



U.S. Department of Housing and Urban Development  
**Office of Inspector General**  
Pacific/Hawaii Region  
450 Golden Gate Avenue, Box 36003  
San Francisco, California 94102-3448

**MEMORANDUM NO:  
2002-SF-1807**

September 30, 2002

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

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

SUBJECT: Congressionally Requested Audit of the Outreach and Training  
Assistance Grant awarded to the Legal Aid Society of San Diego,  
Inc., San Diego, California, Grant Number FFOT00006CA

### **INTRODUCTION**

As directed by Congress, we have completed an audit of the Legal Aid Society of San Diego, Inc. (LASSD) Outreach and Training Assistance Grant (OTAG) Number FFOT00006CA. 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 (MAHRA) 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 LASSD staff participated in conference calls and attended conferences, both of which included topics that could be construed as lobbying, there was no objective way to identify or separate costs associated with the possible lobbying activities from other eligible OTAG business conducted during the conference calls or at the conferences. All other grant costs appear to have been incurred in compliance with the applicable regulations and 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 Notices of Fund Availability say 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 Notices of Fund Availability 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.

On May 30, 2000, the LASSD applied for an OTAG in the amount of \$450,000. On December 13, 2000, LASSD accepted HUD's award of an OTAG for \$75,000 pursuant to Section 534 of the fiscal year 2000 Appropriations Act. On January 5, 2001, HUD notified LASSD of a revision to the award authorizing a total award covering a three-year period in the amount of \$225,000. However, on March 18, 2002, HUD advised LASSD that the total amount authorized for their OTAG under the Letter of Credit Control System (LOCCS) was only \$115,000. At the time of our review, LASSD had received four draws from LOCCS on the OTAG totaling \$59,676. The \$115,000 authorized OTAG represents only about 1.5 percent of currently projected LASSD funding during the three-year grant period. LASSD receives the majority of its Federal funding from the Legal Services Corporation and has obtained audited financial statements annually in accordance with Office of Management and Budget (OMB) Circular A-133. The last two audits covering the fiscal years ending June 30, 2000, and June 30, 2001, have expressed unqualified opinions and no findings. The OTAG has not been previously monitored onsite by anyone from HUD.

## **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 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 cost for nonprofit grantees (OMB Circular A-122). 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. Although LASSD's management controls appear to be effective for limiting risk, we placed no reliance on the controls to limit the scope of our review. This was because the minimal amount of grant activity allowed us to review 100 percent of the expenses charged to the OTAG in a relatively expeditious manner.

The audit covered the period from April 2001 through June 2002 and the fieldwork was performed at the LASSD offices in San Diego, California. We conducted the audit in accordance with Generally Accepted Government Auditing Standards.

## **RESULTS OF AUDIT**

For the most part, the LASSD 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. LASSD staff did participate in numerous telephone conference calls sponsored by the National Alliance of HUD Tenants (NAHT) that may have included discussions of lobbying activity. They also attended a NAHT sponsored national "Save Our Homes" conference in Washington, DC and a "Housing California" conference in Sacramento, California both of which included sessions that could be construed as relating to lobbying. However, there was no objective way to identify or separate costs associated with the possible lobbying activities from other eligible OTAG business conducted during the conference calls or at the conferences. Furthermore, although the costs associated with any potential lobbying activity during the conference calls or conferences cannot be specifically identified they would not have been material in relation to the total \$59,676 of OTAG expenditures. The \$59,676 total is itself a modest amount. We do believe the LASSD and other grantees should be provided with clarification as to the Department's position on the eligibility of costs associated with NAHT conference calls, NAHT annual conferences and other conferences that include activities which could be construed as lobbying.

## **AUDITEE COMMENTS AND OIG EVALUATION**

The results of our review were discussed with LASSD staff onsite at the conclusion of our fieldwork on June 26, 2002, and the draft report was discussed by telephone with the LASSD Executive Director on September 16, 2002. The LASSD Executive Director expressed his full agreement with the draft report and declined the opportunity to provide a written response.

## **RECOMMENDATIONS**

No recommendations will be controlled under this report since the need for clarification as to the Department's position on NAHT conference calls, NAHT national conferences and other conferences impacts most if not all OTAG and ITAG grantees, not just the LASSD.

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

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

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

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