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Office of Inspector General for Audit, Midwest  
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Chicago, Illinois 60604-3507*

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AUDIT MEMORANDUM  
00-CH-185-1801

October 6, 1999

MEMORANDUM FOR: Elinor R. Bacon, Deputy Assistant Secretary for Public Housing  
Investments

FROM: Dale L. Chouteau, District Inspector General for Audit, Midwest

SUBJECT: Peoria Housing Authority  
HOPE VI Grant  
Peoria, Illinois

We completed a review of the HOPE VI grant awarded to the Peoria Housing Authority. We conducted the review in response to a complaint received from a national trade association. The complainant alleged that the Housing Authority: (1) falsified and/or misrepresented information concerning a \$4 million City of Peoria funding commitment in its application for HOPE VI funds; (2) used questionable procedures and processes in rating and selecting a developer for the HOPE VI project; and (3) violated conflict of interest prohibitions in selecting the tax credit syndicator for the HOPE VI project. Additionally, we referred allegations that the Authority failed to comply with requirements for providing economic and business opportunities for low income persons to HUD's Office of Fair Housing and Equal Opportunity.

The Peoria Housing Authority was awarded a HOPE VI grant in the amount of \$16,190,907 on October 6, 1997. As of August 31, 1999 the total amount of grant funds received from HUD was \$3,319,701.18. The HOPE VI program's books and records are located at the Authority's offices at 100 South Sheridan Road, Peoria, Illinois 61605. The Authority's Executive Director is Roger John.

Our audit objectives were to determine whether the Housing Authority: (1) submitted accurate information to HUD in its HOPE VI grant application regarding a City of Peoria funding commitment; (2) properly rated and selected the developer for the HOPE VI project; and (3) properly selected the tax credit syndicator for the HOPE VI project.

To ascertain whether the Authority submitted accurate information to HUD regarding a City of Peoria funding commitment, we reviewed the HOPE VI grant application and Revitalization Plan submitted to HUD. We also interviewed City Council members, and reviewed City Council meeting minutes.

To determine whether the HOPE VI developer was properly selected, we reviewed the Authority's and HUD's procurement requirements. Additionally, we reviewed the Request for Qualification and responses received, and interviewed members of the Authority's selection panel.

To determine whether the HOPE VI tax credit syndicator was properly selected, we interviewed Authority employees and its HOPE VI Program Manager. We also reviewed proposals received from tax credit syndicators and the Authority's analyses of the proposals.

We found that the grant application submitted to HUD in July 1997 did not include a specific dollar amount of City of Peoria funding committed to the HOPE VI project. However, the Revitalization Plan submitted to HUD in January 1999 stated that the City would provide \$4 million of funding for the HOPE VI project. In actuality, the Housing Authority did not request funding from the City Council until July 1999. Therefore, the funding commitment contained in the Revitalization Plan was not valid. However, in August 1999, the City Council approved \$3.6 million of funding for the HOPE VI project in a separate action that had no effect on HUD's approval of the Authority's application.

We did not find any evidence that the process for rating and selecting the HOPE VI developer was unfair or otherwise biased in favor of a particular developer. Additionally, the selection of the HOPE VI tax credit syndicator did not violate conflict of interest requirements. However, as discussed in the attached finding, the Housing Authority did not select the highest bidder as the tax credit syndicator. Also attached are the Executive Director's comments received in response to the finding.

Within 60 days, please give us, for the recommendation made in this memorandum, a status report on: (1) the corrective action taken; (2) the proposed corrective action and the date to be completed; or (3) why you consider action unnecessary. Also, please furnish us copies of any correspondence or directives issued because of this review.

If you or your staff have any questions, please contact me at (312) 353-7832.

# The Housing Authority Did Not Select The Highest Bidder As The Tax Credit Syndicator For The HOPE VI Project

The Peoria Housing Authority did not select the investment firm that submitted the highest proposal as its HOPE VI Program tax credit syndicator. The Authority's HOPE VI Program Manager believed it was more efficient to select a firm affiliated with the HOPE VI developer. As a result, the HOPE VI project may not maximize the tax credit funding available.

## Background

Under the Low Income Housing Tax Credit Program, private investors purchase tax credits in order to reduce their Federal income tax liability. The proceeds from the sale of the tax credits are used to acquire, construct, or rehabilitate housing for low income people. A tax credit syndication firm acquires funds from private investors and forms a partnership with a developer who will implement the housing development project.

## Criteria

The Request For Qualifications for the Warner Homes Developer states that upon the selection of a short list of prospective investors, interviews and final negotiations would be held with the developer.

24 CFR 941.606(n)(1)(ii)(B) states that if a development partner and/or owner entity wants to serve as the general contractor for a development, it may be awarded the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest bid submitted in response to a public request for bids. **Auditor's Note: Using this same principle, an identity-of-interest tax credit syndicator conversely should be expected to meet or exceed the highest bid to provide the maximum amount of tax credit funding to a project.**

## Tax Credit Proposals Were Solicited From Investors

On July 22, 1998, the Illinois Housing Development Authority awarded 1998 low income housing tax credits to the Housing Authority totaling \$14,778,840. In February 1999, acting on behalf of the Housing Authority, the HOPE VI Program Manager solicited proposals from investors to purchase the low income housing tax credits. Responses were received from ten investment firms.

Highest Tax Credit  
Syndication Proposal Was  
Not Selected

The highest tax credit syndication proposal was received from Boston Financial. The proposal provided for total investor equity of \$12,410,000 or 84 cents per tax credit dollar. The second highest proposal was received from Apollo Housing Capital, a firm having an identity-of-interest relationship with the Warner Homes developer. Apollo Housing Capital's proposal provided for total investor equity of \$12,265,000 or 83 cents per tax credit dollar.

In contrast to the terms of the Request For Qualifications for the Warner Homes Developer, the HOPE VI Program Manager did not prepare a short list of prospective investors to negotiate a tax credit package with the Warner Homes developer. Rather, on April 19, 1999, the HOPE VI Program Manager advised Apollo Housing Capital that it had been selected as the HOPE VI tax credit syndicator based on its relationship with the selected HOPE VI developer.

The selection of Apollo Housing Capital as the tax credit syndicator was conditional upon it meeting the terms of the best proposal received. Specifically, the HOPE VI Program Manager requested that the cash investment exceed \$12,400,000. In response, Apollo Housing Capital actually reduced its proposed cash investment to \$10,881,000. This proposal would have resulted in the Warner Homes project receiving \$1,529,000 less funding than the amount proposed by Boston Financial. The Program Manager did not accept the modified proposal and again requested a cash investment of \$12,400,000 from Apollo Housing Capital.

The Authority Was  
Subsequently Awarded  
1999 Tax Credits

On August 20, 1999, the Illinois Housing Development Authority awarded 1999 low income housing tax credits to the Housing Authority totaling \$23,516,490. As a condition of receiving the 1999 tax credits, the Housing Authority relinquished the previously awarded 1998 tax credits.

The Housing Authority does not plan to solicit new tax credit syndication proposals for the 1999 tax credits. Apollo Housing Capital will remain as the HOPE VI tax credit syndicator. On August 18, 1999, the Authority's HOPE VI Program Manager requested Apollo Housing Capital to commit to a cash investment of \$19,500,000, or 83 cents per tax credit dollar.

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**Auditee Comments**

(Excerpts from the Executive Director's comments on our draft finding follow. Appendix A contains the complete text of the comments.)

The Authority is in agreement with the OIG's draft recommendation; namely, the Authority (more precisely, the partnership of which the Authority or an affiliate will have an interest) will require Apollo Housing Capital, LLC (the identity of interest tax credit syndicator) to meet the terms of the best proposal received (identified in your report as Boston Financial Company).

While we concur with OIG's recommendation, the Authority does wish to comment on the OIG's conclusion that the "highest" tax credit proposal was not selected. While price is a significant factor in the selection of a tax credit investor, there are factors other than price utilized in analyzing the terms and conditions under which an investor will be admitted as a partner of the project partnership. The project accountant, Beth Mullen, summarized and evaluated other terms and conditions of the Boston Financial and Apollo proposals, indicating several key advantages to the Apollo proposal (guarantee terms and reserve requirements).

You referenced 24 CFR 941.606 (n)(1)(ii)(B) in your draft finding. Our interpretation of the regulation differs and we question its applicability in this instance. It was the Authority, not the developer, who selected the equity investor. Thus, there was no relationship between the Authority and the investor creating the identity of interest concern addressed by the regulation. Second, as indicated in the attached letter from Beth Mullen, there are other significant factors that need to be taken into account when selecting an investor partner.

In summary, the Authority will choose Apollo Housing Capital, LLC as the investor for its project only if it submits a proposal offering a price equal to that previously submitted by Boston Financial (\$.84 per tax credit dollar). The PHA will not accept a bid from Apollo unless our tax credit counsel and accountants render an opinion that any bid by Apollo meets the bid price and is otherwise equal to or superior to the Boston Financial offer.

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OIG Evaluation of  
Auditee Comments

The Authority's HOPE VI Program Manager advised Apollo Housing Capital that it was selected as the tax credit syndicator because of the presumed efficiency of working with the selected identity-of-interest HOPE VI developer. The approval letter did not mention advantages such as guarantee terms and reserve requirements. Further, the approval letter specifically stated that Apollo would be required to meet the terms of the best proposal.

Although the Authority rather than the developer selected the tax credit syndicator, the selection was based on an identity-of-interest relationship between the developer and the selection. As a result, we believe that the Authority's basis for selection is subject to the requirements of 24 CFR 941.606 (n)(1)(ii)(B).

The Authority's plans to require Apollo Capital to meet the terms of the best proposal will correct the issue addressed in our audit finding.

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Recommendations

We recommend that the Deputy Assistant Secretary, Office of Public Housing Investments, assures that the Peoria Housing Authority:

1A. Either selects the highest bidder as the tax credit syndicator or requires the selected identity-of-interest tax credit syndicator to meet the terms of the best proposal received.

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# Auditee Comments

September 13, 1999

Mr. Richard Urbanowski, Senior Auditor  
U.S. Dept. of Housing and Urban Development  
Office of Inspector General for Audit, Midwest  
77 West Jackson Boulevard, Room 2646  
Chicago, IL 60604-3507

RE: Audit Findings

Dear Mr. Urbanowski:

This letter is in response to your letter of September 3, 1999 regarding the Office of Inspector General's draft finding that resulted from your review of the Peoria Housing Authority ("Authority").

I, along with attorney Ben Applegate (Applegate & Thorne-Thomsen), accountant Beth Mullen (Reznick Fedder and Silverman) and program manager Bill Whitman (Telesis Corporation) have reviewed your finding. The Authority is in agreement with the OIG's draft recommendation; namely, the Authority (more precisely, the partnership of which the Authority or an affiliate will have an interest) will require Apollo Housing Capital, LLC (the identity of interest tax credit syndicator) to meet the terms of the best proposal received (identified in your report as Boston Financial Company).

While we concur with OIG's recommendation, the Authority does wish to comment on the OIG's conclusion that the "highest" tax credit proposal was not selected. While price is a significant factor in the selection of a tax credit investor, there are factors other than price utilized in analyzing the terms and conditions under which an investor will be admitted as a partner of the project partnership. The project accountant, Beth Mullen, summarized and evaluated other terms and conditions of the Boston Financial and Apollo proposals, indicating several key advantages to the Apollo proposal (guarantee terms and reserve requirements).

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In summary, the Authority will choose Apollo Housing Capital, LLC as the investor for its project only if it submits a proposal offering a price equal to that previously submitted by Boston Financial (\$.84 per tax credit dollar). The PHA will not accept a bid from Apollo unless our tax credit counsel and accountants render an opinion that any bid by Apollo meets the bid price and is otherwise equal to or superior to the Boston Financial offer.

We hope that this letter appropriately responds to the concerns set forth in the draft finding and that the formal issuance of the finding will not be necessary.

Please feel free to contact me should you have any questions.

Sincerely,  
Roger John, Executive Director



# Distribution

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 Director, Office of Budget, FO (Room 3270)  
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 Director of Scheduling and Advance, AL, 10158  
 Counselor to the Secretary, S, 10234  
 Deputy Chief of Staff, S, Room 10226  
 Deputy Chief of Staff for Operations, S, Room 10226  
 Deputy Chief of Staff for Programs and Policy, S, Room 10226  
 Deputy Assistant Secretary for Public Affairs, W, Room 10222  
 Special Assistant for Inter-Faith Community Outreach, S, 10222  
 Executive Officer for Administrative Operations and Management, S, Room 10220  
 Senior Advisor to the Secretary for Pine Ridge Project, W, 10216  
 General Counsel, C, Room 10214  
 Office of the Deputy General Counsel, CB, Room 10220  
 Director, Office of Federal Housing Enterprise Oversight, O, 9<sup>th</sup> Floor Mailroom  
 Assistant Secretary for Housing/Federal Housing Commissioner, H, Room 9100  
 Office of Policy Development and Research, R, Room 8100  
 Assistant Secretary for Community Planning and Development, D, Room 7100  
 Government National Mortgage Association, T, Room 6100  
 Assistant Secretary for Fair Housing and Equal Opportunity, E, Room 5100  
 Chief Procurement Officer, N, Room 5184  
 Assistant Secretary for Public and Indian Housing, P, Room 4100  
 Chief Information Officer, Q, Room 3152  
 Director, Office of Departmental Operations and Coordination, I, Room 2124  
 Chief Financial Officer, F, Room 2202  
 Director, Enforcement Center, V, 200 Portals Building  
 Director, Real Estate Assessment Center, X, 1280 Maryland Avenue, SW, Suite 800  
 Director, Office of Multifamily Assistance Restructuring, Y, 4000 Portals Building  
 Deputy Staff Director, Counsel, Subcommittee on Criminal Justice, Drug Policy &  
 Human Resources, B 373 Rayburn House Office Bldg., Washington, DC 20515

## Appendix B

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The Honorable Fred Thompson, Chairman, Committee on Governmental Affairs, 340 Dirksen  
Senate Office Building, United States Senate, Washington, DC 20510

The Honorable Joseph Lieberman, Ranking Member, Committee on Governmental Affairs, 706  
Hart Senate Office Building, United States Senate, Washington, DC 20510

The Honorable Dan Burton, Chairman, Committee on Government Reform, 2185 Rayburn Bldg.,  
U.S. House of Representatives, Washington, DC 20515

Henry Waxman, Ranking Member, Committee on Government Reform, 2204 Rayburn Bldg.,  
U.S. House of Representatives, Washington, DC 20515

Ms. Cindy Fogleman, Subcommittee on Oversight and Investigations, Room 212,  
O'Neil House Office Bldg., Washington, DC 20515

Director, Housing and Community Development Issue Area, U.S. General Accounting Office,  
441 G Street NW, Room 2474, Washington DC 20548 (Attention: Judy England-Joseph)

Steve Redburn, Chief, Housing Branch, Office of Management and Budget, 725 17th Street,  
NW, Room 9226, New Executive Office Building, Washington, DC 20503

Executive Director, Peoria Housing Authority