




Issue Date:

September 20, 2002

Audit Case Number:

2002-AT-1808

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

FROM: Nancy H. Cooper 
Regional Inspector General for Audit, Region 4, 4AGA

SUBJECT: Congressionally Requested Audit of the Outreach and Technical Assistance Grants awarded to the Homeless and Housing Coalition of Kentucky, Inc., Frankfort, Kentucky
Grant Numbers FFOT98011KY and FFOT00016KY

INTRODUCTION

We completed an audit of the two Outreach and Technical Assistance Grants (OTAG) awarded to the Homeless and Housing Coalition of Kentucky, Inc. (Grantee). The audit found that the Grantee overcharged the grants \$16,287 for ineligible costs and did not comply with other requirements under the Office of Management and Budget's (OMB) Circular A-122, Cost Principles for Non-Profit Organizations. In addition, the Grantee participated in state lobbying activities, contrary to OMB Circular A-122. Our report contains 10 recommendations to address the issues identified in the report and strengthen management controls over the Grantee.

Section 1303 of the 2002 Defense Appropriation Act (Public Law 107-117) requires the Department of Housing and Urban Development (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 Housing 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 Grantee's 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 nonprofit entities, and Office of Management and Budget's guidance on the allowability of costs for nonprofit grantees.

The audit covered the period January 1999 through May 2002. We performed the fieldwork at the Grantee's offices at 229 W. Main Street, Suite 105, Frankfort, KY 40601 during June and July 2002. We conducted the audit in accordance with generally accepted government auditing standards.

We appreciate the courtesies and assistance extended by Grantee personnel during our review.

We provided our draft report to the Grantee for their comments on August 14, 2002. The Grantee provided their written comments on August 23, 2002. The Grantee attributed most of the deficiencies to staff that are no longer employed, but indicated they have taken a number of corrective actions to address the findings. The Grantee's comments are summarized in each of the findings and included in Appendix B.

In accordance with HUD Handbook 2000.06 REV-3, within 60 days please provide us, for each recommendation without management decisions, a status report on: (1) the corrective action taken; (2) the proposed corrective action and 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. We have provided the Grantee a copy of this report.

If you have any questions, please contact James D. McKay, Assistant Regional Inspector General for Audit, at (404) 331-3369.

SUMMARY

The Grantee failed to maintain adequate records to support charges to the grants, and charged the grants for ineligible activities. The ineligible activities included unreasonable consulting fees, lobbying activities that are prohibited by OMB Circular A-122, and unrelated travel and training costs. The Grantee's failure to comply with requirements under OMB Circulars A-122 and A-110 resulted in overcharges to the grants of at least \$16,287 for ineligible activities. The Grantee also failed to use a cost allocation method or plan that complied with guidance in OMB Circular A-122 to allocate indirect costs to the grants. Consequently, the Grantee could not support \$54,625 of indirect costs charged to the grants. Also, the Grantee failed to submit required supporting data for some payment vouchers. Our report contains recommendations to address these issues and strengthen management controls over the Grantee. We recommend you 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 expenditures complies with OMB Circular A-122.

BACKGROUND

MAHRA established 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 award, 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 for 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 nonprofit organizations to participate in the Section 514 programs. HUD provided two types of grants - ITAG and 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 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 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 nonprofit organizations. The regulations (24 CFR 84.27) require that nonprofit grantees utilize OMB Circular A-122, Cost Principles for Non-Profit Organizations in determining the allowability of costs incurred. 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 requirements to support the allocation of costs.

The Circular also establishes the unallowability of costs associated with Federal and state lobbying activities. Simply stated, the use of federal funds for any lobby 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 Grantee received two separate OTAGs. HUD awarded the first grant¹ in fiscal year 1998 in the amount of \$210,000. HUD awarded the second grant² in fiscal year 2000 in the amount of \$450,000. Funding under both grants was for a period of 3 years. Only \$270,000 of the second grant has been authorized. The Grantee submitted vouchers to OMHAR for reimbursement of expenditures. As of May 31, 2002, the Grantee had requested and received reimbursements totaling \$201,449 under the 1998 OTAG. For the 2000 OTAG, the Grantee had charged expenditures totaling \$27,734, and received reimbursements in the amount of \$18,141. The Grantee had submitted payment vouchers for the balance of \$9,593.

In addition to the OTAG funds, the Grantee received other HUD grants under the Technical Assistance Provider to Community Planning and Development (CPD) Programs during the period covered by our audit. The Grantee received other Federal funding through the Corporation for National Service (CNS) for the AmeriCorps Program that is administered jointly by CNS and the Kentucky Commission for Community Service and Volunteerism. The Grantee also received state grants, donations, dues, fees, interest income, and other miscellaneous funds.

The Grantee's financial statements were audited by a Certified Public Accountant for each of the years ending December 31, 1999, 2000, and 2001. The CPA provided an unqualified opinion for each of the years and included OMB Circular A-133 disclosures. The audit reports did not identify a cost allocation method used by the Grantee.

¹ FFOT98011KY

² FFOT00016KY

FINDINGS AND RECOMMENDATIONS

FINDING 1 – GRANTEE DID NOT MAINTAIN ADEQUATE RECORDS TO SUPPORT CHARGES TO THE GRANTS AND CHARGED THE GRANTS FOR INELIGIBLE ACTIVITIES.

The Grantee did not maintain adequate records to support charges to the grants, and charged the grants for ineligible activities. The ineligible activities included unreasonable consulting fees, lobbying activities that are prohibited by OMB Circular A-122, and unrelated travel and training costs. The Grantee's failure to comply with requirements under the OMB Circulars A-122 and A-110 resulted in overcharges to the grants of at least \$16,287 for ineligible activities.

Title 24 CFR 84, contains the administrative requirements for grants between HUD and nonprofit organizations. Part 84.27 requires grantees to utilize OMB Circular A-122, *Cost Principles for Non-Profit Organizations*, in determining the allowable costs. OMB Circular A-122, Attachment B, Paragraph 7, *Compensation for Personal Services*, states that reasonable compensation and fringe benefits to employees are fundable costs. The grantee must maintain reports that account for the total activity for which an employee is compensated. The reports must reflect an after the fact determination of actual activity for each employee; budget estimates do not qualify as support for charges. Grantees must also maintain reports of distribution of activity of each employee (professionals and nonprofessionals) whose compensation is charged, in whole or in part, to awards. The employee or a responsible supervisor must sign the report. In addition, in order to support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate.

OMB Circular A-122 also establishes that costs of Federal and State lobbying activities are not allowable. The Circular identifies examples of unallowable lobbying activities. They 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).

Recipients of Federal Grants are also subject to other OMB Circulars including OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations*. OMB Circular A-110, subpart C, *Financial and Program Management*, Paragraph 21(b)(2) provides that the recipient's financial management system shall provide for records that identify adequately the source and application of funds for federally sponsored activities. Paragraph 21(b)(7) provides that the system must provide accounting records including cost accounting records that are supported by source documentation.

Ineligible Consultant Fees

The Grantee charged the grants with consultant fees in the amount of \$7,990 that were not supported by detailed documentation that would support any portion being charged to the grants. In addition, these consulting fees were also excessive and unreasonable as defined by OMB Circular A-122.

The Grantee did not have an Executive Director from May 2000 to March 2001. The Grantee contracted with and paid The Partnership Center for management services during this period of time. The Grantee charged approximately 16 percent of the total paid under the contract to the OTAG Program. The contract provided that The Partnership Center would provide 16 hours of management services per week at a cost of \$2,126 semi-monthly. Under the contract, the Grantee was also to reimburse the contractor for direct expenses (travel, copying, etc) incurred by the consultant on behalf of the Grantee. Invoices submitted by The Partnership Center did not provide any detail or support to show what specific management services were performed and being billed for. Not only are the consultant fees not adequately supported, but also there was no basis for the Grantee's allocation of the costs to the OTAG Program.

The \$2,126 semi-monthly computes to \$66.43 per hour for the management services. This cost is excessive when compared to approximately \$14.20 per hour plus fringe benefits paid to the former Executive Director who left the Grantee just prior to the start of the contract. The fee is also excessive when compared with the \$23.67 per hour plus fringe benefits paid to the current Executive Director whose employment terminated the need for the management services under the contract. The consultant fee does not meet the "reasonable" test of OMB Circular A-122. The Grantee lacked information showing whether a competitive procurement process was used in awarding the contract. The Grantee also lacked information to demonstrate whether the contract was an arms-length transaction, which is one of the factors for consideration of reasonableness under OMB Circular A-122. There was no justification presented to support the payment of a management services fee almost 3 times what the newly hired Executive Director was to be paid.

We consider the \$7,990 ineligible because the Grantee lacked a basis for allocating any portion of the costs to the OTAG Grant and the cost was not reasonable.

Ineligible Salary of OTAG Program Director

The Grantee charged 100 percent of the former Program Director's salary to OTAG Program activities. A total of \$74,750 was paid to the former Program Director during his employment with the Grantee (January 1999 through November 2001).

Activity reports, quarterly progress reports, planning worksheets, and the former director's laptop computer files clearly document that the Program Director engaged in activities other than those specifically eligible under the OTAG Program, including lobbying.

These lobbying activities occurred as a part of the Grantee's role as an Advocate for Homeless and Low-Income individuals and families living in Kentucky. A large portion of the ineligible activities performed by the OTAG Program Director was for lobbying and advocacy at the state level. The Program Director participated in activities that constitute direct lobbying of staff members of Kentucky State government in an attempt to influence legislation. One such effort was his extensive participation in working to amend the Uniform Residential Tenant and Landlord Act in Kentucky.

The Grantee also participated in teleconferences and conferences, and paid membership dues to the National Alliance of HUD Tenants. According to the Alliance's teleconference and conference agenda, activities consisted of items grant fundable under the grant and OMB's guidance. The activities also consisted of unallowable lobbying activities. For example, part of the Alliance's conference in July 2001 contained sessions on local and statewide strategies to cope with prepayment of the property. According to the conference information, the session informed participants how to use state and local legislation to save Section 8 projects. Another session provided participants with information on creating local and citywide tenant coalitions. The teleconference agenda identified, that of the 1-hour and 30-minute session planned for the teleconference, only 5 minutes related to the Mark-to-Market program. Based on OMB's guidance, only that portion of the activity related to the purpose of the grant can be charged to the grant. In these examples, the Grantee charged the full amount to the OTAG Program.

The time keeping records and other reports did not provide the required elements necessary to support the full amount of these salary expenses charged to the grants. In many cases the time sheets were also not signed by an approving supervisor, only the employee. The Grantee did not maintain time keeping records necessary to support salary expenses in accordance with OMB Circular A-122, Attachment B, Paragraph 7(m).

We reviewed monthly activity reports for the period April through August 2001. We concluded the Program Director spent at least 2 days per month working on activities that were not eligible OTAG activities. Two days per month is approximately 10 percent of the Program Director's total time (based on 160 hours worked per month). Accordingly, we consider 10 percent or \$7,475 of the Program Director's salary as ineligible.

We were not able to interview the former Program Director to determine the reasons for charging time spent on advocacy and lobbying to the OTAG grants since he is no longer employed by the Grantee. The current Executive Director now performs these activities and does not charge time or expenses spent on these activities to the OTAG Program.

Ineligible Travel and Training Expenses

Based on our review of the travel and staff training expenses charged to the grants, we identified travel and staff training expenses totaling \$370 and \$452, respectively, that were unrelated to OTAG activities. These items should not have been charged to the grants and are therefore ineligible.

The current Executive Director was not familiar with the specific requirements of OMB Circular A-122 pertaining to salary expense record keeping and cost allocation methods. The Grantee relies on HUD to provide detailed guidance on program requirements.

AUDITEE COMMENTS

The Grantee did not fully concur with our conclusions in the draft report. The Grantee explained that it hired the consultant after an unsuccessful period of time in trying to find and hire a qualified executive director. The Grantee also provided additional documentation in an attempt to justify the hourly fee paid to the consultant.

The Grantee believed the former program director's participation with State working groups was consistent with the OTAG legislation to help protect low-income tenants and assist them in retaining their housing. The Grantee explained that the former program director participated in the Kentucky Legal Services Housing Task Force, and the Governor's Housing Policy Advisory Committee. His role on the Task Force was primarily to share information pertaining to the status of OTAG activities and to share the kinds of problems that tenants in Kentucky face, which were brought to his attention through his OTAG work. He also played a similar role on the Advisory Committee, which is chaired by a State Representative. The Advisory Committee conceived of the idea of trying to introduce a statewide uniform residential landlord tenant act, and the former director was asked by the Advisory Committee to analyze the potential effect of such legislation in areas of Kentucky where there is no existing legislation to protect tenants. He also participated with the Representative in drafting the legislation. The legislation was never introduced in the Kentucky General Assembly, and the program director did not contact state legislators or their staff to influence legislation. The Grantee stated it had ceased charging any hours to the OTAG grant for work that is not explicitly supported by the grant.

The Grantee did not dispute the \$822 identified as ineligible travel and training expenses.

OIG EVALUATION OF AUDITEE COMMENTS

We considered the Grantee's comments and documentation concerning the reasonableness of the consultant fees. However, the consultant fees were not supported by detailed documentation that would support any portion being charged to the grants. This was our primary point and reason for treating these fees as overcharges to the grants. The Grantee has failed to obtain and maintain documentation that complies with OMB Circular A-122 that would support any valid basis for allocating any portion of the consultant fees to the grants.

We believe the former program director's participation with the State Representative, including drafting legislation, is an unallowable lobbying activity. The activities in question might be worthy causes and goals, and part of the Grantee's charter and mission, but are not eligible for funding under the OTAG.

RECOMMENDATIONS:

We recommend your office:

- 1A. Require the Grantee to repay the grants \$16,287 for ineligible activities.
- 1B. Require the Grantee to maintain time keeping and salary expense documentation in accordance with OMB Circular A-122.
- 1C. Require the Grantee to maintain supporting documentation for all OTAG Program expenditures in accordance with OMB Circular A-110.
- 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 expenditures complies with OMB Circular A-122.

FINDING 2 – GRANTEE DID NOT USE A COST ALLOCATION METHOD THAT COMPLIED WITH OMB CIRCULAR A-122

The Grantee did not use a cost allocation method that complied with the guidance in OMB Circular A-122, Attachment A, to allocate indirect costs to the grants. Instead, the Grantee allocated indirect costs based on predetermined percentages that were not supported by detailed records or documentation. Expenses allocated using these predetermined percentages included administrative personnel salaries, payroll taxes, rent, and audit expenses. Due to the lack of an adequate cost allocation plan, timekeeping records, and other documentation, the Grantee could not support \$54,625 of indirect costs charged to the grants.

Title 24 CFR 84 contains the administrative requirements for grants between HUD and nonprofit organizations. Title 24 CFR 84.27 requires that nonprofit grantees use OMB Circular A-122, *Cost Principles for Non-Profit Organizations*, in determining costs that are allowable to be charged against grants. For indirect costs charged to the grant, OMB Circular A-122 establishes restrictions for indirect costs, and provides specific cost allocation methods and record keeping requirements to support the allocation of costs.

The Grantee had developed a detailed cost allocation plan that was documented in the Grantee's Financial Management Procedures Handbook (dated 1999). This cost allocation plan was to be based on actual time spent on each program, supported by time sheets and activity reports. Allocation percentages were to be computed based on time sheet charges, and the salary and benefits were to be charged to each program based on these percentages. Indirect costs like rent and telephone were to be allocated based on a per capita (full-time staff) basis among the various programs. Other costs like postage, copier, and printing were to be allocated based on actual usage. Based on our review of the cost allocation principles and matrix of the plan, this would have been a valid basis for charging salaries and benefits. The plan also would have provided a supportable basis for allocating other indirect costs to the various programs, including the OTAG Program.

While this cost allocation plan existed on paper, it was never fully implemented. We were provided with worksheets reflecting the results of computations that were made in an attempt to come up with allocation plan percentages. One of the worksheets showed that 16 percent of the Executive Director's salary and benefits was charged to the OTAG and the balance was charged to other programs. In addition, 30 percent of the Financial Director's and Administrative Assistant's salary and benefits were charged to OTAG. It appears these worksheets were the basis for the allocation of salaries and benefits, as well as indirect costs for the period of time between January 1999 and sometime around July 2001. We reviewed a sample of the time sheets for this period that should have been used in developing the worksheet and allocation percentages. Although each employee prepared time sheets, the time sheets did not provide the type of detail needed to show what program(s) the employees worked on and how much time was spent on each. We could not relate the time sheets to the worksheet in our attempt to validate the percentages that appeared to have been used by the Grantee.

In mid-year 2001, the Grantee hired a new financial coordinator who changed the method of allocating costs to the various programs. The Grantee discontinued using an allocation method based on the worksheets. Instead, the financial coordinator estimated the amount of time each employee worked on each program. Although employees continued to fill out time sheets, the

timesheets were not useful because they still did not show what programs the employees worked on and how much time they spent on each program. The Financial Coordinator said it was almost impossible to establish a reasonable basis for charging to the programs because the employees' duties kept changing due to turnovers in staff. The new method allocated 33 percent of the salary and fringe benefits of the Executive Director, Financial Coordinator, and Executive Assistant to the OTAG Program. Other indirect costs such as rent and audit fees were also allocated using similar percentages.

Due to the lack of adequate time keeping records required to formulate and support a cost allocation plan, we were not able to determine what portion of this \$54,625 represented overcharges to the grants. The records were limited and incomplete. Employees who were primarily responsible for the OTAG Program no longer worked for the Grantee, making it difficult to reasonably reconstruct what had occurred. A contributing factor for their decision to leave was the long period of time when the OTAG funding was frozen and the Grantee was unable to obtain reimbursement from OMHAR.

Other documentation (activity reports, progress reports, financial records, newsletters, etc) maintained by the Grantee supports that some portion of these expenses would have been incurred for OTAG Program activities, and therefore would be legitimate expenses allocable to the grants. Accordingly, we did not disallow any of the costs.

AUDITEE COMMENTS

The Grantee acknowledged that the hours worked on OTAG activities were not fully supported by documentation. The Grantee said it failed to read OMB Circular A-122 carefully and explained that the inconsistencies in their charges to the OTAG grant from September 2001 on were exacerbated by the fact that the grant was frozen and no drawdowns were allowed between September 2001 and April 2002.

The Grantee contended the OTAG charges during the period in question were reasonable despite the absence of timesheets reflecting direct hour for hour charges to the grant. The Grantee provided documentation to show it had changed its timekeeping policies and practices.

OIG EVALUATION OF AUDITEE COMMENTS

We understand and appreciate the hardship that the freeze on OTAG funding and drawdowns had on the Grantee. We agree that the Grantee has performed eligible grants activities and did not challenge the \$54,625 of indirect costs as being excessive. The documentation submitted by the Grantee for our consideration only shows the percentages used and the dollar amounts charged to the grants. It does not provide a supportable basis for these percentages or the dollar amounts charged. Our position has been and remains that these expenses were not supported by a cost allocation plan/method that complied with OMB Circular A-122.

RECOMMENDATIONS

We recommend your office:

- 2A. Require the Grantee to develop and use a cost allocation method that complies with OMB Circular A-122 before allocating any more indirect costs to the OTAG Program.
- 2B. Determine the actions or documentation necessary to resolve the unsupported indirect costs.

FINDING 3 – PAYMENT VOUCHERS DID NOT HAVE REQUIRED SUPPORTING INFORMATION.

The Grantee submitted payment vouchers that were not complete and did not contain required supporting data. OMHAR processed and approved the vouchers for payment even though it lacked the supporting data to assess the validity of the request. In addition, some of the Grantee's reports submitted to OMHAR included information that should have alerted OMHAR to the fact that the Grantee was engaging in activities that were not eligible under OTAG. However, OMHAR did not question the activities. Consequently, the Grantee received reimbursements for unsupported expenditures and ineligible activities, including lobbying as discussed in Finding 1.

The Grant Agreements required the Grantee to use the Line of Credit Control System (LOCCS) to draw down grant funds. OMHAR issued M2M Technical Assistance Memo 99-2, dated February 18, 1999, to all OTAG and ITAG grantees. The subject of this memo was LOCCS Draws and Grantee Reporting Requirements. This memo required the grantees to submit a Mark to Market Activity Report with each LOCCS payment voucher. The memo provided an example of the activity report format that was to be used. The memo stated that no voucher payment would be approved without a completed and attached M2M Activity Report. This activity report format did not provide for any reporting of time spent on the activities or notation of who performed the activities.

On March 12, 2001, OMHAR issued a memorandum to OTAG/ITAG grantees with the following instructions: "fulfilling the duties of a HUD Grantee also requires that you comply with all of the Department's administrative reporting requirements. Because of this, all invoices that are submitted for payment must include: a description of the activity; the number of hours required to perform the activity, which may include travel to and from the activity, the date performed, and the name of the person who performed the activity." The memo also stated: "adhering to all administrative reporting procedures is required by law and federal regulations in order to maintain the integrity of the OTAG/ITAG grant programs, and enables OMHAR to process all vouchers in a more efficient and expeditious manner."

Beginning in April 2001, the payment vouchers submitted by the Grantee included the specific information cited in the March 2001 OMHAR memo. This continued for several months, but then the Grantee went back to submitting payment vouchers without the required data. OMHAR paid these vouchers, and we did not find any communications from OMHAR to the Grantee concerning the missing data. Thus, it would appear OMHAR's review and processing of the payment vouchers was not consistent or comprehensive.

The Grant Agreements also provided that the Grantee submit quarterly progress reports. We reviewed some of the quarterly progress reports submitted to OMHAR. These reports are after the fact reports, and generally the reimbursements for the quarterly activities they covered would have already been made based solely on the payment vouchers and information (activity reports) submitted with the payment vouchers. Our review identified that some of the activity reports submitted with the payment vouchers, and some of the quarterly progress reports submitted to OMHAR included identification of activities performed by the OTAG Program Director that were ineligible, including lobbying. While the information in these reports only listed the activities by name and were not comprehensive narratives, we believe the descriptive terms

should have raised suspicion to a reader knowledgeable of eligible and ineligible activities under OTAG. Specific examples include activities listed as “preparing for and participating in Legal Services Housing Task Force meetings” and “preparing and distributing materials to State Housing Policy Advisory Committee.”

We performed our audit at the Grantee level and therefore reviewed only the documentation provided by the Grantee. We did not interview anyone at OMHAR to ascertain what procedures were in place for reviewing and processing payment vouchers, activity reports, and quarterly progress reports. We compared the documentation maintained by the Grantee with the administrative reporting requirements contained in the Grant Agreements and the memos issued by OMHAR. Clearly, OHMAR accepted payment vouchers that were not complete and did not contain required supporting data in the case of this Grantee.

We believe a more comprehensive and consistent review of the payment vouchers, activity reports, and quarterly progress reports by OMHAR would have identified potential ineligible activities being charged to the grants. This could have prevented reimbursing the Grantee for ineligible activities, including prohibited advocacy and lobbying activities. We also believe that if OMHAR had withheld approval and payment of payment vouchers that did not contain the required information, then the Grantee would have more likely complied with the administrative reporting requirements in order to obtain reimbursement for eligible OTAG activities.

AUDITEE COMMENTS

The Grantee responded that it is in the process of correcting its practices with respect to this finding. The June 2002 invoice contained a description of activities, but it failed to reflect the hours worked on OTAG. This was corrected in the July 2002 draw down request. The Grantee said it now has accurate documentation with respect to all of the hours dedicated to OTAG activities.

OIG EVALUATION OF AUDITEE COMMENTS

The Grantee’s action should ensure that future reports submitted to OMHAR are complete and contain the required supporting data.

RECOMMENDATIONS

We recommend that your office:

- 3A. Remind the Grantee to submit all required supporting data for payment vouchers.
- 3B. Review OMHAR procedures for reviewing and approving payment vouchers and make necessary improvements to ensure that payment vouchers submitted that do not comply with applicable administrative reporting requirements are rejected.

- 3C. Review OMHAR procedures for reviewing activity reports and quarterly progress reports and place increased emphasis on identifying grantees engaged in ineligible activities, including lobbying.
- 3D. Consider adding a requirement for grantees to certify on the Mark-to-Market Activity Reports that reimbursements are being requested for only eligible activities under the MAHRA, and that indirect cost allocations are based on a method or plan that complies with OMB Circular A-122.

MANAGEMENT CONTROLS

In planning and performing our audit, we considered the management controls relevant to the Grantee'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 under Section 514,
Controls and documents to support costs of assistance provided, and
Controls and procedures over the reporting of activities and cost.

A significant weakness exists if management controls do not provide reasonable assurance that the entity's goals and objectives are met; that resource use is consistent with laws, regulations, and policies; that resources are safeguarded against waste, loss, and misuse; and that reliable data are obtained, maintained, and fairly disclosed in reports.

Based on our review, we believe the following items are significant weaknesses:

- Ineligible costs were charged to the grant.
- Salary and time records did not meet the standards of OMB Circular A-122.
- Supporting documentation was not maintained for all expenditures charged in whole or in part to the OTAG program.
- The method for allocating indirect costs did not comply with OMB Circular A-122.

All of these weaknesses are addressed in the body of our report with corresponding recommendations for corrective actions.

FOLLOW-UP ON PRIOR AUDITS

The Office of Inspector General performed no previous audit of the Grantee.

The Grantee's financial statements were audited by a Certified Public Accountant for each of the years ending December 31, 1999, 2000, and 2001. The CPA provided an unqualified opinion for each of the years and included OMB Circular A-133 disclosures. The audit reports did not identify a cost allocation method used by the Grantee.

SCHEDULE OF QUESTIONED COSTS

Recommendation <u>Number</u>	Type of Questioned Costs	
	<u>Ineligible 1/</u>	<u>Unsupported 2/</u>
1A	\$16,287	
2B		\$54,625

- 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. The decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of Departmental policies and procedures.

AUDITEE COMMENTS

From charity to change

August 23, 2002

Ms. Nancy H. Cooper
 Regional Inspector General For Audit
 U.S. Department of Housing and Urban Development
 Richard B. Russell Federal Building
 75 Spring Street, SW, Room 330
 Atlanta, GA 30303-3388

Dear Ms. Cooper:

We are in receipt of your August 14, 2002 draft audit report. We are grateful for the chance to interact with Bill Glover and Dennis Durick of the Office of the Inspector General. Our conversations with them were uniformly educational and helpful, and I appreciate this opportunity to offer comments and responses regarding the draft report.

I would like to point out that due to staff turnover, none of the people who were initially involved in the 1998 OTAG grant or who worked under the 1998 OTAG grant are still with the Homeless and Housing Coalition of Kentucky (HHCK). I have been in the position of executive director since March of 2001. The majority of the auditor's findings relate to the period before my arrival, and the staff associated with those irregularities are gone.

We have taken corrective action on all three of the IG's findings. Before I specifically address those findings, I want to raise one factual error in the background information section. In the final paragraph on page 4, the report talks about our additional sources of funding. Our AmeriCorps program is funded through the Corporation for National Service (CNS), which is a federal entity. The Corporation for National Service along with the Kentucky Commission for Community Service and Volunteerism (KCCVS) together administer the AmeriCorps grant, which comes to about \$400,000 annually. Kentucky Housing Corporation (our state's housing finance authority) contributes \$15,000 annually to HHCK in support of this program.

FINDING 1: Grantee failed to maintain adequate records to support charges to the grants and charged the grants for ineligible activities.

Ineligible Salary of OTAG Program Director

We regret that we participated in some activities that were not explicitly eligible for reimbursement under the grant. As a small statewide advocacy organization, it is

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sometimes challenging to draw the line between advocacy and education. I would like to offer an explanation with respect to this finding because I do not believe that we participated in lobbying.

According to the definition you provide on page 5, lobbying includes “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, demonstration, fundraising drives, letter writing, or urging members of the general public either for or against legislation (Grassroots Lobbying).”

As part of his OTAG work, Jeff Dycus, the former program director, participated in the Kentucky Legal Services Housing Task Force. During the interim period when there was not a permanent executive director, Jeff also participated in the Governor’s Housing Policy Advisory Committee. His role on the Task Force was primarily to share information pertaining to the status of OTAG activities and to share the kinds of problems that tenants in Kentucky face, which were brought to his attention through his OTAG work. On the Advisory Committee, which is chaired by State Representative Jim Wayne of Louisville, Jeff played a similar role as a representative for HHCK. The Advisory Committee conceived of the idea of trying to introduce a statewide uniform residential landlord tenant act, and Jeff was asked by the Advisory Committee to analyze the potential effect of such legislation in areas of Kentucky where there is no existing legislation to protect tenants. He also participated with Representative Wayne in drafting the legislation. The legislation was never introduced in the Kentucky General Assembly, and contrary to the first paragraph on page 7, the program director did not contact state legislators or their staff to influence legislation.

I feel it is important to explain these activities because I do not believe that this work was equivalent to direct lobbying or grassroots lobbying. I believe that an underlying purpose of the OTAG legislation was to help protect low-income tenants and assist them in retaining their housing. I think that Jeff’s participation in these working groups was consistent with that intention.

We have ceased charging any hours to the OTAG grant for work which is not explicitly supported by the grant.

Ineligible Consultant Fees

During the period of May 2000 through March 2001, HHCK hired a consultant to serve as a two-day per week interim executive director. 16% of the consultant’s services were charged to the OTAG grant. The auditors found that the \$66.43 hourly rate paid to The Partnership Center for management services was excessive.

I contacted the finance chair on the executive committee of the HHCK Board of Directors to better understand the circumstances under which the services of The Partnership Center were secured. After an exhaustive search for an executive director, the HHCK Board of Directors decided to hire The Partnership Center on a temporary basis as a

measure to keep our organization afloat until a qualified executive director could be hired. I have attached a letter from Kip Bowmar, the finance chair, to explain both this decision and the high cost of these consulting services (Exhibit 1). I have also attached a letter from Barry Grossheim of the Partnership Center and a letter from an additional Technical Assistance (TA) provider who works with us under our HUD Community Development TA grant as evidence of fees generally charged for these services (Exhibits 2 & 3). 16% of the hours worked by the Partnership Center were charged to the OTAG grant in accordance with the cost allocation plan in effect in 2000.

Finally, the auditors stated in the 3rd paragraph on page 7 that "In many cases the time sheets were also not signed by an approving supervisor." I wanted to point out that since I began working in the position of executive director, there have been no timesheets without my signature. This problem has not occurred from March 2001 to the present.

Ineligible Travel and Training Expenses

We do not dispute the \$822 identified as ineligible training expenses.

FINDING 2: Grantee Failed to Use a Cost Allocation Method that Complied with OMB Circular A-122

Documentation of Hours

We regret that our hours worked were not fully supported by documentation, particularly with respect to hours spent on OTAG activities by the executive director, administrative assistant, and financial coordinator. We failed to read OMB Circular A-122 carefully. The inconsistencies in our charges to the OTAG grant from September 2001 on were exacerbated by the fact that the grant was frozen and no draw downs were allowed between September 2001 and April 2002.

When the explicit guidelines were brought to our attention by the auditors, we changed our timekeeping policies and practices. Since we run payroll twice monthly, it took us a month to get the timekeeping periods right. Attached is my initial email to staff on July 2, 2002 (Exhibit 4); a communication to staff on August 1, 2002 (Exhibit 5); and a copy of our revised timesheet (Exhibit 6).

Cost Allocation Principles

We believe that our OTAG charges during the period in question were reasonable despite the absence of timesheets reflecting direct hour for hour charges to the grant. In OMB Circular A-122 Attachment A, "General Principles", there are guidelines pertaining to reasonable costs.

In Section 4 on Page 7, the Circular shows that "A cost is allocable to a particular cost objective...if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

- (1) Is incurred specifically for the award.
- (2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received, or
- (3) Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.

Between January 1999 and December 2001, 19.94% of administrative staff time was charged to the grant over a period of three years. Our documentation reflects that OTAG staff visited 96 of the approximately 125 apartment complexes entering the Mark-to-Market program. During that same time period, we charged the HHCK AmeriCorps Program 28.54% of administrative staff time; we charged the HHCK Technical Assistance Program 13.16% of administrative staff time; and we charged the HHCK general fund 38.36% of administrative staff time. Given the number of dedicated staff members to each grant and the scope of the work required by each of our funding sources, we are confident that you will agree that these charges are not excessive. I have attached payroll summaries from Quickbooks to reflect these percentages (Exhibit 7).

FINDING 3: Payment Vouchers Did Not Have Required Supporting Information

HHCK is in the process of correcting our practices with respect to this finding. Our June 2002 invoice contained a description of our activities but it failed to reflect the hours worked on OTAG. This has been corrected in our July 2002 draw down request since we now have accurate documentation with respect to all of the hours dedicated to OTAG activities.

PLANS FOR THE FUTURE:

We have spent the past few months evaluating and restructuring our OTAG tenant outreach program. We have subcontracted with the Indiana Coalition for Homeless and Housing Issues to obtain valuable training and guidance regarding the direction of our program. In the past, we made visits to the majority of Mark-to-Market assigned properties in Kentucky. We are building on those efforts and contacts to actively assist tenants in their efforts to participate in the decisions that affect their project-based Section 8 housing.

As a result of the OTAG audit, we have acted quickly to remedy deficiencies and to insure that all OTAG charges are for activities that are fully supported by documentation and explicitly allowable under the grant. We will continue to work with OMHAR to comply with program reporting requirements. We believe that the work sustained by this grant provides a critical service to low-income project-based Section 8 residents in Kentucky, and we look forward to helping tenants in the future.

Please contact me should you have questions or need further information.

Sincerely,



Judith Levey, Executive Director

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