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# AUDIT REPORT



CONGRESSIONALLY REQUESTED AUDIT OF THE  
OUTREACH AND TRAINING ASSISTANCE GRANT  
AWARDED TO THE ANTI-DISPLACEMENT PROJECT

SPRINGFIELD, MASSACHUSETTS  
GRANT NUMBERS FFOT98013 AND FFOT00019

2002-BO-1004

SEPTEMBER 30, 2002

OFFICE OF AUDIT, NEW ENGLAND  
BOSTON, MASSACHUSETTS

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Issue Date	September 30, 2002
Audit Case Number	2002-BO-1004

TO: Charles H. Williams, Director, HUD's Office of Multifamily Housing Assistance Restructuring, HY

FROM: Barry L. Savill, Regional Inspector General, Office of Audit, 1AGA

SUBJECT: Congressionally Requested Audit of the Outreach and Training Assistance Grant awarded to the Anti-Displacement Project in Springfield, Massachusetts  
Grant Numbers: FFOT98013 and FFOT00019

We completed an audit of two Outreach and Training Assistance Grants (OTAG) awarded to the Anti-Displacement Project (Grantee). The review was performed at the request of Congress. Our audit objective was to determine if the Grantee used Section 514 grant funds for only eligible activities as identified in the Multifamily Assisted Housing Reform and Affordability Act (MAHRA), Notice of Funds Availability (NOFA), and grant agreements between HUD and the Grantee to further the Mark-to-Market Program. We also determined if the Grantee expended Section 514 funds for any lobbying activities. Congress specifically identified lobbying as an ineligible activity under MAHRA.

Section 1303 of the 2002 Defense Appropriation Act (Public Law 107-117) requires the HUD Office of Inspector General to audit all activities funded by Section 514 of the MAHRA. The directive would include the OTAG and Intermediary Technical Assistance Grants (ITAG) administered by the Office of Multifamily Housing Assistance Restructuring (OMHAR). Consistent with the Congressional directive, we reviewed the eligibility of costs with particular emphasis on identifying ineligible lobbying activities.

The audit determined that the Grantee: 1) charged ineligible travel and conference costs to OTAG; 2) incurred questionable costs for Consultant Services; and 3) charged unallowable lobbying activities to the grants.

In accordance with HUD Handbook 2000.06 REV-3, please provide us a status report within 60 days for each recommendation without a management decision identifying: (1) the corrective action taken; (2) the proposed corrective action and the date to be completed; or (3) why action is

considered unnecessary. Additional status reports are required at 90 days and 120 days after report issuance for any recommendation without a management decision. Also, please furnish us copies of any correspondence or directives issued because of the audit.

Although the Grantee was given the opportunity to comment on our report, as of September 27, 2002, we have not received their comments on our report. We appreciate the courtesies and assistance extended by the personnel of the Grantee during our review. Should you or your staff have questions, please contact us at (617) 994-8380.

# Executive Summary

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We completed an audit of the Outreach and Training Assistance Grants (OTAG) awarded to the Anti-Displacement Project (Grantee). Our audit objectives were to: 1) determine if the Grantee used Section 514 grant funds for only eligible activities as identified in the Multifamily Assisted Housing Reform and Affordability Act (MAHRA), Notice of Funds Availability (NOFA), and grant agreements to further the Mark-to-Market Program, and 2) to ensure that the Grantee did not expend OTAG funds for any lobbying activities.

  


## Audit Results

The audit identified that the Grantee needs to:

- Implement a system to ensure proper allocation of travel and conference costs and maintain adequate records to support this allocation.
- Ensure that OTAG funds are spent on eligible activities listed in the NOFAs.
- Establish policies and procedures for identifying lobbying activities and ensure that Federal funds are not used to support direct or indirect lobbying activities.
- Provide justification for its use of OTAG funds to pay for \$37,509 in consultant costs.
- Reimburse the grant for \$6,835 in ineligible lodging and transportation costs.

The Grantee charged its OTAGs \$6,835 in ineligible costs for lodging and transportation to three National People's Action (NPA) Conferences held in Washington, DC. The ineligible costs were charged because the Grantee does not follow an equitable system for allocating conference costs. Only a portion of the conference activities was eligible for OTAG funding. In addition to the eligible activities, conference agendas show unallowable lobbying activities, such as meetings with legislators, meetings with government officials, and workshops that encourage lobbying. We also identified workshops, such as a Youth Scholarship Program, School Construction Legislation, and Job Creation Strategies, which are ineligible because they do not provide outreach, training, and counseling so residents can participate effectively in the Mark-to-Market process.

Because of these expenditures, fewer residents had the opportunity to receive important guidance and training about the Mark-to-Market program and its impact on the future of their housing.

The Grantee paid \$37,509 to consultants for: 1) project management, 2) financial services, and 3) legal services. The Grantee hired the three Consultants to assist them in their efforts to acquire and rehabilitate Cathedral Hill Apartments, a Section 8 Project located in Springfield, Massachusetts. The Grantee was acting on behalf of a tenant non-profit group who will assume ownership of Cathedral Hill. We are questioning these costs because the services provided by the Consultants are not allowable under OTAG.

The Grantee charged OTAG for staff involved in lobbying activities. The lobbying includes meetings with Congressional staff from the Senate, and other lobbying activities. We could not determine the exact cost of lobbying due to lack of detailed records. The Grantee did not separate lobbying from other activities performed by its staff. When we attempted to trace the activities from the time sheets to the Expense Voucher Forms, the Grantee could not provide the supporting documentation such as the hours and actual dollar amounts charged to OTAG. Federal regulations require that Grantees must maintain reports reflecting the distribution of activities performed by each employee whose compensation is charged, in whole or in part, to the Federal grant. Lobbying activities are prohibited by MAHRA and OMB guidance. Because of this concern, fewer funds were available for eligible OTAG activities.

## Recommendations

Our report contains recommendations to address the three issues identified in the report. The Grantee needs to:

- Repay \$6,835 in ineligible costs associated with lodging and transportation for the NPA Conferences.
- Implement a system in accordance with OMB Circular A-122 for allocating costs between eligible and ineligible activities and maintain adequate records to support the allocation.

- Provide justification for its use of OTAG funds for Consultant Services.
- If adequate justification is not provided for use of OTAG funds for Consultant Services, repay \$37,509 to the grant in ineligible costs.
- Discontinue charging the grant for activities related to lobbying as defined by MAHRA and OMB Circular A-122.
- Establish policies and procedures for identifying lobbying activities and ensure that Federal funds are not used to support direct or indirect lobbying activities.
- Maintain time records according to OMB Circular A-122 which require Grantees to maintain reports showing the distribution of activities performed by each employee whose compensation is charged, in whole or in part, to the Federal grant.

OMHAR needs to evaluate the Grantee's lobbying activities in comparison with Section 1303 of Public Law 107-17 and Title II of Public Law 107-73 and take appropriate action.

The findings were discussed with the Grantee's Executive Director during the course of the audit. We held an exit conference on July 25, 2002. On August 30, 2002, we provided the Grantee a copy of the draft report for comment. We granted the Grantee an extension to September 18, 2002 to respond and we made several attempts to obtain comments. However, as of September 27, 2002, the Grantee has not provided their response.

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Abbreviations

HUD	Housing and Urban Development
ITAG	Intermediary Technical Assistance Grant
MAHRA	Multifamily Assisted Housing Reform and Affordability Act
NOFA	Notice of Funds Availability
NPA	National People’s Action Conference
OIG	Office of Inspector General
OMB	Office of Management and Budget
OMHAR	Office of Multifamily Housing Assistance Restructuring
OTAG	Outreach and Training Assistance Grant

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# Introduction

The Anti-Displacement Project (Grantee) is a non-profit corporation of tenant organizations throughout Central and Western Massachusetts. The Grantee is concerned with the preservation and improvement of privately owned, multifamily housing. The Grantee's Board of Directors is made up of nine members. The Executive Director is responsible for the administration of daily operations. The Grantee is located at 57 School Street in Springfield, Massachusetts. Grantee regularly works with fifteen HUD-assisted projects in Central and Western Massachusetts.

The Grantee received two Outreach and Training Assistance Grants (OTAG) from the Office of Multifamily Housing Assistance Restructuring (OMHAR):

Grant Number	Amount Awarded	Amount Disbursed as of May 2002
FFOT98013	\$250,000	\$196,028
FFOT00019	\$250,000	\$ 41,691 <u>1/</u>

1/ The Grantee's Executive Director advised that OMHAR authorized their use of fiscal year 2000 funds before drawing down all of fiscal year 1998 funds.

In addition to the OTAG grants, the Grantee received grants from non-Federal sources. The Grantee received \$35,000 from the United States Catholic Conference, \$50,000 from the National Training and Information Center, and \$70,000 from the Needmor Fund. The Grantee did not receive a financial audit, nor was one required. Under OMB Circular A-133, Subpart B, Paragraph 200(d) grantees that expend less than \$300,000 in Federal awards are exempt from the Federal requirement of an annual audit.

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) established the OMHAR within HUD. Utilizing the authority and guidelines under MAHRA, OMHAR's responsibility included the administration of the Mark-to-Market Program, which included the awarding, and oversight of the Section 514 Outreach and Training Assistance and Intermediary Technical Assistance Grants. The objective of the Mark-to-Market Program was to reduce rents to market levels and restructure existing debt to levels supportable by these reduced rents for thousands of privately owned multifamily properties with federally insured mortgages and rent subsidies. OMHAR worked with property owners, Participating Administrative Entities, tenants, lenders, and others to further the objectives of MAHRA.

Congress recognized, in Section 514 of MAHRA, that tenants of the project, residents of the neighborhood, the local government, and other parties would be affected by the Mark-to-Market Program. Accordingly, Section 514 of MAHRA authorized the Secretary to provide up to \$10 million annually (\$40 million total) for resident participation for the period 1998 through 2001. The Secretary authorized \$40 million and HUD staff awarded about \$26.6 million to 38 Grantees (a total for 81 grants awarded). Section 514 of MAHRA required that the Secretary establish procedures to provide an opportunity for tenants of the project and other affected parties to participate effectively and on a timely basis in the restructuring process established by MAHRA.

Section 514 required the procedures to take into account the need to provide tenants of the project and other affected parties timely notice of proposed restructuring actions and appropriate access to relevant information about restructuring activities. Eligible projects are generally defined as HUD-insured or HUD-held multifamily projects receiving project based rental assistance. Congress specifically prohibited using Section 514 grant funds for lobbying members of Congress.

HUD issued a Notice of Funds Availability (NOFA) in fiscal year 1998 and a second NOFA in fiscal year 2000 to provide opportunities for nonprofit organizations to participate in the Section 514 programs. HUD provided two types of grants: the Intermediary Technical Assistance Grant (ITAG); and the Outreach and Training Assistance Grant (OTAG). The NOFA for the ITAG states that the program provides technical assistance grants through Intermediaries to sub-recipients consisting of: (1) resident groups or tenant affiliated community-based nonprofit organizations in properties that are eligible under the Mark-to-Market program to help tenants participate meaningfully in the Mark-to-Market process, and have input into and set priorities for project repairs; or (2) public entities to carry out Mark-to-Market related activities for Mark-to-Market eligible projects throughout its jurisdiction. The OTAG NOFA states that the purpose of the OTAG program is to provide technical assistance to tenants of eligible Mark-to-Market properties so that the tenants can: (1) participate meaningfully in the Mark-to-Market program; and (2) affect decisions about the future of their housing.

OMHAR also issued a December 3, 1999 memorandum authorizing the use of OTAG and ITAG funds to assist at-risk projects. OMHAR identified these as non-Mark-to-Market projects where the owners were opting out of the HUD assistance or prepaying the mortgages.

HUD's regulations at 24 Code of Federal Regulation Part 84 contain the uniform administrative requirements for grants between HUD and nonprofit organizations. The regulations (24 CFR 84.27) require that nonprofit Grantees utilize the Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit Organizations, in determining the allowability of costs incurred to the grant. OMB Circular A-122 outlines specific guidelines for allowability of charging salaries and related benefits to the grants and the records needed to support those salaries. For indirect costs charged to the grant, the Circular establishes restrictions for indirect costs, and specific methods and record keeping to support the allocation of costs.

The Circular also establishes the unallowability of costs associated with Federal and state lobbying activities. Simply stated, the use of federal funds for any lobbying activity is unallowable. OMB Circular A-122 identifies some examples of unallowable activities of lobbying. These include any attempt to influence an elected official or any Government official or employee (Direct Lobbying) or any attempt to influence the enactment or modification of any actual or pending legislation by propaganda, demonstrations, fundraising drives, letter writing, or urging members of the general public either for or against the legislation (Grassroots Lobbying).

## Audit Objectives

The purpose of our audit was to determine whether the Grantee:

- Expended Section 514 grant funds for only eligible activities as identified in MAHRA, the NOFAs, their grant agreements, or other requirements to further the Mark-to-Market Program.
- Expended Section 514 funds for any lobbying activities. Congress specifically identified lobbying as an ineligible activity under MAHRA.

## Audit Scope and Methodology

In conducting the audit, we:

- Reviewed the requirements in MAHRA, the OTAG NOFA, the OTAG grant agreement, HUD's requirements for grant agreements for nonprofit entities, and OMB guidance on the allowability of cost for nonprofit Grantees.
- Interviewed the Grantee's Executive Director and Independent Public Accountant to determine how the Grantee records and segregates OTAG funds.
- Interviewed the Grantee's staff to determine their roles and responsibilities in regards to OTAG activities.
- Traced the Line of Credit Control System (LOCCS) drawdowns to bank statements verifying that all grant funds disbursed during the audit period by HUD were deposited into the Grantee's bank account.
- Reviewed 100 percent of the OTAG funds disbursed through LOCCS for October 1998 through June 2002 to determine if the funds are supported by documentation and were used for eligible OTAG activities.
- Reviewed travel expenditures paid with OTAG funds to determine if the costs were segregated between OTAG and non-OTAG activities.
- Reviewed OTAG Consultant contracts to determine if OTAG activities were related to lobbying activities.

- Reviewed the Grantee's organizational chart, key position descriptions, board minutes, and Grantee's mission statement to identify inconsistencies.
- Reviewed the Grantee's cost allocation plan to determine if expenses were allocated properly and consistently.
- Reviewed 100 percent of the Grantee's staff time sheets for October 1998 through June 2002 to determine if the time sheets contain a detailed accounting of the daily routines for both OTAG and non-OTAG activities.
- Reviewed telephone charges for the period October 1998 through June 2002 to determine if the charges related specifically to any lobbying activities.
- Reviewed the OTAG Quarterly Performance Reports submitted to OMHAR to determine eligibility of activities.

The audit covered the period October 1998 through June 2002. During June and July 2002, we performed the fieldwork at 57 School Street, Springfield, MA 01105. We conducted the audit in accordance with Generally Accepted Government Auditing Standards.

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## Grantee Charged Ineligible Travel and Conference Costs to OTAG Grants

The Grantee charged its Outreach and Training Assistance Grants (OTAG) at least \$6,835 in ineligible costs for lodging and transportation to three conferences. These overcharges occurred because the Grantee does not follow an equitable system for allocating conference costs. Only a portion of these conferences dealt with outreach and training related to the Mark-to-Market Program; therefore, only a portion of the costs is eligible for OTAG funding. As a result, fewer residents had the opportunity to receive important guidance and training about the Mark-to-Market program and its impact on the future of their housing.

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### Conferences Include Lobbying

The Grantee staff and tenants from projects assisted by the Grantee attended three National People's Action (NPA) Conferences in Washington, DC held in April 1999, April 2000, and March 2001. In its website, NPA describes itself as a tool for neighborhoods to deal with Washington Politicians. NPA's website also states that tenant groups use time during the conferences to meet with legislators and government officials. Conference agendas include lobbying activities, such as meetings with various Congressmen and their staff, and workshops that encourage lobbying. For example, one workshop, School Construction Legislation addresses how tenant groups can work together to push for and win national legislation that would provide money to build and rehabilitate old school buildings. This workshop focused on specific bills that need Congressional support and discussed the politicians who disagreed with the bill. Another workshop on Loan Sharks discusses how the NPA Conference used its workshop to discuss strategies for stopping loan sharks by pressuring legislators. The final day of each conference does not include any workshops; instead, the day is devoted exclusively to lobbying activities. The activities on that day include site visits to Capitol Hill and meetings with legislators. The conference agenda states:

*See the Monday Meetings list in your conference packet. Don't forget to stop by your Congressman's or Senator's office(s) with NPA's Lobby Sheet.*

Conference Workshops  
Ineligible

A number of NPA workshops are not eligible OTAG activities. For example, we identified workshops for a Youth Scholarship Program, School Construction Legislation, and Job Creation Strategies, which are not eligible under the OTAG Grant Agreement. The Executive Director agrees that NPA workshops on scholarship programs, school construction, and jobs are not eligible under OTAG.

Eligible Activities

The April 1998 Notice of Funds Availability (NOFA) defines eligible activities as those activities that provide opportunities by means of technical assistance to residents of eligible projects to participate effectively in the Mark-to-Market process. The eligible activities include:

- Identifying residents living in eligible Mark-to-Market properties;
- Providing outreach and training to tenants to explain the Mark-to-Market program;
- Organizing tenants so they can participate in the Mark-to-Market process;
- Educating and counseling tenants on housing management; and
- Delivering training programs on resident homeownership options.

Definition of Lobbying

OMB Circular A-122, Attachment B, Paragraph 25, Lobbying, specifically precludes:

- Any attempt to influence the introduction of legislation or the modification of any pending Federal or State legislation through communication with any member or employee of the Congressional or State legislature;
- Any attempt to influence the introduction of legislation; or the enactment or modification of any pending legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign, letter writing or telephone campaign.



- Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

No Basis for Allocation Method

The Grantee allocates conference costs to OTAG and other cost centers. The Executive Director could not explain her basis for allocating lodging and transportation costs. The Executive Director advised that she allocates costs to OTAG and non-OTAG activities based entirely on estimates; but the Grantee did not have any documentation supporting its estimates. Additionally, the Grantee did not maintain registration lists or certificates of completion to document attendance at the conference for the eligible workshops.

The three conferences encompassed 57.5 hours in total. Our review of the three Conference agendas determined that 23.5 hours were devoted to eligible activities and 34 hours were devoted to ineligible activities. We multiplied the eligible cost percentage by total costs for lodging and transportation to arrive at our estimated eligible costs.

Description	1999 Conference	2000 Conference	2001 Conference
Eligible hours	8.25	8	7.25
Total hours for Conference	16.25	22.75	18.50
Eligible cost percentage	50.77%	35.16%	39.19%
Total Expenditures for lodging and transportation	\$5,090	\$9,673	\$15,235
Estimated eligible costs	\$2,584	\$3,401	\$5,971

The Grantee charged only a portion of the lodging and transportation costs to OTAG; however, these charges exceeded our estimates of eligible costs. Based on these calculations, OTAG overcharged \$6,835 in lodging and transportation costs.

## Finding 1

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Description	1999 Conference	2000 Conference	2001 Conference	Subtotals
Grantee charges to OTAG	\$3,830	\$8,573	\$6,388	\$18,791
Estimated Eligible Costs	\$2,584	\$3,401	\$5,971	\$11,956
Amount Overcharged	\$1,246	\$5,172	\$417	\$6,835

### Tenants Meet With Congressional Members

The Executive Director stated that the purpose of NPA Conferences is to bring tenant leaders together for a variety of workshops on leadership development, safety and housing issues, youth education, and training. Furthermore, the Executive Director stated that the individuals who attend these workshops are always tenants who reside at projects assisted by the Grantee. During these conferences, tenants have an opportunity to meet with HUD Officials, Senators, and Congressman. The Executive Director explained that the purpose of meeting with Senators and Representatives is to help win legislation on important issues. Since only a portion of the conferences were charged to OTAG, the Executive Director believes they can participate in lobbying. While the Grantee can organize and participate in lobbying not allowed under OMB guidance, these activities should not be supported, in whole or in part, with federal funds.

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## Recommendations

We recommend that the Director of OMHAR:

- 1A. Require the Grantee to repay \$6,835 in ineligible costs.
- 1B. Require the Grantee to discontinue charging the grant for activities related to lobbying as defined by MAHRA and OMB Circular A-122.
- 1C. Require the Grantee to implement a system, in accordance with OMB Circular A-122, separating the costs for eligible and ineligible activities and maintain adequate records to support the allocation.

- 1D. Consider suspending grant funding until the Grantee develops and implements appropriate management controls to ensure that only eligible activities receive funding and that the documentation for the expenditure complies with OMB Circular A-122.

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## Grantee Incurred Questionable Costs for Consultant Services

The Grantee paid \$37,509 to three consultants to assist tenants for the acquisition and rehabilitation of Cathedral Hill Apartments, a Section 8 project located in Springfield, Massachusetts. These consultants provided: 1) project management; 2) financial services; and 3) legal services. The Executive Director stated that the Office of Multifamily Housing Assistance Restructuring authorized the expenditures, but could not provide documented approval. The Outreach and Training Assistance Grant's (OTAG) Notice of Funds Availability (NOFA) defines eligible activities as those that provide outreach, training, and counseling so residents can participate effectively in the Mark-to-Market process. As a result, the Grantee had fewer funds available for eligible OTAG activities.

### Tenant Group Purchases a Section 8 Property

Acting on behalf of a tenant nonprofit group, the Grantee made an agreement on December 20, 2001 to purchase the Cathedral Hill property from the Catholic Diocese of Springfield, Massachusetts. This tenant nonprofit group will assume ownership and day-to-day responsibility for the Cathedral Hill property.

### Consultant Fee Paid for Project Management

The Grantee paid a consultant \$25,801 to act as the project manager for the transactions related to the tenant purchase of Cathedral Hill. A Letter of Agreement dated July 15, 2001 discusses the Consultant's responsibilities. These specific responsibilities included:

- Developing and writing a project concept, if necessary, for OMHAR;
- Developing a rehabilitation plan with assistance from the Grantee;
- Performing a market appraisal and rent study if and when applicable;
- Assisting Grantee in securing soft debt;
- Reviewing the underwriting performed by another Consultant retained by the Grantee;

Consultant Fee Paid  
Financial Services

- Assisting in review of budgets and cash flow assumptions; and
- Assisting in hiring an architect.

The Grantee paid another consultant \$4,325 for financial services also associated with the acquisition of Cathedral Hill Apartments. The Grantee entered into a Business Agreement with this consultant on May 18, 2001. The Financial Services Consultant worked closely with the Project Manager in providing the following services:

- Underwriting;
- Developing budgets and cash flow assumptions;
- Conducting negotiations with lenders; and
- Preparing a project feasibility study.

Even though the Financial Services Consultant worked with the Project Manager in certain areas, there is no indication of duplication of effort.

Consultant Fee Paid Legal  
Services

The Grantee paid \$7,383 to a law firm. A Letter of Agreement dated September 6, 2001 between the Grantee and firm confirmed terms under which the attorneys will represent the Grantee. The terms dictate that the law firm will assist the Grantee with:

- Forming a subordinate affiliate nonprofit corporation for Cathedral Hill Apartments;
- Obtaining recognition by the Internal Revenue Service of the affiliate's Section 501 (c)(3) tax-exempt status;
- Negotiating a purchase agreement for the property; and
- Preparing and submitting to HUD an application for the transfer of physical assets.

Grant Funds Authorized

The Executive Director stated that the Grantee received authorization from the Office of Multifamily Housing Assistance Restructuring (OMHAR) to use OTAG funds to pay for the consultant services, but the Executive Director

was unable to provide any evidence of written approval for its use of OTAG funds for this purpose. Article II, Section c of the Grant Agreement stipulates that only the Grant Officer may authorize deviations from the Grant Agreement. In the event that the Grantee deviates without written approval of the Grant Officer, such deviations shall be at the risk of the Grantee. Furthermore, any costs related to the deviations from the grant shall be borne by the Grantee. The Executive Director signed the Grant Agreement on January 10, 2001.

Consultant Services are  
ITAG Related

Intermediary Technical Assistance Grants (ITAG) may be used to cover consultant costs. The specific services provided by the consultants match the eligible ITAG activities listed in the ITAG NOFA. The Grantee does not have an ITAG. Activities eligible under ITAG include:

- Estimating costs of rehabilitation in anticipation of purchasing a property;
- Preparing offers including contracts and other documents to purchase the property;
- Legal services to organize a purchasing entity, to incorporate an organization, and to establish nonprofit status;
- Developing and negotiating management contracts, related contract monitoring and management procedures;
- Securing financing and preparation of mortgage documents, transfer documents, and other documentation incident to closing a purchase offer;
- Preparing feasibility analysis, market studies, and management plans;
- Accounting services for budgeting and planning; and
- Hiring an architect.

The Executive Director could not provide documentation to show that the Grantee was authorized to use OTAG funds to pay the consultants. OTAG funds cannot be expended for activities other than those listed in the OTAG NOFA unless the Grantee receives written approval from the Grant Officer at OMHAR.

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Recommendations

We recommend that the Director of OMHAR:

- 2A. Require the Grantee to provide justification for its use of OTAG funds for Consultant Services.
- 2B. Consider suspending grant funding until the Grantee develops and implements appropriate management controls to ensure that only eligible activities receive funding and that the documentation for the expenditure complies with OMB Circular A-122.
- 2C. Evaluate the Grantee's use of OTAG for Consultant Services and determine if any of the \$37,509 is eligible.
- 2D. Require the Grantee to repay ineligible costs.



## Grantee Charged Unallowable Lobbying Activities to OTAG

The Grantee charged its Outreach and Training Assistance Grant (OTAG) for staff involved in lobbying activities. We could not determine the exact cost of lobbying activities due to lack of detailed records. The Grantee does not segregate lobbying from eligible OTAG activities for salaries charged. Federal regulations require that grantees must maintain reports reflecting the distribution of activity of each employee whose compensation is charged, in whole or in part, to the Federal grant. As a result, fewer funds were available for eligible OTAG activities.

### Lobbying not Allowed

Office of Management and Budget Circular A-122, Attachment B, Paragraph 25, Lobbying specifically precludes:

- Any attempt to influence the introduction of legislation or the modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature;
- Any attempt to influence the introduction of legislation; or the enactment or modification of any pending legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or
- Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

Section 514 (f)(3)(C) of MAHRA states none of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designated to influence in any manner a Member of Congress, to favor or oppose,

Time Sheets Show Meetings With Legislators

by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

We reviewed the employee time sheets to identify meetings with legislative members or their staff. Each staff person maintains a personal time sheet, which lists their hours on the front and their activities on the back. These time sheets do not identify the total hours for each activity. We found lobbying among the activities that the staff lists on their time sheets. One employee with the job title of Community Organizer charged time to the OTAG grant for: 1) meetings with Congressional staff from the Senate, 2) preparation of information to be distributed to Senators, and 3) preparations for various testimonies, demands and floor teams scheduled for conferences held in Washington, DC. For example, the time sheets identify:

- Meetings with the Congressional Representative of the Second District of Massachusetts, the Junior Senator of Massachusetts and with the staff of the Massachusetts Senior Senator.
- Staff involved with preparation of postcards to be distributed to the Junior Senator of Massachusetts and the Senior Senator of Montana.
- National People's Action (NPA) Conference follow-ups with the Senators of Massachusetts and the Senior Senator of Iowa.
- Discussions for preparing tenant leaders for the June 2002 National People's Action Conference as it relates to various testimonies, demands and floor team.

Grantee Staff Meet With Representatives and Senators

The Executive Director stated they have the right as local constituents to meet with Senators who represent their own state; however, the Grantee had meetings with the Senior Senator of Montana and the Senior Senator of Iowa. The Grantee's operation is located in Massachusetts. In addition, the Grantee prepared postcards to be distributed to the Junior Senator of Massachusetts and the Senior Senator of Montana; which could be construed as an attempt to influence the introduction of legislation or modification of

pending legislation. Also, preparing tenant leaders for testimonies, demands and floor team at the NPA conference are examples of lobbying.

#### Time Sheets Unsupported

The Executive Director could not identify and document the purpose of the questioned activities performed by the Community Organizer. The Executive Director disagreed with our conclusion that meetings with Congressional Members and their staff are lobbying. The Executive Director contends that sharing experiences is a form of education and the OTAG grant is designed to foster education. The Executive Director also stated that details listed on the Expense Voucher Forms supporting Line of Credit Control System (LOCCS) Drawdowns would show the hours and actual charges to OTAG for salaries. However, the Executive Director stated that they do not segregate lobbying from other activities performed by staff. When we attempted to trace the activities identified for this employee from the time sheets to the Expense Voucher Form, the Grantee could not provide supporting documentation such as the hours and actual dollar amounts charged to OTAG.

#### Lobbying Activities Prohibited by MAHRA and OMB

We could not determine the actual amount of time this employee spent lobbying because of the lack of details supporting the time sheets. The Executive Director advised us that the costs involved are minimal. Even though the Grantee considers the charges minimal, they must maintain documentation to show: 1) that activities charged to the OTAG grant are eligible; 2) how they segregate lobbying activities from the eligible OTAG activities. Lobbying activities are prohibited by the Multifamily Assisted Housing Reform and Affordability Act (MAHRA) and OMB guidance.

#### OMB Regulations

OMB Circular A-122, Cost Principles for Non-Profit Organizations Attachment B, Paragraph 7, Compensation for Personal Services, require that grantees must maintain reports reflecting the distribution of activity of each employee whose compensation is charged, in whole or in part, to the Federal grant.

Section 1303 of Public Law 107-17 requires that, to the extent the HUD OIG determines that the use of any OTAG funding does not meet the requirements of Section 514 of

the MAHRA, the HUD Secretary shall take specific actions; which includes recapturing funds. This Act further states that no funds appropriated under Title II of Public Law 107-73 and subsequent appropriations for HUD shall be made available for four years to any entity that has been identified as having violated the requirements of Section 514 by the HUD Inspector General.

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Recommendations

We recommend that the Director of OMHAR:

- 3A. Require the Grantee to maintain time records according to OMB Circular A-122.
- 3B. Require the Grantee to establish policies and procedures for identifying lobbying activities to ensure that Federal funds are not used to support direct or indirect lobbying activities.
- 3C. Require the Grantee to discontinue charging the grant for activities related to lobbying as defined by MAHRA and OMB Circular A-122.
- 3D. Consider taking sanctions against the Grantee in accordance with Section 1303 of the Defense Appropriations Act (Public Law 107-117).

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# Management Controls

In planning and performing our audit, we considered the management controls relevant to the Anti-Displacement Project's Section 514 program to determine our audit procedures, not to provide assurance on the controls. Management controls include the plan of organization, methods, and procedures adopted by management to ensure that its goals are met. Management controls include the processes for planning, organizing, directing and controlling program operations. This includes the systems for measuring, reporting, and monitoring program performance.

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## Relevant Management

We determined the following management controls were relevant to our audit objectives:

- Identification of projects and activities eligible for assistance,
- Controls and documents to support costs of assistance provided, and
- Controls and procedures over the reporting of activities and cost.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet an organization's objectives.

## Significant Weaknesses

Based on our review, we believe the following items are significant weaknesses:

- Lack of an equitable system for allocating costs to the grants and other programs.
- Lack of policies and procedures to ensure that funds are spent in accordance with Multifamily Assisted Housing Reform and Affordability Act, Notice of Funds Availability, and grant agreements.
- Lack of policies and procedures to ensure that time records meet the standards of Office of Management and Budget Circular A-122.

- Lack of policies and procedures to ensure that lobbying activities are not directly or indirectly funded by Federal sources.

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# Follow Up On Prior Audits

The Office of Inspector General has not performed any previous audits of the Anti-Displacement Project.

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## Schedule of Ineligible Costs

Findings		Ineligible Costs <u>1/</u>
1	Ineligible Travel and Conference Costs Charged to the OTAG Grants	\$ 6,835
2	Incurred Questionable Costs for Consultant Services	\$37,509

1/ Ineligible costs are those questioned because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds.

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