



**MEMORANDUM NO:
2002-SF-1808**

September 30, 2002

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

FROM: //SIGNED//
Mimi Y. Lee
Regional Inspector General for Audit, 9AGA

SUBJECT: Congressionally Requested Audit of the Outreach and Training
Assistance Grants awarded to the Los Angeles Center for
Affordable Tenant Housing, Los Angeles, California, Grant
Numbers FFOT98003CA and FFOT00007CA

INTRODUCTION

As directed by Congress, we have completed an audit of the Los Angeles Center for Affordable Tenant Housing (LACATH) Outreach and Training Assistance Grant (OTAG) Numbers FFOT98003CA and FFOT00007CA. The primary purpose of the audit was to determine whether grant funds were expended in accordance with the requirements of Section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) and other applicable regulations and requirements. Consistent with the Congressional directive, we reviewed the eligibility of costs with particular emphasis on identifying ineligible lobbying activities. Although LACATH staff participated in conference calls and attended conferences, both of which included topics that could be construed as lobbying, there was no objective way to identify or separate costs associated with the possible lobbying activities from other eligible OTAG business conducted during the conference calls or at the conferences. Most of the other grant costs appear to have been incurred in compliance with the applicable regulations and requirements. However, LACATH did fail to properly allocate employee salary costs in accordance with Office of Management and Budget (OMB) requirements.

BACKGROUND

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) established the Office of Multifamily Housing Assistance Restructuring (OMHAR) within HUD. One of OMHAR's responsibilities under MAHRA is the administration of the Mark-to-Market Program including the award and oversight of the Section 514 Outreach and Training Assistance Grants (OTAGs) and Intermediary Technical Assistance Grants (ITAGs). The objective of the Mark-to-Market Program is 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.

Congress recognized that tenants of the affected projects, as well as residents of the neighborhoods, the local governments, and other parties would be impacted 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 in the Mark-to-Market process, for the period 1998 through 2001. The Secretary authorized \$40 million and HUD staff awarded grants of about \$26.6 million to 38 nonprofit organization grantees (a total for 81 grants awarded). The funds were awarded under Notices of Fund Availability (NOFAs) in fiscal years 1998 and 2000 as either OTAG or ITAG grants. The Notices of Fund Availability say the ITAG 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 Notices of Fund Availability say 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. ITAG grantees serve primarily as pass-through agencies to sub-recipient agencies that carry out the eligible activities whereas OTAG grantees are directly involved in carrying out the activities. ITAG sub-recipients and OTAG grantees are primarily involved in organizing and educating tenants of affected properties. However, Congress specifically prohibited using Section 514 grant funds for lobbying members of Congress.

On June 29, 1998, the LACATH applied for an OTAG in the amount of \$400,000. On September 29, 1998, LACATH accepted HUD's award of an OTAG for \$180,000 pursuant to the fiscal year 1998 HUD Appropriations Act, under Section 514 of the MAHRA. On May 24, 2000, LACATH applied for an additional OTAG in the amount of \$450,000. On January 9, 2001, LACATH accepted HUD's award of an OTAG for \$450,000 pursuant to Section 534 of the fiscal years 2000 Appropriations Act. At the time of our review, LACATH had received twenty-nine draws from LOCCS on the 1998 OTAG totaling \$180,000 and one draw on the 2000 OTAG in the amount of \$7,148. Grant administration for both OTAGs has been provided under written agreement with the Coalition for Economic Survival (CES). CES is a collocated nonprofit organization but has a completely separate board of directors. LACATH obtained audited financial statements for the fiscal years ending December 31, 1998 and 1999 that expressed unqualified opinions and no findings. For fiscal years ending December 31, 2000, and 2001, LACATH obtained an opinion from their Independent Auditor that annual audits in accordance with OMB Circular A-133 were not required because they did not receive \$300,000

in funding for either year. The OTAG has not been previously monitored onsite by anyone from HUD.

METHODOLOGY AND SCOPE

In conducting the audit, we reviewed the grantee's accounting records and interviewed responsible staff. We also reviewed the requirements in MAHRA, the OTAG Notices of Fund Availability, the OTAG grant agreements, HUD's requirements for grant agreements for nonprofit entities, and OMB Circular A-122's guidance on the allowability of cost for nonprofit grantees. In planning and performing the audit, we considered the relevant grantee management controls to determine our audit procedures, not to provide assurance on the controls. Although LACATH's management controls appear to be effective for limiting risk, we placed no reliance on the controls to limit the scope of our review. This was because we were able to review 100 percent of the expenses charged to the OTAGs in a relatively expeditious manner.

The audit covered the period from June 1999 through May 2002 and the fieldwork was performed at the LACATH offices in Los Angeles, California. We conducted the audit in accordance with Generally Accepted Government Auditing Standards.

RESULTS OF AUDIT

For the most part, the LACATH carried out the grant program and expended grant funds in full accord with the requirements of Section 514 of the MAHRA and other applicable regulations and requirements. However, LACATH incurred telephone and travel costs relating to activities that could possibly be construed as lobbying. They also did not properly allocate employee salary costs in accordance with Office of Management and Budget (OMB) requirements.

Possible Lobbying Activity

LACATH staff participated in numerous telephone conference calls sponsored by the National Alliance of HUD Tenants (NAHT) that may have included discussions of lobbying activity. They also attended two NAHT sponsored national "Save Our Homes" conference in Washington, DC and a "Housing California" conference in Sacramento, California both of which included sessions that could be construed as relating to lobbying. However, there was no objective way to identify or separate costs associated with the possible lobbying activities from other eligible OTAG business conducted during the conference calls or at the conferences. Furthermore, although the costs associated with any potential lobbying activity during the conference calls or conferences cannot be specifically identified, they would not have been material in relation to the total \$187,149 drawn on the two OTAGs. We believe LACATH and other grantees should be provided with clarification as to the Department's position on the eligibility of costs associated with NAHT conference calls, NAHT annual conferences and other conferences that include activities that could be construed as lobbying.

Improper Salary Charges

LACATH did not properly allocate Tenant Organizer staff salaries to the OTAG in accordance with the requirements of OMB Circular A-122. The Tenant Organizers maintained biweekly activity reports or time sheets reflecting the amount of time they spent on various OTAG activities and also some (minimal) time spent on activities relating to a State grant or CES work. The activity reports conform to the standard prescribed in Attachment B, Paragraph 7 of OMB Circular A-122. However, the entire salary costs for these positions were charged to the OTAGs rather than the allocable portion supported by the activity reports. The CES Executive Director responsible for grant administration assumed the OTAGs could be charged for the total salary costs of the Tenant Organizers since they spent at least eighty hours working on the OTAGs each biweekly pay period as supported by their time sheets.

HUD should determine the amount of overcharges resulting from the failure to properly allocate the Tenant Organizers salaries and consider requiring LACATH to reimburse the overcharges or offset them on future LOCCS draws. In making this determination, HUD should consider the fact that LACATH incurred significantly reduced grant administrative costs than may have been allowable under the applicable agreement between LACATH and CES. The written agreement specified monthly payments of \$2,400, but LACATH and CES informally agreed to a payment structure resulting in monthly payments averaging only \$700 to \$800.

AUDITEE COMMENTS AND OIG EVALUATION

The results of our review were discussed with LACATH and CES staff onsite during our review, and the draft report was discussed by telephone with the CES Supervisor on September 17, 2002. LACATH's written response to the draft report (Attachment A) expresses full agreement with the draft report.

RECOMMENDATIONS

No recommendations will be controlled under this report relative to possible lobbying activity since the need for clarification as to the Department's position on NAHT conference calls, NAHT national conferences and other conferences impacts most if not all OTAG and ITAG grantees, not just the LACATH. We do recommend that you:

- 1A. Determine the amount of overcharges resulting from the failure to properly allocate the Tenant Organizers salaries and consider: (1) requiring LACATH to reimburse the overcharges; (2) offsetting the overcharges on future LOCCS draws; or (3) waiving reimbursement of the overcharges in consideration of CES administrative cost savings.

Within 60 days please provide us, for the above recommendation, 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. 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 (415) 436-8101.



Los Angeles Center for Affordable Tenant Housing

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September 17, 2002

Ms. Mimi Y. Lee
Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
Office of Inspector General
450 Golden Gate Ave., Box 36003
San Francisco, CA 94102-3448

Dear Ms. Lee:

On behalf of the Board of Directors of the Los Angeles Center for Affordable Tenant Housing (LACATH), I am writing to respond to the draft memorandum report describing the results of the audit of LACATH's Outreach and Training Assistance Grants (OTAGs) numbered FFOT98003CA and FFOT00007CA.

While we contend that no OTAG funds were used for the purposes of lobbying, we do agree with the draft memorandum that grantees should be provided with clarification as to the Department's position of eligibility of costs associated with NAHT conference calls, NAHT annual conferences and other conferences that include activities that could be construed as lobbying. In the past, when any days at conferences included activities we believed might be construed as lobbying, expenses for those days, such as hotel costs and per diem costs, were paid for with funds other than OTAG funds.

From this point forward, it is our intention to pay for NAHT conference calls, and for that matter, all long distance calls, with funds other than OTAG funds, until there is clarification as to the Department's position on eligibility of costs associated with NAHT conference calls.

In regard to not properly allocating Tenant Organizer staff salaries to the OTAG in accordance with the requirements of OMB Circular A-122, we concur with the findings in the draft memorandum report that it was assumed the OTAGs could be charged for the total salary costs of the Tenant Organizers since they spent far more than the required eighty hours working on the OTAG each biweekly pay period. We also concur with the report that it was only a minimal time that was spent over the eighty plus OTAG related work hours, on other work. In the future, if staff works on non OTAG activities, we will allocate salary payments from funds based on the percentage of time worked on the activities in accordance with the requirements of OMB Circular A-122.

In addition, as the report indicates, CES charged a significantly reduced rate, averaging around \$1,600 to \$1,700 per month below the agreed upon payments for administrative costs. It is our contention that these savings far outweigh the minimal costs attributed to not properly allocating staff salaries and should offset these costs.

Attachment A (Cont)

We hope that these are acceptable responses to the draft memorandum report describing the results of the audit. Please inform me if you require any additional information.

I also did want to acknowledge the courtesies and extremely helpful suggestions provided by HUD OIG auditors Robert King and Nena Williams-Smith. They performed their duties in the utmost professional and courteous way.

Sincerely,

A handwritten signature in black ink that reads "Larry Gross". The signature is written in a cursive, flowing style.

Larry Gross
Supervisor

cc: Robert G. King, Senior Auditor, HUD Office of Inspector General

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The Honorable Barbara A. Mikulski, Chairwoman, Subcommittee on Veterans Affairs, HUD and Independent Agencies, United States Senate, Suite 709 Hart Senate Office Building, Washington, DC 20510

The Honorable Dan Burton, Chairman Committee on Government Reform, 2185 Rayburn Building, House of Representatives, Washington, DC 20515

The Honorable Henry A. Waxman, Ranking Member, Committee on Government Reform, 2204 Rayburn Building, House of Representatives, Washington, DC 20515

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