



U.S. Department of Housing and Urban Development
District Office of the Inspector General
Office of Audit, Box 42
Richard B. Russell Federal Building
75 Spring Street, SW, Room 330
Atlanta, GA 30303-3388
(404) 331-3369

January 4, 2001

Audit Related Memorandum
01-AT-202-1802

MEMORANDUM FOR: William Flood, Director, Office of Urban Revitalization,
HOPE VI, PTU

FROM: Nancy H. Cooper
District Inspector General for Audit-Southeast/Caribbean, 4AGA

SUBJECT: Procurement of the Kimberly Park HOPE VI Developer
Housing Authority of Winston-Salem
Winston-Salem, North Carolina

At the request of your office, the Office of the Inspector General (OIG) conducted a limited review of procurement activities by the Housing Authority of Winston-Salem, NC (Authority). Specifically, we reviewed its procurement of a developer for the Kimberly Park Housing Opportunities for People Everywhere (HOPE) VI Program. Our objectives were to determine whether the Authority's procurement policies and procedures complied with Federal requirements and to determine whether it followed requirements when it selected the HOPE VI developer.

METHODOLOGY AND SCOPE

To accomplish the objectives we interviewed Department of Housing and Urban Development (HUD) and Authority officials, reviewed HUD and Authority files and documents, and performed other interviews and reviewed other records as needed. Our review generally covered the period November 23, 1999, through February 8, 2000. We extended the review to other periods when appropriate. We conducted our review from July 1, 2000, through September 1, 2000.

BACKGROUND

In an April 12, 2000, memorandum, the Director of Public Housing, North Carolina State Office, informed your office of weaknesses in the Authority's HOPE VI procurement procedures. The memorandum reported the Authority did not have adequate documentation to support its selection of the developer or ensure continued competition throughout the selection process. It

also did not fully comply with other selection requirements. Subsequently, your office requested we perform a review to determine if the Authority had additional documentation to support its selection.

A previous OIG review found weaknesses in the Authority's procurement procedures. OIG Audit Memorandum, (99-AT-204-1806), dated June 3, 1999, disclosed the Authority did not comply with procurement requirements for three of seven procurements we tested. Specifically, the Authority did not ensure free and open competition. We recommended the Authority train its procurement staff and implement procurement review procedures to ensure staff followed requirements.

SUMMARY

We found the Authority did not comply with its procurement policies or Federal requirements when it selected the developer for the Kimberly Park HOPE VI project. The Authority's evaluation panel did not follow prescribed evaluation procedures and the Authority did not properly document its selection process. Thus, we were unable to determine whether it provided full and open competition, its rationale for accepting or rejecting contractors, or whether its selection was objective, impartial, consistent, and fair. Also, HUD has no assurance the contractor selected was the most advantageous to the program. This occurred because the Executive Director, rather than an experienced Contract Administrator, acted as the Contracting Officer responsible for overseeing the procurement.

We recommend you require the Authority to issue a new Request for Proposal (RFP) and select a developer for the Kimberly Park HOPE VI project using required procurement procedures. The Authority must fully document the procurement.

Details of the finding and our recommendation are in Attachment A.

We provided you a draft memorandum on October 25, 2000. You provided a written response to the draft on November 15, 2000, which is summarized in the finding and included in its entirety as Attachment B. You agreed with our recommendation and advised us the Authority terminated its Memorandum of Understanding with the developer and will re-issue a Request for Qualifications (RFQ). The Authority will use a selection and documentation process consistent with Authority and Federal procurement policy. We concur in these management decisions and consider final action for the recommendation to be complete.

We provided a copy of this memorandum to the Authority.

If you have any questions, please contact me at (404) 331-3369 or Gerald Kirkland, Assistant District Inspector General, at (865) 545-4368.

Attachments

- A - Finding and Recommendations
- B - HUD's Comments
- C - Distribution

FINDING AND RECOMMENDATION

Finding – The Authority Did Not Comply With Procurement Requirements

The Authority did not comply with its procurement policies or Federal requirements when it selected the developer for the Kimberly Park HOPE VI project. The evaluation panel did not follow prescribed evaluation procedures and the Authority did not properly document its selection process. Thus, we were unable to determine whether its selection was objective, impartial, consistent, and fair, whether it provided full and open competition, or its rationale for accepting or rejecting contractors. Also, HUD has no assurance the contractor selected was the most advantageous to the program. This occurred because the Executive Director, rather than an experienced Contract Administrator, acted as the Contracting Officer responsible for overseeing the procurement.

HUD Handbook 7460.8 Rev-1 “Procurement Handbook for Public Housing Agencies and Indian Housing Authorities,” the Authority’s procurement policies, and Title 24 of the Code of Federal Regulations, part 85.36, provide specific procurement requirements. The Authority’s policy states the contracting officer has responsibility for the administration of a procurement action.

The Authority Did Not Comply With Evaluation Requirements

HUD Handbook 7460.8 Rev-1 provides that evaluation of the RFP should be impartial, consistent, and objective. A written evaluation plan and an evaluation process must be prepared before the RFP is issued.

An evaluation panel was to review all technical proposals (using the RFP’s evaluation criteria as standards), meet to discuss the evaluations, and reach a consensus on the rating of each respondent. The panel was to prepare a formal written report to the Contracting Officer.

We found the Authority did not comply with evaluation requirements. As a result, the consistency and fairness of the evaluations were questionable. For example:

- Although the Authority’s November 23, 1999, RFQ included a plan to evaluate the written portion of the proposals, it did not address evaluation of the oral interviews.
- The Authority did not check references for any of the respondents except those for the winning developer.
- One of the five evaluation panel members did not rate any of the references for the proposals.
- One of the evaluators did not review the written proposals. Thus, this evaluator’s selection was based solely on the oral presentations.

- The evaluation panel did not provide a written report of its proposal evaluations or the results of the oral presentations to the Contracting Officer.
- The only evidence of the ranking following the oral presentations was a piece of paper that showed the panel members' handwritten voting results. It was unclear if these results were for the overall ratings or just the results of the oral presentation. A March 31, 2000, letter prepared by the Authority's attorney states that the firm selected was ranked second after the oral presentations.

The Authority Did Not Establish a Competitive Range

The Contracting Officer was responsible for determining a competitive range for evaluating the ratings. The procurement file is to contain written documentation of the competitive range. If there is some doubt as to the potential for a proposal becoming acceptable, the proposal should be included in the competitive range in order to promote continued competition.

The Contracting Officer did not prepare a written decision as to how the competitive range was determined. Following written evaluations of the proposals, the Authority included three respondents in the competitive range. These respondents subsequently gave oral presentations to the evaluation panel. The Authority did not include another respondent's proposal in the competitive range even though, on average, its proposal was only 0.75 points less than the lowest proposal included in the competitive range. Thus, the Authority did not appear to set the range in favor of continuing competition. The Authority did not document its rationale for not including the fourth ranked proposal in the competitive range. Since the respondent was not given the opportunity to provide an oral presentation, HUD cannot be assured the Authority provided full and open competition or assure the contractor selected was the most advantageous to the program.

The Authority Did Not Properly Document The Procurement

HUD Handbook 7460.8 Rev-1 and the Regulations provide specific requirements for documentation supporting the procurement. The Contracting Officer should prepare a price negotiation memo summarizing the negotiation results and the basis for the award decision. Sufficient records must be maintained documenting the history of the procurement. Records should include the Authority's rationale for contractor acceptance or rejection and the basis for the contract prices. We found the Authority did not properly document the procurement.

The Authority did not supply adequate written documentation of the factors considered by its Board and the Executive Director in deciding to award the procurement. The only related documentation it provided was the minutes from a Board meeting held on February 8, 2000. The minutes show that following the Executive Director's recommendation, the Board adopted Resolution 1353 authorizing the Executive Director to enter into a contract with H. J. Russell & Company to be the Developer/Partner of Phases II, III, and IV of the Kimberly Park HOPE VI project. The minutes state the Executive Director made the recommendation based on reviews and many discussions with his staff. The Authority could not provide documentation supporting its decision to award the contract to the respondent rated second by the evaluation panel or documentation of the discussions between the Executive Director and his staff.

Also, awards must be made to the responsible firm whose proposal is most advantageous to the program considering price and other factors. The Authority did not provide documentation supporting the selected contractor was responsible or documentation showing the respondent apparently selected by the evaluation panel was not responsible.

Further, after awarding the contract, the Authority is required to give written notification to each unsuccessful respondent. The notice should provide a brief explanation why the offer was not selected, identify the successful contractor, and provide an opportunity for a debriefing meeting with the Contracting Officer to discuss any questions.

The Authority gave written notification to the two unsuccessful respondents who participated in the oral presentations. However, the notification did not explain why their offers were not selected and did not provide an opportunity or information for a debriefing.

HUD Comments

HUD provided a written response to the draft on November 15, 2000. It agreed with our recommendation and advised us the Authority terminated its Memorandum of Understanding with the developer and will re-issue a Request for Qualifications (RFQ). The Authority will use a selection and documentation process consistent with Authority and Federal procurement policy.

OIG Response to Comments

We concur in these management decisions and consider final action for the recommendation to be complete.

Recommendation

1. We recommend you require the Authority to issue a new request for proposal and select a developer for the Kimberly Park HOPE VI project using required procurement procedures. The Authority must fully document the procurement.

HUD's COMMENTS



U. S. Department of Housing and Urban Development
Washington, D.C. 20410-5000

November 15, 2000

OFFICE OF THE ASSISTANT SECRETARY
FOR PUBLIC AND INDIAN HOUSING

MEMORANDUM FOR: Nancy Cooper, District Inspector General
for Audit Southeast/Caribbean, 4AGA

FROM: 
Elinor R. Bacon, Deputy Assistant Secretary
Office of Public Housing Investments, PT

SUBJECT: Inspector General Survey of Housing Authority of
Winston-Salem Procurement of Kimberly Park
Terrace HOPE VI Developer Partner

The Office of Public Housing Investments has received and reviewed the recommendations made by your office concerning the audit survey of activities of the Housing Authority of Winston-Salem, NC (HAWS) regarding the procurement of a developer partner for the redevelopment of Kimberly Park Terrace under the HOPE VI program.

Senior Staff, the Grant Manager and I met with the Executive Director, J. Reid Lawrence, and the HOPE VI Director, Wayman Williams in HUD Headquarters on Tuesday, October 31, 2000 to discuss the audit issues and other issues related to the Kimberly Park Terrace project. During the meeting, Mr. Lawrence stated the Housing Authority Board of Commissioners passed a resolution (copy attached) on October 10, 2000 to terminate the Memorandum of Understanding (MOU) with the developer partner. He agreed to re-issue a Request for Qualifications (RFQ) and to select a developer using a selection and documentation process that is consistent with HAWS and Federal procurement policy.

In an effort to ensure procurement policy compliance, OPHI has taken several additional steps to include placing the HAWS on automatic review of all procurement documents, closely monitoring procurement activities at HAWS, and will assign a HUD technical assistance expediter who will work directly with the Housing Authority staff and the review panel during the re-procurement and selection process. The HAWS has agreed to all of these measures.

If you have questions or need additional information, please do not hesitate to call upon me.



Housing Authority of the
City of Winston-Salem

. Reid Lawrence - Executive Director
. Fulton Meachem, Jr. - Deputy Executive Director

Commissioners

William H. Andrews, *Chairman*
Ernest H. Pitt, *Vice Chairman*
Ms. Louise H. Davis
Mrs. Barbara G. White

October 11, 2000

Ms. Elinor R. Bacon
Deputy Assistant Secretary
Office of Public Housing Investments
451 7th Street, SW
Washington, DC 20410-5000

Re: Kimberly Park Terrace – Phase 2-4
HOPE VI Grant Number: NC19URD0121197

Dear Ms. Bacon:

Enclosed please find our Board of Commissioner's resolution and my letter to H.J. Russell Company terminating the Memorandum of Understanding so that HAWs can move forward and commence negotiations with the next applicant for Master Developer for our HOPE VI program. I believe the Housing Authority of the City of Winston-Salem Board of Commissioner's resolution fairly reflects our process toward the selection of a Master Developer.

However, should you have questions or concerns, please do not hesitate to call me at 336-727-8500 ext. 102 or Wayman Williams, Director of HOPE VI at 336-727-8500 ext. 111.

Sincerely,

J. Reid Lawrence
Executive Director

CC: William H. Andrews, HAWs Chairman
A. Fulton Meachem, Deputy Executive Director
Wayman A. Williams, HOPE VI Director
Harkin Group, LLC, Program Manager
Sherrod Banks, HOPE VI Attorney
Marcia Martin, Grants Manager
William Flood, Director, Office of Urban Revitalization
Ledford L. Austin, Director, North Carolina State Office of Public Housing

901 Cleveland Ave. ~ Winston-Salem, NC 27101 ~ Phone (336) 727-8500 ~ Fax (336) 777-8508

RESOLUTION NO. 1382
(See following page for Resolution No. 1382)

Commissioner Davis made a motion that this resolution be adopted as introduced and read. The motion was seconded by Commissioner Pitt and upon roll call the "Ayes" and "Nays" were as follows:

AYES:	William H. Andrews	NAYS: None
	Ernest H. Pitt	
	Louise H. Davis	
	Barbara G. White	

The Chairman then declared the resolution passed as introduced.

CERTIFICATION

This is to certify that the above is a true and exact copy of the Resolution passed by the Board Commissioners of the Housing Authority of the City of Winston-Salem at its regular meeting held on October 10, 2000.

(SEAL)


✓ Reid Lawrence
Executive Director



Housing Authority of the City of Winston-Salem

Commissioners

William H. Andrews, *Chairman*
Ernest H. Pitt, *Vice Chairman*
Ms. Louise H. Davis
Bryan Rainbow
Mrs. Barbara G. White

J. Reid Lawrence - *Executive Director*
A. Fulton Meachem, Jr. - *Deputy Executive Director*

Board Resolution No. 1382

Whereas, the Housing Authority of the City of Winston-Salem (the "Authority") was awarded a fiscal year 1997 HOPE VI Grant for the revitalization of the Kimberly Park public housing community and executed its Grant Agreement with HUD on January 29, 1998;

Whereas, on October 26, 1998, the Authority issued a Request for Qualifications for a Master Developer of the implementation of the HOPE VI Grant;

Whereas, on November 24, 1998, McCormack Baron & Associates, Inc ("McCormack Baron") was selected by the Board of Commissioners as Master Developer subject to the negotiation of a definitive developer agreement;

Whereas, on September 22, 1999, the Authority received notice from McCormack Baron that it was withdrawing from negotiations with the Authority and would not seek the position of Master Developer;

Whereas, on September 27, 1999, the Authority issued a Request for Qualification for a Developer/Partner for the sole purpose of developing Phase I of the Authority's revitalization plan for Kimberly Park;

Whereas, on October 12, 1999, the Authority's Board of Commissioners selected Eagan and Sons as Developer/Partner for Phase I of the revitalization plan of Kimberly Park subject to the negotiation of a definitive developer agreement;

Whereas, on December 10, 1999, the Authority entered into a Development Services Agreement with Eagan and Sons, via its subsidiary, Old Mill Development, LLC;

Whereas, on November 23, 1999, the Authority issued a Request for Qualifications for a Master Developer to act as the Authority's Developer/Partner for all phases of the Kimberly Park revitalization plan other than Phase I;

Whereas, five candidates submitted proposals in response to the Request for Qualifications including, Magi Realty, Inc. ("Magi"), East Lake Management and Development Corporation ("East Lake"), Landex Corporation and Richman Group ("Landex"), H.J. Russell & Company ("Russell"), and Weaver-Cooke Kirkland;

901 Cleveland Ave. ~ Winston-Salem, NC 27101 ~ Phone (336) 727-8500 ~ Fax (336) 777-8508

Whereas, an evaluation panel ranked the applicants as follows:

<u>Candidate</u>	<u>Rank</u>
Magi	1
Russell	2
Landex	3

Whereas, the Executive Director disagreed with the rankings and made an administrative recommendation to the Board of Commissioners that it first negotiate with Russell, and if these negotiations prove unsuccessful that the Authority next negotiate with Magi;

Whereas, on February 8, 2000, the Board of Commissioners considered the rankings of the evaluation panel and the recommendation of the Executive Director, and decided, within its discretion as set forth in the RFQ, to select Russell as Developer/Partner subject to the negotiation of a definitive developer agreement;

Whereas, on February 8, 2000, the Board also authorized the Executive Director to commence negotiations with Magi after the Executive Director has negotiated with Russell in good faith and the Executive Director has determined that a definitive agreement with Russell cannot be reached;

Whereas, on May 5, 2000, the Authority and Russell entered into a Memorandum of Understanding for the purpose of stating the parties intentions and to provide for certain predevelopment activities prior to entering into a definitive developer agreement; and

Whereas, the Executive Director has reported to the Board of Commissioners that the negotiations with Russell pursuant to the Memorandum of Understanding have proved unsuccessful and that it is in the best interests of the Authority to cease negotiations with Russell at this time and to commence negotiations with Magi toward a definitive developer agreement.

Now, Therefore, Be It Resolved, that the Authority hereby executes its rights under Article 6 of the Memorandum of Understanding to terminate the Memorandum of Understanding for the convenience of the Authority.

Resolved that the Executive Director shall notify Russell in writing of the Authority's action without delay.

Resolved further that the Executive Director shall commence negotiations with Magi without delay, and if said negotiations prove unsuccessful, the Executive Director shall commence negotiations with Landex.



Housing Authority of the
City of Winston-Salem

Commissioners

William H. Andrews, *Chairman*
Ernest H. Pitt, *Vice Chairman*
Ms. Louise H. Davis
Mrs. Barbara G. White

J. Reid Lawrence - *Executive Director*
A. Fulton Meachem, Jr. - *Deputy Executive Director*

October 10, 2000

Mr. H. Jerome Russell
President & COO
H.J. Russell Development Corporation
504 Fair Street, SW
Atlanta, Georgia 30313

Mr. Daniel P. Henson, III
The Henson Development Company, Inc.
5517 Groveland Avenue
Baltimore, Maryland 21215

Re: **Notice of Termination**

Dear Mr. Russell and Mr. Henson:

Please be advised that the Authority is exercising its rights pursuant to Article 6 of the Memorandum of Understanding to terminate the Memorandum of Understanding effective this date and thereby cease negotiations with Russell ("the Company") towards a Development Agreement.

Sincerely,

J. Reid Lawrence
Executive Director

cc Ronald A. Matamoros, Esquire
Blanco Tackabery Combs & Matamoros, P.A.
P. O. Drawer 25008
Winston-Salem, North Carolina 27114

William H. Andrews - Board Chairman
Wayman Williams, HOPE VI Director
Sherrod Banks, HOPE VI Attorney

901 Cleveland Ave. ~ Winston-Salem, NC 27101 ~ Phone (336) 727-8500 ~ Fax (336) 777-8508

DISTRIBUTION

Director, Office of Urban Revitalization, HOPE VI, PTU (Room 4134)
 Executive Director, Housing Authority of Winston-Salem
 Secretary, S
 Deputy Secretary, SD (Room 10100)
 Chief of Staff, S (Room 10000)
 Assistant Secretary for Administration, S (Room 10110)
 Acting Assistant Secretary for Congressional and Intergovernmental Relations, J (Room 10120)
 Deputy Assistant Secretary, Office of Public Affairs, S, (Room 10132)
 Deputy Assistant Secretary for Administrative Services, Office of the Executive Secretariat, AX
 (Room 10139)
 Deputy Assistant Secretary for Intergovernmental Relations,
 Acting Deputy Chief of Staff, S (Room 10226)
 Deputy Chief of Staff for Policy, S (Room 10226)
 Deputy Chief of Staff for Programs, S (Room 10226)
 Special Counsel to the Secretary, S (Room 10234)
 Senior Advisor to the Secretary, S
 Special Assistant for Inter-Faith Community Outreach, S (Room 10222)
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 General Counsel, C (Room 10214)
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 Chief Procurement Officer, N (Room 5184)
 Assistant Secretary for Public and Indian Housing, P (Room 4100)
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 Acting Director, HUD Enforcement Center, V, 1250 Maryland Avenue, SW, Suite 200
 Acting Director, Real Estate Assessment Center, X, 1280 Maryland Avenue, SW, Suite 800
 Director, Office of Multifamily Assistance Restructuring, Y, 1280 Maryland Ave., SW, Suite 4000
 Inspector General, G (Room 8256)

Secretary's Representative, 4AS
State Coordinator, North Carolina State Office, 4FS
Director, Office of Public Housing, 4FPH
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Public Affairs Officer, G (Room 8256)
Stanley Czerwinski, Associate Director, Resources, Community, and Economic Development
Division, U.S. GAO, 441 G Street N.W., Room 2T23, Washington DC 20548
The Honorable Fred Thompson, Chairman, Committee on Governmental Affairs,
United States Senate, Washington DC 20510-6250
The Honorable Joseph Lieberman, Ranking Member, Committee on Governmental Affairs,
United States Senate, Washington DC 20510-6250
The Honorable Dan Burton, Chairman, Committee on Government Reform,
United States House of Representatives, Washington DC 20515-6143
The Honorable Henry A. Waxman, Ranking Member, Committee on Government Reform,
United States House of Representatives, Washington, DC 20515-4305
Ms. Cindy Fogleman, Subcommittee on Oversight and Investigations, Room 212,
O'Neil House Office Building, Washington, DC 20515-6143
Steve Redburn, Chief, Housing Branch, Office of Management and Budget, 725 17th Street, NW,
Room 9226, New Executive Office Bldg., Washington, DC 20503
Sharon Pinkerton, Deputy Staff Director, Counsel, Subcommittee on Criminal Justice, Drug
Policy and Human Resources, B373 Rayburn House Office Bldg., Washington, DC 20515
Armando Falcon, Director, Office of Federal Housing Enterprise Oversight, O, 1700 G Street, NW,
Room 4011, Washington, DC 20552