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August 21, 2002

2002-FW-1805

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

FROM: */SIGNED/*
D. Michael Beard
Regional Inspector General for Audit, 6AGA

SUBJECT: Texas Tenant's Union Incorporated
Outreach and Training Assistance Grants and Public Entity Grant
Dallas, Texas

We performed an audit of Texas Tenant's Union's two Outreach and Training Assistance Grants (OTAG) and a Public Entity Grant.¹ Congress required our office to audit each provision of technical assistance obligated under the requirements of Section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997² over the last 4 fiscal years.³ Under Section 514, HUD provided the funding for the Texas Tenant's Union grants that we audited.

Our objectives were to determine whether the Texas Tenant's Union used its grant funds for only eligible activities and to determine whether it expended the funds for any lobbying activities.

To accomplish our objectives we interviewed the Texas Tenant's Union's Executive Director, reviewed bank statements, performed bank reconciliations, reviewed grant draw requests, reviewed supporting documentation for draw requests, and reviewed activity reports.

Overall, the Texas Tenant's Union used its grants for eligible activities. However, the Texas Tenant's Union supported the National Alliance of HUD Tenants by attending annual conferences. Although the National Alliance of HUD Tenants provided training opportunities it also performed lobbying activities. Also, the Texas Tenant's Union inadvertently claimed a minimal amount in ineligible and unsupported costs.

We provided a draft of the memorandum to the Texas Tenant's Union and HUD's Office of Multifamily Assistance Restructuring on July 22, 2002. We held an exit conference with the Texas Tenant's Union on August 6, 2002. The Texas Tenant's Union provided its response on

¹ Grant numbers FFOT98027TX and FFOT0038TX.

² Public Law 105-65

³ 1998 through 2002

August 9, 2002. In its response, the Texas Tenant's Union generally agreed with the memorandum. It believed the National Alliance of HUD Tenants provided benefits to residents that exceeded its lobbying efforts.

Due to the materiality of the ineligible and unsupported costs and the commitment by the Texas Tenant's Union, we are not making any recommendations. Please furnish us copies of any correspondence or directives issued because of this audit. The Texas Tenant's Union stated they would deduct most of the unsupported and ineligible costs from its next reimbursement request.

If you have any questions contact William W. Nixon, Assistant Regional Inspector General for Audit, at 817-978-9309.

Attachment

ATTACHMENT

Background*History of Texas Tenants Union, Inc.*

The Texas Tenant's Union, Inc. incorporated in the State of Texas in 1979.⁴ Its purpose is to promote the empowerment of tenants through education and organizing, build a tenants' movement in Texas, fight displacement in communities, support equal housing for all people, seek and assist others in the formation of Tenant's Unions, especially in minority and low income communities, and to promote decent, safe, and affordable housing.

The Texas Tenant's Union was one of several nonprofit organizations selected to receive Outreach and Training Assistance Grants (OTAG) from HUD, which were available to resident-controlled or community-based nonprofit organizations with experience in resident education and organizing.

Texas Tenant's Union Grants.

The Texas Tenant's Union received an OTAG award⁵ in the amount of \$250,000 over 3 years on September 30, 1998.

The Texas Tenant's Union received another OTAG⁶ in the amount of \$450,000 on January 8, 2001. On March 18, 2002, HUD notified the Texas Tenant's Union that HUD was accepting invoices for work performed under the 2001 OTAG grant up to a maximum of \$270,000. As of May 31, 2002, the Texas Tenant's Union expended \$36,185 from this grant.

Also, Texas Tenant's Union received a \$20,000 Public Entity Grant⁷ from the Low Income Housing Fund⁸ on August 9, 2000. The grant was made under the authority of the Intermediary Technical Assistance Grant Agreement⁹ (ITAG) between the Low Income Housing Fund and HUD pursuant to the Fiscal Year 1998 HUD Appropriations Act.

⁴ The group began in 1973 as the East Dallas Tenants Alliance. In 1979, Texas Tenant's Union was formed when the East Dallas Alliance merged with tenant groups from Fort Worth and Austin.

⁵ FFOT98027TX

⁶ FFOT0038TX

⁷ The ITAG provides technical assistance grants through intermediaries to subrecipients consisting of public entities to carry out Mark-to-Market activities.

⁸ The Low Income Housing Fund is a not-for-profit entity that HUD selected to receive ITAG funding.

⁹ FFIT98003LFM

Mark-to-Market

HUD housing subsidy contracts¹⁰ are expiring on thousands of privately owned multifamily properties with federally insured mortgages. Many of these contracts set rents at amounts higher than those of the local market. As these subsidy contracts expire, the Mark-to-Market Program will reduce rents to market levels and may restructure existing debt to levels supportable by these rents.

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) established the Office of Multifamily Housing Assistance Restructuring (OMHAR) to administer the Mark-to-Market Program. OMHAR has been extended for 3 years to September 30, 2004, and the Mark-to-Market Program will continue for a 2 more years to September 30, 2006. OMHAR works with property owners, Participating Administrative Entities, tenants, lenders, and others with a stake in the future of affordable housing.

MAHRA authorizes HUD's Secretary to 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.

Objectives, Scope, and Methodology

Our objectives were to determine whether Texas Tenant's Union used its grant funds for only eligible activities and to determine whether it expended its funds for any lobbying activities.

To accomplish our objectives we interviewed the Texas Tenant's Union's Executive Director, reviewed bank statements, reviewed bank reconciliations, reviewed grant draw requests and related supporting documentation, and reviewed activity reports.

Our audit scope included draws from January 1998 through May 2002. We performed our fieldwork from May 20, 2002, through June 18, 2002. We performed our audit in accordance with generally accepted governmental auditing standards.

Criteria

The 1998 Notice of Fund Availability (NOFA) refined, through nine detailed examples, the eligible activities for which the Texas Tenant's Union could use OTAG funds. The purpose of the OTAG was to provide technical assistance to tenants of eligible Mark-to-Market properties so that the tenants could: (1) participate meaningfully in the Mark-to-Market Program and (2) affect decisions about the future of their housing.

In addition, the 1998 NOFA provided specific guidance on the ITAG including detailing the eligible ITAG activities. Specifically, the ITAG Program provided technical assistance grants

¹⁰ A housing subsidy is paid to the landlord on behalf of the participating family. The housing subsidy equals the difference between the amount the family pays, based upon their income, and the determined market rent of the unit.

through intermediaries to subrecipients 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 law prohibited funds being used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designated to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress.¹¹

OMB Circular A-122 required the Texas Tenant's Union to adequately document costs.

Texas Tenant's Union performed eligible activities with OTAG funds.

Overall, the Texas Tenant's Union performed eligible activities with its OTAG funds. It had controls in place to ensure it expended grant funds in accordance with applicable requirements. Specifically, the Texas Tenant's Union provided outreach to apartment complexes affected by Section 8 opt-outs, prepayments, or Mark-to-Market. At these properties the Texas Tenant's Union held meetings to inform the tenants of their rights under Mark-to-Market. The Texas Tenant's Union also attended the two meetings held by the Participating Administrative Entities and reviewed the Physical Condition Assessment or Preliminary Underwriting Plan¹² for the affected properties. However, the Texas Tenant's Union did charge a minimal amount of ineligible and unsupported costs to these grants.¹³ It appears the Texas Tenant's Union inadvertently made these charges from its grants. In its response, the Texas Tenant's Union agreed to deduct the majority of this amount from its next reimbursement request. We suggest the Texas Tenant's Union work with HUD to ensure the amount is properly deducted.

Texas Tenant's Union expended funds to promote and support the National Alliance of HUD Tenants.

The Texas Tenant's Union used its grant funds to promote and support the National Alliance of HUD Tenants (NAHT).¹⁴ Specifically, the Texas Tenant's Union spent 4 percent of its budget sending its employees to the annual NAHT conferences including an employee who is a NAHT Board Member. This Board Member also attended the annual NAHT planning session. Travel expenses and training fees were paid for in the most part with grant funds. Also, the Texas Tenant's Union passed out NAHT's newsletter at properties it visited.

During a February 2000 NAHT conference call, NAHT informed OTAG recipients that they could apply for funds to send HUD tenants to its National Conference. Afterwards, the Texas Tenant's Union applied for an ITAG, the majority of which it expended on NAHT's national

¹¹ Section 514(f)(3)(C) of Public Law 105-65.

¹² Both reports were prepared by the Participating Administrative Entities.

¹³ The total amount was \$146.

¹⁴ On December 3, 1999, HUD issued a letter allowing grant funds to be used for Mark-to-Market training purposes.

conference. Further, NAHT's call agenda stated it would increase the cost of the conference by \$100 for groups with access to grant funds or resident owned buildings. NAHT knew grant funds would be available for its conference because it asked and received a HUD legal opinion in June 1999 stating it would be acceptable to use grant funds to pay for its conference.

HUD allowed grant recipients to use grant funds to send people to the NAHT national conference. At the conference, NAHT did provide Mark-to-Market training. However, it also performed a day of lobbying.¹⁵ As a consequence of HUD's decision, HUD indirectly allowed grant funds to support NAHT's lobbying efforts.

As additional evidence that HUD grant funds were not only utilized by grant recipients, but also by NAHT, *The National Tenants Voice*¹⁶ stated NAHT was adversely affected when HUD halted funding because it did not receive income from contracts and fees.

When Texas Tenant's Union employees visited properties, the employees distributed NAHT's newsletter. In addition to articles on maintaining affordable housing and organizing tenant groups, the newsletter also promoted NAHT's special interests. For instance, the Spring 2002 newsletter stated a national advocacy campaign led by NAHT restored some funds to area-wide tenant organizing groups and state housing coalitions. The article continued to state at NAHT's June conference, tenants across the country would meet with their elected representatives to urge support for various measures that NAHT supports.

In its response, the Texas Tenant's Union maintains that NAHT provides excellent training and the lobbying is a small part of the organization. Further, the Texas Tenant's Union believes NAHT provides a mechanism for residents of HUD properties to voice their concerns. Nevertheless, NAHT did perform lobbying activities and benefited from these HUD grants.

¹⁵ Texas Tenant's Union did not seek reimbursement for this day training.

¹⁶ The NAHT's newsletter, Spring 2002.

DISTRIBUTION

Texas Tenant's Union, Inc.
Dallas, Texas

The Honorable Joseph Lieberman, Chairman, Committee on Government Affairs

The Honorable Fred Thompson, Ranking Member, Committee on Governmental Affairs

Sharon Pinkerton, Senior Advisor, Subcommittee on Criminal Justice, Drug Policy & Human Resources

Andy Cochran, House Committee on Financial Services

Clinton C. Jones, Senior Counsel, Committee on Financial Services

Kay Gibbs, Committee on Financial Services

Stanley Czerwinski, Director, Housing and Telecommunications Issues, U.S. GAO

Steve Redburn, Chief Housing Branch, Office of Management and Budget

Linda Halliday, Department of Veterans Affairs, Office of Inspector General

William Withrow, Department of Veterans Affairs, OIG Audit Operations Division

George Reeb, Assistant Inspector General for Health Care Financing Audits

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

The Honorable Henry A. Waxman, Ranking Member
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