client case number.

Results

We attempted to contact all 169 AHC clients for interview. We were successful in speaking with 50 clients or 30 percent of the sample. We interviewed the clients first to confirm whether services were received, second to find out whether the clients were able to purchase a home, and third to determine their level of satisfaction with AHC's counseling services.

- Confirmation of services: Of the 50 clients contacted, 1 stated that he did not receive any services from AHC.
- Home purchases: Sixteen clients told us that they were successful in finding and purchasing homes. They were also still living in those homes a year after seeking counseling. Another client was successful in refinancing her home. However, only six of these homeowners thought that AHC's counseling was critical to the home purchase.

¹⁷ We used HUD's workload performance requirements (24 CFR Part 214.303) as the basis for our sample populations. A participating agency is required to provide housing counseling to at least 30 clients during each 12-month period.

- Level of satisfaction: Twenty-seven clients said “yes” when asked if they would recommend AHC services. Although some (10 of 16 who purchased a home) did not directly attribute their homeownership success to AHC, more than half (28) of the clients interviewed were either satisfied (20) or very satisfied (8) with AHC’s services.
- There were 32 clients in total that responded that they did not purchase a home. Eleven of 21 clients that provided a reason for why they were not able to purchase a home said that either they were declined for a mortgage loan (2), were unemployed (2), still needed to pay off debts (1), were unable to find a home in their price range (1), or had other personal or financial problems (5). Other clients (6) attributed local AHC office closures and lack of follow-up from the AHC counselors as reasons for not being able to purchase a home.¹⁸

During our client interviews, we also noted the following:

- Data discrepancies: Six clients said that they only attended the group prepurchase home-buyer education workshop. However, AHC reported to HUD that they participated in one-on-one counseling.
- Fees for services: About half of the clients said that they paid between \$10 and \$50 for AHC’s counseling services. Seventeen clients paid a fee for having their credit reports pulled, one recalled paying for the group session, five paid for administrative/application processing purposes or solicited donations, and two did not know the purpose of the fee.

¹⁸ Four clients either did not complete AHC’s program or decided to use a different program. The remaining eleven clients did not provide an explanation.