



**U.S. Department of Housing and Urban Development
Office of Inspector General**
Pacific/Hawaii Region
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**MEMORANDUM NO:
2002-SF-1806**

September 26, 2002

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

//SIGNED//

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

SUBJECT: Congressionally Requested Audit of the Outreach and Training
Assistance Grants awarded to the California Coalition for Rural
Housing, Sacramento, California, Grant Numbers FFOT98002CA
and FFOT00004CA

INTRODUCTION

As directed by Congress, we have completed an audit of the California Coalition for Rural Housing's (CCRH) Outreach and Training Assistance Grants, numbered FFOT98002CA and FFOT00004CA. The primary purpose of the audit was to determine whether grant funds were expended in accordance with the requirements of Section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 and other applicable regulations and requirements. Consistent with the Congressional directive, we reviewed the eligibility of costs with particular emphasis on identifying ineligible lobbying activities. Although CCRH staff participated in National Alliance of HUD Tenants (NAHT) conferences and teleconferences, both of which included lobbying related topics or activities, there was no information to show the grantee participated in or charged the grant for any material costs associated with possible lobbying related activity. Other grant costs appear to have been incurred in compliance with the applicable regulations and requirements. However, CCRH did not submit complete quarterly progress reports to the U.S. Department of Housing and Urban Development (HUD) in compliance with program requirements.

BACKGROUND

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) established the Office of Multifamily Housing Assistance Restructuring (OMHAR) within HUD. One of OMHAR's responsibilities under MAHRA is the administration of the Mark-to-Market Program including the award and oversight of the Section 514 Outreach and Training Assistance Grants (OTAGs) and Intermediary Technical Assistance Grants (ITAGs). The objective of the Mark-to-Market Program is to reduce rents to market levels and restructure existing debt to levels supportable by these reduced rents for thousands of privately owned multifamily properties with federally insured mortgages and rent subsidies.

Congress recognized that tenants of the affected projects, as well as residents of the neighborhoods, the local governments, and other parties would be impacted by the Mark-to-Market Program. Accordingly, Section 514 of MAHRA authorized the Secretary to provide up to \$10 million annually (\$40 million total) for resident participation in the Mark-to-Market process, for the period 1998 through 2001. The Secretary authorized \$40 million and HUD staff awarded grants of about \$26.6 million to 38 nonprofit organization grantees (a total for 81 grants awarded). The funds were awarded under Notices of Fund Availability (NOFAs) in fiscal years 1998 and 2000 as either OTAG or ITAG grants. The 1998 NOFA said the ITAG program provides technical assistance grants through Intermediaries to sub-recipients consisting of: (1) resident groups or tenant affiliated community-based nonprofit organizations in properties that are eligible under the Mark-to-Market program to help tenants participate meaningfully in the Mark-to-Market process, and have input into and set priorities for project repairs; or (2) public entities to carry out Mark-to-Market related activities for Mark-to-Market-eligible projects throughout its jurisdiction. The NOFAs say the purpose of the OTAG program is to provide technical assistance to tenants of eligible Mark-to-Market properties so that the tenants can (1) participate meaningfully in the Mark-to-Market program, and (2) affect decisions about the future of their housing. ITAG grantees serve primarily as pass-through agencies to sub-recipient agencies that carry out the eligible activities whereas OTAG grantees are directly involved in carrying out the activities. ITAG sub-recipients and OTAG grantees are primarily involved in organizing and educating tenants of affected properties. However, Congress specifically prohibited using Section 514 grant funds for lobbying members of Congress.

CCRH is nonprofit public benefit corporation established in 1982 for the purpose of helping to relieve the poor, underprivileged and indigent in rural parts of California by expanding the opportunities available to said residents and groups to secure the basic human needs of decent shelter and to thus lessen the burden of government, combat community deterioration, and promote social welfare to support the development of programs and activities dedicated to community service. The CCRH is a California nonprofit, tax-exempt 501(c)(3) organization.

On June 29, 1998, the CCRH submitted an application for \$400,000 in OTAG funding. HUD awarded CCRH \$280,000 under grant FFOT98002CA pursuant to the fiscal year 1998 HUD Appropriations Act, under Section 514 of the MAHRA. The CCRH began expending funds from the grant in November 1998. On May 23, 2000, the CCRH applied for another \$450,000 and HUD awarded those funds under grant FFOT00004CA. As of September 2001, the CCRH had withdrawn \$146,911.34 from grant FFOT98002CA, and had not yet drawn funds from grant FFOT00004CA. As of June 2002, CCRH was in the process of submitting a withdrawal request for additional grant funds. In August 2000, the CCRH was awarded \$19,800 under a Public

Entity Grant (PEG) by the Low Income Housing Fund (LIHF) as part of HUD's Intermediary Technical Assistance Grant program. In accordance with Office of Management and Budget's (OMB) Circular A-133, CCRH was not required to obtain audited financial statements for the period of 1998 through 2002.

METHODOLOGY AND SCOPE

In conducting the audit, we reviewed the grantee's accounting records and interviewed responsible staff. We also reviewed the requirements in MAHRA; the OTAG Notices of Fund Availability; the OTAG grant agreements; HUD's requirements for grant agreements for nonprofit entities; and OMB's guidance under Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations, and Circular A-122, Cost Principles for Non-Profit Organizations. In planning and performing the audit, we considered the relevant grantee management controls to determine our audit procedures, not to provide assurance on the controls. We determined the audit would be performed more effectively by performing substantive tests of all material OTAG expenses, without placing reliance on the controls and limiting the scope of our review.

The audit covered the period November 1998 through June 2002, which included review of the PEG provided by the LIHF. We performed the fieldwork at the CCRH office located in Sacramento, California, between June and July 2002. We conducted the audit in accordance with Generally Accepted Government Auditing Standards.

RESULTS OF AUDIT

For the most part, the CCRH carried out the grant program and expended grant funds in full accord with the requirements of Section 514 of the MAHRA and other applicable regulations and requirements. However, CCRH incurred telephone and travel costs relating to activities that could possibly be construed as lobbying. They also did not submit complete quarterly reports to HUD in compliance with applicable NOFA, OMB Circulars, Codes of Federal Regulations (CFR), and grant agreement requirements.

Possible Lobbying Activity

MAHRA specifically prohibited the use of Section 514 funds to lobby members of Congress or their staff.

CCRH staff participated in NAHT annual conferences and teleconference calls that included elements of lobbying on a Federal level. The NAHT organization performs lobbying on housing issues, including the development of a grass roots tenant movement to shape housing policy. NAHT coordinates annual conferences which encourage participants to lobby, but also include training and information pertinent to the Mark-to-Market and OTAG program. The CCRH staff attended the national conferences and charged the travel costs to the OTAG grants. However, there was no evidence the CCRH staff participated in lobbying activity.

NAHT also coordinates routine national teleconferences, sponsored by members. Several teleconference agendas showed NAHT scheduled brief discussions related to lobbying on a Federal level. CCRH participated in the teleconferences, incurring long distance telephone and staff charges. In addition, the CCRH sponsored a teleconference and charged the grant for its reimbursement of \$793 in 2001. The related agenda was not available for this teleconference to determine what was discussed.

We could not determine the actual amount of time spent participating in the lobbying discussions based on available information. However, we believe the expense involved would not be material to the grants. CCRH staff stated they only listened to the teleconferences for information on current legislation, and were not lobbying. There was insufficient information available to suggest CCRH staff were actively involved in NAHT's lobbying activities or the CCRH materially violated program requirements. However, the CCRH's participation in the above activities could give the appearance of involvement in lobbying.

In a good faith effort to demonstrate they had no intent to charge the grant for any activity related to lobbying, the CCRH adjusted their July 2002 draw request to reduce the expense associated with estimated staff time spent listening to lobbying discussions as part of the teleconferences. Although it does not appear an adjustment was made for the sponsored teleconference, there is also no information to show lobbying took place.

Quarterly Reporting

The 1998 and 2000 NOFAs require grantees to submit quarterly performance reports to the Director of OMHAR. The grantees must report on the properties and number of tenants assisted by the OTAG activities performed that quarter. The reports need to include a narrative identifying activities conducted, beneficiaries of assistance provided, and results achieved.

The grant agreements FFOT98002CA and FFOT00004CA both require the grantee to submit progress reports every three months, including both performance and financial progress reports. The financial reports must be submitted on Standard Form 269 and a breakdown in costs on Standard Form 424A or a form to be provided by HUD.

Federal regulations at 24 CFR Part 84 and OMB Circular A-110, Parts 51 and 52, both provide that quarterly performance reports are due 30 days after the reporting period, and grantees must use the SF-269 or SF-269A to report the status of funds for all non-construction projects or programs.

The CCRH did not submit timely quarterly progress reports to HUD in a consistent manner. In addition, standard forms SF 269 and SF 424A were not completed and submitted to HUD. As a result, there was insufficient information available for HUD to monitor the program and track progress.

Progress report narratives were only submitted with the draw requests for funds. As a result, progress reports were intermittently submitted untimely for several quarters. The following table summarizes by quarter, which reports were submitted timely and whether standard forms were included:

Quarter	Progress Report Submitted to HUD	Report Timely	Submitted SF 269	Submitted SF 424A
Oct. 1998 - Dec. 1998	7/8/99	No	No	No
Jan. 1999 - March 1999	7/8/99	No	No	No
April 1999 - June 1999	7/8/99	OK	No	No
July 1999 - Sept. 1999	12/2/99	No	No	No
Oct. 1999 - Dec. 1999	Oct. & Nov. on 12/2/99, Dec. on 2/9/00	OK	No	No
Jan. 2000 - March 2000	Jan. submitted 2/9/00, Feb. & March on 6/1/00	Jan. OK, Feb. & March No	No	No
April 2000 - June 2000	April on 6/1/00, May & June on 2/12/01	April OK, May & June No	No	No
July 2000 - Sept. 2000	2/12/01	No	No	No
Oct. 2000 - Dec. 2000	2/12/01	OK	No	No
Jan. 2001 - March 2001	6/29/01	No	No	No
April 2001 - June 2001	April & May on 6/29/01, June on 10/29/01	April & May OK, June No	No	No
July 2001 - Sept. 2001	10/29/01	OK	No	No

There was no information available to show HUD attempted to enforce the reporting requirement by holding funds for non-submission of the reports or issuing correspondence to the grantee concerning this matter. CCRH received little guidance or input from HUD on the report submission. As a result, CCRH believed it was sufficient to only submit progress information as part of their draw requests, and standard forms were not required.

AUDITEE COMMENTS AND OIG EVALUATION

We provided our draft report to the grantee for its comments on August 30, 2002. The grantee provided their comments on September 19, 2002. We included the CCRH's comments in Attachment A of the report. We also obtained further clarification during an exit conference discussion with CCRH officials on September 20, 2002.

The CCRH generally agreed with our conclusions relating to the NAHT conferences. The CCRH acknowledged participation in NAHT conferences and teleconferences. The CCRH pointed out it took steps to adjust costs related to the teleconferences due to the possible appearance of lobbying, and it did not participate in any lobbying activities.

The CCRH generally agreed with our conclusions relating to the submission of progress reports, but included additional comments on the matter. The CCRH acknowledged it was not submitting progress reports timely on a quarterly basis, or submitting the required financial information on the standard forms. However, it stated OMHAR staff orally authorized the submission of progress reports with the withdrawal requests. CCRH also did not believe

OMHAR required the financial forms to be submitted until 2001. Finally, CCRH stated OMHAR provided little guidance on the reporting and generally did not follow up to inform CCRH the reporting was inadequate.

We have been provided with no information in writing to show OMHAR waived the quarterly reporting requirement or the submission of financial information on the required standard forms. However, we acknowledge there was no information to show OMHAR expressed dissatisfaction with the CCRH's reporting or took action against the CCRH to enforce compliance. OMHAR's lack of follow up gave the grantee the impression it was satisfactorily complying with reporting requirements. Nevertheless, this did not waive CCRH's responsibility to submit reports in compliance with program requirements.

RECOMMENDATIONS

No recommendations will be controlled under this report relative to possible lobbying activity since there was no information to show material amounts of lobbying costs were charged to the grant. We do recommend that you require:

- 1A. The CCRH to submit timely and complete quarterly reports to HUD, following OMB, CFR, NOFA, and the grant agreement requirements, including standard forms SF 268 and SF 424A.

Within 60 days please provide us, for the above recommendation, a status report on: (1) the corrective action taken, (2) the proposed corrective action and the date to be completed, or (3) why action is considered unnecessary. Also, please furnish us copies of any correspondence or directives issued because of the audit.

Should you or your staff have any questions, please contact me at (415) 436-8101.

AUDITEE COMMENTS

California Coalition for Rural Housing
Response to IG Draft Audit Findings

NAHT Teleconference Calls

The California Coalition for Rural Housing (CCRH) concurs with the audit findings that it did not engage in any lobbying during the National Alliance of HUD Tenants (NAHT) teleconference calls. Our position is that staff monitoring of these discussions solely to obtain information on legislative and policy developments is consistent with OTAG clearinghouse activities authorized by the program. Our staff did not participate in any discussions regarding planning, strategy or actions during the lobbying portion of these calls. Nor did CCRH undertake any kind of lobbying action as the result of these calls. Simply put, CCRH has not, does not and will not use OTAG funds for direct or indirect lobbying.

However, to avoid any possible appearance of lobbying, CCRH has elected to no longer charge any telephone or staff costs to the OTAG for the lobbying portion of NAHT teleconference calls. As noted in the audit report, when CCRH learned that participation solely for informational purposes would be considered by OMHAR and the OIG as an ineligible use of OTAG funds, we immediately took action to bring our billing practices in conformance. Although neither required nor requested, CCRH has already made adjustments for the telephone and salary costs related to the NAHT teleconference calls identified in the Draft Finding Outline and as detailed in correspondence dated August 14, 2002. Additionally, CCRH has instituted a policy in which the telephone costs and staff time associated with the lobbying item on the agenda of NAHT teleconference calls will no longer charged to the OTAG. Finally, it should also be noted that OMHAR had never given any guidance or raised any concerns regarding NAHT teleconference calls with CCRH or any other OTAG we are aware of – even though these calls had been occurring for some time.

NAHT Conference Activities

Regarding lobbying activities during the annual NAHT conference, we concur with the audit findings that CCRH did not engage in lobbying activities at that conference. It should be noted that CCRH charged travel costs for the NAHT conference only once during the period being audited. The conference itself was held from Friday June 22, 2001 through Monday, June 25th. During the conference, NAHT had planned the final day, Monday June 25th, as the day in which all lobbying activities occurred. To take advantage of the presence of almost all the OTAG agencies so close to the national HUD headquarters, OMHAR scheduled a one-day training workshop for OTAG agencies for Tuesday, June 26th. Because CCRH had no choice but to stay over Monday in order to attend the Tuesday OMHAR OTAG training, the OTAG was charged for that Monday.

During the Monday in question, CCRH staff did not participate in any NAHT lobbying activities nor did CCRH staff plan, organize or in any way facilitate lobbying activities of any kind.

Instead CCRH participated in meetings with congressional staff regarding enforcement issues and problems with existing HUD regulations in our service area. These meetings complemented and were consistent with documented CCRH OTAG work then in progress around the right of tenants to remain in opt-out and/or prepayment buildings using their voucher. Given that CCRH staff activities on Monday June 25th were solely related to administrative advocacy around HUD enforcement of existing regulations and the need for staff to lay over that day anyway to attend the OMHAR OTAG workshop on Tuesday, June 26th, the travel charges for the NAHT conference were consistent with the requirements of Section 514 of the MAHRA.

Quarterly Reports

CCRH did consistently submit progress reports to HUD that was sufficient to for HUD to monitor the program and track progress. CCRH has submitted progress reports with every draw beginning if 1999. Due to the slow startup of the Mark-to-Market program in California and the leveraging of other funding sources to cover OTAG activities, CCRH activity and expense levels were relatively low during 1998, 1999 and 2000. As a consequence of the relatively small expenses being incurred, CCRH did not submit draws on a quarterly basis. Prior to submitting our first draw in 1999, CCRH staff reviewed the situation with OMHAR staff and received authorization to submit reports that covered the draw period – even it did not completely coincide with the designated quarterly reporting periods. Consequently, all reporting periods are covered by CCRH reports.

CCRH reports covered specific projects, work activities, issues and progress on program objectives as specified by program requirements. CCRH has never had any progress reports rejected by OMHAR staff or even received any questions, comments or feedback regarding the reports submitted. OMHAR has provided little if any guidance for OTAG grantees in terms of format, level of detail, information needed in the progress reports.

It is incumbent upon OMHAR to follow-up and contact a grantee if they believe a report is not sufficient or more information is needed. The fact that all CCRH reports were accepted by OMHAR without comment, question or rejection is strong evidence of their completeness and adequacy. Further, financial forms and reporting were not even required by OMHAR until later in 2001. When the forms were finally required by OMHAR in 2001, CCRH promptly and completely complied with this previously unrequired reporting requirement. CCRH is also currently submitting all required forms and progress reports.

DISTRIBUTION OUTSIDE OF HUD

The Honorable Christopher S. Bond, Ranking Member, Subcommittee on Veterans Affairs, HUD and Independent Agencies, United States Senate, 274 Russell Senate Office Building, Washington, DC 20510

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

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

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

The Honorable Joseph Lieberman, Chairman, Committee on Government Affairs, (senator_lieberman@lieberman.senate.gov)

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