



U.S. Department of Housing and Urban Development
Southwest District Office of Inspector General
819 Taylor Street, Room 13A09
Fort Worth, Texas 76102

(817) 978-9309 **FAX** (817) 978-9316
<http://www.hud.gov/oig/oigindex.html>

December 4, 2001

2002-FW-1801

MEMORANDUM FOR: Diana Armstrong
Director, Office of Public Housing, 6JPH

/SIGNED/

FROM: D. Michael Beard
District Inspector General for Audit, 6AGA

SUBJECT: Citizens' Complaint
Housing Authority of the City of Lockhart
Lockhart, Texas

At the request of the Senior Community Builder of the HUD San Antonio Office, we completed a limited review of the Housing Authority of the City of Lockhart, Texas. The Senior Community Builder received a complaint from a former employee of the Housing Authority who alleged:

1. The Housing Authority wrongfully terminated the complainant and offered the equivalent of "hush money" to keep her from exposing wrongdoing at the Housing Authority.
2. A maintenance man owns a private business, which he operates on Housing Authority time.
3. Family members of Housing Authority employees are paid to perform "odd jobs" for the Housing Authority.
4. Family members of Housing Authority employees and Board Members have custody of Housing Authority cell phones.
5. Multifamily properties are purchasing supplies and billing them to the Housing Authority.
6. The Housing Authority used Housing Authority paint to paint a private property.
7. The Housing Authority purchased its vehicles from a company owned by the Chairman of the Board.

Our primary objective was to determine if the allegations in the complaint are valid.

To accomplish our objective, we:

- Reviewed the complaint;
- Interviewed the complainant, HUD, and Authority staffs;
- Interviewed HUD Insured Property staff;
- Reviewed supporting documentation provided by interviewees, including copies of invoices from two HUD insured properties, and copies of payroll vouchers;

- Reviewed the Housing Authority's check vouchers, vendor invoices, and General Ledgers from October 1, 1999, through June 30, 2001, although we expanded the review period, when appropriate;
- Reviewed the Low Rent Annual Contributions Contract (ACC);
- Reviewed other applicable criteria including Office of Management and Budget (OMB) Circular A-87, Texas Statutes - Local Government Code, and Title 24 of the Code of Federal Regulations;
- Reviewed check vouchers, cancelled checks, and general ledgers for two HUD insured properties;
- Reviewed the Housing Authority's Procurement Policy; and
- Reviewed prior audits.

Background

The Housing Authority of the City of Lockhart, Texas, administers 108 Low Rent units, 82 units at The Landing Apartments, a nonprofit entity of the Housing Authority, and 6 HOME units funded through the Texas Department of Housing and Community Affairs (TDHCA).

The Housing Authority is located at 809 Redwood Street; Lockhart, Texas 78644. A five-person Board of Commissioners appointed by the Mayor of Lockhart every 2 years, in staggered terms, governs it. Beverly Haug is the Executive Director.

At the time of our review, the Housing Authority had five employees: two assigned to The Landing Apartments (Property Manager and a maintenance man), one assigned to the Low Rent Program (maintenance man), and two worked at both The Landing Apartments and the Low Rent Program (Executive Director and the Maintenance Foreman).

The Executive Director also worked for Victoria Management Company, a Management Agent for two HUD insured properties. Her work there included submitting the Section 8 Subsidy Vouchers, writing checks to pay bills, and balancing the checkbook. She said she spent an average of 8 hours per week performing those duties. The Executive Director resigned from Victoria Management Company on June 30, 2001.

Results of Review

We concluded that three of the seven allegations are valid. During our review, we also noted weaknesses that we believe warrant reporting. These weaknesses are disclosed in the finding in Attachment A. The following are the results of the review of each allegation.

1. **Allegation:** The Housing Authority wrongfully terminated the complainant and offered the equivalent of “hush money” to keep her from exposing wrongdoing at the Housing Authority.

Results of Review: The allegation is not valid. The complainant filed a wrongful termination grievance with the Board of Commissioners. The Board of Commissioners did

not find any wrongdoing by the Housing Authority, and according to the Executive Director, agreed with the decision to dismiss the complainant. The Housing Authority offered the complainant \$11,682, the equivalent of 6 months' pay. The funds offered to the complainant appear to be an offer to settle the disagreement between the complainant and the Housing Authority. Therefore, it is our opinion the complainant did not receive an offer of "hush money" from the Lockhart Housing Authority to keep her from exposing wrongdoing at the Housing Authority.

2. **Allegation:** A maintenance man at The Landing Apartments owns a private business, which he operates on Housing Authority time.

Results of Review: The allegation is not valid. We found no indication the Housing Authority paid this maintenance man's salary with HUD program funds.

3. **Allegation:** Family members of Housing Authority employees are paid to perform "odd jobs" for the Housing Authority.

Results of Review: The allegation is valid. During our review period, we found two occurrences of payments to family members of Housing Authority employees for temporary employment. The Executive Director's daughter and the Maintenance Foreman's daughter worked very short times for the Housing Authority on a part-time basis. We cover this matter further in our finding in Attachment A.

Also, an Independent Accountant (IPA) Audit Report (dated January 7, 1998) for the year ended September 30, 1997, included a finding that a Contractor for the Housing Authority hired the Executive Director's son to help him. We found no further payments to the Executive Director's son during our period of review.

4. **Allegation:** Family members of Housing Authority employees and Board Members have custody of Housing Authority cell phones.

Results of Review: The allegation is valid. The Executive Director permitted at least two personal cell phones to be billed to the Housing Authority. These phones are not used for Housing Authority business. The Executive Director also permitted Housing Authority employees to use Housing Authority cell phones for personal use. However, based on our review, the Housing Authority only pays for cell phone usage related to Housing Authority business. All users pay for any personal use of the cell phones. We believe this arrangement may be a weakness that we discuss further in the finding in Attachment A.

5. **Allegation:** HUD insured multifamily properties are purchasing supplies and billing them to the Housing Authority.

Results of Review: The allegation is not valid. The Housing Authority did not purchase supplies for HUD insured properties. The HUD insured properties purchased their own supplies.

6. **Allegation:** The Housing Authority used Housing Authority paint to paint a private property.

Results of Review: We could not validate this allegation. We observed the color of paint used on the addresses provided by the complainant, but the colors were too common to afford a conclusion that the paint belonged to the Housing Authority.

7. **Allegation:** The Housing Authority purchased its vehicles from a company owned by the Chairman of the Board.

Results of Review: The allegation is valid. The Housing Authority violated the Annual Contribution Contract, as well as its own Procurement Policy. Since the Board Chairman and his family own Lockhart Motor Company, there is an appearance that a conflict of interest may exist in the Housing Authority purchase of a vehicle from the dealership. Also, the Housing Authority solicited only two bids instead of the required three. We discuss this further in the finding in Attachment A.

Within 60 days, please give us, for each recommendation made in Attachment A, a status report on: (1) corrective action taken; (2) proposed corrective action and date to be completed; or (3) why action is considered unnecessary. Also, please furnish us copies of any correspondence or directive issued because of this audit.

If you have any questions, please call Jerry Thompson, Assistant District Inspector General Audit, at (817) 978-9309.

The Housing Authority Needs Improvement in Administrative Practices

The Housing Authority: (1) allocated personnel costs arbitrarily; (2) allowed Housing Authority vendor accounts to be used for non-Housing Authority purposes; (3) purchased a vehicle from a company owned by the Board Chairman without properly soliciting bids or disclosing the Board Chairman's personal interest in the purchase; and (4) hired relatives of Housing Authority employees on a temporary basis without adequate disclosure. This occurred because the Housing Authority had not implemented adequate administrative policies and procedures to ensure all program expenses were adequately supported and incurred in a manner that avoided the appearance of conflicts of interest. Further, the Executive Director either ignored or was unaware of federal, state, and Housing Authority requirements related to cost allocation and procurement activity. As a result, the Housing Authority allocated at least \$120,864 of payroll costs to the Low Rent Program without support, exposed the Low Rent Program to risks of incurring costs for non-Housing Authority purposes, and caused the appearance of a conflict of interest in the purchase of the vehicle and the hiring of Housing Authority relatives.

Requirements

- Part A of the Consolidated Annual Contributions Contract between the Housing Authority and the United States of America incorporated by reference those regulations issued by HUD for the development, modernization, and operation of public and Indian housing projects contained in Title 24 of the Code of Federal Regulations. Title 24, Part 85, contains the Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally recognized Indian Tribal Governments (also known as the Uniform Administrative Rules).
- Title 24, Part 85, establishes OMB Circular A-87 as the applicable cost principles for State, Local and Indian Tribal Governments. OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, Attachment A, Section C.3.a., provides that a cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received. Attachment B, Section 11, Subsection h (4), states, "Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5)...unless...another substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on a Federal award and a non-Federal award.". Subsection (5) requires personnel activity reports or equivalent documentation to (a) reflect an after-the-fact distribution of the actual activity of each employee, (b) account for the total activity for which each employee is compensated, (c) be prepared at least monthly and must coincide with one or more pay periods, (d) be signed by the employee, and (e) not be based on budget estimates or other distribution percentages determined before the services are performed.

- Title 24, Section 85.20 (b) (3), *Internal Control*, states, “Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.”
- Title 24, Section 85.36(b), provides that grantees and subgrantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable federal law, and the standards identified in this section.
- The Housing Authority's Procurement Policy, Section III, Part B, Subsection 4, "Small Purchases Over \$5,000" states, "For small purchases in excess of \$5,000, but not exceeding \$25,000, no less than three offerors shall be solicited to submit price quotations, which may be obtained orally, by telephone or in writing, as allowed by State and local laws."
- Section 19, Part A of the Annual Contribution Contract, "Conflict of Interest" provides that, “...neither the Housing Authority nor any of its contractors or their subcontractors may enter into any contract, subcontract, or arrangement in connection with a project under this ACC in which any of the following classes of people has an interest, direct or indirect, during his or her tenure or for one year thereafter:
 - (i) Any present or former member or officer of the governing body of the Housing Authority, or any member of the officer's immediate family....
 - (ii) Any employee of the Housing Authority who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner...”

Such persons are required to disclose their interest or prospective interest to the Housing Authority and HUD. HUD may waive this requirement for good cause, if permitted under State and local law.

This section of the Annual Contribution Contract further states the Housing Authority may not hire an employee in connection with a project under this Annual Contribution Contract if the prospective employee is an immediate family member of an employee of the Housing Authority who formulates policy or who influences decisions with respect to the projects(s). It further requires the employee to disclose any familial relationship of the prospective employee to the Housing Authority and HUD. The Housing Authority Board of Commissioners may waive this requirement for good cause if state law permits such a waiver.

- Section IX of the Housing Authority’s Procurement Policy, Part B "Conflict of Interest" states, "No employee, officer or agent of this PHA shall participate directly or indirectly in the selection or in the award or administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by:

1. An employee, officer or agent involved in making the award.
2. His/her relative.”

Unsupported Salary Allocations

The Housing Authority arbitrarily allocated \$120,864 in personnel salaries to the Low Rent Program. Specifically, the Housing Authority allocated the salaries of two employees between the Low Rent Program and The Landing Apartments without any support. During fiscal years 2000 and 2001, the Housing Authority allocated \$55,572 of the Executive Director’s salary, and \$65,292 of the Maintenance Foreman’s salary to the Low Rent Program. The Housing Authority had no documentation to support these allocations. The Housing Authority’s accountant told us that these allocation numbers were “pulled out of the air”.

The Housing Authority had not established acceptable administrative procedures to ensure proper time and cost allocations to the Low Rent Program. For example, the Executive Director told us that she thought that salaried employees should not be required to maintain time and attendance records because they are salaried employees. She was not aware of the need to document the support for salary allocations to federal programs when such allocations affect multiple programs. As a result, the Housing Authority allocated at least \$120,864 in payroll costs to the Low Rent Program with no support.

Poor Internal Controls over Procurement

The Housing Authority allowed HUD insured properties, a nonprofit entity, and employees to use Housing Authority vendor accounts to acquire goods and services for non-Housing Authority purposes. For example, the Housing Authority permitted at least four wireless telephones used for non-Housing Authority business to be billed to the Housing Authority’s account. The Executive Director had at least two personal cell phones and, until January 2001, had two cell phones used by The Landing Apartments billed to the Housing Authority’s account. Also, the Executive Director permitted The Landing Apartments and two HUD insured properties managed by Victoria Management Company to purchase maintenance supplies and bill them to the Housing Authority’s vendor accounts. The Executive Director told us she was responsible for paying the bills for each of these entities as well as her own personal bills and she thought that using the same accounts “would make things easier.”

Our review did not indicate the Housing Authority actually paid for goods and services used for personal or non-Housing Authority purposes. In each case, we determined the Executive Director used personal funds or funds from the other entities to make the payments on the accounts. However, the Housing Authority is liable for all charges to Housing Authority accounts. As a result, the Low Rent Program is exposed to risks of incurring excessive costs. We believe the Housing Authority should implement internal controls that prevent Housing Authority accounts from being used for non-Housing Authority purchases.

Vehicle purchased improperly

The Housing Authority created an appearance of a conflict of interest when it purchased a vehicle from the dealership owned by the Board Chairman and his son. The Housing Authority violated its own Procurement Policy and the Annual Contribution Contract. Based on our interview, we concluded the Executive Director was not familiar with the applicable procurement requirements. The Housing Authority purchased a pickup truck in November 2000 for \$17,346. The Housing Authority solicited only two bids from local vendors instead of three as required by the Housing Authority's Procurement Policy. Also, in violation of the conflict of interest provisions of the Annual Contribution Contract, we found no evidence to show that anyone disclosed to HUD or the Housing Authority Board of Commissioners the relationship between the Board Chairman and the dealership from which the Housing Authority purchased the vehicle. The Housing Authority selected the lower bid for the purchase. However, due to the difference in optional equipment, the price of the vehicle purchased was \$640 more than the bid. We believe HUD and the Housing Authority need to review this issue and take appropriate action.

Appearance of Conflict of Interest in Employment:

The Housing Authority hired two family members of Housing Authority employees on a temporary basis. In July 2001, the Executive Director's daughter worked 24 hours as a temporary employee at the rate of \$7 an hour. In August 2000, the Maintenance Foreman's daughter worked at the Housing Authority for 54.5 hours at the rate of \$6.25 an hour over a period of 3 weeks. We found no documentation to show the employees disclosed the familial relationship to HUD as required by the Annual Contribution Contract. The Executive Director told us she was on vacation and the Maintenance Foreman, who was in charge of the office at the time, made the decision to temporarily hire her daughter to cover the office because he was called away to take care of an emergency. She said she hired the Maintenance Foreman's daughter to work in the office for a short period of time when they attended a Public Housing Authority Convention. She said she did this because she does not like to close the office on a regular workday since the majority of the residents are elderly. She further stated the Housing Authority's personnel policies are old and outdated. We concluded that there are probably no current personnel policies that would cover the situations cited. We believe the Housing Authority should review the matter and update their personnel policies and procedures to be consistent with requirements of the Annual Contribution Contract.

Auditee Comments:

The Housing Authority's Chairman of the Board responded to our draft report in a letter dated November 16, 2001, and we had an exit conference on November 20, 2001. The Authority said the Board passed a motion to prevent the hiring of family members of employees except in accordance with HUD guidelines. The Authority no longer provides cell phones for the use of employees. Also, the Chairman said the Authority solicited four auto dealerships for bids on the vehicle but it received only two. However, regardless of the bids the Authority would have purchased the optional equipment anyway. The Housing Authority agrees that better documentation should be provided to support the allocation of salary costs between the Low Rent

Program and The Landing. Additionally, it has instituted a time record reporting system to determine the appropriate salary costs for allocation purposes. The Board has directed the Executive Director to attend a course on personnel management and to prepare a personnel manual. The Board has further directed the Executive Director to comply with HUD requirements on procurement. The company owned by the Board Chairman will no longer submit a bid for any Authority vehicles. Also, the Authority no longer allows other Housing entities to use Authority accounts to purchase their goods and services. Regarding the appearance of conflict-of-interest issues, the Board has directed the Executive Director to comply with the appropriate HUD requirements.

Evaluation of Auditee Comments:

We consider the Authority's response to be favorable to the improvement of the Authority's administrative practices. Regarding the number of bids received for the Authority's vehicle purchase, the Executive Director told us she only received two bids and we only received documentation for the two bids. Therefore, we did not revise our draft report regarding this matter.

Recommendations:

We recommend HUD require the Housing Authority to:

- 1A. Implement procedures consistent with OMB Circular A-87 to allocate costs to the Low Rent program based on the benefit received;
- 1B. Provide justification to HUD for the unsupported salary allocations of \$120,864 to the Low Rent program and reimburse the Low Rent program for any salary charges that cannot be justified;
- 1C. Develop or update and implement personnel policies and procedures reflective of HUD requirements;
- 1D. Ensure the Executive Director receives adequate training in procurement activities;
- 1E. Remove all cell phones not required for Housing Authority business from the Housing Authority account;
- 1F. Discontinue making non-Housing Authority purchases of goods and services on Housing Authority accounts; and
- 1G. Review the appearance of Conflict of Interest issues discussed in the report and consider waivers or taking other appropriate action satisfactory to HUD.

Schedule of Questioned Costs

<u>Issue</u>	<u>Type of Questioned Cost</u> <u>Unsupported¹</u>
1B. Salary Allocations	<u>\$120,864</u>

¹ Unsupported costs are costs questioned by the auditor because the 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 Department policies and procedures.

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Stanley Czerwinski
Associate Director, Housing. & Telecommunications Issues
US GAO, 441 G St. NW, Room 2T23, Washington, DC 20548

Steve Redburn
Chief, Housing Branch, OMB
725 17th Street, NW, Room 9226, New Exec. Ofc. Bldg., Washington, D.C. 20503

The Honorable Fred Thompson
Chairman, Committee on Govt Affairs,
340 Dirksen Senate Office Bldg.
U.S. Senate, Washington, D.C. 20510

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Ranking Member, Committee on Govt Affairs,
706 Hart Senate Office Bldg.
U.S. Senate, Washington, D.C. 20510

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2185 Rayburn Building
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2204 Rayburn Bldg.
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Andrew R. Cochran
Sr. Counsel, Committee on Financial Services
2129 Rayburn, HOB
House of Rep., Washington, D.C. 20510