



Issue Date: October 31, 2002
Audit Case Number: 2003-SE-1001

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

FROM: //Signed//
Frank E. Baca, Regional Inspector General for Audit, OAGA

SUBJECT: Congressionally Requested Audit of the Outreach and Training Assistance Grants (numbers FFOT98024OR and FFOT00032OR) and Intermediary Technical Assistance Grant (number MTMORPEG00019) awarded to the Community Alliance of Tenants, Portland, Oregon

INTRODUCTION

We completed an audit of the Community Alliance of Tenants' (CAT) Outreach and Training Assistance Grants (OTAG). We also audited CAT's Public Entity Grant received through an intermediary as part of HUD's Intermediary Technical Assistance Grant (ITAG) program. The audit determined that CAT generally segregated its lobbying costs from the grants but inadvertently used some OTAG funds for lobbying activities, contrary to the enabling legislation and Office of Management and Budget (OMB) Circular A-122. Further, CAT did not fully comply with HUD and OMB Circular A-122 cost allocation requirements. As a result, CAT charged \$52,244 of ineligible and questionable expenses to the OTAG grants. The audit did not disclose any lobbying or questionable costs relating to CAT's ITAG Public Entity Grant.

Our report contains three recommendations to address the issues identified in the report and other recommendations to strengthen management controls over the grants.

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 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 grantees accounting records and interviewed responsible staff. We also reviewed the requirements in MAHRA, the OTAG Notice of Fund Availability, the OTAG grant agreement, HUD's requirements for grant agreements for non-profit entities, and Office of Management and Budget's guidance on the allowability of cost for non-profit grantees.

The audit covered the period June 1998 through June 2002 for the OTAG grants and May 2000 through August 2000 for the ITAG Public Entity Grant. We performed the fieldwork at the offices of the Community Alliance of Tenants in Portland, Oregon during July and August 2002. We conducted the audit in accordance with Generally Accepted Government Auditing Standards.

We appreciate the courtesies and assistance extended by the personnel of the Community Alliance of Tenants 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 me at (206) 220-5360.

SUMMARY

The Community Alliance of Tenants (CAT) is the recipient of two OTAG grants totaling \$410,000. Our audit found that CAT generally segregated its lobbying expenditures from the grants, but inadvertently charged \$434 and other indeterminable costs to the OTAG grants for prohibited lobbying activities. In addition, CAT did not fully comply with the cost principles of Office of Management and Budget (OMB) Circular A-122 in its classification of direct and indirect costs, and other instances of non-compliance with A-122. As a result, CAT used grant funds for lobbying and other ineligible activities, and may have over or undercharged the OTAG grants for indirect costs. Also, the grants were charged \$6,493 in ineligible and \$45,751 in questionable direct and indirect expenses.

Our report contains recommendations to address the issues identified in the report and other recommendations to strengthen management controls over the grants.

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 38 grantees (a total of 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 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 non-profit organizations to participate in the Section 514 programs. HUD created 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 non-profit 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 state 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 Regulations Part 84 contain the uniform administrative requirements for grants between HUD and non-profit organizations. The regulations (24 CFR 84.27) require that non-profit grantees utilize the Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit Organizations, in determining the allowability of costs 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. Thus, the use of federal funds for any lobbying activity is unallowable. OMB Circular A-122 identifies some examples of unallowable lobbying activities. 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).

The Community Alliance for Tenants applied for OTAG grants in 1998 and 2000. HUD awarded CAT two OTAG grants in the amounts of \$100,000 for FY 1998 (grant number FFOT98024OR) and \$310,000 for FY 2000 (grant number FFOT00032OR). As of June 2002, CAT spent the entire \$100,000 from the FY 1998 grant and \$52,550 from the FY 2000 grant.

CAT also received an ITAG Public Entity Grant from HUD's Intermediary, Amador-Tuolumne Community Action Agency. The ITAG Public Entity Grant was for \$18,940 (grant number MTMORPEG00019) and covered the period from May 2000 through April 2001. As of June 2002, CAT had spent \$5,588 of the ITAG Public Entity Grant funds.

In addition to the OTAG grants and the ITAG Public Entity Grant, CAT received \$207,525 and \$5,250 of HUD Community Development Block Grant funds from the cities of Portland and Gresham, Oregon, respectively, during the period 1998 through 2002. During this period, CAT also received funds from non-federal sources, including \$71,792 from the City of Portland, \$5,990 from the State of Oregon, and \$314,495 from various charities, foundations, and businesses.

OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, requires that audits be performed on entities that spend \$300,000 or more in grant funds in any single year. The Community Alliance of Tenants did not reach this level of spending, and thus were not required to obtain audits.

FINDING

The Grantee Did Not Comply With HUD and OMB Requirements

The Community Alliance of Tenants (CAT) inadvertently used some OTAG funds for lobbying activities, contrary to the enabling legislation and OMB Circular A-122. Further, CAT did not always comply with other cost principles of OMB Circular A-122 in its charging of direct and indirect costs to the OTAG grants. This resulted in grant funds being used for lobbying and other ineligible activities instead of allowable grant activities, and the OTAG grants may have been over or undercharged for indirect costs. Further, CAT charged the OTAG grants \$6,493 in ineligible and \$45,751 in questionable expenses.

Lobbying Activities

MAHRA specifically prohibits the use of Section 514 funds to lobby members of Congress or their staff. OMB Circular A-122, Attachment B, Paragraph 25, contains further limitations on the grantee's use of federal funds for lobbying.

OMB Circular A-122 states that grantees may not use federal funds to:

- Attempt to influence any federal or state legislation through an effort to affect the opinions of the general public or any segment thereof. This includes the introduction of federal or state legislation, or the enactment or modification of any pending federal or state 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. (Grassroots Lobbying)
- Attempt to influence any legislation through communication with any member or employee of a legislative body or with any government official or employee who may participate in the formulation of legislation. (Direct Lobbying)
- Provide a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, except in response to a documented request made by the recipient member, legislative body or subdivision.

We reviewed CAT's activity reports, employee time sheets, invoices and other documentation to determine if the grant funds were supporting lobbying activities. The review found that overall, CAT accounts for and segregates time directly spent on lobbying activities to prevent charging this time to the OTAG and ITAG grants. However, our review of the individual timesheets for CAT's Preservation Program Director found that, during the period of March 1999 through May 2000, he spent 22.5 hours of his time on lobbying activities, such as telephoning and sending emails to legislative staff and attending meetings with legislators. The OTAG grant was charged \$434 for the 22.5 lobbying hours (\$322 for direct labor and fringe benefits, and \$112 of allocated indirect cost). The Executive Director said that she had intended to remove all lobbying hours from the grant vouchers, and that charging these hours to the grant was an oversight.

As discussed below, CAT allocated costs associated with its membership activities, which included the organization's lobbying activities, to the grant; however, we could not determine what percentage of the time spent on membership activities was devoted to lobbying.

General Compliance with OMB Circular A-122

CAT is not compliant with the requirements of OMB Circular A-122, Attachment A, General Principles in its classification of direct vs. indirect costs. Direct costs are defined as costs that can be identified specifically with final cost objects such as a grant award or other direct activity

of an organization. Furthermore, the grantee must be consistent in its identification of direct costs. A cost cannot be assigned to an award as a direct cost if other costs incurred for the same purpose are allocated to the award as indirect costs. Indirect costs are those that have incurred for common or joint activities and can't be readily identified with an award or other direct activity of the organization.

Our review of CAT's accounting practices disclosed that CAT is not consistent in its identification of direct costs. We noted the following activities directly charged to the grant by the Preservation Program Director that are also allocated to the award as indirect costs by the Co-Directors: paid time off such as vacations and holidays, general organizational meetings, general training, cleaning the office, and paid breaks. This accounting practice would be permissible if the Co-Directors and Preservation Program Director were not involved in other direct activities of the organization. However, our review disclosed that they also perform activities such as Lobbying, Issue Organizing, Fundraising, and Hotline that are not receiving an equitable share of indirect costs. CAT's records were not detailed enough to enable us to determine the total effect of the noncompliance; however based on our analysis, the practice shifts costs away from unallowable, ineligible activities to the grant award.

We also noted a number of other instances of CAT's non-compliance with the cost principles of OMB Circular A-122. The significant instances of non-compliance are discussed below.

Labor Costs

CAT charged the OTAG grants \$4,846 for ineligible labor costs including:

- *\$1,989 for time spent on fundraising activities.* CAT's Co-Directors and its Preservation Program Director performed these fundraising activities from April 1999 to June 2000. The charges to the OTAG grants were for general fundraising and for time spent fundraising on other (non OTAG/ITAG) grants. The \$1,989 included \$1,442 in direct labor and fringe benefits, and \$547 of allocated indirect costs. According to OMB A-122, Attachment B, paragraph 23.b., "Costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable."
- *\$2,857 in charges relating to a renter's Hotline service to the community.* The Hotline gives information to renters about rights on issues such as repairs, deposits, screening, rent increases, and evictions. A-122 defines direct costs as costs that can be identified specifically with a direct activity of an organization. Since the Hotline is part of CAT's Renter's Education Stability Program, all Hotline hours should be charged to this program and not to the OTAG grants. The \$2,857 included \$1,368 in direct labor, \$408 for fringe benefits, and \$1,081 of allocated indirect costs.

Regarding membership activities, OMB A-122, Attachment A, paragraph B.4 states: "The costs of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the organization's mission must be treated as direct costs whether or not allowable and be allocated an equitable share of indirect costs. Some examples of these

types of activities include: maintenance of membership rolls, subscriptions, publications, and related functions.”

CAT charged the OTAG grants \$3,088 in questionable labor costs for membership activities including:

- *\$851 for membership services.* CAT’s membership activities should have been accounted for as a final cost objective, and allocated a share of the organization’s indirect expenses. However, CAT charged the OTAG grants \$851 (\$444 direct labor and fringe benefits, and \$407 allocated indirect costs) for membership services which included preparation and attendance at membership meetings and for work on the organization’s newsletter.
- *\$2,237 in labor expenses for general membership activities.* The costs included newsletter production and maintenance of the organization’s database, as part of all the indirect labor allocations to the OTAG grants. The charges are questionable because they should have been treated as direct charges, since the organization, its members, and clients benefited from these activities as a whole.

Other Costs

CAT charged the OTAG grants \$3,418 for other questionable or ineligible costs including:

- *\$2,205 for supplies, printing and postage relating to the publication and distribution of newsletters.* These costs are questionable because the newsletter publication is performed as a service to CAT’s members and clients. These costs should have been charged directly to membership activities in accordance with OMB A-122, and not allocated to the OTAG grants.
- *\$1,213 in overcharges to the FY 2000 OTAG grant for the purchase of three computers for the OTAG Preservation Program.* The \$1,213 included \$526 in direct cost charges and \$687 in indirect cost charges. The 2000 NOFA limits the total reimbursement for the purchase of computers to \$1,000 per year from the OTAG funds. In February 2001, CAT purchased three \$763 computers for the Preservation Program for a total of \$2,289. CAT directly charged the grant the entire \$1,526 cost for two of the computers, exceeding the \$1,000 limit by \$526. CAT also allocated the grant 90 percent of the cost for the third computer, or \$687.

Additional Indirect Cost Allocations

OMB A-122, Attachment A, paragraph E.2.b. states: “A non-profit organization which has not previously established an indirect cost rate with a Federal agency shall submit its initial indirect cost proposal immediately after the organization is advised that an award will be made and, in no event, later than three months after the effective date of the award.”

Submitting a cost proposal provides the granting agency assurance that the grant funds are being used for their stated purposes and gives the grant recipient some assurance that the cost

allocation adequately covers the expenses related to the grant. CAT did not submit an indirect cost rate proposal to HUD for approval subsequent to receiving the OTAG grants. Thus neither HUD nor CAT were assured that the expenses included in the indirect cost allocation were eligible and that all eligible expenses were included in the indirect cost rate. Accordingly, we are questioning an additional \$40,458 of indirect costs allocated to CAT's OTAG grants (\$47,734 total indirect costs charged to the grant, less \$7,276 of indirect costs questioned in other sections of this report).

AUDITEE COMMENTS AND OIG EVALUATION OF AUDITEE COMMENTS

In its written response to the draft findings (Appendix B), CAT's Executive Director stated that the organization never intended to overcharge HUD for its OTAG activities or bill the grants for ineligible expenses. The Executive Director noted that, during the past four years the CAT staff actively sought out administrative training and professional support. She further noted that as the staff learned more about the requirements, administrative practices and policies were improved. The Executive Director also claimed that CAT was able to accomplish an enormous amount of work with very little funding.

CAT agreed with our finding that it inadvertently charged the grant \$434 for lobbying activities and agreed to repay this amount. They noted that no lobbying costs have been billed to the grants since May 2000. The auditee also acknowledged that from April 1999 through May 2000 some fundraising time was billed to the OTAG and this was fully disclosed to OMHAR in the monthly activity reports. CAT agreed that, under OMB A-122, fundraising costs are ineligible. They stated that since May 2000, they have not billed the grants for ineligible fundraising and that fundraising is now a separate cost center receiving a share of indirect costs.

CAT disagreed that charges to the OTAG grant for working on the renter's Hotline was ineligible and asserted that the Hotline directly benefits the OTAG project. The auditee stated that all of its staff are required to work on the Hotline and that this benefits each of its programs by providing staff with knowledge of Oregon's landlord-tenant law, how tenants can advocate for decent housing, and how to relay this information to renters facing personal housing problems. CAT claimed that the Hotline work benefits the OTAG program because tenants in OTAG eligible buildings use the Hotline to get information on their rights as tenants. The auditee also asserted that it used the Hotline to identify eligible buildings not participating in the Mark-to-Market program.

CAT stated that it billed membership meeting time to the OTAG because a large portion of the meetings were devoted to OTAG eligible activities. The auditee agreed not to bill future membership meetings to the grants and has created a Membership cost center, which will receive an allocation of its indirect costs. However, CAT contended that its database is not a membership activity and is used to track information on a large variety of items including fundraising, event participation, organizing petitions, building owners, management companies, Hotline calls, leaders in OTAG eligible buildings, and the Preservation Task Force. The auditee noted that database staff time was billed to the OTAG as an indirect expense since it benefited all of its programs. CAT also stated that its quarterly newsletter is an outreach tool and not a membership service and was used by the Preservation Program for outreach in OTAG eligible

buildings. The auditee asserted that it billed newsletter expenses as indirect costs to all CAT programs in accordance with OMB A-122.

CAT agreed with our finding on the overcharge for the purchase of computers and is prepared to repay the \$1,213 if HUD deems it necessary. The auditee also acknowledged that it did not submit an indirect cost proposal to HUD and stated that it will do so.

We agree that CAT did not intend to overcharge the OTAG grants and has made significant improvements in accounting for and managing the costs charged to the OTAG grants to ensure conformance with HUD and OMB requirements. We also concur with CAT's comments and proposed actions on the findings relating to lobbying, fundraising, membership meetings, and computer purchases. Further, based upon our review of CAT's written response, we agreed with CAT and did not question costs charged to the grant for office furnishings as they were a necessary expense for CAT to administer the OTAG program.

Regarding the Renter's Hotline, while the Hotline may benefit the tenants in affected OTAG eligible buildings, the main purpose of this activity is to educate all tenants on their rights under Oregon's landlord-tenant laws. The A-122 defines direct costs as costs that can be identified specifically with a direct activity of an organization. The Hotline is part of the Education program of the organization and therefore should be charged as a direct cost to this program.

CAT's database is used for storing information relating to most of its activities including fundraising, event participation, organizing petitions, building owners, management companies, Hotline calls, leaders in OTAG eligible buildings, and the Preservation Task Force. We consider the maintenance of the database a membership activity because (1) the database appears to be significant and necessary to CAT's function, and (2) the information stored in the database is not exclusive to the OTAG program but also relates to its members (fundraising and event participation) and the general public (Hotline). Similarly, CAT's quarterly newsletters appear integral to CAT's function and contain information relating to many of the organization's activities, including membership meetings. The newsletters also contain information on and calendars of various CAT events such as demonstrations (Grassroots Lobbying), fundraising activities, Hotline training, and other events. Accordingly, both the database and quarterly newsletters should be treated as direct costs of the organization and allocated an equitable share of indirect expenses in accordance with OMB Circular A-122.

RECOMMENDATIONS

We recommend that the Director of OMHAR require the Community Alliance of Tenants to:

- 1A. Put controls in place to ensure that all direct and indirect expenditures charged to the grant comply with OMB Circular A-122.
- 1B. Repay the grant \$6,493 for ineligible costs charged to the OTAG grants.
- 1C. Provide support for or repay the grant for \$5,293 of questionable costs charged to the OTAG grants.

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- 1D. Submit an indirect cost rate proposal to HUD for approval, and repay the OTAG grants for that portion of the \$40,458 of indirect costs (excludes indirect costs questioned in Recommendation 1B) charged to the OTAG grants that exceeds the approved rate.
- 1E. 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.

MANAGEMENT CONTROLS

In planning and performing our audit, we considered the management controls relevant to the Community Alliance of Tenant'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, and
- Controls and procedures over the reporting of activities and cost.

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 policies and procedures to ensure that salaries were properly allocated to the OTAG in accordance with OMB Circular A-122; and
- Lack of a cost allocation plan to charge shared costs.

FOLLOW-UP ON PRIOR AUDITS

The Office of Inspector General performed no previous audits of the Community Alliance of Tenants Network.

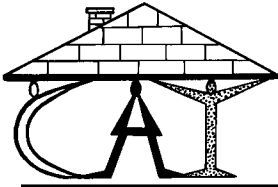
SCHEDULE OF QUESTIONED COSTS

Recommendation Number	Type of Questioned Costs	
	Ineligible 1/	Unsupported 2/
1B	\$6,493	
1C		\$5,293
1D		\$40,458

The following table shows a breakdown of the above schedule by the description of each individual questioned cost:

Recommendation Number	Description of Cost	Type of Questioned Costs	
		Ineligible 1/	Unsupported 2/
1B	Lobbying Direct Labor Charges	\$434	
1B	Fundraising Direct Labor Charges	\$1,989	
1B	Hotline Direct Labor Charges	\$2,857	
1B	Direct Personal Computer Charges	\$526	
1B	Allocated Personal Computer Charges	\$687	
1C	Membership Activities Charged Direct		\$851
1C	Membership Activities Charged Indirect		\$2,237
1C	Newsletter Publication & Mailing Charges		\$2,205
1D	Indirect Costs without approved rate (Net)		\$40,458

- 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.



COMMUNITY ALLIANCE OF TENANTS

2710 NE 14th Avenue, Portland, Oregon 97212

October 17, 2002

Frank E Baca
Regional Inspector General
US Department of Housing and Urban Development office of the Inspector General
909 First Ave, Ste 126
Seattle, WA 98104-1000

Re: Grantee response to draft audit of OTAG and ITAG grants

Introduction

The Community Alliance of Tenants is a grassroots, tenant-membership organization located in Portland, OR. Our mission is to educate and empower tenants to promote decent, safe, stable and affordable housing. CAT received OTAG grants in 1998 and 2000. Utilizing strong community partnerships, VISTA volunteer staff, and the strength of CAT's tenant membership, CAT efficiently used grant resources to meet the OTAG goals of supporting tenants at eligible properties to "(1) participate meaningfully in changes occurring at the property and (2) affect decisions about the future of their housing." CAT performed OTAG activities at 38 eligible properties across the entire state of Oregon.

Some highlights of the work performed by CAT includes:

- CAT provided assistance to tenants at all properties undergoing Section 8 renewals under the Mark to Market Program in Oregon.
- CAT worked with tenants to put an end to unlawful evictions at several eligible properties.
- CAT ensured enforcement of tenant participation rights, where they were previously denied, at a property facing mortgage prepayment and Section 8 renewal.
- CAT worked with tenants at a building facing opt-out to identify a non-profit purchaser. CAT's work with these tenants is resulting in the preservation and transfer to non-profit ownership of four properties.

Summary

The Community Alliance of Tenants (CAT) is the recipient of two OTAG grants totaling \$410,000. While the HUD OIG auditor did find instances of non-compliance with the cost principles of the OMB Circular A-122, there was never any intention on the part of CAT to inequitably or fraudulently bill HUD.

Phone: (503) 460-9702 Fax: (503) 288-8416 Renters' Rights Hotline: (503) 288-0130
www.aracnet.com/~cat/ email: cat@aracnet.com

Background

In 1998 CAT was awarded its first OTAG grant. Under the first contract, CAT was awarded \$100,000 for 3 years. CAT had applied for \$315,000. Since CAT was awarded 1/3 of what was applied for, CAT could only afford to hire 1 paid staff person for the program and no support staff or professional services. Despite limited funding, CAT was clearly still the most experienced and best-positioned organization to fulfill the program goals. At that time CAT was a fledgling organization. We were just a year old and this was our first federal contract. While CAT had support from our parent organization, Oregon Housing NOW and administrative systems in place, CAT was looking to HUD to provide training specific to administration of federal contracts. In December 1998, CAT's Co-Director, Anita Rodgers and the OTAG program director Ian Slingerland attended the ITAG/OTAG Technical Assistance Conference provided by HUD. CAT was assured that the training conference would provide the information and background necessary for proper administration of our new federal contract. The conference fell short of our expectations.

CAT staff was required to miss the first day of the conference – November 30, 1998. The conference and training contractor, Cox and Associates felt that flights which would have gotten CAT staff in to Washington DC in time for the first day of the conference were cost prohibitive and refused to schedule them. Much of the conference focused on the Mark to Market process. The limited portions of the conference that did cover grant administration focused on how to do draw downs from LOCCS, how to fill out vouchers and how to get our per diem reimbursed for this specific training. Review of OMB Circular A-122 was limited to pointing to its existence. The training contractors did not have enough copies of the A-122 for all grant recipients and could not provide the promised materials after the training.

CAT has never had the intention or the means to over charge HUD for OTAG activities or to bill ineligible expenses. Over the past 4 years, CAT staff has actively sought out administrative training and professional support. As CAT staff learned more about the requirements of federal contracts, non-profit bookkeeping and Generally Accepted Accounting Principles, administrative practices and policies were developed, improved and refined.

While we were under funded for the first 3 years of the contract, CAT was able to accomplish an enormous amount of work with very little funding. This was done via the dedication of tenant leaders in OTAG eligible buildings; the extraordinary skill and experience of the OTAG program director Ian Slingerland; the effective use of VISTA volunteers; and an incredible amount of support from the CAT's membership, CAT's other programs and the communities where we were organizing.

Response to Findings

Lobbying Activities:

CAT does not contest the finding that some prohibited lobbying time was inadvertently billed to the OTAG contract. CAT is ready and willing to repay the \$434 that was mistakenly billed.

CAT has always had a system to track lobbying time separately from other time. Over time the system has been refined. The months when lobbying time was billed to the contract were an unintentional oversight. Since that time, CAT has created cost centers specifically for grassroots and direct lobbying to ensure that time spent lobbying is accurately billed and that lobbying receives its equitable share of indirect costs. No lobbying costs have been billed to the contract since May 2000. This will continue to be the case in the future.

Labor Costs

HUD OIG auditors identified 4 areas of ineligible labor costs: fundraising, Renters' Rights Hotline, membership services and general membership activities. CAT recognizes that under the OMB A-122 fundraising costs are ineligible. However, CAT disputes the findings regarding the Renters' Rights Hotline, membership services and general membership activities.

Fundraising:

From April 1999 through May 2000 some fundraising time was billed to the OTAG contract. The bulk of this time was fully disclosed to OMHAR in our monthly activity reports for April, May and June of 1999. In May 2000 CAT realized that fundraising costs were unallowable. No fundraising costs have been billed to the contract since that time. Fundraising is now a separate cost center and receives its equitable share of indirect costs.

Renters' Rights Hotline:

OTAG Program staff time spent on the Renters' Rights Hotline is not a membership activity and is a direct benefit to the OTAG project. The Hotline should therefore be considered an eligible activity.

CAT runs the Renter Stability Education Program (RSEP). RSEP works to educate renters about their rights and offer information and suggestions about the best ways for renters to maintain their housing and advocate for their rights. The primary component of RSEP is the Renters' Rights Hotline. The Renters' Rights Hotline is the only place in the state of Oregon where renters can get information about their rights and how to advocate for and protect those rights. Since January 1999 RSEP has had 1 full time staff person. All CAT staff from the executive director to the office personnel are required to serve 2 to 4 hours each month answering questions on the hotline. Work on the hotline is considered an integral part of each person's job here at CAT. Program staff count their time on the hotline as directly benefiting their own programs. Staff of the Interstate program charged their hotline time to the Interstate program. Staff of the Building Based Organizing program charged their hotline time to the Building Based program. Likewise, OTAG program staff charged their hotline time to the OTAG program. Working on the hotline directly benefits each program by providing staff with in-depth knowledge of Oregon's landlord-tenant law, ways tenants can effectively advocate for their own decent, safe and stable housing, and how to compassionately and accurately relay this information to renters who are facing a personal housing crisis.

The hotline number was given out to renters in all OTAG eligible buildings in which CAT worked. Tenants in OTAG eligible buildings used CAT's hotline to get information regarding their rights as tenants under Oregon's Landlord/Tenant Law. It also gave residents a greater sense of trust in CAT as an independent organization.

In addition, the hotline was also used to identify OTAG eligible buildings not participating in Mark to Market programs. Lincoln Village, Park Terrace, Ridings Terrace, Hollyfield Village and Chaucer Court were all identified as eligible for work under our OTAG grants via the Renters' Rights Hotline.

OTAG staff time spent working on the Renters' Rights Hotline is of direct benefit to the OTAG project and therefore an eligible expense. If necessary, we will bill future staff time spent on the hotline directly to the Education Program. However, we would like the hotline to continue to play a significant role in any future OTAG work done at CAT.

Membership Services:

Program staff time spent on the newsletter and in preparation for and attendance at annual membership meetings were of direct benefit to the OTAG project.

Newsletter:

CAT's quarterly newsletter, The Tenant Times, was used by the Preservation Program for outreach in OTAG eligible buildings. In order for CAT to effectively fulfill our role of facilitating tenant participation in the decisions being made about their housing, it was necessary to build trust with tenants. A key part of developing this trust was asserting CAT's identity as an organization independent of HUD, management agents, and owners. CAT utilized our newsletter as a tool for conveying our identity as an independent organization in our initial contact with tenants at eligible buildings. The newsletter provided tenants with a sense of CAT as an organization, information about the work that we do, and encouraging stories of the organizing tenants were doing in other eligible buildings. All this information conveyed to tenants the validity and the importance of their participation at their buildings.

The newsletter is an organizing and outreach tool, not a membership service. Each time we printed the newsletter, over 1,000 were printed above and beyond what was sent to our mailing list. CAT billed newsletter expenses as indirect costs to all CAT programs in accordance with the OMB A-122, which states:

- a. Publication costs include the costs of printing (including the processes of composition, plate-making, press work, binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling.*
- b. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the organization.*

Membership Meetings:

CAT is a membership organization. The members meet annually in October to set program direction and elect board members. Until 2001 the annual meeting was a 2-hour evening meeting, which did not require significant staff time or organizational resources. In October 2002 the membership meeting was extended to a full day. The meeting was extended to accommodate the residents of OTAG eligible buildings located outside of the Portland Metro area. Nearly half the time of the membership meeting was spent in program specific planning sessions, including one specifically for the Preservation Task Force (PTF). PTF used the

time to plan their program and upcoming goals and activities. The PTF is an allowable activity under the OTAG contract.

CAT billed membership-meeting time to the OTAG contract based on the fact that a large portion of the meetings were devoted specifically to OTAG eligible activities. The costs for future membership meetings will not be billed to the contract. CAT has created a Membership cost center and will allocate indirect costs equitably to this program.

Database activities:

CAT's database is not a membership activity. The database is used to track information on a large variety of items, including fundraising, event participation, organizing petitions, building owners and management companies, renters rights hotline calls, leaders in OTAG eligible buildings and the Preservation Task Force. The staff time spent developing and maintaining the database was billed to the OTAG contract as an indirect expense as it benefited all programs of the organization.

Office Equipment and Supply Costs

HUD OIG auditors found that CAT charged \$5,997 for ineligible office equipment and supplies. CAT does not contest the finding that the contract was unintentionally over billed for computers. This was due to an erroneous reading of the NOFA, which limited computer reimbursement. CAT is prepared to repay the \$1,213 for the computers if necessary. CAT disputes the findings regarding the office furniture, equipment and supplies.

Newsletter costs:

The newsletter is a publication that benefits the organization as a whole and is not identifiable with a particular cost objective. The newsletter is used as an outreach and organizing tool, not as a service. The costs of newsletter production were allocated as indirect costs across all of CAT's programs.

Office furniture and equipment:

All the furnishings that OTAG staff had were donated, falling apart and/or grossly inadequate. The furnishings purchased did directly relate to the OTAG contract and were not a response to overall organizational growth.

Prior to June 2001, office furnishings were never purchased under the OTAG contract. OTAG staff did not have adequate office furnishings to accomplish their work. Under the first contract, CAT did not have enough funding to furnish OTAG staff adequately, so we made do with what we had. OTAG staff worked at tiny desks with no drawers, no filing space and very little workspace. They sat in chairs that caused back and leg pain. They shared outdated, donated computers, which crashed on a regular basis. An inordinate amount of time was spent trying to get very outdated, donated hardware up and running.

When CAT was awarded the second contract, we had 3 full time OTAG staff, 1 paid and 2 VISTA positions. With the second contract we purchased 2 desks, 2 chairs, a laser printer file cabinets and partitions. We had recently been donated one desk and chair that were in decent condition and adequate for use in the program. The 2 desks and chairs that had previously been used by the program were discarded. They were not used by other programs, as they were not usable. All furnishings purchased were used exclusively by the preservation program. The costs of furnishings and equipment that benefited the Preservation Program as a whole were allocated to the various funding sources based on

FTE. The furnishings and equipment used exclusively for OTAG activities were billed directly to the contract.

Partitions were needed as CAT had secured more office space. This move did not represent an organizational increase in staff or expansion of program. It was the result of long-term negotiations with the church in whose basement we rent space. CAT had been negotiating with the church for nearly a year to lease the space where the Preservation Program was moved to in June 2001.

Computers:

In February 2001, CAT purchased 3 new computers for \$763 each. CAT staff was aware of the OTAG NOFA that stated that computers could be reimbursed up to \$1,000. Staff understanding was that this meant \$1,000 *per computer*. This was an erroneous interpretation on our part; however, the intent was not to unfairly charge HUD. No computers were ever purchased under the first OTAG contract. The computers that had previously been used by the program were discarded. They were not used by other programs, as they were completely unusable. CAT is prepared to repay the \$1,213 in overcharges if HUD deems it necessary.

Indirect Cost Allocations

CAT acknowledges that we did not submit an indirect cost proposal to HUD after receiving the OTAG Grants. We will be submitting a cost allocation plan to HUD as outlined in HUD's August 28, 2002 e-mail request for supporting documentation for OTAG payment vouchers. While CAT had not submitted the indirect cost proposal to HUD, CAT's system for allocating indirect costs complies with the "Direct Allocation Method" outlined in the OMB A-122.

Response to Recommendations

1A. Put controls in place to ensure that all direct and indirect expenditures charged to the grant comply with OMB Circular A-122.

CAT administrative staff has studied the OMB Circular A-122. CAT will take the following steps to ensure compliance with the OMB Circular A-122:

- 1) CAT has separate cost centers for specific programs, administration and management, grassroots lobbying, direct lobbying, fundraising and membership activities to ensure that indirect costs are equitably allocated to all programs.
- 2) CAT staff has received training from the Alliance for Justice in the determination and tracking of lobbying expenses. Materials and documents are on file and future staff will receive lobbying determination and tracking training.
- 3) CAT administrative staff will work with CAT's CPA to review administrative and bookkeeping systems to ensure compliance with the OMB A-122.
- 4) CAT will document all administrative and bookkeeping policies and procedures. Policies and procedures will be reviewed annually to ensure ongoing compliance with OMB A-122 and GAAP.

1B. Repay the OTAG grants \$14,366 for ineligible costs charged to the OTAG grants.

CAT is ready and willing to repay \$434 for ineligible lobbying costs and \$1,213 for ineligible computer costs that were charged to the OTAG contracts. CAT contests the recommended repayment of the remaining \$12,719.

\$1,989 in fundraising activities was ineligible under the OMB A-122, however the bulk of this time was fully reported to HUD at the time the fundraising activities were happening. HUD did not withhold payment at the time or inform CAT that the activity was ineligible. Had HUD informed us in April 1999 that fundraising was an ineligible activity, we would have stopped billing fundraising costs at that point. It was not until May of 2000 that CAT administrative staff realized that federal money could not be used to support fundraising costs. At that point CAT stopped billing fundraising costs to the OTAG contract. CAT should not be penalized for activities that HUD was in full knowledge of at the time they were happening.

\$2,857 in charges relating to the Renters' Rights Hotline were of direct benefit to the OTAG program and therefore eligible costs. The Renters' Rights Hotline was an important tool for the training and development of OTAG staff. The Hotline also served as a direct outreach tool to tenants in OTAG eligible buildings and an additional five OTAG eligible buildings were identified and engaged with via the Hotline.

\$851 for membership services. CAT's newsletter The Tenant Times is not a service to members, clients or the general public. It is an outreach and organizing tool that benefits the organization as a whole. OTAG program staff time spent preparing for and attending CAT's membership meetings directly benefited the OTAG program as a major portion of the meeting time was spent doing OTAG specific program planning.

\$2,237 in labor expenses for general membership activities included production of the newsletter and database development and maintenance. Neither of these activities are membership activities. CAT's database serves a variety of functions that benefit all of CAT's

programs. Tracking CAT's membership is a very small portion of the database functions. CAT's newsletter labor costs were allocated indirectly across all programs as the newsletter benefits the organization as a whole. The newsletter does not function as a service, but rather as a tool for doing tenant outreach and organizing.

\$2,205 for newsletter production. The newsletter is not provided as a service to CAT's members and clients. It is a tool used by all of CAT's programs to facilitate tenant outreach and organizing.

\$2,579 for the purchase of furniture and equipment. The furnishing and equipment purchased directly benefited the Preservation Program. This furniture and equipment was used exclusively by Preservation Program staff and did not benefit the organization as a whole. Costs for the purchase of the furnishings were appropriately allocated to the Preservation Program and the OTAG contract.

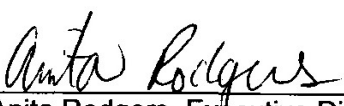
1C. Submit an indirect cost rate proposal to HUD for approval, and repay the OTAG grants for that portion of the \$43,461 of indirect costs charged to the OTAG grants that exceeds the approved rate.

CAT will submit an indirect cost proposal to HUD for approval.

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.

CAT has a plan in place to implement management controls and compliance with the OMB A-122 – see recommendation 1A above. CAT considers this a reasonable recommendation in general, but should not be penalized by the suspension of grant funding for costs incurred as a result of the federally mandated audit. Funding for audit expenses should be released as soon as CAT has met the reporting and supporting document requirements outlined in the August 28 e-mail from HUD. CAT also requests that HUD make every effort possible to expedite resolution of audit findings.

In conclusion, CAT would like to extend our gratitude for the courtesy and assistance provided by the HUD OIG auditors through this process. HUD OIG auditors have been very thorough, professional and fair during the audit. We also appreciate the time auditors spent to come to a thorough understanding of our organization, our administration and our work.

Submitted by 
Anita Rodgers, Executive Director
Community Alliance of Tenants

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