



Issue Date	July 31, 2003
Audit Case Number	2003-AT-1007

TO: Michael A. Williams, Director, Office of Public Housing, 4FPH

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

SUBJECT: Citizens Complaint
Mount Airy, North Carolina Housing Authority

INTRODUCTION

In response to a citizen's complaint, the Office of Inspector General (OIG) conducted an audit survey of the Mount Airy Housing Authority (Authority) in North Carolina. Our review focused primarily on the Authority's procurement activities. We reviewed other Authority activities as appropriate. Our objectives were to determine if the complainant's allegations were valid and if additional audit work was warranted. To accomplish our objectives, we interviewed the complainant, Authority staff, Department of Housing and Urban Development (HUD) Greensboro, North Carolina staff, contractors, and others as necessary.

We also reviewed:

- HUD procurement policies and other applicable criteria;
- HUD monitoring files;
- The Annual Contributions Contract;
- Documents obtained from the complainant; and,
- Authority records including: minutes from Board meetings, procurement records, personnel policies and files, training records, vehicles usage records, work orders, and disbursement records.

We used computer assisted auditing techniques to analyze automated accounts payable data maintained by the Authority.

Our survey generally covered the period January 1, 2000, through January 31, 2003. We extended the review to other periods when appropriate. We performed our on-site work from February 4, 2003, to February 28, 2003. We conducted our review in accordance with generally accepted government auditing standards.

In response to our draft report, the Authority agreed with the findings and recommendations, and provided corrective actions for each of the recommendations. In discussions with you on June 26, 2003, you also agreed with the findings and recommendations, and concurred with the Authority's corrective actions. You agreed to provide procurement training to the Authority staff on July 23, 2003, to resolve recommendation 1A. Also, you will monitor the Authority's procurement activities for 6 months to verify appropriate actions were taken to resolve the remaining recommendations. We concur with your management decisions.

Should you or your staff have any questions, please contact me at (404) 331-3369, or Gerald Kirkland, Assistant Regional Inspector General for Audit at (856) 545-4368.

SUMMARY

We found that some of the complainant's allegations were valid. However, generally, the Authority had either taken adequate corrective actions for most of the deficiencies, or the deficiencies were insignificant or nonrecurring. As such, additional audit work was not warranted. While improvements have been made, further corrective actions are needed in some areas. As shown in Finding 1, the Authority did not follow procurement requirements. The Authority allowed identity-of-interest companies to bid against one another and then allowed losing bidders to perform the work as subcontractors. The Authority did not perform required cost and price analyses, enforce contractor performance, or always obtain a formal contract. Also, the Authority split the cost of one contract into separate contracts to attempt to reduce costs. Further, the Board Chairman may have violated conflict of interest requirements. As a result, the Authority could not ensure full and open competition, valid bids, fair and reasonable prices, most advantageous terms, or quality workmanship. This occurred because Authority management did not have adequate knowledge of procurement requirements. We recommend you ensure the Authority receives training and takes other measures to adhere to procurement requirements.

The Authority did not adhere to Internal Revenue Service (IRS) requirements to determine the value of the fringe benefits to employees from use of employer-provided vehicles. The Authority allowed the Executive Director and other staff to use Authority-owned vehicles to commute daily between their homes and work without accounting and reporting the taxable employee fringe benefits. This occurred because management was not aware of the IRS requirements. Further, the Authority allowed staff to use Authority-owned vehicles when such use was not necessary. As a result, employees are susceptible to tax liabilities and the Authority incurred unnecessary vehicle usage costs. We recommend you require the Authority to either discontinue the personal use of Authority vehicles or comply with IRS requirements.

BACKGROUND

The complainant made numerous allegations regarding current management of the Authority. The allegations focused primarily on the Authority's procurement activities. The procurements included construction of a maintenance warehouse, window replacement, a concrete pad, renovation of a housing unit, vehicle purchases, and transfer of the Authority's bank accounts. The complainant also alleged weak internal controls, unauthorized compensatory time earned by the Authority's Executive Director and other management staff, misuse of Authority vehicles, and improper asbestos removal.

The Authority was incorporated under the laws of the State of North Carolina on March 16, 1961. Its mission is to promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination. A five-member Board of Commissioners, appointed by the Mayor of Mount Airy, governs it. Hylton Wright was the Board Chairman during our review period. The Board appointed Linda Harris as Executive Director on February 1, 2000. A staff of 13 including an Assistant Director assisted the Executive Director.

During our review period, the Authority managed HUD grants and operating income of about \$3.1 million as follows:

FY	Operating	Capital Funds	Total
2000	\$ 459,571	\$ 534,842	\$ 994,413
2001	504,392	545,773	1,050,165
2002	565,313	534,230	1,099,543
Total	\$1,529,276	\$1,614,845	\$3,144,121

The Authority administered 300 low-income units.

RESULTS OF REVIEW

FINDING 1 – THE AUTHORITY DID NOT FOLLOW PROCUREMENT REQUIREMENTS

The Authority did not follow procurement requirements. The Authority allowed identity-of-interest companies to bid against one another and then allowed losing bidders to perform the work as subcontractors. The Authority did not perform required cost and price analyses, enforce contractor performance, or always obtain a formal contract. Also, the Authority split the cost of one contract into separate contracts in an attempt to reduce costs. Further, the Board Chairman may have violated conflict of interest requirements. As a result, the Authority could not ensure full and open competition, valid bids, fair and reasonable prices, most advantageous terms, or quality workmanship. This occurred because Authority management did not have adequate knowledge of procurement requirements.

HUD procurement policies are in Title 24 of the Code of Federal Regulations (CFR) Part 85.36. HUD Handbook 7460.8, *Procurement Handbook for Public and Indian Housing Authorities*, provides additional requirements and guidance. The Authority's procurement policy incorporated 24 CFR 85.36 requirements.

Paragraph (c) of 24 CFR 85.36 requires all procurement transactions be conducted in a manner that provides full and open competition. Noncompetitive pricing practices between affiliated companies are prohibited. Identity-of-interest companies should not be bidding against one another. One should be aware of any relationships between competing firms, and scrutinize the process.

Chapter 3-6 of Handbook 7460.8 tasks the Board with ascertaining that staff responsible for procurement have adequate training and recommends that no person be appointed as the Contracting Officer without training in public contracts/procurement. The Authority's Executive Director and Assistant Director had primary responsibility for procurement activities. The Executive Director served as the Contracting Officer and was responsible for ensuring that all contracts complied with regulations, Handbook 7460.8, and the Authority's procurement policy. However, the Executive Director had no formal procurement training and the Assistant Director had only limited training. The Executive Director stated that she had only received on-the-job training. The Assistant Director had never seen HUD Handbook 7460.8. While we identified several procurement weaknesses, we found that improvements had been occurring as the Executive Director gained experience. With additional improvements and proper training, the Authority should be able to correct the remaining deficiencies. The Board must ensure that staff is provided proper training.

The Authority allowed identity-of-interest companies to compete for contracts

The Authority requested bids to pour a concrete foundation for a maintenance warehouse that was to be built. The Authority received proposals from Landform Construction, Inc., Master Craft Builders of Mount Airy, Inc., and Hernandez Construction. The owner of Landform Construction, Inc., was a 25 percent general partner of Master Craft. Also, the owner of Hernandez Construction was an employee and subcontractor for Landform and Master Craft.

Because of the relationships, it is possible that each bidder had direct knowledge of the other bids. Further, while Landform was awarded the foundation contract, Master Craft supervised the work and Hernandez performed the work.

Also, Master Craft and Hernandez Construction submitted proposals to construct a concrete pad and renovate a housing unit. For both projects Master Craft was awarded the work, but Hernandez did the work on the concrete pad. In such relationships, Master Craft could control or influence Hernandez's actions, including the bidding process. Subcontracting work to losing bidders is not necessarily improper, but could be an indication of complementary bidding.

We discussed our concerns with the Executive Director who said she was not aware of the relationships. Hernandez Construction was no longer in business; thus, its relationships with Landform and Master Craft no longer existed. The Authority should take reasonable measures to identify relationships between competing firms, and scrutinize the process. The Authority should consider requiring bidders to certify that they are not aware of any identify-of-interest companies competing for the same work.

The Authority did not perform cost and price analyses

Title 24 CFR 85.36, paragraph (f), requires grantees to perform a cost or price analysis in connection with every procurement action, including contract modifications. Handbook 7460.8, Chapter 3-15, provides that the cost estimate could be as simple as examining the price paid in the most recent contract and factoring in inflation or changed market conditions. The first step for performing such an analysis is to independently estimate the cost before receiving bids or proposals. We reviewed procurement activity from January 2000 through December 2002. We did not find any evidence the Authority performed independent cost estimates or cost and price analyses. Budget documents indicated project costs, but the Executive Director stated those costs were merely guesses and that no formal cost estimates were performed. The Authority must prepare independent cost estimates in order to determine project costs and properly analyze bids. Otherwise, it cannot assure prices are fair and reasonable.

The Authority did not enforce contractor performance

The Authority awarded a contract to Master Craft to construct a maintenance building. The contract required the new building, which included a 10 by 10-foot door, to be attached to an existing maintenance building. Master Craft erected a prefabricated building and partially attached it to the existing maintenance building. Before beginning the work, Master Craft knew there would be gaps between the buildings. Since the contract required them to be attached, Master Craft should have been responsible for undertaking whatever work was required to fully attach them. However, Master Craft claimed the cost to close the gaps was the Authority's responsibility. To resolve the matter, the Authority approved a change order allowing Master Craft to eliminate the 10-foot door and substitute a masonry extension to close the gaps at the same cost. Rather than agreeing to the change order, the Authority should have required Master Craft to both install the 10-foot door and undertake whatever additional work was needed to fully connect the buildings.

The Authority did not execute a written contract for one procurement

The Authority accepted Master Craft's proposal to construct a concrete pad for \$7,712. However, the Authority did not execute a formal written contract. At a minimum, the Authority should have executed a written contract detailing the scope of work, contract price, and contract period. While the work was completed at the agreed upon price, the Authority must ensure it obtains signed formal contracts to ensure agreed upon terms are met.

The Authority split construction requirements.

Handbook 7460.8, Chapter 4-3, prohibits the Authority from splitting requirements greater than the \$100,000 small purchase limit into several purchases in order to contract under the small purchase procedures. If there is a need for services or supplies that are estimated to go over the \$100,000 limit, sealed bidding or competitive proposal procedures must be used. The Authority's procurement policy had previously limited the Executive Director's small purchase authority at \$25,000, based on previous regulatory limits. The Executive Director initially guessed the entire maintenance warehouse project would cost \$260,000. Believing she could reduce this cost, she split the project into separate contracts, one for the foundation and another for the building. The Board agreed and on November 30, 2000, raised the small purchase authority to \$100,000. Subsequently, the Executive Director awarded the previously discussed contracts for the foundation and the building to Landform and Master Craft at a total cost of \$164,586. The Executive Director was unaware that even with Board approval requirements could not be split. During a January 2001 procurement review, HUD-Greensboro Public Housing staff advised the Executive Director of this requirement. Our review of subsequent procurements did not identify any additional splitting of requirements.

The Authority's Board Chairman may have violated conflict of interest requirements.

The Authority's Board Chairman may have violated conflict of interest requirements by voting on a resolution to transfer Authority bank accounts to Surrey Bank and Trust where he was also the Board Chairman. Paragraph (b) of 24 CFR 85.36 states no employee, officer or agent of the grantee shall participate in the selection, award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Board minutes showed the Chairman, along with the other commissioners, voted to transfer the Authority's bank accounts from the Bank of America to the Surrey Bank and Trust. Although the vote was unanimous, the Board Chairman should have recused himself from voting. In order to maintain credibility, the Authority must ensure it avoids situations involving either a real or apparent conflict of interest. Also, the Chairman should recuse himself from all Authority activities with Surrey Bank and Trust.

Auditee Comments:

The Authority agreed with the finding, with the exception of the conflict of interest. As to the conflict of interest, the Authority stated the fact that Board Chairman of the Housing Authority is also on the Board of the bank to which the accounts were transferred had no effect on the Board's decision to move their accounts there. The Board Chairman **did** abstain from voting; it was the minutes that were in error. The Authority will amend the minutes of the meeting of

September 27, 2000, at its next meeting to reflect the fact that the Board Chairman did not vote in the issue of transferring the Housing Authority's bank accounts from the Bank of America to the Surrey Bank and Trust, on whose board he also serves.

The Authority has taken or agreed to take appropriate corrective actions to address all of the deficiencies. The Authority's complete comments are included in Appendix A.

OIG Evaluation of Auditee Comments:

The Board minutes reported that the Chairman voted to transfer bank accounts. If he did not, the minutes should be amended to show he did not vote. We agree that the Authority has improved its procurement procedures and if it takes the planned actions, conditions should further improve.

Recommendations

We recommend that you ensure the Authority:

- 1A. Obtains adequate procurement training for staff responsible for procurement activities.
- 1B. Takes reasonable measures to identify relationships between competing firms and avoids accepting competing bids from related entities.
- 1C. Prepares independent cost estimates before receiving bids or proposals, and performs cost and price analyses, with documented results.
- 1D. Requires contractors to fulfill contract requirements or obtain approval of change orders if the scope of work is modified.
- 1E. Executes formal contracts for all procurements, other than routine purchases.
- 1F. Discontinues splitting requirements into smaller purchases.
- 1G. Understands and takes steps to avoid real or apparent conflicts of interest involving Authority staff and its Board.

FINDING 2 – MISMANAGEMENT OF AUTHORITY VEHICLES

The Authority did not adhere to IRS requirements to determine the value of the fringe benefits to employees from use of employer-provided vehicles. The Authority allowed the Executive Director and other staff to use Authority-owned vehicles to commute daily between their homes and work without accounting and reporting the taxable employee fringe benefits. This occurred because management was not aware of the IRS requirements. Further, the Authority allowed staff to use Authority-owned vehicles when such use was not necessary. As a result, employees are susceptible to tax liabilities and the Authority incurred unnecessary vehicle usage costs.

The Authority's personnel policy read in part, "Employees who drive Authority-owned vehicles back and forth to work will be subject to all requirements of the Internal Revenue Service regarding private use of the Authority vehicles." The IRS addressed employees' personal use of employer-owned vehicles in Publication 15-B *Employer's Tax Guide to Fringe Benefits*. The publication details the methods used to place a value on the use of an employer-owned vehicle. The Authority allowed employees to use Authority vehicles without accounting and reporting the taxable employee benefit.

We reviewed vehicle usage and overtime records for employees authorized to use Authority vehicles (Executive Director, Maintenance Supervisor, Modernization Coordinator and Maintenance Mechanic Assistant) to determine work-related usage.

The Authority authorized three maintenance staff to use Authority-owned vehicles to commute to and from work on a daily basis. The Authority stated this was done because the staff were on call after regular work hours 7 days a week. However, during calendar year 2002, the Authority's maintenance staff responded to only 43 after hours calls. Of the 43 calls, only 3 required all 3 of the maintenance staff to respond. Nineteen calls required two staff to respond. The Authority was incurring unnecessary expense and liability. Rather than allowing three maintenance staff to use vehicles for their daily commutes, the Authority should compensate them for their use of privately-owned vehicles if they are required to respond to after hours calls.

Similarly, the use of an Authority-owned vehicle for daily commuting by the Executive Director was not necessary. There was no indication the Executive Director attended any after hours calls and all regularly scheduled Board meetings were held during the Authority's normal working hours.

Auditee Comments:

The Authority agreed with the finding. It was unaware of the IRS regulations requiring reporting of this fringe benefit. It discontinued allowing staff to use Authority owned vehicles for daily commutes. If staff is allowed to use them in the future, the Authority will comply with IRS regulations. The Authority's complete comments are included in Appendix A.

OIG Evaluation of Auditee Comments:

We agree with the Authority's actions.

Recommendation

We recommend that you require the Authority to:

- 2A. Either discontinue allowing staff to use Authority-owned vehicles for daily commutes, or comply with IRS requirements to establish the value of the benefits and report the value as additional compensation to the employees.

FOLLOW-UP ON PRIOR AUDITS

This is the first OIG review of the Authority. The Authority's audited financial statements for fiscal years ended June 30, 2000, through June 30, 2002, did not disclose any material weaknesses or findings that would impact our objectives.

AUDITEE COMMENTS

HYLTON WRIGHT
Chairman
G. THOMAS FAWCETT
Vice-Chairman

Commissioners
BILL G. BELTON
CHARLOTTE COLLINS
RONALD F. SCALES

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June 10, 2003

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Dear Ms. Cooper:

The Housing Authority of the Town of Mount Airy offers the following response to the Office of Inspector General Survey conducted February 4, 2003 thru February 28, 2003.

Finding 1 – THE AUTHORITY DID NOT HAVE ADEQUATE PROCUREMENT PROCEDURES

The Housing Authority of the Town of Mount Airy agrees with the finding, with the exception of the conflict of interest. The Housing Authority has improved as experience is gained and feels confident that the remaining deficiencies will be eliminated when the staff is trained. In addition, the Housing Authority of the Town of Mount Airy is in the process of revising its Procurement Policies and Procedures, pending any additional, valuable information it may receive at the Procurement Training. This coupled with the training to be given by the North Carolina State Office should prevent any future deficiencies.

As to the conflict of interest, the fact that Board Chairman of the Housing Authority is also on the Board of the bank to which the accounts were transferred had no effect on the Board's decision to move their accounts there. Surrey Bank clearly paid the best interest rates as well as charging fewer fees for activities than the other banks. The Board Chairman **did** abstain himself from the voting; it was the minutes that were in error.

Our responses to the recommendations are as follows:

1A. The North Carolina State Office of the U. S. Department of Housing and Urban Development has scheduled a member of their staff to provide

procurement training on Wednesday, July 23, 2003 at the Housing Authority of the Town of Mount Airy.

1B. The Housing Authority of the Town of Mount Airy has included form HUD-2530 in all bid packages since 5/28/02 and compares principals of each bidder to avoid accepting competing bids from related entities.

1C. The Housing Authority of the Town of Mount Airy began preparing independent cost estimates and cost and price analyses in all projects put up for bid after February 4, 2003.

1D. The Housing Authority of the Town of Mount Airy certifies that it will require contractors to fulfill contract requirements or obtain approval of change orders if the scope of work is modified on any contracts currently open and future contracts.

1E. The Housing Authority of the Town of Mount Airy certifies that it will execute formal contracts for all procurements, other than routine purchases or any that may be excluded by federal regulations.

1F. The Housing Authority of the Town of Mount Airy certifies that it has discontinued splitting requirements into smaller purchases.

1G. The Housing Authority of the Town of Mount Airy Board of Commissioners will amend the minutes of the meeting of September 27, 2000, at its next meeting to reflect the fact that the Board Chairman did not vote in the issue of transferring the Housing Authority's bank accounts from the Bank of America to the Surrey Bank and Trust, on whose board he also serves. The Board Chairman only votes during a tie and the vote was unanimous by all other Board members. The other Board members voted unanimously because of the better interest rates and less activity fees of Surrey Bank. They discussed the possible appearance of conflict of interest at that meeting. They understand conflicts of interest and will strive to avoid real or apparent conflicts of interest.

Finding 2 – MISMANAGEMENT OF AUTHORITY VEHICLES

The Housing Authority agrees with the finding. The Housing Authority was unaware of the change in the IRS regulations that required the reporting of this fringe benefit.

Our response to the recommendation is as follows:

2A. The Housing Authority of the Town of Mount Airy discontinued allowing staff to use Authority-owned vehicles for daily commutes as of February 4, 2003. In the future if we allow staff to use Authority-owned vehicles for daily commutes,

we will comply with IRS requirements to establish the value of the benefit and report the value as additional compensation to the employee.

Should you have questions or the need for additional information, please feel free to contact us.

Sincerely,

Linda A. Harris
by km

Linda A. Harris
Executive Director