



Issue Date: December 2, 2002
Audit Case Number: 2003-SE-1002

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

//Signed//

FROM: Frank E. Baca, Regional Inspector General for Audit, OAGA

SUBJECT: Congressionally Requested Audit of the Outreach and Training Assistance Grants (numbers FFOT98030WA and FFOT00040WA) and Intermediary Technical Assistance Grants (numbers MTMWAPEG00017 and MTMWAPEG01015) awarded to the Tenants Union, Seattle, Washington

INTRODUCTION

We completed an audit of the Tenants Union and Washington Low Income Housing Network's Outreach and Training Assistance Grants (OTAG). The Tenants Union and Washington Low Income Housing Network (Network) jointly submitted the grant applications. The HUD grant agreements identify the Tenants Union as the grantee. The Washington Low Income Housing Network performed OTAG work as a sub-grantee to the Tenants Union. We also audited the Tenants Union's two Public Entity Grants received through an intermediary as part of HUD's Intermediary Technical Assistance Grant (ITAG) program. The audit determined that the Tenants Union participated in lobbying activities, contrary to the enabling legislation and Office of Management and Budget (OMB) Circular A-122. Further, neither grantee fully complied with HUD and OMB Circular A-122 cost allocation requirements, resulting in \$127,804 of ineligible and questionable labor costs charged to the OTAG grants. The grantees also charged \$36,394 of other ineligible and questionable expenses to the grants.

Our report contains seven recommendations to address the issues identified in the report and other recommendations to strengthen management controls over the grantees.

Section 1303 of the 2002 Defense Appropriation Act (Public Law 107-117) requires the 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 grantees' accounting records and interviewed responsible staff. We also reviewed the requirements in MAHRA, the OTAG Notice of Fund Availability, the OTAG and ITAG grant agreements, HUD's requirements for grant agreements for non-profit entities, and Office of Management and Budget's guidance on the allowability of costs for non-profit grantees.

The audit covered the period October 1998 through December 2001 for the OTAG grants and July 2000 through June 2001 for the ITAG Public Entity Grants. We performed the fieldwork at the offices of the Tenants Union and the Washington Low Income Housing Network in Seattle, Washington from May through August 2002. We conducted the audit in accordance with Generally Accepted Government Auditing Standards.

We appreciate the courtesies and assistance extended by the personnel of the Tenants Union and the Washington Low Income Housing Network during our review.

In accordance with HUD Handbook 2000.06 REV-3, within 60 days please provide us, for each recommendation without a management decision, 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. 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.

Should you or your staff have any questions please contact me at (206) 220-5360.

SUMMARY

The Tenants Union and Washington Low Income Housing Network (Network) are co-recipients of two OTAG grants totaling \$546,926. Although the two non-profits submitted the grant applications together, the grant agreements only identify the Tenants Union as the grantee. The audit found that the Tenants Union used grant funds in support of its lobbying activities. Although we were able to trace some costs directly to lobbying activities, we could not determine the full amount of grant funds spent for lobbying due to the Tenants Union's inadequate record keeping. The audit also found that both grantees charged excessive hourly labor rates to the grants. Further, the grantees violated indirect cost allocation requirements of Office of Management and Budget (OMB) Circular A-122 because they did not submit required cost allocation plans for HUD approval, used direct costs to the grants for the indirect cost allocation calculation, and/or did not have adequate support for the indirect cost allocation. As a result, the grantees overcharged the grants \$127,804 for direct labor. The audit also identified an additional \$8,574 ineligible and \$27,820 questionable expenditures to the grants.

Our report contains recommendations to address the issues identified in the report and other recommendations to strengthen management controls over the grant.

BACKGROUND

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) established the Office of Multifamily Housing Assistance Restructuring (OMHAR) within HUD. Utilizing the authority and guidelines under MAHRA, OMHAR's responsibilities included the administration of the Mark-to-Market program, which included the awarding 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 non-profit organizations to participate in the Section 514 programs. HUD created two types of grants, the Intermediary Technical Assistance Grant (ITAG) and the Outreach and Training Assistance Grant (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 non-profit 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 Regulation Part 84 contain the uniform administrative requirements for grants between HUD and non-profit organizations. The regulations (24 CFR

84.27) require that non-profit grantees utilize the Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit Organizations, in determining the allowability of costs to the grant. 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 to support the allocation of costs.

The Circular also establishes the unallowability of costs associated with federal and state lobbying activities. Thus, the use of federal funds for any lobbying 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 Tenants Union and Washington Low Income Tenants Network (Network) jointly applied for OTAG grants in 1998 and 2000. HUD awarded the Tenants Union two OTAG grants in the amounts of \$236,926 for FY 1998 (grant number FFOT98030WA) and \$310,000 for FY 2000 (grant number FFOT00040WA). The Tenants Union entered into a contract with the Network on March 29, 1999 "to assist with carrying out the provisions of exhibit 2 of the grant application". The contract specified a three-year performance period from October 1998 to September 2001 and required the Network to provide up to 600 hours of work for each year of the contract. The Tenants Union agreed to compensate the Network up to \$27,000 per year during the term of this agreement.

As of February 2002, the Tenants Union and the Network had spent the entire \$236,926 from the FY 1998 grant and \$53,763 from the FY 2000 grant.

The Tenants Union also received two ITAG Public Entity Grants from HUD's Intermediary, Amador-Tuolumne Community Action Agency. The first ITAG Public Entity Grant was for \$17,179 (grant number MTMWAPPEG00017) and covered the period May 2000 through December 2001. The second ITAG Public Entity Grant was for \$20,000 (grant number MTMWAPPEG01015) and covered the period June 2001 through May 2002. As of July 2002, the Tenants Union had spent \$17,165 and \$5,610 of funds from the first and second ITAG Public Entity Grants, respectively.

In addition to the OTAG grant, the Tenants Union received a total of \$388,988 of HUD Community Development Block Grant funds from the cities of Seattle and Olympia, Washington from 1998 through 2002. During this period, the Tenants Union also received grants from non-federal sources, including \$177,464 from King County, \$32,000 from the State of Washington, \$12,000 from the City of Seattle, and \$193,640 from various charities, foundations, and businesses.

OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, requires that audits be performed on entities that spend \$300,000 or more in grant funds in any single year. The Tenants Union and the Network did not reach this level of spending, and thus were not required to obtain audits.

FINDING

The Grantees Did Not Comply With HUD and OMB Requirements

The Tenants Union charged the grants for prohibited lobbying activities, contrary to the enabling legislation and OMB Circular A-122. Further, the Tenants Union and Washington Low Income Housing Network overcharged the OTAG grants for the hours performing work associated with the grants, and billed the grants for other ineligible and questionable activities. This occurred because the grantees did not fully comply with HUD and Office of Management and Budget (OMB) Circular A-122 cost allocation requirements. As a result, one grantee used funds for lobbying activities that should have been used for eligible grant activities. Further, \$59,194 of the \$266,940 in hourly labor costs charged to the OTAG grants were ineligible and \$68,610 were questionable. Additionally, the grantees charged \$36,394 of other ineligible and questionable expenditures to the grants.

Lobbying Activities

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) specifically prohibits the use of Section 514 funds to lobby members of Congress or their staffs. OMB Circular A-122, Attachment B, Paragraph 25, contains further limitations on the grantee's use of federal funds for lobbying.

Circular A-122 states that grantees may not use federal funds to:

- Attempt to influence any federal or state legislation through an effort to affect the opinions of the general public or any segment thereof. This includes the introduction of federal or state legislation; or the enactment or modification of any pending federal or state legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign. (Grassroots Lobbying)
- Attempt to influence any legislation through communication with any member or employee of a legislative body or with any government official or employee who may participate in the formulation of legislation. (Direct Lobbying)
- Provide a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, except in response to a documented request made by the recipient member, legislative body or subdivision.

We reviewed the grantees' activity reports, employee time sheets, invoices, and other documentation to determine if the grant funds were supporting lobbying activities. The review

found indications that the Tenants Union charged direct lobbying-related costs to the grant including \$2,061 in ineligible and \$2,829 in questionable charges to the OTAG grants and ITAG Public Entity Grants.

Note that, in the vouchers related to the costs discussed below, the Tenants Union billed HUD \$40.00 per hour to the grants. However, as discussed in the following section on Labor and Indirect Costs, we determined that \$12.13 of the \$40.00 billing rate was a double billing of expenses directly charged to the grants. Therefore, for questionable hourly charges discussed below, we only include \$27.87 (\$40.00 less \$12.13) per hour since the \$12.13 portion is already being questioned separately as a double billing.

- The Tenants Union charged the grant \$138 for translation and interpretation services for a meeting at a housing project between the Tenants Union, tenants, and a member of a U.S. Senator Maria Cantwell's staff. The purpose of the meeting was to lobby for the Senator's support of the project's tenants. These were charged to the 2000 ITAG Public Entity Grant.
- On November 11, 2000, the Tenants Union held the "Tenants Convention 2000". The Tenants Convention agenda indicated that the hours from 3:00 to 4:30 PM of the five and a half hour convention were scheduled for "Direct Action for R.O.O.F." The agenda described this activity as "'Renters Outraged and Organized for Fairness' Help kick off the Tenants Union new campaign to pass statewide legislation which would outlaw no-cause evictions." According to the Tenants Union, the direct action was a picket at a prominent landlord's house asking that he treat tenants with respect and give reasons when he evicts tenants. The Tenants Union issued a press release for the event, but received no media coverage. The Tenants Union charged 64 hours to the 1998 OTAG grant for the convention. Since one quarter of the convention was for a specific grassroots lobbying activity, we are questioning 16 hours, one quarter of the time, as an ineligible lobbying expense. This amounts to \$446 (16 hours X \$27.87 per hour), and includes \$296 for direct labor and fringe benefits, and \$150 of other indirect costs.
- In a voucher submitted to HUD for the quarterly period ending March 31, 2000, the Tenants Union charged the 1998 OTAG grant 44 hours for "Section 8 Legislative Briefing, press outreach, tenant preparation for press conference." According to the Director's report to the Tenants Union board regarding February 2000 activities, the Section Eight Tenants Organizing Project (STOP) organizer "... recruited 10 tenants from around the state to testify at Senate and House Housing Committee Hearings regarding the Section 8 notice legislation..." The Director also noted that the STOP organizer "...recruited tenants to attend a briefing for legislators regarding Section 8 housing. A press conference that (STOP organizer) organized resulted in three print stories and 18 radio stories on the Section 8 notice legislation." All of these activities are characterized as grassroots lobbying by OMB Circular A-122; therefore \$1,226 (44 hours X \$27.87, including \$814 for direct labor and fringe benefits, and \$412 of other indirect cost) charged to the grant is ineligible.
- The Tenants Union charged 9 hours to the grant for attendance and participation at City of Seattle Councilmember Judy Nicastro's June 10, 2000 Renter's Summit. According

to the Spring 2000 Tenants Union Newsletter "The Renters' Summit will serve as a springboard for Nicasastro's affordable rental housing legislative agenda." This is another example of grassroots lobbying and \$251 (9 hours X \$27.87, including \$167 for direct labor and fringe benefits, and \$84 of other indirect cost) charged to the grant for this activity is ineligible.

- From January 2000 through December 2001, the Tenants Union charged the grants 101.5 hours for participating in National Alliance of HUD Tenants (NAHT) conference calls. Our review of the agendas for these conference calls determined that a substantial portion of the calls focused on NAHT lobbying activities. Since the grantee's timesheets did not segregate the portion of the calls dedicated to lobbying, we are questioning the 101.5 hours charged, amounting to \$2,829 in questioned costs (101.5 hours X \$27.87, including \$1,878 for direct labor and fringe benefits, and \$951 of other indirect cost).

OMB Circular A-122 requires the grantee to identify total lobbying costs in its indirect rate proposal and submit a certification with the proposal that it has conformed to paragraph 25 standards and requirements. OMB Circular A-122 further requires that the grantee maintain adequate records to support that they made the determination that the costs charged to the grant were allowable in accordance with paragraph 25.

The Tenants Union never submitted an indirect rate proposal with the required lobbying certification to HUD for the OTAG grants. Further, the Tenants Union did not have adequate records segregating the amount of time spent on lobbying activities. Our review of the timesheets for 1998 through 2001 found that the Tenants Union charged only 2 of 40,228 hours (all hours, including non-federal) as lobbying. Although the Tenants Union's time keeping and accounting records contain virtually no charges for lobbying work performed, we found indications that the Tenants Union is involved with various lobbying activities including, but not limited to:

- Preparation of newsletters that contain specific lobbying activities, including encouraging readers to contact federal, state and local elected representatives in support of legislation relating to tenant rights.
- Distribution of the "STOP Watch" newsletter. As part of its operation of the Section Eight Tenants Organizing Project (STOP), the Tenants Union distributes the STOP Watch newsletter, which has a calendar of STOP events that includes numerous lobbying activities, such as monthly Tenants Union Meetings, Housing Advocacy Day, Local Housing Needs Local Laws Campaign meetings, City Council Meetings, and meetings with elected federal representatives. Further, the minutes of STOP policy board meetings contain discussions of various lobbying activities. According to the Tenants Union, 18 percent of the time spent on STOP policy meetings is dedicated to lobbying activities.
- Preparation for and participation in the June 2001 National Alliance of HUD Tenants convention in Washington DC. This convention included many lobbying activities, including sessions and workshops instructing attendees about various lobbying methods and strategies.

Due to the lack of details in the Tenants Union's records we could not determine the actual amount of time spent on lobbying.

Labor and Indirect Costs

Both the Tenants Union and the Washington Low Income Housing Network charged the OTAG grants for labor costs using flat rate hourly rates that were excessive and unsupported, resulting in \$59,194 of ineligible and \$68,610 of questionable labor charges.

According to Attachment A of OMB Circular A-122, compensation for personal services includes all compensation paid currently or accrued by the organization for services of employees rendered during the period of the award. Allowable compensation costs include salaries, wages, director's and executive committee member's fees, incentive awards, fringe benefits, pension plan costs, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost of living differentials. Compensation costs are allowable to the extent that it is reasonable for the services rendered.

Further, Attachment A, paragraph E.2.b. states: "A non-profit organization which has not previously established an indirect cost rate with a federal agency shall submit its initial indirect cost proposal immediately after the organization is advised that an award will be made and, in no event, later than three months after the effective date of the award." Submitting a cost proposal provides the granting agency assurance that the grant funds are being used for their stated purposes and gives the grant recipient some assurance that the cost allocation adequately covers the expenses related to the grant.

Tenants Union. Our review of the support included with the Tenant Union's OTAG vouchers used to withdraw grant funds disclosed that the Tenants Union billed its labor costs at a flat rate of \$35 per hour for the first four vouchers, and \$40 per hour for the remaining eight vouchers. Total labor costs billed to the grants amounted to \$190,867 for 4,880 hours. However, the grantee was only able to show support for an actual average hourly labor cost, including benefits, of only \$18.50 per hour. Therefore, actual labor costs for the 4,880 hours amounted to \$90,280, \$100,587 less than the amount charged to the grants. The reason for the \$100,587 difference consists mainly in the ineligible inclusion of directly charged expenses in the rate calculation, and in indirect charges made without an allocation plan.

When calculating the labor rate charged to its OTAG grants, the Tenants Union included budgeted amounts for translation fees, payments to the subgrantee, travel expenses, and conference and training expenses. However, the Tenants Union also charged the grants for these items as direct costs. Inclusion of these amounts accounted for \$12.13 of the labor rate charged to the grants. Thus the double billing for these expenses resulted in \$59,194 (4,880 hours x \$12.13) of ineligible labor charges to the grants.

Further, the Tenants Union did not submit an indirect cost rate proposal to HUD for approval subsequent to receiving the OTAG grants. Thus neither HUD nor the Tenants Union were assured that the expenses included in the indirect cost allocation were eligible and that all eligible expenses were included in the indirect cost rate. Accordingly, we are questioning an additional \$33,844 of other/indirect costs allocated to the Tenants Union's OTAG grants

(\$100,587 less \$59,194 ineligible costs and \$7,549 of other/indirect costs questioned in other sections of this report).

Washington Low Income Housing Network. Our review of the \$76,173 charged to the grants for labor performed by the sub-grantee, the Washington Low Income Housing Network (Network) found that the Network billed the grants at an average labor rate of \$42 per hour when its actual labor costs (including fringe benefits, leave accrual, and taxes) averaged \$22.33 per hour. The actual labor costs for the 1,827 hours charged was \$40,801. Thus the Network overcharged the grants by \$34,766 (\$35,372 total other/indirect costs charged to the grant, less \$606 of other/indirect costs questioned in other sections of this report).

The Network did not provide support for the difference between the actual labor costs and the amounts charged to the grants and did not prepare a cost allocation plan for its indirect costs, claiming that they were not the grantee but rather a contractor for the Tenants Union, and were not subject to the requirements of OMB Circular A-122. However, paragraph 3.a. of A-122 provides that: “All cost reimbursement subawards (subgrants, subcontracts, etc.) are subject to those federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a non-profit organization, this Circular shall apply....” Since the Network is a non-profit and is subject to A-122, we are questioning the \$34,766 in labor overcharges that the Network made to the grants.

Direct Costs

OMB A-122, Attachment A, paragraph B.1., states: “Direct costs are those that can be identified specifically with a particular final cost objective, i.e., a particular award, project, service, or other direct activity of an organization. However, a cost may not be assigned to an award as a direct cost if any other cost incurred for the same purpose, in like circumstance, has been allocated to an award as an indirect cost. Costs identified specifically with awards are direct costs of the awards and are to be assigned directly thereto. Costs identified specifically with other final cost objectives of the organization are direct costs of those cost objectives and are not to be assigned to other awards directly or indirectly.”

Our review of the grantees’ OTAG activity reports found the following ineligible and questionable costs billed as direct charges to the 1998 OTAG grant:

Tenants Union. The Tenants Union charged the OTAG grants for \$5,215 in ineligible and \$533 in questionable direct costs; specifically, it:

- Double-billed the OTAG and ITAG Public Entity Grants for the same translation and interpretation costs totaling \$913. The \$913 in charges to the OTAG grant is ineligible because these charges should have only been made to the ITAG Public Entity Grants.
- Charged the 1998 OTAG grant \$4,302 for costs associated with attending the 2000 National Alliance of HUD Tenants (NAHT) conference with four Section 8 tenants. Costs for the conference are not eligible as these costs were budgeted for the Tenants Union’s initial ITAG Public Entity Grant and should not have been charged to the OTAG grant.

- Charged the 1998 OTAG grant for \$533 in audit costs. The grantees were not required to obtain an OMB Circular A-133 audit, as they did not exceed the \$300,000 grant fund-spending threshold during any one year. Therefore, the audit cost to the grant is questionable since it did not directly benefit the grant.

Washington Low Income Housing Network. The Network charged the OTAG grants \$1,298 in ineligible and \$2,745 in questionable costs; specifically, the Network:

- Charged the OTAG grant \$1,298 of direct labor charges for Access Database training. This training is not an eligible grant activity because it benefits other grantee activities and therefore is not a direct cost. This expense should have been allocated as an indirect cost.
- Made \$2,745 in questionable charges to the OTAG grant for activities that were not funded by the OTAG grants. The \$2,745 included \$1,750 charged for "Section 8 Summit," which focused on Section 8 issues. The Network had previously removed this activity from the OTAG budget. The Network used \$589 of the \$1,750 for printing the "Section 8 Housing Summit, Recent Changes, New Opportunities" publication, dated November 2000, \$817 for room rental and coffee service, and \$344 for three airfare scholarships. The Network also charged the grant \$995 for travel to Washington DC for meetings with the National Low Income Housing Coalition Preservation Working Group. This expense was not a budgeted activity of the OTAG grant. It should be noted that the Network budgeted 11.1 percent of its OTAG grant funds for regional and clearinghouse activities, such as the above, and 88.9 percent for project specific activities, but instead spent 79.8 percent for regional and clearinghouse activities, and only 20.1 percent for project specific activities.

General Compliance with OMB Circular A-122

The Tenants Union is not compliant with the requirements of OMB Circular A-122, Attachment A, General Principles in its classification of direct vs. indirect costs. Direct costs are defined as costs that can be identified specifically with a final cost objective such as a grant award or other direct activity of an organization. Furthermore, the grantee must be consistent in its identification of direct costs. A cost can't be assigned to an award as a direct cost if other costs incurred for the same purpose are allocated to the award as indirect costs. Indirect costs are those that have been incurred for common or joint activities and can't be readily identified with an award or other direct activity of the organization.

Our review of the Tenants Union's accounting practices disclosed that the Tenants Union is not consistent in its identification of direct costs. We noted the following activities charged to the grants by the lead organizer: general organization and staff meetings, funding retreat, and organizers meetings (including other tenant organizers). The review disclosed that the lead organizer also performs activities such as lobbying, issue organizing, other tenant organizing, and hotline activities that are not receiving an equitable share of indirect costs.

Specific examples of non-compliance with Circular A-122 regarding the classification of the costs charged to the OTAG grants include:

- \$14,625 in labor expenses (524.75 hours X \$27.87 per hour, including \$9,708 for direct labor and fringe benefits, and \$4,917 of other indirect costs) for activities that don't meet the definition of direct costs. The activities reported to OMHAR commingle indirect and direct activities. Indirect activities charged to the grant include organizational support, staff meetings, organizational meetings, work plan and strategic plan development. These activities are indirect in nature because they were incurred for common and/or joint activities. However, commingled with the indirect charges were some direct charges that appear to be eligible such as Supervision of Mark-to-Market staff. We were unable to determine if similar activities were charged to the other funding sources because the timesheets do not provide this level of detail.
- \$3,079 in labor expenses (110.5 hours X \$27.87 per hour, including \$2,044 for direct labor and fringe benefits, and \$1,035 of other indirect cost) for general membership activities. The costs included the Tenants Convention membership meeting, newsletter production, and development of a Tenants Union brochure charged as direct labor to the OTAG grants. The charges are ineligible because they should have been treated as direct membership charges, since the organization, its members, and clients benefited from these activities as a whole.

We were unable to determine the total effect of this non-compliance, however, based on our analysis, the practice shifts costs away from unallowable, ineligible activities to the grant award.

We also noted a number of other instances of the grantee's non-compliance with the cost principles of OMB Circular A-122. The significant instances of non-compliance are discussed in other sections of this finding.

Charges to the Tenant Union's Public Entity Grant

In July 2000, The Tenants Union received its first ITAG Public Entity Grant. According to the grant agreement, any transfer of funds between activity categories that exceeds 10 percent of the budget total requires prior approval from the Intermediary. In the grant application, the Tenants Union stated that \$5,219 was to be used to send five tenants and one staff person to the June 2000 National Alliance of HUD Tenants Meeting. The remaining \$11,960 in grant funds were for translation and interpretation costs. Our review of the Tenants Union's billings to the grant found that it billed the grant only for translation and interpretation expenses in the amount of \$17,165. Since the Tenants Union only budgeted \$11,960 for these services and prior approval for the transfer of funds between categories was not obtained, the ITAG Public Entity Grant could only be charged for this amount plus ten percent, or \$13,156. Therefore, we are questioning \$4,009 (\$17,165 less \$13,156) of the unapproved translation and interpretation costs charged to the grant.

AUDITEE COMMENTS AND OIG EVALUATION OF AUDITEE COMMENTS

The Executive Directors of the Tenants Union and the Washington Low Income Housing Network responded separately to our draft report. Their entire comments are incorporated in this

report as Appendix B, except for the attachments, which were too voluminous to include in the report. The attachments are available upon request.

Tenants Union Response

Lobbying Activities

The Tenants Union (TU) did not dispute the ineligibility of the \$138 in translation costs or the \$1,226 charged in the quarter ending March 31, 2000 for work on the Section 8 Legislative Briefing, press outreach, and tenant preparation for press conference. The TU contended that the OIG overstated the portion of the 2000 Tenant Convention involving the “Renters Outraged and Organized for Fairness” (ROOF) activities, citing that the meeting actually lasted 6.5 hours as their staff worked during the half hour lunch break and only 23 percent of the time was devoted to the ROOF activities. The TU further argued that the OIG misunderstood the purpose of the ROOF activity since it was not just for lobbying purposes but was also to hold a prominent landlord accountable for poor treatment of tenants. Regarding the Renters Summit, the TU claimed that the time charged to the OTAG grant represented hours spent by employees who were staffing an informational table set up to distribute information about Section 8 tenant rights and the TU’s programs including its work in assisting tenants in preserving Section 8 housing.

The TU admitted that the NAHT conference calls included lobbying activities and stated that only half the time spent on the calls was billed to the OTAG grant. They claimed that the OIG inaccurately determined that any contact with HUD administrative officials constituted lobbying and stated that costs arising from the staff’s participation in the NAHT conference calls should not be declared ineligible.

The TU further stated that there is no basis for the OIG to dispute as lobbying the Tenants Union’s newsletters, “Stop Watch” publication, or its participation in the 2001 NAHT convention. They contend that the report implies that the hours that TU billed to the OTAG grant for these activities constitute ineligible lobbying.

OIG Response

Based on TU’s response, we adjusted the number of hours questioned relating to the 2000 Tenants Convention. However, we continue to categorize the ROOF activities as grass roots lobbying since the stated purpose of the activities were to kick off a campaign to pass statewide legislation. The picket demonstration was held at the home of a landlord of a non-Section 8 building, making the activity ineligible for OTAG funding, and appears to have been designed to generate publicity for its lobbying campaign as TU issued a press release on the event. Similarly, the TU promoted the June 10, 2000 Renter’s Summit as an event in support of a Seattle Councilmember’s rental housing legislative agenda. Clearly the event was a grass roots lobbying activity and any costs associated with it are not eligible to be charged to the OTAG grant.

Our review of the NAHT telephone conference call agendas found that the agendas do contain numerous topics that are related to lobbying activities. We also noted that the agendas do not always clearly show which topics are OTAG eligible nor do they show the purpose of discussions on meetings with HUD officials. Further, the TU could not provide any other

documentation such as notes on the conference calls to support that the issues discussed were either OTAG-related or unrelated to lobbying activities. In the absence of any other supporting documentation, we cannot accurately determine how much of the conference call time was spent on lobbying activities. Thus we consider the full amount of charges for these conference calls questionable, requiring further examination by HUD to determine their eligibility.

The draft report did not state that TU charges to the OTAG grants for its newsletters and the NAHT convention constitute ineligible lobbying. The report includes these items as examples of some of the TU's functions that contain lobbying activities. These lobbying activities are discussed here to illustrate that the TU did not segregate time spent on lobbying in its timekeeping records as required by OMB Circular A-122. As stated above in this report, the TU's timesheets only show that 2 of the 40,228 recorded hours were categorized as time spent on lobbying. By its own admission and as evidenced by documentation found in the TU newsletters and board meeting minutes, the TU spends a material portion of its time on lobbying activities.

Labor and Indirect Costs

The TU stated that HUD-OMHAR never requested a cost allocation plan nor did HUD instruct the OTAG grantees on how to submit such a plan during a training session in 1998. The TU noted that it has submitted its cost allocation plan to HUD for approval and attached a copy to their response. The TU explained that the inclusion of direct costs into its original indirect cost calculation was not deliberate but was due to the organizations inexperience and lack of controls sufficient to ensure compliance with the OTAG regulations. The TU further noted that it has instituted new accounting and management controls to ensure that direct costs are not included in the indirect cost rate and to ensure lobbying activities are defined and lobbying time and costs are segregated from charges to government grants.

OIG Response

We commend the TU for its efforts to strengthen its controls to ensure conformance with the grant requirements. Although HUD did not specifically request the TU to submit an indirect cost allocation plan, the OTAG grant agreement obligated the TU to conform with the cost principles of OMB Circular A-122, including the submission of an indirect cost allocation plan to HUD as the granting agency. Any indirect cost allocation plan submitted to HUD by the TU should be carefully reviewed by HUD to ensure that no direct costs are included in the cost allocation formula and to ensure complete conformance with the principles of OMB Circular A-122.

Direct Costs

The TU acknowledged that it inadvertently charged both the OTAG and ITAG grants \$913 for interpretation/translation services. They contended that the ITAG grant administrator determined that the non-lobbying costs associated with the 2000 NAHT conference were ineligible for the ITAG grant and thus they had to charge the OTAG grant for these costs. The TU stated that the conference costs were an eligible OTAG expense that benefited its OTAG program and should not be questioned. The TU further claimed that the audit cost charged to the OTAG grant was eligible because it was for a portion of an internal audit, which benefited the OTAG program.

OIG Response

As noted above in this report, we determined the \$4,302 charged to the OTAG for the 2000 NAHT Conference was ineligible because this cost was budgeted for the TU initial ITAG grant. During the audit we asked the TU for documentation to support its claim that the ITAG administrator told the TU that the NAHT costs were ineligible charges to the ITAG grant. The TU was unable to provide any documentation to support this claim.

Regarding the audit costs, we question the TU's assertion that an internal audit benefited the OTAG program in light of the lack of its controls over OTAG charges, such as not segregating lobbying hours in the timekeeping records and using direct charges in its indirect cost allocation. The internal audit would have benefited the OTAG program if it had reported these control weaknesses and recommended strengthening the controls over the OTAG costs to ensure their eligibility and conformance with the grant and program requirements. Since the audit did not benefit the OTAG program, we question the eligibility of these costs.

General Compliance With OMB Circular A-122

The TU asserted that the fact that charged activities were organization-wide does not cause these expenses to fall out of compliance with Circular A-122. They noted that they only charged a portion of those hours to the grant because the STOP program staff needed to participate in organization-wide activities in order to perform their duties under the grant. They stated that in order to function and provide organizational support for the OTAG-funded program, the STOP program staff must participate in organization-wide meetings and participate in organizational development and planning.

The TU also contended that the \$3,079 expenses for the Tenants Convention membership meeting, newsletter production, and Tenants Union brochure benefited the OTAG-funded program and were properly charged to the grant. The TU stated that the Tenants Convention included training on the preservation of Section 8 housing and the newsletters are distributed to not only to members, but also to non-member residents of Section 8 buildings. The TU further noted that the brochure was needed to introduce the program's activities to the residents of properties where the TU was performing OTAG-funded work.

OIG Response

The finding in question relates to the classification and commingling of direct and indirect costs. In the report, we acknowledged that there were eligible direct charges commingled with the questioned indirect charges for general organizational activities. However, to be in conformance with OMB Circular A-122, costs that can be identified as directly benefiting the Mark-to-Market grant should be charged to the grant as a direct cost. For example in July through September of 2000, 129.25 hours were spent for "Supervision of M2M staff and training of new staff, work-plan and project development, strategic planning meetings, organizational support, staff meetings." While supervision of M2M activities performed by staff members is eligible as a direct activity, the other staff activities benefit the STOP program as a whole. Accordingly, the costs for these activities are not direct costs as defined in the A-122 Compliance Supplement. Further, the STOP activities can also be questioned as direct expenses to the OTAG program since they have additional funding sources other than the OTAG grant.

Charges to the Tenants Union's Public Entity Grant

The TU stated that the Public Entity Grant monitor, Amadour-Tuolumne Community Action Agency, informed the TU that the grant funds could not be used to send tenants to the NAHT conference. The TU contended that it made up for this by billing the NAHT Conference cost to the OTAG grant. Instead of billing the NAHT Conference costs to the Public Entity Grant (PEG), it billed the PEG for the additional translation and interpretation services. The TU also claimed that it has put in place more stringent management controls and that future problems in this regard are not anticipated.

OIG Response

We asked the TU to provide documentation to support their claim that the Amadour-Tuolumne Community Action Agency (ATCAA) informed them that PEG funds could not be used to send tenants to the NAHT conference. The TU gave us a copy of a May 9, 2000 letter from the ATCAA. In this letter, the ATCAA asked the TU for additional information including how they would select tenants to attend training and how the knowledge gained by the tenants attending training/conferences would be disseminated to tenants not in attendance. In the letter the ATCAA did not tell the TU that sending tenants to the NAHT was an ineligible cost to the PEG. The TU also provided a copy of the December 3, 1999 memo from the OMHAR Director to all OTAG and ITAG recipients which clearly stated that OMHAR would allow grant recipients to use the OTAG and ITAG funds to cover tenant training costs except for those incurred on training days where lobbying activities take place. Since the additional documentation provided does not support the TU's claim, we continue to question the unauthorized transfer of PEG funds.

Washington Low Income Housing Network Response

Labor and Indirect Costs

In its response, the Network acknowledged that it neglected to establish a cost allocation plan under OMB Circular A-122 guidelines, resulting in some overcharges for labor and indirect costs. The Network included a copy of the indirect cost allocation plan that it submitted to HUD in response to our draft report. The Network further noted that, according to its calculations using the new indirect cost allocation plan, it overcharged the cost of labor to the grant by \$2,817 and not the \$34,766 questioned in the audit report.

OIG Response

We support the Network's efforts in compiling and submitting an indirect cost allocation plan to HUD. However, HUD should carefully review these cost allocations to ensure that the costs claimed are supported and consistent with the provisions of OMB Circular A-122. For example, although we did not thoroughly analyze the new cost allocation plan submitted by the Network, we did notice that that the Network may be over-allocating its administrative costs to the OTAG program. In its proposed indirect cost allocation plan, the Network's billing rate increases from \$34.24 per hour for 1999 to \$49.50 per hour for 2001. In the plan, the amounts shown as costs for the administration portion of salaries increased by 94 percent from 1999 to 2001, yet the

number of hours spent on the OTAG program only increased by 5 percent over the same period. This disproportionate increase in the allocation of administrative costs caused an \$8.51 per hour increase in the proposed billing rate.

Direct Costs

The Network stated that the 2000 Risk Assessment was partially funded by one additional source, the State of Washington, but this does not make the \$645 charge to the OTAG ineligible. The Network contended that the NOFA gives extra points to applicants if they leverage other resources in order to achieve the purposes of the OTAG award. Regarding charges for Access database training, the Network claimed that the training was not an indirect cost because the purpose of the training was to improve the skills in executing queries for the Section 8 Risk Assessment and did not benefit the organizational administration or other programs of the Network.

The Network also disagreed with our finding relating to the costs of the Section 8 Summit. The Network stated that, with the exception of the \$200 mistakenly charged for coffee service, the costs relating to the Section 8 Summit should be considered eligible. The Network noted that it and the TU agreed to remove the Summit from the budget because they felt that the funds were not available to cover this activity. The Network further stated that they held the Summit after determining that the funds were available to do so. The Network admitted that it should have changed the budget to reflect this, but contends that the charges were for an eligible activity originally outlined in Exhibit 2 of the grant application.

OIG Response

Based upon the Network's response, we removed the questionable \$645 charge for the Risk Assessment from the report.

Regarding Access database training, the Network is involved with numerous Section 8 activities not just the Mark-to-Market activities. Further, the Network's Section 8 database is funded by multiple sources, including the State of Washington, and contains information relevant to the various entities providing the funding. Accordingly, the charge for training Network employees in how to query the database is not eligible as a direct cost to the OTAG program as other programs benefit from this training. The training costs must be allocated as indirect to be in conformance with OMB Circular A-122.

We continue to question the charges for the Section 8 Summit as the Network never informed HUD that it wished to revise the budget to reinstate the Summit into its OTAG budget. Article 11.(c) of the grant agreement specifically states: "Only the Grant Officer has the authority to authorize deviations from this Grant Agreement. In the event the Grantee does deviate without written approval of the Grant Officer, such deviation shall be at the risk of the Grantee. Any costs related thereto shall be borne by the Grantee."

RECOMMENDATIONS

We recommended that the Director of OMHAR require the:

- 1A. Tenants Union to account for its lobbying hours and avoid charging the grant for activities related to lobbying as defined by MAHRA and OMB Circular A-122.
- 1B. Tenants Union and Washington Low Income Tenants Network to submit cost allocation plans for review and approval. After the plans are approved, require the grantees to use the plans to adjust all costs charged to the grants containing an allocation of indirect costs, and repay any overcharges.
- 1C. Tenants Union and Washington Low Income Tenants Network to put controls in place to ensure that all expenditures charged to the grant are in compliance with OMB Circular A-122.
- 1D. Tenants Union to repay the grants \$2,061 for ineligible lobbying, \$59,194 for ineligible labor double billings, and \$5,215 for other ineligible direct expenses.
- 1E. Tenants Union to provide support for or repay the grant for \$33,844 of questionable labor and indirect costs, \$2,829 for questionable lobbying costs, and \$22,246 for other questionable direct costs.
- 1F. Washington Low Income Tenants Network to repay the grants \$1,298 for ineligible direct expenses.
- 1G. Washington Low Income Tenants Network to provide support for or repay the grant for \$34,766 of questionable labor and indirect costs and \$2,745 for other questionable direct costs.

We also recommended that the Director of OMHAR:

- 1H. Consider taking sanctions against the Grantee in accordance with Section 1303 of the Defense Appropriations Act (Public law 107-117).
- 1I. Consider suspending grant funding until the grantees develop and implement appropriate management controls to ensure that only eligible activities receive funding and that the documentation for the expenditures complies with OMB Circular A-122.

MANAGEMENT CONTROLS

In planning and performing our audit, we considered the management controls relevant to the Tenants Union and Washington Low Income Housing Network'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 for assistance,
- Controls and documents to support costs of assistance provided, and
- Controls and procedures over the reporting of activities and costs.

It is a significant weakness if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet an organization's objectives.

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

- Lack of policies and procedures to ensure that salaries and time records meet the standards of OMB Circular A-122,
- Lack of a cost allocation plan to charge shared costs, and
- Lack of policies and procedures to ensure that lobbying activities are not directly or indirectly funded by federal sources.

FOLLOW-UP ON PRIOR AUDITS

The Office of Inspector General performed no previous audits of the Tenants Union or Washington Low Income Housing Network.

SCHEDULE OF QUESTIONED COSTS

Recommendation Number	Type of Questioned Costs	
	Ineligible 1/	Unsupported 2/
1D	\$66,470	
1E		\$58,919
1F	\$1,298	
1G		\$37,511

The following table shows a breakdown of the above schedule by the description of each individual questioned cost (See breakdown of labor costs by cost element below):

Recommendation Number	Type of Questioned Costs		
	Description of Cost	Ineligible 1/	Unsupported 2/
1D	Other Direct-Translation & Interpretation Lobbying	\$ 138	
1D	Labor-Tenants Convention 2000 - Lobbying	446	
1D	Labor-Section 8 Legislative Briefing - Lobbying	1,226	
1D	Labor-Renter's Summit - Lobbying	251	
1D	Other Direct-Translation & Interpretation Double Billing	913	
1D	Other Direct-NAHT Conference Travel - Wrong Grant	4,302	
1D	Double Billings of Direct Costs in Labor Rate	59,194	
1E	Labor-NAHT Conference Calls - Lobbying		\$ 2,829
1E	Labor-Meetings - Indirect Activities Charged Direct		14,625
1E	Labor-Membership Activities		3,079
1E	Other Direct-Audit Costs		533
1E	Other Direct-Unapproved Translation & Interpretation		4,009
1E	Other/Indirect-Indirect Cost without an Approved Rate (Net)		33,844
1F	Labor-Access Database Training	1,298	
1G	Other Direct-Section 8 Summit Publication		589
1G	Other Direct-Section 8 Summit Room Rental & Coffee		817
1G	Other Direct-Section 8 Summit Airfare Scholarships		344
1G	Other Direct-Travel to Washington DC		995
1G	Other/Indirect-Indirect Cost without an Approved Rate (Net)		34,766

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

The following table shows a breakdown of the above schedule for questioned labor costs:

Description of Labor Cost	Total Labor Questioned	Direct Labor Plus Fringe Benefits	No Approved Rate for Other/Indirect	Double Billings of Direct Costs in Labor Rate
Tenants Convention 2000 - Lobbying	\$ 446	\$ 296	\$ 150	
Section 8 Legislative Briefing - Lobbying	1,226	814	412	
Renter's Summit - Lobbying	251	167	84	
NAHT Conference Calls - Lobbying	2,829	1,878	951	
Meetings - Indirect Activities Charged as Direct Costs	14,625	9,708	4,917	
Membership Activities	3,079	2,044	1,035	
Double Billings (Net)	59,194			\$59,194
Indirect Cost without an Approved Rate (Net)	<u>33,844</u>	<u> </u>	<u>33,844</u>	<u> </u>
Total Tenants Union Questioned Labor	<u>\$115,494</u>	<u>\$ 14,907</u>	<u>\$41,393</u>	<u>\$59,194</u>
Access Database Training	\$ 1,298	\$ 692	\$ 606	
Indirect Cost without an Approved Rate (Net)	<u>34,766</u>	<u> </u>	<u>34,766</u>	
Total Network Questioned Labor	<u>\$ 36,064</u>	<u>\$ 692</u>	<u>\$35,372</u>	
Total Questioned Labor Costs	<u>\$151,558</u>	<u>\$ 15,599</u>	<u>\$76,765</u>	<u>\$59,194</u>

AUDITEE COMMENTS

**RESPONSE OF THE TENANTS UNION TO
HUD OIG DRAFT AUDIT MEMORANDUM REGARDING
OTAG GRANTS FFOT98030WA and FFOT0004WA
and ITAG GRANTS MTMWAPEG00017 and MTMWAPEG01015**

I. SUMMARY

Below is the response of the Tenants Union to the draft audit memorandum prepared by U.S. Department of Housing and Urban Development (HUD) Office of the Inspector General (OIG) regarding Outreach and Technical Assistance Grants Nos. FFOT98030WA (OTAG I) and FFOT0004WA (OTAG II) and Intermediary Technical Assistance Grants Nos. MTMWAPEG00017 and MTMWAPEG01015 awarded to the Tenants Union. The Tenants Union was awarded the grants to conduct outreach and training and provide assistance to tenants in certain HUD-subsidized properties.

The HUD OIG's findings with regard to the Tenants Union centered on lobbying activities; the billing of labor and indirect costs to the grants; the billing of direct costs to the grants; and compliance with OMB Circular A-122. The Tenants Union's responses to those findings may be summarized as follows:

A. Lobbying Activities

The Tenants Union concedes that \$138 in interpretation costs for a meeting with US Senator Maria Cantwell were inadvertently billed to the 2000 ITAG grant.

The report overstates the portion of the 2000 Tenant Convention which involved alleged lobbying activities.

The OTAG grant was billed for lobbying activity for the quarterly period ending March 31, 2000 as the result of an accounting error.

The disputed activities at the "Renter's Summit" were educational/outreach in nature, not lobbying.

The Tenants Union did not charge lobbying activities during NAHT conference calls to the OTAG grants.

There is no basis upon which to dispute as lobbying the amounts billed for the Tenants Union's newsletters, "STOP Watch" publication, or participation in the 2001 NAHT convention.

B. Labor and Indirect Costs

The Tenants Union reasonably believed that it did not need to submit a cost allocation plan to HUD; however, it has now done so.

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As the result of an internal accounting error, some costs included in the Tenants Union's original indirect cost calculation were later direct billed. Management controls to address this situation have been put in place.

C. Direct Costs

The Tenants Union concedes that \$913 in translation/interpretation costs was mistakenly billed to both the ITAG and OTAG grants.

The questioned costs associated with the 2000 NAHT conference are eligible expenses.

The audit costs charged to the OTAG grant benefited the program and should be considered eligible.

D. General OMB Circular A-122 Compliance

The Tenants Union charged activities that benefited the OTAG-funded program to the OTAG grant.

The OTAG-funded program benefited from the participation of project staff in the Tenant Convention, newsletter and brochure production.

E. Charges to the Tenants Union's Public Entity Grant

The questioned amounts charged to the Public Entity Grant for translation and interpretation were eligible and benefited the ITAG-funded work.

II. BACKGROUND

A. The Tenants Union

The Tenants Union provides services to renters throughout Washington, primarily in the Seattle-Tacoma metropolitan area. Services include an information and referral hotline, assistance for groups of tenants residing in private market housing, and assistance for tenants in at-risk Section 8 housing. The Tenants Union worked with tenants to preserve at-risk Section 8 housing prior to receiving an OTAG award. However, receipt of OTAG funding allowed the Tenants Union to greatly expand its work with tenants in Section 8 assisted housing. The program charged with carrying out this work had 2 full-time staff and one full-time volunteer at the height of its staffing.

B. The OTAG grants

In 1998, HUD notified the Tenants Union that it had been awarded an OTAG grant of \$236,929 to provide outreach and training to residents of HUD properties eligible for participation in the Mark to Market program. The training and outreach was aimed at

enabling the residents to meaningfully participate in the public process through which decisions affecting their housing would be made. The Tenants Union hired two experienced community organizers to staff the Section 8 Tenants Organizing Project (STOP), the program tasked with carrying out OTAG-funded work. A full-time VISTA volunteer was secured to assist the organizers. In 2000, the Tenants Union was awarded a second OTAG grant in the amount of \$310,000 to continue and expand STOP's work.

The STOP program staff developed an outreach plan to identify groups of residents in eligible properties and provide them with training to explain the impending changes in their housing. Staff set up an organizational structure for the program and attended trainings offered for OTAG grant recipients regarding the Mark to Market program. The staff members devoted substantial time to learning the program's technical details, organizing effective training presentations, and identifying properties eligible for OTAG assistance, prioritizing those with the earliest subsidy expiration dates.

Staff began their work in each of the identified properties by distributing flyers to residents inviting them to attend a meeting at which the impending changes to their housing would be explained. The meetings focused on explanation of the potential effect on the residents of expiration of the property's subsidy and the legal rights available to the residents. Staff facilitated discussion and worked with the residents to make collective decisions and establish goals. Many, many such meetings were conducted.

The residents of some properties took an interest in playing a role in the preservation of their housing. Staff worked with those groups of residents to devise long-term plans, and provided them with technical assistance. These plans included forming resident associations, choosing leaders, establishing long-term goals, and making strategic plans for the achievement of those goals. Over the course of the grants, STOP staff were able to provide ongoing assistance to residents of many properties.

Work by the STOP staff made a real difference in the lives of the residents of a multi-unit complex in Kent, Washington whose subsidy was set to expire. With the assistance of STOP staff, the residents were able to organize themselves and work with a nonprofit housing developer and private charitable foundation to arrange to purchase and renovate the complex. The residents are now co-owners of their homes, with management authority. Without the assistance of STOP and the funding of OTAG, this important victory would not have taken place.

III. THE HUD OIG AUDIT

A. The Audit Process

On May 22, 2002 the Tenants Union received a letter from Frank Baca, District Inspector General for Audit, indicating that the organization would be audited for both the OTAG I and OTAG II grants. The letter asked that a substantial quantity of documents be made available for review by the OIG staff. The documents were available on May 28, 2002, when OIG staff arrived to begin the audit. During the first meeting with OIG staff, the

Tenants Union's Executive Director was asked about the definition of lobbying under which the Tenants Union had been operating. The OIG staff did not contradict the definition given by the Director.

On July 1, 2002, two of the OIG staff met with Tenants Union representatives to review their interim findings. The OIG staff noted the incorrect hourly rate calculations they had discovered, identified some lobbying they believed had been charged to the grant, and questioned instances in which they felt that timesheets did not reconcile with invoices submitted.

This was the first meeting at which it became apparent that the auditors did not understand the A-122 definition of lobbying or the purposes of OTAG-funded activities. The auditors were under the impression that *any* contact with an elected official or discussion of such contact constitutes lobbying under OMB Circular A-122, regardless of whether the activity involved an attempt to influence the official's position on legislation. As a result, the auditors had considered the presentation of a training on tenant involvement in preserving at-risk Section 8 properties to be lobbying activity. The reason given for defining this training as lobbying was that the housing preservation strategies discussed at the training included contacting community leaders and elected officials. Tenants Union staff explained to the auditors that no actual contact with elected officials had taken place at the training, and that part of the purpose of the OTAG grants is to educate residents of identified properties about the strategies available to them for preserving their housing, including contacting elected officials and community leaders to bring the problem to their attention. The auditors apparently did not accept that explanation.

During the June 1, 2002 meeting the auditors also indicated that they believed STOP staff's participation in National Alliance of HUD Tenants (NAHT) conference calls constituted lobbying, in part because meetings with high-ranking HUD officials had been discussed during the calls. Tenants Union staff explained to the auditors that the purpose of the referenced meetings with HUD officials had not been to advocate for legislation, but instead to discuss HUD administrative policies that affected tenants and housing preservation activities. The auditors did not accept this explanation. They continued to take the position that any contact with the HUD Secretary must involve legislative advocacy.

On September 18, 2002, the Tenants Union received the discussion draft and audit memorandum. The exit interview was held on October 3, 2002. On October 7, 2002 a letter memorializing the issues discussed in the exit interview was sent to the OIG. A copy of that letter is attached as **Exhibit A**.

Also on October 7, 2002, OIG provided the Tenants Union with a list of NAHT conference call topics which they believed constituted lobbying or otherwise ineligible activity. According to the OIG analysis, 4% of the total time spent on NAHT conference calls was OTAG eligible. The Tenants Union disputed that analysis.

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On October 8, 2002, the OIG requested background information on meetings of the STOP policy board. A complete description of hours spent on the policy board meetings was supplied two days later.

On October 16, 2002, the OIG indicated that additional lobbying activities had been identified and that additional costs were being challenged. The Tenants Union declined to meet to discuss these new allegations, as the exit interview had already been conducted, and the Tenants Union was then awaiting the OIG's draft audit memorandum.

B. Response to Audit Findings

1. Lobbying Activities

a. \$138 in interpretation costs for a meeting of tenants with US Senator Maria Cantwell were inadvertently billed to the 2000 ITAG grant.

The report finds ineligible \$138 in interpretation costs arising from a meeting of tenants with Senator Maria Cantwell. The Tenants Union does not dispute that these costs were inadvertently billed to the OTAG grant.

This error occurred because a tenant meeting occurred just prior to the meeting with Senator Cantwell. The same interpreter provided services for both meetings. The interpreter issued a single invoice for the time she had worked that day, and the entire invoice was inadvertently billed to OTAG.

Tenants Union staff members carrying out the work funded by the OTAG grant were aware that lobbying activities were not to be billed to the grant. Staff time for the Cantwell meeting was not charged to the OTAG grant (see 2nd Quarter 2001 invoice).

b. The draft audit memorandum overstates the number of hours allegedly spent on lobbying at the 2000 Tenant Convention.

The draft report declares ineligible as lobbying all time spent at the 2000 Tenant Convention on the "Renters Outraged and Organized for Fairness" (ROOF) activity. The report's discussion of this activity is inaccurate for several reasons, and the amount improperly billed has been overstated.

First, the auditors misunderstood the purpose of the ROOF activity. It both kicked off the Tenants Union's campaign for statewide tenant rights legislation and served to hold a prominent landlord accountable for poor his treatment of tenants. The activity was not solely devoted to attempts to influence public policy.

Second, the draft report undercounts the total number of hours spent at the 2000 Tenant Convention, and thus overstates the number of hours spent on the allegedly ineligible lobbying activity. The report fails to include the convention's half-hour lunch break within the total hours worked by staff. Although convention attendees took a break

during the lunch period, staff used the time to serve meals, clean up, and prepare for the next portion of the agenda. The meeting lasted 6 ½ hours, from 10:00 a.m. to 4:30 p.m, 1 ½ hours of which was devoted to the ROOF activities. Thus, 23% of the time was spent on the ROOF activities, not 25%, as the report states.

The undercounting of total convention hours and misunderstanding of the ROOF activity's purpose results in overstatement of the lobbying hours billed to the grant. The Tenants Union billed only 59 staff hours to the OTAG grant for the convention (4 hours in the 3rd quarter 2000 invoice and 55 hours in the 4th quarter 2000 invoice), not 74, as stated in the report. Of that amount, the 12.5 hours declared to be ineligible lobbying in connection with the 2000 Tenants Convention comprise 23% of the total time billed for the convention, not 25%. And, since only half the ROOF activity involved lobbying, as explained above, only 6.25 of the total staff hours billed to the grant (\$173) were arguably ineligible.

c. Staff lobbying activities for the quarterly period ending March 31, 2000 were inadvertently billed to the OTAG grant.

These staff hours were inadvertently included in the invoice. Inclusion of lobbying was not a systematic problem, as shown by the fact that the Lead Organizer's work on the same lobbying effort was not billed to the OTAG grant.

d. The activities at the "Renter's Summit" were educational/outreach in nature.

Seattle City Council member Judy Nicastro held a city-wide "Renter's Summit" on June 10, 2000 to bring tenants and landlords together to discuss housing issues. Legislative issues were discussed and the Tenants Union's Lead Organizer participated in a panel discussion. The Lead Organizer's time was not charged to the OTAG grant. The time charged to the OTAG grant represented hours spent by other employees who staffed an informational table. Information on the rights of Section 8 tenants was distributed as well as information about the Tenants Union's programs, including its work assisting tenants in preserving Section 8 housing. Publicizing the OTAG-funded work brought in new supporters for this work and increased the opportunities for success. Thus, these hours did not constitute ineligible lobbying.

e. The Tenants Union did not charge lobbying activities during NAHT conference calls to the OTAG grants.

The Tenants Union does not deny that the NAHT conference calls include some lobbying activity. For this reason, only half the staff time spent on the calls was ever billed to the OTAG grant, although all of the time benefited the OTAG-funded program. After reviewing the agendas of four sample calls, the Tenants Union determined that 25-35 minutes of each 90-120 minute call was spent on lobbying. The Tenants Union was overly cautious when billing time for the NAHT conference calls, and provided ample evidence that only a portion of the calls were charge to the grant.

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The OIG's determination that all of the staff time billed for the calls should be questioned because "the grantee's timesheets did not segregate the portion of the calls focused on NAHT lobbying activities" represents a very recent change in the OIG's position on this issue. As recently as October 7, 2002, the OIG sent a chart to the Tenants Union which purported to explain how it had determined that all of the time spent on the NAHT conference calls was either lobbying or ineligible. A copy of the chart is attached as **Exhibit B**. The chart further demonstrates the auditors' lack of understanding of the A-122 definition of lobbying and the activities funded by the OTAG grant. The auditors operated under the assumption that *any* discussion of problems with HUD administrative policies was lobbying. This is simply inaccurate.

For example, the OIG determined that the opt-out/prepayment task force report presented during the January 19, 2001 call constituted lobbying. That section of the call involved a discussion of how HUD was addressing internal administrative issues which had been identified as impacting tenants during the Section 8 opt-out process. This discussion clearly does not fit within the A-122 definition of lobbying.

The same is true for the property disposition task force report presented during the same call. The Tenants Union is specifically authorized pursuant to its OTAG funding to work with tenants in properties where housing conditions are substandard. In order to do so, staff must be informed and knowledgeable about the property disposition actions that result from enforcement action by HUD. That section of the January 19, 2001 NAHT conference call dealt with issues of how HUD deals with property disposition and NAHT's attempts to improve that process administratively. There was no discussion of any attempt to influence legislation. Again, this discussion clearly falls outside the A-122 definition of lobbying.

The conference call agendas make frequent reference to communication with HUD officials regarding HUD policies and how those policies are implemented. According to the definition in paragraph 25, Section (a) of OMB Circular A-122, these communications do not constitute lobbying.

In sum, the OIG inaccurately determined that any contact with HUD administrative officials constituted lobbying. Its determination is inaccurate. The costs arising from staff's participation in the NAHT conference calls should not be declared ineligible.

f. There is no basis for the OIG to dispute as lobbying the Tenants Union's newsletters, "STOP Watch" publication, or participation in the 2001 NAHT convention.

Although the OIG concedes that it found no support for the allegation, and it identifies no specific hours or amounts, the report implies that hours billed to the OTAG grant in connection with the Tenants Union's newsletter, the *STOP Watch* publication (newsletter of the STOP program), and the Tenants Union's participation in the 2001 NAHT convention in Washington D.C. constituted ineligible lobbying. The Tenants Union

objects to the implication that it improperly charged hours spent on these activities to the OTAG grants.

Both the Tenants Union newsletter and *STOP Watch* contain a substantial amount of information pertinent to residents of OTAG-eligible properties. The Tenants Union newsletter is distributed to all of the organization's members. *STOP Watch* also has wide distribution. The inclusion of information about OTAG-funded work in these publications benefited the grant-funded activities. While both these publications from time to time contain information concerning proposed legislation or other public policy issues affecting tenants, the Tenants Union did not charge time spent on the preparation of those portions of the publications to the OTAG grant.

The hours billed to the grant for time spent by staff who attended the 2001 NAHT convention reflected only non-lobbying activities. The convention included a great deal of informational meetings, training, and non-lobbying activities which were attended by staff involved in OTAG-funded work, and which benefited the OTAG-funded program.

2. Labor and Indirect Costs

- a. The Tenants Union was never asked to submit a cost allocation plan to HUD, and reasonably believed that no such plan was required; however, it has now submitted a cost allocation plan to HUD for approval.**

HUD-OMHAR never requested a cost allocation plan from the Tenants Union. During a lengthy training by HUD-OMHAR for OTAG grantees in 1998, no instruction was given as to how to submit such a plan. At this training there were not enough cost allocation manuals for all participants, and the necessity of submitting a plan was not made clear.

In keeping with the OIG's recommendations, the Tenants Union has now submitted a cost allocation plan to HUD for approval. A copy of the proposed plan is attached as **Exhibit C**. The Tenants Union asks that the entire amount of costs questioned as the result of the Tenants Union's failure to previously submit a cost allocation proposal be considered and allowed if the proposal is approved by HUD.

- b. Due to an accounting error, costs that were direct billed were included in the Tenants Union's original indirect cost calculation.**

The Tenants Union does not deny that an accounting error resulted in the inclusion within the original indirect cost calculation of costs that were later direct billed. The error resulted from the organization's lack of experience and management controls sufficient to ensure compliance with the OTAG regulations. No deliberate double billing of costs occurred.

In keeping with the OIG's recommendations, the Tenants Union Board of Directors has put in place new accounting and management controls which will ensure that future problems of this kind do not occur.

- All staff timesheets have a category to record time spent lobbying .
- A review of the pertinent definitions of lobbying activity has been completed with all staff as well as a review of common lobbying activities that the Tenants Union carries out.
- A indirect cost allocation report has been submitted to HUD-OHMAR.
- From now on invoices and reports of activities under government grants will be reviewed in a meeting between the Director and the staff member to ensure that only allowable activities are charged to government grants.
- The 2003 budget will include lobbying as a program so costs can be tracked.
- The Tenants Union bookkeeper will review direct costs on invoices to ensure that those costs were not included as indirect costs for the purpose of determining an indirect cost rate.

3. Direct Costs

a. The questioned \$913 in translation/interpretation costs was mistakenly billed to both the ITAG and OTAG grants.

The Tenants Union billed over \$20,000 in interpretation and translation costs to the ITAG grant. This was a significant cost, as many of the properties in which OTAG-funded work occurs house immigrants who speak many different languages. At times, several different interpreters are simultaneously required.

In order ensure that interpretation costs were accurately billed, the costs for each property were assigned to be billed toward either the ITAG or OTAG grant. In the instance identified by the OIG, the Tenants Union made a mistake, and the costs were billed to both grants. Additional management and accounting controls have now been put in place to ensure that such errors will not occur in the future.

b. The costs associated with the 2000 NAHT conference are eligible expenses.

The ITAG grant administrator, Amadour-Tuolumne Community Action Agency, informed the Tenants Union that costs for the NAHT conference were not eligible under the grant. For this reason non-lobbying costs of attending the conference were billed to the OTAG grant. There is no question that the costs associated with the conference were eligible, and that it benefited the OTAG-funded program. These costs should not be questioned.

c. The audit costs charged to the OTAG grant benefited the program and should be considered eligible.

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The Tenants Union spends approximately \$5,000 each year on internal audits. The OTAG grant was charged 10% of this cost, even though the OTAG-funded program comprises nearly one-third of the Tenants Union's work. Grantees should be encouraged to audit financial records to ensure sound fiscal policies. The internal audit benefited the program, and the small portion of audit costs charged to the OTAG grant should not be considered ineligible.

4. General Compliance with OMB Circular A-122

a. The Tenants Union charged activities that benefited the STOP program to the OTAG grant.

The report questions an additional \$14,625 in labor expenses (524.75 hours) charged to the OTAG grant. The questioned expenses are described to include supervision of STOP program staff, organizational support, and STOP program staff's participation in Tenants Union staff meetings, organizational meetings, and work plan and strategic plan development. The report does not provide sufficient detail regarding the specific expenses questioned to permit an adequate response. However, the expenses appear to have been characterized as out of compliance with Circular A-122 because they involved organization-wide activities rather than activities specific to the STOP program.

The fact that the charged activities were organization-wide does not cause these expenses to fall out of compliance with Circular A-122. The Tenants Union did not charge all of the hours STOP program staff spent on the questioned activities to the OTAG grant. It did charge a portion of those hours to the grant, however, because STOP program staff needed to participate in organization-wide activities in order to perform their duties under the grant.

Staff meetings include time spent coordinating schedules, planning activities in which all programs participate, and reporting on program activities. The OTAG-funded program benefits as a result of staff's participation. Similarly, when STOP program staff attend organizational strategic plan development meetings, they do so as representatives of their program. Their attendance ensures that the organization's strategic plan continues to prioritize and provide for the support necessary to sustain the program. STOP staff's participation in work plan development meetings benefit the program in a similar manner.

If it is expected that the Tenants Union as an organization will continue to function and to provide organizational support for the OTAG-funded program, program staff – who are also members of the Tenants Union staff – must necessarily attend organization-wide meetings and participate in organizational development and planning. There can be no question that the OTAG-funded program benefits as a result. There is no basis to question these labor expenses.

b. The STOP program benefited from the inclusion of project staff in the Tenant Convention, newsletter and brochure production.

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The report also questions \$3,079 in labor expenses (111 hours) charged to the OTAG grant for program staff time spent on general membership activities, including the Tenant Convention, the Tenants Union newsletter, and the development of a Tenants Union brochure. All of these expenses benefited the OTAG-funded program and were properly charged to the grant.

Residents of properties in which OTAG-funded program work takes place are part of the Tenants Union's membership, and many of them attend and participate in the Tenant Convention. The Convention includes trainings aimed at educating those tenants and others on issues involving the preservation of Section 8 housing. Members and non-members attend the trainings at no cost to them. The newsletter is sent to members but also distributed to non-members including at section 8 buildings.

As set forth above, the newsletter also covers topics of concern to tenants in properties in which OTAG-funded work takes place.

The brochure was updated by OTAG program staff after they determined that a brochure was needed to introduce the program's activities to the residents of properties in which they were performing OTAG-funded work. The old brochure was out of date, as it did not mention organizing in Section 8 housing as an activity of the Tenants Union. The OTAG-funded work benefited from the development of this brochure and its dissemination to affected tenants.

5. Charges to the tenants Union's Public Entity Grant

The report questions \$4,009 charged to the ITAG Public Entity Grant for translation and interpretation costs without prior approval from the Intermediary. These costs were eligible and benefited the ITAG-funded work. They should not be disallowed.

As the report indicates, the PEG budget indicated that some of the grant funds would be used to send tenants to the 2000 NAHT meeting in Washington D.C. The PEG grant monitor, Amadour-Tuolumne Community Action Agency, informed the Tenants Union that the use of PEG to send tenants to the NAHT conference would not be allowed. Thus, those costs were not charged to the grant. The Tenants Union instead billed the grant for translation and interpretation services incurred to support ITAG-funded work. There is no dispute that the costs were incurred for program-funded work, that the program benefited, or that translation and interpretation costs are allowable.

The Tenants Union has put in place more stringent management controls in response to the OIG's recommendations, and future problems in this regard are not anticipated. The failure to obtain prior approval for the transfer of these costs from one activity category to another should not cause these costs to be disallowed.

C. Response to Audit Recommendations

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1. The Tenants Union has changed time-sheets to include lobbying and has reviewed the definition of lobbying with all staff. Recommendation 1A.

2. The Tenants Union has submitted a cost allocation plan to HUD and is awaiting approval. Recommendation 1B.

3. The Tenants Union has begun to put in controls necessary to ensure compliance with OMB A-122. Recommendation 1C.

4. The Tenants Union agrees to repay the grant for lobbying, labor expense costs, and billings otherwise determined to be ineligible. Recommendation 1D.

5. The Tenants Union will provide support for questionable labor and indirect costs and for other questionable direct costs. Recommendation 1E.

6. The Tenants Union should not be sanctioned. Recommendation 1H

7. The Tenants Union should not be penalized by suspension of grant funding.

IV. CONCLUSION

The Tenants Union regrets that accounting errors and management oversight resulted in inaccuracies in the billing of labor expenses and other costs to the grant. These errors were not deliberate. In compliance with the audit recommendations, the Tenants Union has already taken steps to put in place more stringent management controls and ensure that future errors will not occur.

The Tenants Union continues to dispute the auditors' definition of lobbying activity, and believes that it has acted with care throughout its receipt of OTAG and ITAG grant funds to ensure that lobbying activities were not billed to the grants. The Tenants Union would encourage the OIG to educate its audit staff as to the nature and goals of OTAG-funded advocacy work, so that they may more readily distinguish that work from ineligible lobbying in the future.

The Tenants Union believes that its OTAG-funded work has produced laudable results, and hopes that it will be given the opportunity to allow that work to continue. The Tenants Union thanks the OIG for the opportunity to respond to the draft audit memorandum.

Submitted by:

Arlen P. Olson
Executive Director
Tenants Union

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November 18, 2002

Mr. Frank E. Baca
Regional Inspector General for Audit
U.S. Department of Housing and Urban Development
909 First Avenue, Suite 126
Seattle, WA 98104-1000

Dear Mr. Baca:

In response to the draft audit memorandum issued by your office, enclosed are the Washington Low Income Housing Network's comments on the memorandum.

Please do not hesitate to contact me with questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Jota Borgmann".

Jota Borgmann
Interim Executive Director

Cc: Arlen Olson, Tenants Union

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HUD/OIG AUDIT
SEATTLE, WA

**RESPONSE OF THE WASHINGTON LOW INCOME HOUSING NETWORK
TO HUD OIG DRAFT AUDIT MEMORANDUM REGARDING
OTAG GRANT NOS. FFOT98030WA AND FFOT0004WA**

I. RESPONSE TO AUDIT FINDINGS

This document constitutes the response of the Washington Low Income Housing Network (the Network) to the draft audit memorandum prepared by the U.S. Department of Housing and Urban Development (HUD) regarding grants FFOT98030WA and FFOT0004WA. The grants were awarded by HUD to the Tenants Union, with the Network serving as a subgrantee. Out of the \$82,619 paid to the Network under these grants through 2001, HUD OIG questions \$1,983 in costs as “ineligible” and \$37,511 as “unsupported”. Except for \$2,817.43 in labor and \$2,493.00 in direct costs mistakenly charged to the grants, the Network disputes the findings of both “ineligible” and “unsupported” costs. The Network acknowledges that it neglected to establish a cost allocation plan using OMB Circular A-122 guidelines, which resulted in some overcharges for labor and indirect costs. The Network has now submitted a cost allocation plan (copy attached) and intends to fully comply with these guidelines.

The Network disputes the findings of the HUD OIG as follows:

- The Network overcharged the grants by \$2,817.43 in labor costs, not \$34,766 in labor costs. A calculation of the Network’s indirect billing rate, using the simplified allocation method outlined in OMB Circular A-122, shows that the Networks total labor and indirect costs would have been \$73,355.57, resulting in an overcharge of \$2,817.43 ($\$76,173 - \$73,355.57 = \$2,817.43$).
- The 2000 Risk Assessment was partially funded by one additional source, the State of Washington, but this does not make the \$685 charged for the Risk Assessment an ineligible cost. In fact, the OTAG NOFA notes that extra points are given to applicants who leverage other resources to do their work: “HUD will consider...the extent to which the applicant has leveraged resources, such as funding and/or in-kind services from governmental entities...in order to achieve the purposes of the award the applicant is requesting”. As stated at the exit interview with HUD OIG auditors on October 3, 2002, the 2000 Risk Assessment is not a covered activity in the Network’s contract with King County. Documentation (all scopes of work for all current and past contracts with King County) of this was provided to HUD OIG auditors at the October 3 meeting. The 2000 King County contract covered the tracking of Section 8 buildings outside of Seattle within King County, but not a written report on Section 8 buildings statewide that assesses each building’s risk of opting out. The same is true of contracts with City of Seattle and City of Tacoma. The Network did not have a contract with Snohomish County in 2000. Furthermore, the report is not an assessment of USDA properties. It merely includes an appendix listing USDA buildings, noting which ones are also covered by project-based Section 8. This was

explained to Senior Auditor Connie S. Hart in an e-mail from Network Interim Director Jota Borgmann dated October 3, 2002. Copies of the City of Seattle, City of Tacoma, King County, and State of Washington contracts are enclosed with this response.

- The \$1,298 in labor charges for an Access Database training should not have been allocated as an indirect cost because the training “can be identified with a particular final cost objective”, the definition for a direct cost in OMB Circular A-122. As stated at the October 3 meeting with HUD OIG and in an October 3 e-mail from Network Interim Director Jota Borgmann to HUD OIG Senior Auditor Connie S. Hart, the purpose of attending the training was to improve skills in executing queries for the Section 8 Risk Assessment and did not benefit the organizational administration or other programs of the Network.
- Except for the \$200 mistakenly charged for coffee service, the \$1,550 labor and direct costs related to the Section 8 Summit should be considered eligible under Article II “Scope and Conduct of Work” in the grant agreement, which states that “the Grantee shall perform the work items listed in Exhibit 2 of Grantee’s Application to the extent that Grant funds are made available”. The Network and Tenants Union originally agreed to remove this activity from the budget for that year, because the organizations thought there would not be enough funds to do all the activities. When there turned out to be enough funds to hold the Summit, the Network did so. The purpose of the Section 8 Summit was to educate low-income tenants, housing providers and others about project-based Section 8 preservation in Washington State. The Network acknowledges that it should have changed the budget to reflect this, but still holds that the \$1,550 in charges are for an activity originally outlined in Exhibit 2 of our application that meets the purpose of the grant using available grant funds. Furthermore, the only year for which the Tenants Union and the Network agreed that the activity area for the Summit would not be covered was 1999. The \$344 in scholarships was the only Summit-related cost incurred in 1999. All other charges, including the printing of 2000 the Summit booklet “Recent Changes, New Opportunities” (\$658) and the room rental for the event (\$817 - \$200 for coffee= \$617 for room rental), were incurred for the 2000 Summit. This was clarified in an e-mail from Network Interim Director Jota Borgmann to HUD OIG Senior Auditor Connie S. Hart on October 3, 2002.

The Network agrees with the following findings:

- The Network did not comply with HUD and OMB requirements to develop a cost allocation plan. The Network submitted a cost allocation plan to HUD on November 11 and plans to submit one within six months after the close of each of its fiscal years for the remainder of the grant.

- The \$995 for travel to Washington DC for the National Low Income Housing Coalition Preservation Working Group in 1999 and 2000 should not have been billed directly. Under OMB Circular A-122 this is an indirect cost as it benefited other program and administrative activities.

Summary of Overcharges to OTAG

Incorrect billing rate resulting in overcharge:	2,817.43
Coffee Service for Housing Summit	200.00
<u>Travel for Preservation Working Group meetings</u>	<u>995.00</u>
TOTAL	\$4,012.43

Please Note: Page 4 of the draft report states that the contract between the Tenants Union and the Network “specified a three-year performance period from October 1998 to September 2001 and required the Network to provide up to 600 hours of work”. The contract specifies 600 hours of work *per year*, not 600 hours total, as may be inferred from the draft report. Page 5 of the draft report states: “the grantees used funds for lobbying activities that should have been used for eligible grant activities”. We assume this is a typo as the Network has not been cited anywhere in the report to have charged lobbying activities to the grant. We request that HUD OIG correct these two items before submitting a final report.

II. RESPONSE TO AUDIT RECOMMENDATIONS RELATING TO THE NETWORK

1B. The Network has submitted a cost allocation plan for review and approval and has implemented this plan in its FY 2002 third and fourth quarter invoice submissions. The Network will submit new cost allocation plans within six months after the close of each of its fiscal years for the remainder of the grant, as required by OMB Circular A-122.

1C. The Washington Low Income Housing Network now has controls in place to ensure its expenditures are in compliance with OMB Circular A-122. The staff is now familiar with the cost allocation guidelines of the Circular and will consult with an accounting firm and HUD staff as needed when questions arise.

1F. & 1G. Summarized above is \$5,310.43 in direct and labor overcharges to the grant. The Network requests that these overcharges be repaid by deducting them from future invoices to the grant.

1H. Because of its efforts to be in full compliance, we request that the Director of the Office of Multifamily Housing Assistance Restructuring (OMHAR) not take sanctions against the Network.

11. The Network has developed appropriate management controls to ensure all activities performed under the grant are eligible and documented as outlined in OMB Circular A-122. We therefore request that this important funding not be suspended so that we may continue to serve low-income tenants in Washington State to the greatest extent possible.

III. NETWORK MANAGEMENT CONTROLS

- **Salaries and time records.** This audit report does not identify nor is the Network aware of any deficiencies in how it calculates salaries and maintains time records. Network staff keeps timesheets on a daily basis.
- **Quarterly reports.** The Network's quarterly reports to OMHAR include activity reports detailing the work done hour by hour. The reports show exactly how charges for work and direct costs are calculated. Copies of voucher submissions are maintained in a separate file in chronological order with copies of all back up documentation.
- **Cost Allocation Plan.** The Network submitted a cost allocation plan to HUD on November 11, 2002. The Network plans to submit cost allocation plans on a timely basis for the remainder of the grant.
- **Policies and procedures for lobbying activities.** This audit report does not include any comments specific to the Network in its recordkeeping for lobbying activities. The Network has and will continue to keep accurate records of its lobbying hours. This includes a timesheet format that allows employees to note their lobbying activities under federal or state advocacy, so that these hours are noted separately from hours worked on specific grants or contracts. The total number of lobbying hours is recorded for each day under a special "lobbying" section.
- **General Accounting Procedures.** The Network tracks sources and uses of all grant and contract funding so that it is clear how funds are applied to work areas. The Network's financial records are maintained by a staff accountant and are audited by an independent CPA firm each year.

Calculation of Indirect Cost Allocation
Washington Low Income Housing Network

OTAG HRS WORKED 2001			
	1ST QTR	97.75	
	2ND QTR	106	
	3RD QTR	365.75	
	4TH QTR	0	
	TOTAL	569.5	
PROGRAM WORK HOURS THRU 3RD QTR	2910	OTAG HRS AS %	20%

OTAG HRS WORKED 2000			
	1ST QTR	29.5	
	2ND QTR	109.75	
	3RD QTR	121	
	4TH QTR	375.75	
	TOTAL	636	
TOTAL PROGRAM WORK HOURS	3633.25	OTAG HRS AS %	18%

OTAG HRS WORKED 1999			
	1ST QTR	16	
	2ND/3RD QTR	300	
	4TH QTR	226	
	TOTAL	542	
TOTAL PROGRAM WORK HOURS	3609.75	OTAG HRS AS %	15%

**Calculation of Hourly Billing Rate
Washington Low Income Housing Network**

2001	Total	OTAG portion (20%)
Administration		
Administrative portion of salaries	\$ 40,842	\$ 8,168.40
Accounting Fees	\$ 2,680	\$ 536.00
Supplies	\$ 5,782	\$ 1,156.40
Advertising (for personnel working	\$ 207	\$ 41.40
Telephone	\$ 7,914	\$ 1,582.80
Postage	\$ 1,929	\$ 385.80
Board Meeting costs	\$ 1,216	\$ 243.20
Copies	\$ 3,916	\$ 783.27
Publications/Subscriptions	\$ 1,821	\$ 364.20
Memberships	\$ 1,659	\$ 331.80
Insurance	\$ 1,447	\$ 289.40
Facilities		
Depreciation	\$ 4,073	\$ 814.60
Occupancy	\$ 7,583	\$ 1,516.60
Losses	\$ 1,768	\$ 353.60
TOTAL OTAG INDIRECT	\$ 16,567.47	\$ 29.09 /HR
		Plus labor & fringe: \$ 20.41 /HR
		Correct billing rate: \$ 49.50 /HR

Calculation of Hourly Billing Rate
Washington Low Income Housing Network

2000	Total	OTAG portion (18%)
Administration		
Administrative portion of salaries	\$ 32,389	\$ 5,830.02
Accounting Fees	\$ 2,425	\$ 436.50
Supplies	\$ 2,617	\$ 471.06
Advertising (for personnel working	\$ 1,571	\$ 282.78
Telephone	\$ 5,845	\$ 1,052.10
Postage	\$ 1,986	\$ 357.48
Board Meeting costs	\$ 5,674	\$ 1,021.32
Copies	\$ 2,294	\$ 412.89
Publications/Subscriptions	\$ 525	\$ 94.50
Memberships	\$ 1,753	\$ 315.54
Insurance	\$ 363	\$ 65.34
Facilities		
Depreciation	\$ 3,867	\$ 696.06
Occupancy	\$ 7,446	\$ 1,340.28
	TOTAL OTAG INDIRECT	\$ 12,375.87
		\$ 19.46 /HR
		Plus labor & fringe: \$ 20.32 /HR
		Correct billing rate: \$ 39.78 /HR

**Calculation of Hourly Billing Rate
Washington Low Income Housing Network**

	<u>Total</u>	<u>OTAG portion (15%)</u>
1999		
Administration		
Administrative portion of salaries	\$ 21,057	\$ 3,158.55
Accounting Fees	\$ 2,648	\$ 397.20
Supplies	\$ 4,961	\$ 744.15
Advertising (for personnel working	\$ 454	\$ 68.10
Telephone	\$ 6,659	\$ 998.85
Postage	\$ 3,214	\$ 482.10
Board Meeting costs	\$ 3,158	\$ 473.70
Copies	\$ 2,943	\$ 441.40
Publications/Subscriptions	\$ 388	\$ 58.20
Memberships	\$ 1,319	\$ 197.85
Insurance	\$ 1,628	\$ 244.20
Facilities		
Depreciation	\$ 3,266	\$ 489.90
Occupancy	\$ 7,281	\$ 1,092.15
TOTAL OTAG INDIRECT	\$ 8,846.35	\$ 13.91 /HR
	Plus labor & fringe:	\$ 20.33 /HR
	Correct billing rate:	\$ 34.24 /HR

EXTERNAL REPORT DISTRIBUTION

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