



Issue Date September 30, 2002
Audit Case Number 2002-PH-1003

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

FROM: Daniel G. Temme, Regional Inspector General for Audit, Mid-Atlantic Region, 3AGA

SUBJECT: AUDIT MEMORANDUM – Congressionally Requested Audit of the Outreach and Training Assistance Grant and Intermediary Technical Assistance Grants awarded to the Delaware Housing Coalition
Grant Numbers FFOT00009DE and FFIT98005NT
Dover, Delaware

INTRODUCTION

We completed an audit of the Delaware Housing Coalition's \$76,000 Outreach and Training Assistance Grant (OTAG) and \$20,000 Public Entity Grant (a Section 514 grant received from an Intermediary Technical Assistance Grant). The objectives of the review were to determine if the Delaware Housing Coalition used Section 514 grant funds for only eligible activities as identified in the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), their agreements, and/or other requirements to further the Mark-to-Market Program. Also, we wanted to determine if the Delaware Housing Coalition expended Section 514 funds for any lobbying activities. MAHRA specifically identified lobbying as an ineligible activity.

The audit identified that the Delaware Housing Coalition assisted ineligible projects, charged the grants at least \$55,965 in unsupported expenditures, \$21,553 in ineligible expenditures, and did not comply with other requirements under MAHRA, Office of Management and Budget's (OMB) Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education Hospitals and Other Non-Profit Organizations, and OMB Circular A-122, Cost Principles for Non-Profit Organizations. In addition, the grantee participated in lobbying related activities, contrary to the enabling legislation and OMB Circular A-122. Our report contains 15 recommendations to address the issues identified in the report and other recommendations to strengthen the grantee's management controls.

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 Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA). The directive would include the Outreach and Training Assistance Grants (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.

In conducting the audit, we reviewed the grantee's accounting records and interviewed responsible staff. We also reviewed the requirements in MAHRA, the OTAG Notice of Fund Availability, the OTAG and Public Entity grant agreements, HUD's requirements for grant agreements for nonprofit entities, and Office of Management and Budget's guidance on the allowability of cost for nonprofit grantees.

The audit covered the period January 2001 through June 2002 for the OTAG grant and the period October 2000 through September 2001 for the Public Entity Grant (a Section 514 grant received from an Intermediary Technical Assistance Grant), awarded through the National Center for Tenant Ownership. We performed the fieldwork at the Delaware Housing Coalition located at 840 Walker Road, Dover, DE 19904 during July through August 2002. We conducted the audit in accordance with Generally Accepted Government Auditing Standards. We held an exit conference with the Executive Director of the Delaware Housing Coalition on September 5, 2002.

We appreciate the courtesies and assistance extended by the personnel of the Delaware Housing Coalition during our review.

In accordance with HUD Handbook 2000.06 REV-3, within 60 days please provide us, for each recommendation without a management decision, a status report on: (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.

Should you or your staff have any questions please contact Christine Begola at (410) 962-2520.

SUMMARY

We found the Delaware Housing Coalition, (Housing Coalition) did not maintain adequate accountability over its OTAG and Public Entity Grant funds in accordance with OMB Circulars A-122 and A-110. Specifically, the Housing Coalition assisted ineligible properties, did not maintain personnel activity reports to support \$38,883 in salaries and fringe benefits, lacked adequate documentation to support \$17,082 in other direct and indirect costs charged to the grant, and paid \$21,553 for ineligible expenditures. In addition, according to the grantee's reports

to OMHAR, the grantee attended numerous training teleconferences and conferences that included various lobbying related activities, which are ineligible under OMB Circular A-122. However, due to a lack of detailed time records, we could not determine the total time and associated costs expended for these ineligible activities. The Housing Coalition's Executive Director stated he received little to no training from OMHAR on how to manage the OTAG and Public Entity grants. These issues are discussed in the Finding section of this report.

BACKGROUND

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) established the Office of Multifamily Housing Assistance Restructuring (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 40 grantees (a total for 83 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 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 Fund Availability in fiscal year 1998 and a second 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 Grants (OTAG). The Notice of Fund Availability 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 Notices of Fund Availability

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.

Title 24 Code of Federal Regulation (CFR) Part 84 contain the uniform administrative requirements for grants between HUD and nonprofit organizations. The regulations (24 CFR Part 84.27) require that nonprofit grantees utilize OMB Circular A-122, Cost Principles for Non-Profit Organization, 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 lobby 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 introduction, enactment or modification of any pending legislation by propaganda, demonstrations, fundraising drives, letter writing, or urging members of the general public either for or against the legislation (Grassroots Lobbying).

The Housing Coalition received three Public Entity Grants and an OTAG grant. The first Public Entity Grant was awarded outside of our audit period and has been reviewed by our Headquarters Audit Division and the results of which are not included in this report. The second Public Entity Grant was awarded in October 2000, for \$20,000, from the National Center for Tenant Ownership. As of September 2001 the entire \$20,000 has been expended from this grant. The third Public Entity Grant was also awarded by the National Center for Tenant Ownership, in September 2001 for \$7,500; however, the funding for this grant has been frozen and no funds have been expended to date. The Housing Coalition applied for an OTAG grant in fiscal year 2000 for \$180,000, and was authorized \$76,000 in January 2001. As of June 2002, \$62,925 was expended against the grant. Our review consisted of a 100% review of all funds expended. The Housing Coalition received an annual financial audit of their activities for the year ending June 30, 2001. The auditor provided an unqualified opinion for that year.

In addition to the OTAG and ITAG grants, the Housing Coalition received another grant from HUD for fair housing activities for \$50,625 in March 2002. The Housing Coalition also received grants from non-Federal sources. For example, the Housing Coalition received a \$29,000 grant from the Catholic Campaign for Human Development and \$15,000 from Speer Trust along with various donations from banks and financial institutions to help fund its operations. The Housing Coalition's total funding from all sources for fiscal year 2001 was \$181,143.

FINDING: The Grantees Did Not Comply With HUD and OMB Requirements

We found the Delaware Housing Coalition, (Housing Coalition) did not maintain adequate accountability over its OTAG and Public Entity Grant funds in accordance with OMB Circulars A-122 and A-110. Specifically, the Housing Coalition (1) assisted ineligible properties; (2) did not maintain adequate support for expenditures it made for salaries and fringe benefits, consultant costs, and other direct expenditures; (3) lacked adequate support for its cost allocation plan for allocating indirect costs to the grants; (4) expended the Public Entity Grant while concurrently using OTAG funding for the same properties and activities contrary to the OTAG grant agreement; and (5) did not disburse funds in a timely manner. In addition, according to the grantee's reports to OMHAR, the grantee attended numerous training teleconferences and conferences that included various lobbying related activities, which are ineligible under OMB Circular A-122. However, due to a lack of detailed time records, we could not determine the total time and associated costs expended for these ineligible activities. As a result, the Housing Coalition charged the grant \$38,883 in salaries and fringe benefits and \$17,082 in other direct and indirect costs that were not adequately supported, and paid \$21,553 for ineligible expenditures of which \$13,100 was expended on the Public Entity Grant while concurrently using OTAG funding for the same properties and activities. During the review, we noted the Housing Coalition did not have copies of the OMB Circulars related to non-profit organizations to guide them in accounting for their OTAG and Public Entity Grants. Also, the Housing Coalition's Executive Director stated they received very little guidance on how to financially manage the OTAG and Public Entity grants from OMHAR.

Project Eligibility

Section 514 (f) of the Multifamily Housing Assistance and Restructuring Act of 1997 provided funds to assist and provide an opportunity for tenants of the project, residents of the neighborhood, the local government, and other affected parties to participate effectively and on a timely basis, in the restructuring process established by MAHRA. Section 512 of MAHRA defines the term eligible multifamily housing project to generally mean a property consisting of more than four dwelling units with rents that, on an average per unit or per room basis, exceed the rent of comparable properties in the same market area. Section 512 also requires that the project be covered in whole or in part by a contract for HUD project-based assistance under one of a number of HUD programs and be financed by a mortgage insured or held by the Secretary under the National Housing Act. MAHRA also specifically excluded certain HUD projects, for example Section 202 projects.

Given the Section 512 definition of eligible projects, we obtained a listing from HUD of the possible eligible projects. According to HUD's records, approximately 24,525 projects receive project-based assistance and are HUD insured or held by the Department. Of those projects, 80 are located in Delaware.

The Housing Coalition maintained a listing of projects assisted with their OTAG and Public Entity Grants. We compared HUD's list of eligible projects to the listing of projects assisted by

the Housing Coalition. Based on those documents, we identified that the grantee assisted nine projects in Delaware and noted that two of the projects assisted were not eligible for assistance under MAHRA. Due to the lack of detailed salary records we could not determine the total amount of Section 514 assistance that was provided to the ineligible projects. However, we were able to identify a portion of the ineligible expenditures charged to the grant for one of the ineligible properties. The Housing Coalition charged \$801 in consulting (\$450), salary (\$326) and a membership fee to the National Alliance of HUD tenants (NAHT) (\$25) for one of the ineligible properties, Chelten Apartments. The Housing Coalition employees obtained Chelten Apartments from HUD's web site identifying Section 8 projects, and believed since it was a Section 8 property it was eligible for OTAG and ITAG participation. However, the Notice of Fund Availability defines an eligible property as having an expiring Section 8 contract or a property in which the owner intends to prepay its HUD-insured mortgage. Chelten Apartments does have a Section 8 contract, however, the contract does not expire until 2019, thus making it ineligible for assistance.

Compensation for Personal Services

OMB Circular A-122, Attachment B, Paragraph 7 Compensation for Personal Services states that reasonable compensation and fringe benefits to employees are grant fundable costs. The Circular also places specific salary record keeping requirements on the grantee. Specifically, the grantee must maintain reports that (1) account for the total activity for which an employee is compensated for in fulfillment of their obligations to the organization; (2) reflect an after the fact determination of actual activity for each employee; and (3) reflect the distribution of activity of each employee (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to awards and requires the employee or a responsible supervisor sign the report. Further, the OMB Circular states that budget estimates do not qualify as support for charges to the grant. In addition, in order to support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate.

We found the Housing Coalition did not maintain adequate time reporting records per the OMB Guidance. During our review of the OTAG and Public Entity grants, we noted several instances where an employee charged time to the grant on days in which the employee was actually on annual or sick leave. In addition, the time sheets prior to July 2001 did not show how much time was being charged to the OTAG and Public Entity grants, instead the time sheets would just list a flat number of hours worked on that particular day. The Executive Director would then document what duties staff performed, the number of hours spent and the amount charged, to support the draws for the OTAG and Public Entity grants. After July 2001, the grantee's staff started to document on their timesheets that hours worked were for grant activities. However, when we compared these time sheets to the monthly activity reports, we found that the total number of hours charged to the grant on the time sheets generally did not match the total time charged on the monthly reports.

We also noted, the grantee compensated their employees based on a salary basis but charged the Public Entity Grant based on an hourly wage which included a flat rate of 26 percent for benefits. Since the employee received a flat monthly salary, we estimated the hourly wage based on a 35-hour work week and included fringe benefits for a total of \$22.14 per hour. However, the grantee charged the grants at \$60.00 per hour. Based upon our calculation of the hourly wage, we estimate that the grantee overcharged the grants \$3,736 in salaries and benefits. Per OMB Circular A-122, a flat rate estimation should not have been used to calculate fringe benefits.

In addition, based on our review of the employees' time sheets, we were able to determine at least \$2,621 in salaries and benefits was charged to the grant for time in which the grantee participated in teleconferences and conferences sponsored by the NAHT. Based on OMB's guidance, only that portion of the activity related to the purpose of the grant can be charged to the grant. However, the grantee charged the full amount to the grants.

We also question the eligibility of \$38,883 of other salary costs charged to the OTAG grant. As we noted above, the grantee spent a portion of their time working on ineligible properties. However, due to the lack of detailed time records, we could not determine the salary amount expended to provide assistance to the ineligible project, nor could we determine the portion of this amount that was used for eligible activities. Therefore, we question the entire \$38,883, and classified it as an unsupported cost. In summary, for personnel related costs, the grantee charged the two grants a total of \$6,357 in ineligible and \$38,883 in unsupported salaries and benefits.

Allocating Indirect Costs to the Grant

The grantee also allocated certain costs to the grant to include telephone charges, rent, travel, and copying and printing costs. OMB Circular A-122, Attachment A provides guidance on the basic considerations for grant fundable costs and allocation of indirect cost. The guidance provides that the grantee must support a cost allocation that takes into account all activities of the organization. If the grantee does not have an approved cost allocation plan, the grantee shall submit an initial cost allocation plan within three months of receiving the award.

The grantee neither prepared nor submitted to HUD a cost allocation plan after receiving the grant. Instead, the grantee used predetermined percentages or the budgeted estimates as presented in their grant application to determine the amount of indirect costs to charge to the grant. For example, the grantee charged \$150 to \$300 per month for rent, \$75 per month for phone service and \$200 per month for travel. The grantee could not provide support for the basis of the estimates it used in calculating the amount charged to the grant, and based on available records, we could not determine the appropriateness or reasonableness for these monthly charges. Thus we question at least \$6,720 in indirect costs the grantee charged the grant for telephone, travel, rent and copying and printing costs.

Lobbying

MAHRA specifically prohibits using Section 514 funds to lobby members of Congress or their staff. OMB Circular A-122, Attachment B, Paragraph 25, Lobbying, places additional

limitations on the grantee's use of Federal funds for lobbying. However, as we identified in the background section of this memorandum, the Delaware Housing Coalition also received non-Federal funds. The eligibility and use of these funds for lobbying activities would not be restricted by the guidance in OMB Circular A-122.

We reviewed the grantees quarterly reports to OMHAR, travel vouchers and staff time sheets to identify meetings with legislative members or their staff. We also reviewed these reports for activities that did not meet the requirements of MAHRA and which are considered Grassroots lobbying.

We found, during the audit period, the grantee paid membership dues to, and participated in at least 33 teleconferences, and two national conferences sponsored by the NAHT that included prohibited lobbying activities. According to the Alliance's teleconference and conference agendas, activities consisted of both grant fundable items and unallowable lobbying activities. Upon review of the teleconference agendas, we noted that the meetings were scheduled to last one hour and thirty minutes, with only 5 - 20 minutes relating to the Mark-to-Market Program. Based on OMB's guidance, only that portion of the activity related to the purpose of the grant can be charged to the grant. However, the grantee charged the full amount to the grants. Due to the lack of detailed records, we could not determine the actual amount of unallowable lobbying activities that were charged to the grant (see Compensation for Personnel Services).

Unsupported NAHT Training and Lodging Costs

During our review we identified several training and lodging costs that were not fully supported. For example, in one instance the grantee charged the OTAG grant \$1,000 for NAHT Training. However, there was no detailed support for the charge, (i.e., course title, place, time, etc.). In another example, we identified \$1,303 in hotel expenditures for various NAHT meetings that were not properly supported. Thus, we consider the \$2,303 as unsupported until the grantee can provide the necessary support.

Consultant Costs

OMB Circular A-122, Attachment B, Paragraph 39 (Professional Service Costs) states: factors in determining allowability of consultant costs include: (1) The nature and scope of the service rendered in relation to the service required, and (2) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

During the time period December 2000 – October 2001 the grantee contracted with Horn & Associates as a consultant. The primary role of Horn & Associates was to provide assistance to resident groups with “specific tactical and strategic organizing issues.” At the end of each period, or when the work was completed, Horn & Associates was required to provide a written report covering the work they performed and recommendations regarding future work. However, during the review of the Horn & Associates expenditures, we found that for \$3,650 charged against the grant, the grantee did not receive the required written report. We are also questioning

an additional \$1,000 charged to the grant in October 2001 because the agreement with Horn & Associates during that time frame did not require any work to be performed at Section 8 properties; however, the grantee still charged the grant for the expenditure. Thus, we consider \$3,650 as unsupported and the \$1,000 as an ineligible expenditure.

Planning Grant Provided To Delaware Statewide Association of Tenants

The Housing Coalition provided the Delaware Statewide Association of Tenants (DeSWAT) with a \$5,000 mini-planning grant. On June 28, 2002 the Housing Coalition made a drawdown request for the full \$5,000 grant based on a signed agreement with DeSWAT. Of the \$5,000 grant, DeSWAT has expended \$2,934. As of August 2, 2002 DeSWAT's Executive Director indicated that \$2,066 of the \$5,000 was not spent and was sitting in their bank account. According to OMB Circular A-110, payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients, and the timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursement by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs. The Circular also provides guidance to state that any subrecipient of a grant for the non-profit is also required to follow the provisions noted in the Circular. Since the funds were drawn down in June and they still have not been expended, the funds should be returned to HUD since they were not immediately spent.

The overall purpose of the mini-planning grant was to pay the travel expenditures for three people to attend the June 2002 NAHT Conference and allow the organization to become more knowledgeable on the Section 8, and Mark-to-Market issues. The \$2,934 that has been expended from the grant, was used by DeSWAT to cover the various aspects of the 2002 NAHT conference such as hotel, transportation, registration costs, etc. Our review, noted that DeSWAT charged the full hotel costs to the grant, and since the final day of the conference pertained to lobbying activities, we are questioning a portion of those costs, totaling \$295. In addition we consider a portion of the remaining costs as unsupported because the grantee could not provide the proper support for the costs expended. Overall we consider \$295 ineligible, and \$2,343 as unsupported.

ITAG And OTAG Expended Concurrently For The Same Properties And Activities

Per the OTAG grant agreement, if the grantee is providing services under the grant agreement that are related to a specific property, and any group related to that property receives grant funds under the Mark-to-Market Intermediary Technical Assistance Grant Program, the grantee shall cease billing for activities related to that property under the OTAG grant agreement within 30 days. The grantee may only receive funding under another technical assistance grant program (i.e., Public Entity Grants) if the proposed activities do not duplicate activities eligible under the OTAG grant agreement.

Per the listing obtained from the Housing Coalition, nine properties benefited from the outreach and training provided by the Housing Coalition's Public Entity and OTAG grants. During our

review, we found that the Housing Coalition expended \$13,100 of the Public Entity Grant while concurrently using OTAG funding for the same properties and activities. In addition, we noted in August 2001, the Housing Coalition charged the OTAG grant for the services of Horn & Associates totaling the maximum amount (\$2,500) under contract for the month. During the same month, the Housing Coalition charged the Public Entity grant for the services of Horn & Associates totaling \$900. This amount exceeded the maximum contract amount already charged to the OTAG grant. Since most of the technical assistance provided to various properties was duplicated, the grantee was supposed to stop billing under the Public Entity Grant 30 days after receiving the OTAG grant. The OTAG grant was received in January 2001; however, the Public Entity Grant was billed through September 2001. Consequently, billings to the Public Entity Grant from February 2001 through September 2001 totaled \$13,100 are ineligible.

AUDITEE COMMENTS

We provided our draft report to the grantee for their comments on September 6, 2002. The grantee provided their comments on September 16, 2002. We included the grantee's comments in their entirety in Appendix B of the report.

With the exception of the finding and recommendations relating to the planning grant for DeSWAT, the Housing Coalition did not fully concur with our conclusions. The Housing Coalition does not believe it assisted ineligible properties, nor used OTAG and Public Entity Grant funds for lobbying activities. In addition, the grantee does not believe expending the OTAG and Public Entity Funds simultaneously was improper. The Housing Coalition bases their understanding of the OTAG and Public Entity Grant rules upon a December 3, 1999 memo provided by OMHAR to the grantees which broadened the definition of eligible properties, allowed for the possibility of receiving OTAG and Public Entity Grant funds simultaneously and indicated that conference and workshop costs are allowable.

The Housing Coalition also believes that they have been following OMB Circular A-122 when it comes to maintaining the costs to the grant, however, they look forward to the opportunity to providing further explanation for these costs to OMHAR.

OIG EVALUATION OF AUDITEE COMMENTS

We agree with the Housing Coalition's assessment that the December 3, 1999 memo from OMHAR broadened the definition of eligible properties, allowed for the possibility of receiving OTAG and Public Entity Grant funds simultaneously, and indicated that conference and workshop costs are allowable. However, we disagree with the Housing Coalition's interpretation of these definitions.

- The properties we are questioning the eligibility of were not on the list of eligible OTAG and Public Entity Grant properties provided to us by OMHAR. In fact, one of the property's Section 8 contract does not expire until the year 2019. The entire purpose of the program was to assist residents living in buildings that were at risk of being displaced in the near future. In our opinion 17 years should not be considered in the near future.

- While the December 3, 1999 memo allows the grantee to receive OTAG and Public Entity Grant funds simultaneously, the grant agreement and the Notice of Fund Availability disallows the funding to be expended concurrently for duplicate properties and activities. The Housing Coalition used both their OTAG funds and Public Entity grant for the same properties and activities, thus the expenditure of these funds is unallowable under their signed grant agreement.
- The memo also states that conferences and workshops that specifically focus on the Mark-to-Market activities are allowable under the grant. Although the memo does not explicitly state the NAHT as one of the providers of the training, it does state that any days in which lobbying occurred during training conferences or workshops cannot be reimbursed from OTAG or Public Entity funds.

RECOMMENDATIONS

We recommended that the Director of OMHAR require the Delaware Housing Coalition to:

- 1A. Repay to HUD from non-Federal funds, \$801 for salaries and benefits for time spent on ineligible projects.
- 1B. Refund the grant the cost associated with assistance that was provided to the ineligible projects, unless it can be shown the projects were actually eligible.
- 1C. Provide the proper support to show that \$38,883 of the salaries and benefits was only charged to eligible properties, for any remaining unsupported or ineligible charges, repay to HUD from non-Federal funds. In addition, support all ineligible salary and benefit costs totaling, \$6,357, and repay to HUD from non-Federal funds, amounts it cannot adequately support.
- 1D. Maintain detailed time records according to OMB Circular A-122.
- 1E. Prepare and submit an acceptable cost allocation plan that fairly allocates indirect costs among funding sources, and based on the plan make appropriate adjustments to the \$6,720 in indirect costs charged against the grant and repay to HUD from non-Federal funds any overcharges.
- 1F. Provide support for the \$1,303 expended for hotel and per diem charged for the NAHT Conference and \$1,000 expended for NAHT training, and repay to HUD from non-Federal funds, amounts it cannot adequately support.
- 1G. Stop charging the grant for activities related to lobbying as defined by MAHRA and OMB Circular A-122.
- 1H. Establish policies and procedures for identifying grantees engaged in housing advocacy, to ensure Federal funds are not used to support direct or indirect lobbying activities.
- 1I. Obtain the proper supporting documentation for the \$3,650 expended on Horn and Associates, and insure that the funds were used only for eligible OTAG activities. For the \$1,000 noted to date and any future funds noted as ineligible, repay to HUD from non-Federal funds.
- 1J. Obtain the proper supporting documents for the \$2,343 expended for the mini-planning grant provided to the Delaware Statewide Association of Tenants and insure that the funds were spent on eligible OTAG activities. For the \$295 noted to date and any future funds noted as ineligible, repay to HUD with non-Federal funds.

- 1K. Require the cash in hand totaling \$2,066 at DeSWAT to be expended for eligible OTAG expenses or return the unexpended funds back to HUD.
- 1L. Establish policies and procedures to require subrecipients to immediately disburse grant funds once the funds are received.
- 1M. Repay to HUD from non-Federal funds, the \$13,100 expended from the Public Entity Grant, which was incorrectly used simultaneously with the OTAG grant for the same properties and activities.

We recommend that the Director of OMHAR:

- 1N. Restrict all remaining grant distributions to the Delaware Housing Coalition for this grant and any future grants until the grantee demonstrates they have established the necessary policies and procedures to ensure they can administer the grant in accordance with OMB Circulars A-122 and A-110, the MAHRA and HUD Regulations.
- 1O. Make a determination on the lobby issues presented to determine if sanctions should be imposed as provided for in the 2002 Defense Appropriations Act.

MANAGEMENT CONTROLS

In planning and performing our audit, we considered the management controls relevant to the Delaware Housing Coalition'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. They include the systems for measuring, reporting, and monitoring program performance.

We determined that 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,
- Controls and procedures over the reporting of activities and cost,
- Controls over immediately expending grant funds once received, and
- Controls in preventing that OTAG and ITAG funds were being drawn at the same time for the same properties.

It is a significant weakness 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.

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

- Lack of a system to fully support that only eligible projects were assisted with Section 514 funds,
- Lack of policies and procedures to ensure that salaries and time records met the standards of OMB Circular A-122,
- Lack of a cost allocation plan to charge shared costs,

- Lack of policies and procedures to ensure that lobbying activities are not directly or indirectly funded by Federal sources,
- Lack of policies and procedures to ensure that subrecipients immediately disburse grant funds once the funds are received, and
- Lack of controls in drawing down OTAG and ITAG funds at the same time for the same properties.

FOLLOW-UP ON PRIOR AUDITS

This is the first audit the Office of Inspector General completed on the Delaware Housing Coalition.

SCHEDULE OF QUESTIONED COSTS

Recommendation Number	Type of Questioned Costs	
	Ineligible 1/	Unsupported 2/
1A	\$801	
1C	\$6,357	\$38,883
1E		\$6,720
1F		\$2,303
1I	\$1,000	\$3,650
1J	\$295	\$2,343
1K		\$2,066
1M	\$13,100	

1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law, contract or Federal, State or local policies or regulations.

2/ Unsupported costs are costs charged to a HUD-financed or HUD-insured program or activity and eligibility cannot be determined at the time of audit. The costs are not supported by adequate documentation or there is a need for a legal or administrative determination on the eligibility of the costs. Unsupported costs require a future decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of Departmental policies and procedures.

AUDITEE COMMENTS**Delaware Housing Coalition**

September 16, 2002

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Daniel G. Temme
Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Wanamaker Building, Suite 1005
100 Penn Square East
Philadelphia, PA 19107-3380

RE: Audit Memorandum – Grant Numbers FFOT00009DE and FFIT98005NT

Dear Mr. Temme:

This is in response to your letter of September 6, 2002. Since there is limited space for auditee's comments, I will limit my response to the recommendations. I enclose a copy of a December 3, 1999 memo from Mr. Peppercorn of OMHAR which (1) broadened the definition of eligible properties, (2) allowed for the possibility of receiving OTAG and PEG funds simultaneously, and (3) indicated that conference and workshop costs are allowable. I look forward to resolving all of these issues as quickly as possible, including those points on which I might differ with the auditor.

1A. Repay to HUD from non-federal funds, \$801 for salaries and benefits for time spent on ineligible projects. RESPONSE: In our view, we did not spend any time on ineligible projects. Chelton Apartments has a contract which expires in the next decade. This does not make it ineligible. Chelton tenants, all elderly, requested our involvement there because of complaints of poor management practices, lack of essential services, including air conditioning, and resident questions regarding a change of ownership. Prestwyck Apartments is a Mark to Market property in which we are working with ownership and the Participating Administrative Entity.

1B. Support the assistance to the ineligible projects and refund the grant the cost associated with assistance to the ineligible projects. RESPONSE: Same as above. No ineligible projects were assisted.

1C. Provide the proper support to show that \$38,883 of the salaries and benefits was only charged to eligible properties, for any remaining unsupported or ineligible charges, repay to HUD from non-federal funds. In addition, support all ineligible salary and benefit costs totaling, \$6,357, and repay to HUD from non-federal funds, amounts it cannot adequately support. RESPONSE: As we attempted to demonstrate during the audit visit, the \$38,883 was only charged to eligible properties. The \$6,357 listed by the auditors as ineligible is derived from \$3,736 in overcharged salaries and \$2,621 that the auditors estimate personnel as having engaged in conferences and teleconferences. The time spent on conferences seems to us to be covered by the Peppercorn memo.

1D. Maintain detailed time records according to OMB Circular A-122. RESPONSE: We believe that we have been doing this since July 2001 and will review and make changes in the light of A-122.

1E. Prepare and submit an acceptable cost allocation plan that fairly allocates indirect costs among funding sources, and based on the plan make appropriate adjustments to the \$6,720 in indirect costs charged against the grant and repay to HUD from non-federal funds any overcharges. RESPONSE: During the audit visit, we attempted to justify allocation of costs through examples of direct costs and costs based on percentage of activity. We will look forward to trying to do this again.

~ Advocating for issues relating to safe, decent, and affordable housing throughout the State of Delaware. ~

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1F. Provide support for the \$1,303 expended for hotel and per diem charged for the NAHT Conference and \$1,000 expended for NAHT training, and repay to HUD from non-federal funds, amounts it cannot adequately support. RESPONSE: We did not charge any costs to federal programs for the last day of the recent conference, even though only the latter part of the last day was involved in lobbying. The auditors have indicated that the lobbying that last day renders the costs for the prior evening accommodations and per diem costs ineligible. If this is so, then they cannot be supported.

1G. Stop charging the grant for activities related to lobbying as defined by MAHRA and OMB Circular A-122. RESPONSE: We are in complete agreement and have already made this a clear policy.

1H. Establish policies and procedures for identifying grantees engaged in housing advocacy, to ensure federal funds are not used to support direct or indirect lobbying activities. RESPONSE: We do not anticipate further sub-recipients. Any errors made by the sub recipient in this case were made through our apparent misinterpretation.

1J. Obtain the proper supporting documents for the \$2,343 expended for the mini-planning grant provided to the Delaware State Wide Association of Tenants and insure that the funds were spent on eligible OTAG activities. For the \$295 noted to date and any future funds noted as ineligible, repay to HUD with non-federal funds. RESPONSE: We agree. See also responses to 1F, 1H, and 1L.

1K. Require the cash in hand totaling \$2,066 at DeSWAT to be expended for eligible OTAG expenses or return the unexpended funds back to HUD. RESPONSE: We agree.

1L. Establish policies and procedures to require sub recipients to immediately disburse grant funds once the funds are received. RESPONSE: Contrary to the auditor's comments, this sub-grant was not for the training conference alone. It was in order to encourage greater participation by the sub recipient in work in eligible properties. As such, we did not expect it to be expended within a month of its receipt.

1M. Repay to HUD from non-federal funds, the \$13,100 expended from the Public Entity Grant subsequent to receiving the OTAG grant. RESPONSE: We engaged in work supported by both grants through an understanding, which the auditor sees as faulty, of the Peppercorn memo. We believe that legitimate work was performed, the cost of which can be allocated to both grants because of the different activities engaged in under each grant.

To the extent that my own lack of familiarity with the appropriate OMB circulars or my failure to put in place necessary management controls has contributed to the findings, I certainly regret this and take sole responsibility. I operated for several years with the misapprehension that we were in sound compliance, and I have benefitted a great deal from the recent audit visit. I understand that the next step is for us to work with the U.S. Department of Housing and Urban Development to resolve all of these issues as quickly as possible, to which I very much look forward.

Kind regards,



Ken Smith
Director

cc: Christine Begola, Assistant Regional Inspector General for Audit



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

OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

December 3, 1999

Dear Housing Advocate:

Thank you for your interest in and support of the Mark-to-Market Program (M2M). Because of your efforts, thousands of families who live in properties that receive Section 8 assistance will have the opportunity to participate meaningfully in the Mark-to-Market process.

In recent months, the Office of Multifamily Housing Assistance Restructuring (OMHAR) has received numerous inquiries from Intermediary Technical Assistance Grant (ITAG) and Outreach and Training Grant (OTAG) recipients, non-profit housing organizations, and housing advocacy groups regarding the role of tenants and tenant organizations in the M2M program, including how residents of M2M eligible properties will be involved in the process, what information will be provided to ITAGs and OTAGs about properties coming into the program, and the types of properties ITAGs and OTAGs can work with.

This letter clarifies OMHAR's position concerning these and other pertinent issues, and establishes new policy guidelines intended to help facilitate your efforts to work with residents of M2M eligible properties and assist residents living in at-risk properties.

ITAG/OTAG ACTIVITIES IN NON-M2M BUILDINGS

In addition to helping residents living in Mark-to-Market eligible developments play a prominent role in the M2M process, OMHAR recognizes that ITAGs and OTAGs can also provide valuable assistance to residents living in below market buildings where contracts are close to expiration, where owners are opting out of the program or prepaying their mortgages, where substandard conditions or poor management exists, or where ownership transfers that preserve the building as affordable housing are underway.

Recognizing the need to provide assistance to residents living in these buildings, OMHAR will now allow ITAGs and OTAGs to use their grant funds to assist residents at risk of being displaced.

To help accommodate this change in policy, ITAGs and OTAGs will be allowed to assist residents in buildings where the current Section 8 contract is less than area fair market rents.

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In order to ensure tenants have a voice, ITAGs and OTAGs also will be allowed to work with residents of above market properties, where contracts are close to expiration, where owners are opting out of the program or prepaying their mortgages, where substandard conditions or poor management exists, where ownership transfers that preserve the building as affordable housing are underway, or where an owner has been deemed ineligible for M2M.

Section 514 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000, Pub.L. 106-74, expanded the scope of Section 514 (f) (3) of the 1997 Multifamily Assisted Housing Reform and Affordability Act to allow the inclusion of non-M2M properties.

USE OF PUBLIC ENTITY GRANTS IN NON-M2M PROPERTIES

In order to further meet the general need to organize tenants in non-M2M properties, OMEAR is adjusting the existing ITAG Public Entity Grant (PEG) program to allow OTAGs and other non-profits to apply for the \$20,000 grants.

OTAGs are hereby deemed appropriate recipients of PEG grants pursuant to Section 1 (c) of the Intermediary Technical Assistance Grant Agreement, and will be given priority for the funds to help assure the continuity of their outreach efforts and ongoing capacity building.

TENANT AND COMMUNITY ACCESS TO INFORMATION

Section 514(F) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) requires HUD to establish procedures to provide an opportunity for tenants of M2M eligible properties, residents of the neighborhood, local government, and other affected parties to participate effectively and on a timely basis in the restructuring process. This requires that Participating Administrative Entities (PAEs) provide tenants and the community with access to certain project specific documents.

At the same time, however, the guidelines that implement M2M make it clear that an owner's confidential and proprietary business information must be protected. Accordingly, residents and community groups will be granted access to documents and/or information outlined in Section 3-6 (page 3-16) of the M2M Operating Procedures Guide.

OMEAR is committed to balancing owner privacy and tenant access to information, and will soon publish a proposed rule designed to ensure that residents and other interested parties have access to the documents needed to participate in the development of restructuring plans. Residents will also have the opportunity to comment on the proposed rule before final language is developed, and OMEAR will continue its efforts to reach out to residents affected by M2M to ensure they receive accurate and

timely information about the program.

VISTA VOLUNTEER ACTIVITY IN NON-M2M PROPERTIES

VISTA volunteers, because of their first-hand knowledge of local housing markets and their experience organizing tenant groups, are uniquely qualified to help organize and train residents living in FHA-insured multifamily properties.

Because expiring Section 8 contracts threaten the continued availability of thousands of affordable housing units, OMHAR is amending the current VISTA contract to allow VISTA volunteers to also work in properties where contracts are close to expiration, where owners are opting out of the program or prepaying their mortgages, where substandard conditions or poor management exists, where ownership transfers that preserve the building as affordable housing are underway, or where an owner has been deemed ineligible for M2M.

Given the limited amount of funds supporting VISTA outreach efforts, however, VISTA volunteers should establish as first priority those properties that are M2M eligible.

OTAG NOTIFICATION OF PROPERTY ELIGIBILITY

To help Outreach and Training Grant recipients facilitate resident participation in M2M as early in the process as possible, OMHAR will post to its Web site (<http://www.hud.gov/omhar>) information about properties coming into the program as soon as they have been deemed eligible and assigned to a Participating Administrative Entity (PAE) for restructuring.

Posting the information at this point will allow OMHAR to verify the accuracy of information on properties coming into the program, and enable OTAGs to allocate their resources in the most efficient and cost-effective manner.

Posted information will include the names and addresses of properties, as well as the names, addresses, phone numbers, and fax numbers of PAEs. The information will be presented in a list format that can be downloaded by users for sorting and easy-manipulation, and provided through the Web site's "Tenant" selection icon. The list will be updated every Friday, with new listings highlighted for easy identification.

ITAG/OTAG TRAINING

Conferences and workshops, particularly those that specifically focus on M2M and other Departmental programs, provide a unique opportunity for ITAGs and OTAGs to increase their capacity to train resident groups and for residents to obtain valuable information about M2M.

In view of this, OMHAR will now allow ITAGs and OTAGs to use

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grant funds to cover documentable costs related to resident and staff training relevant to their efforts to organize tenant groups.

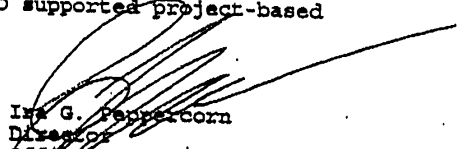
Training must be based on an assessment of training needs and skill among OTAGs and staff whose salaries are paid in whole or in part from ITAG and OTAG grant sources. In addition, hotel expenses, miscellaneous travel costs, and per diem expenses for any day(s) in which lobbying occurred during training conferences or workshops cannot be reimbursed from OTAG or ITAG funds. Such reimbursements would be a violation of the Byrd Amendment, which prohibits organizations that receive federal funds from using those funds to conduct lobbying activities.

The Office of Multifamily Assistance Restructuring applauds your commitment to informing residents living in HUD subsidized developments and their immediate communities about Departmental initiatives and how those initiatives will affect them, and believe these new policy guidelines will assist your efforts.

OMHAR also will host a Mark-to-Market training session for housing advocates in late January 2000 that will focus on the M2M program in general, as well as those issues that are of particular interest to you.

Until then, should you have comments or questions regarding any of the policy changes, or clarifications, outlined in this letter, please contact Victor Lambert, Community Technical Assistance/Public Trust Officer, at (202) 708-0001, ext. 3779.

We look forward to working with you to build a program that reflects the best interests of this Department, housing advocates, and the residents of HUD supported project-based developments.


Ira G. Pappacorn
Director
Office of Multifamily Housing
Assistance Restructuring

DISTRIBUTION OUTSIDE OF HUD

Sharon Pinkerton, Senior Advisor, Subcommittee on Criminal Justice, Drug Policy & Human Resources, B373 Rayburn House Office Bldg., Washington, DC 20515
Stanley Czerwinski, Director, Housing and Telecommunications Issues, U.S. General Accounting Office, 441 G Street, NW, Room 2T23, Washington, DC 20548
Steve Redburn, Chief Housing Branch, Office of Management and Budget, 725 17th Street, NW, Room 9226, New Executive Office Bldg., Washington, DC 20503
The Honorable Joseph Lieberman, Chairman, Committee on Government Affairs, 706 Hart Senate Office Bldg., United States Senate, Washington, DC 20510
The Honorable Fred Thompson, Ranking Member, Committee on Governmental Affairs, 340 Dirksen Senate Office Bldg., United States Senate, Washington, DC 20510
The Honorable Dan Burton, Chairman, Committee on Government Reform, 2185 Rayburn Bldg., House of Representatives, Washington, DC 20515
The Honorable Henry A. Waxman, Ranking Member, Committee on Government Reform, 2204 Rayburn Bldg., House of Representatives, Washington, DC 20515
Andy Cochran, House Committee on Financial Services, 2129 Rayburn H.O.B., Washington, DC 20515
Clinton C. Jones, Senior Counsel, Committee on Financial Services, U.S. House of Representatives, B303 Rayburn H.O.B., Washington, DC 20515