

**THE ALLEGHENY COUNTY  
HOUSING AUTHORITY'S  
RESPONSE TO THE  
PUBLIC HOUSING  
DRUG ELIMINATION  
PROGRAM AUDIT**



**Police and Children at Hays Manor**

**November 10, 2003**

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## EXECUTIVE SUMMARY

An audit was conducted of Allegheny County Housing Authority's (ACHA or Authority) Public Housing Drug Elimination Program (PHDEP) covering grants provided to it from 1996 through 2000. A draft audit report containing two findings was provided on October 7, 2003, for ACHA's review and comment. The first covered PHDEP program administration and the second, procurement. This is ACHA's response to both of these findings.

ACHA appreciates the auditors' positive suggestions on management improvements. Even before the issuance of the final audit report, ACHA implemented almost all of them and added others from its own internal auditing process. The items implemented include the following:

- Received approval on September 17, 2003, from the Board of Directors for modifications of its procurement policy that will enhance the effectiveness of handling competitive bidding. ACHA forwarded the revised policy to the Pittsburgh HUD Field Office, and requested they review it and suggest any needed further changes.
- Instituted a new LOCCS control system that will provide a more comprehensive internal tracking system for drawdowns to pay vouchers.
- Installed an improved internal audit process and structure that better allocates responsibilities and enhances checks and balances.
- Designed and implemented a new time recording system that recognizes multiple tasks by program on a daily basis to provide greater accountability.
- Established, in 2002, a Quality Control Department reporting directly to the Executive Director, to ensure the appropriate expenditure of funds and compliance with all federal, state and local rules and regulations.

However, ACHA strongly disagrees with the \$595,056 in expenditures that the auditors have deemed to be "ineligible" expenses. Fundamental differences over interpretation of grant requirements exist between ACHA and the auditors. In addition, further documentation for those items identified by the auditors as "unsupported" will be submitted to the Pittsburgh Field Office. ACHA expects these issues to be successfully resolved after that office reviews the substantial documentation of the questioned expenditures.

The PHDEP program gave considerable flexibility to public housing authorities to deal with the extremely intractable problem of reducing drug problems and crime in their developments. There are no hard and fast rules for dealing with drugs on public housing properties, as each property is different and faces different problems. ACHA believes that any review of its administration of PHDEP funds must take into account the peculiar

issues faced by each of the properties funded by the grant. By its nature, the experimental drug elimination program allowed substantial leeway for grant recipients like ACHA to design programs that work for them.

ACHA believes that the legal and regulatory basis underlying many of the auditors' claims of ineligibility and requests for repayment of funds is inconsistent with a reasonable, common sense reading of the applicable federal requirements. ACHA implemented its program based upon what it believes were reasonable interpretations of relevant statutory and regulatory requirements.

ACHA disagrees with the auditors' interpretation of applicable laws and regulations. This does not mean, however, that both agencies are not trying to ensure that effective programs are carried out. There clearly is a difference in perspective between grant administrators who are charged with coming up with innovative efforts to solve these problems and auditors whose orientation and primary function is to exercise a narrow approach to the use of federal funds. The Pittsburgh Field Office understands the drug problems that ACHA faces on its properties, and ACHA has consistently operated cooperatively with that office. ACHA has and solicited the Field Office's advice in carrying out activities under the PHDEP program, to ensure full compliance with technical requirements of the program.

The PHDEP expenditure that have been challenged were utilized appropriately by ACHA and its many partners, such as the Pittsburgh Foundation and other non-profit organizations and public agencies, to carry out a variety of drug prevention and law enforcement programs. ACHA used PHDEP funds to create and administer programs that it believed were needed consistent with its HUD-approved PHDEP plan, and that were clearly authorized under applicable PHDEP requirements.

Many of the activities questioned by the auditors involved programs directed to the needs of ACHA's younger residents in an effort to provide alternatives to gangs and drug involvement. Many adults and children in ACHA developments have benefited from these programs, and the uses of the funds provided have been consistent with projects carried out by the majority of housing authorities across the nation that were awarded PHDEP funds.

ACHA's detailed position on each of the expenditures and the issues the auditors have challenged is provided in the following pages and in the attachments that have been submitted to the auditors. ACHA's response details how and for what purposes the Authority used the funds that have been questioned. In the final analysis, ACHA believes it scrupulously operated within the requirements prescribed by Congress, as well as the subsequently adopted administrative regulations that resulted from the rule-making process required under the federal Administrative Procedures Act. ACHA does know that

these funds were used well and constructively to combat crime and help reduce the corrosive use of drugs that cruelly affect its residents and their families.

The equipment and programs that ACHA purchased through the PHDEP program have made a tremendous impact on crime in these communities. Since the inception of the PHDEP programs, ACHA has seen a decrease of over 38% in arrests for crimes of all types at PHDEP-funded sites, as evidenced by Figure 1 and Figure 2 below.

ACHA believes that the following PHDEP program factors, in particular, led to this decrease:

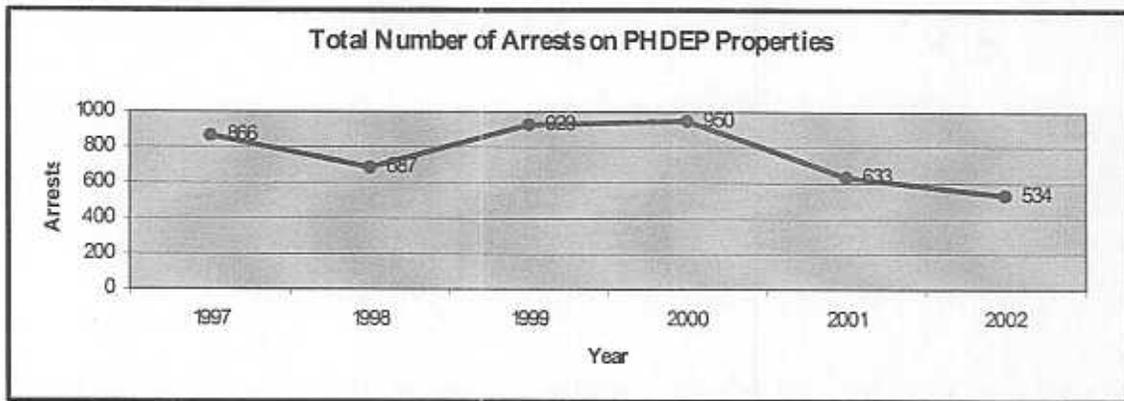
- A greater police presence at these sites, both on patrol and in the mini-stations
- The creation of defensible space around our communities
- A greater sense of community in each of these properties, developed in large part through the programs funded by PHDEP monies
- An excellent rapport between the residents of these communities and ACHA's own internal investigators and resident services staff

In 2001 and 2002, ACHA experienced a slight increase in the number of drug-related arrests at the Burns Heights, Hays Manor, and Ohio View Acres sites. The numbers increased because, again thanks to the resources that were funded through the PHDEP grants, ACHA was able to conduct several drug "stings" on these sites. In 2003, the numbers have once again declined.

**Figure 1**

<b>TOTAL ARRESTS ON ACHA'S PHDEP-FUNDED PROPERTIES</b>						
<b>Site</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
<b>Burns Heights</b>	78	100	96	228	101	23
<b>Ohio View Acres</b>	178	183	200	237	91	73
<b>Hays Manor</b>	306	133	431	313	373	349
<b>Hawkins Village</b>	243	255	173	129	45	42
<b>Millvue Acres</b>	61	16	29	43	23	47
<b>Total</b>	<b>866</b>	<b>687</b>	<b>929</b>	<b>950</b>	<b>633</b>	<b>534</b>

**Figure 2**



ACHA believes that the legal and regulatory basis underlying many of the audit report's recommendations that led to claims of ineligibility and requests for repayment of funds is inconsistent with a reasonable, common sense reading of the applicable federal requirements. ACHA implemented its program based upon what it believes to have been reasonable interpretations of relevant statutory and regulatory requirements.

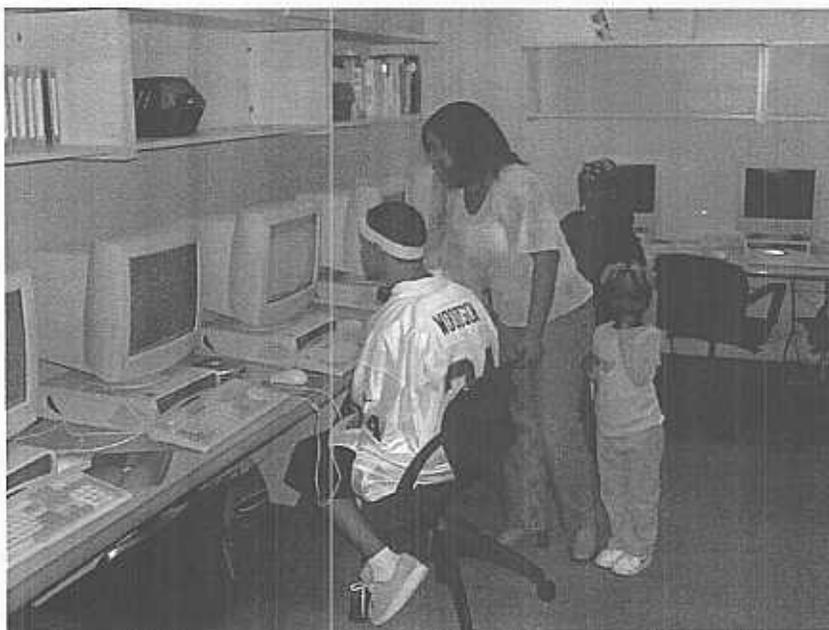
## ALLEGED INELIGIBLE EXPENDITURES

As ACHA will demonstrate below, the auditors' allegations that it used PHDEP funds for ineligible activities are inappropriate and not based on a sound understanding of either the situation being addressed or the applicable regulations covering the particular matter. The ACHA response is formatted so as to identify and respond to the auditor's allegations.

### ***COSTS TO MODIFY EXISTING FACILITIES FOR PHDEP ACTIVITIES***

#### **AUDITOR CONTENTION**

The Report states that \$330,000 of 1998 PHDEP grant funds used by ACHA to modify existing facilities to house PHDEP eligible program activities for a Community building at Hays Manor involved physical improvements that the auditors deemed ineligible (see Recommendation 1B). It notes that a Notice of Funding Availability (NOFA) states that "funding is not permitted for the costs of construction of any facility space in a building or unit, *although funding is permitted to modify an existing building space for eligible activities, such as: community police mini-station, adult/youth education and employment facilities.*" (Emphasis added.)



**Young adult computer training in PHDEP classroom at Hays Manor**

#### **ACHA RESPONSE**

The physical improvements were done to create a community police mini-station, a Knowledge Connection Center (run by the Allegheny County Library Association), a

room for a year round educational programming for children, and office space for the Resident Services staff that conduct community classroom programs. These are all eligible PHDEP program activities. Thus, the dispute here is over an interpretation of the PHDEP program's statutory language regarding eligible activities.

These expenses would appear to come within the language of the statute creating the PHDEP, 42 U.S.C. §11901, *et seq.*; and particularly §11903, "Eligible activities." Under that provision, the following are eligible for PHDEP funds: (a) "physical improvements which are specifically designed to enhance security;" (b) "programs designed to reduce use of drugs in and around public... housing projects ... including drug abuse prevention;" and, (c) "an organized program or plan designed to reduce or eliminate drugs and drug-related problems in and around such projects." Nothing in 24 CFR 761 would suggest that the physical improvements in question are ineligible.

The auditors based their determination of ineligibility for these costs on a NOFA that announced the availability of PHDEP funds and invited applications for use of these funds by public housing authorities. NOFAs are not subject to the rule-making procedures required under the federal Administrative Procedures Act (APA) and therefore are not binding on grant recipients as are regulations complying with the APA as discussed below.

Even under the language of the NOFA, however, these expenditures clearly appear to come under the section that states, "...funding is permitted to modify an existing building space for eligible activities." **The auditors did not dispute that the uses to which the modifications were directed (the community police mini station, and adult/youth education and employment training facilities) were eligible**

ACHA, in discussions with the HUD field office, determined that use of these funds for this purpose was eligible because the modifications involved physical improvements applied to the 'footprint' of an existing Community Building on the site. ACHA and the HUD Field Office identified the square footage needed in order to use the existing building for PHDEP-related activities, such as the police mini-station and space for youth and adult education and training, and allocated costs on that basis.

ACHA asked for approval to use PHDEP funds to support the provision of PHDEP-eligible activities, relating to a part of the overall building. This constituted only a portion of the total costs for that building, i.e., the space, measured by square footage, where the PHDEP activities would be carried out. This action was taken following discussions with the HUD Pittsburgh Field Office. **That office approved ACHA's subsequent payment request for these funds.**



The computer room at Hays Manor



After-school classroom at Hawkins Village

## DISCUSSION

In an effort to clear up this apparent misunderstanding by the auditors, ACHA has prepared an extensive chronology of events that occurred during this period when physical improvements were being made to this building. The chronology describes the various steps taken to provide the needed PHDEP facilities and clearly demonstrates that in these circumstances, the payment for these expenditures from PHDEP funds was appropriate (see Attachment A-1).

The 1998 PHDEP grant funds had an expiration date of November 20, 2000, meaning that all funds awarded had to be drawn down through the LOCCS system by this date. Originally, ACHA had intended to use the 1998 PHDEP grant funds to create a community police mini-station, a Knowledge Connection Center (run by the Allegheny County Library Association), a room for a year round educational program for children, and office space for the Resident Services staff at Hawkins Village. Plans were drawn up and the general contractor for this project was selected. However, several problems with the general contractor developed, and work was stopped. The general contractor eventually filed bankruptcy. ACHA realized that the work could not be completed before the grant ran out, and decided to request an extension.

Thus, on Oct. 2, 2000, the ACHA PHDEP Coordinator met with the HUD field office liaison to discuss this extension. At that meeting, the coordinator was made aware of a notice issued by HUD that denied all extensions for PHDEP Grant Year 1998 funds. This meant that all 1998 funds had to be spent before November 20, 2000. The coordinator prepared a memo to top ACHA executives informing them that both 1997 and 1998 PHDEP funding allocations would end on November 20, 2000, and needed to be spent before then or the authority and its residents would lose the benefit of these funds. He indicated that the HUD Field Office was prepared to work closely with ACHA

("[HUD staff] is ready and willing to approve a request from me to re-program funds to facilitate using all of the '97 and '98 funds by late November.").

ACHA's PHDEP Coordinator prepared a Budget Revision request for 1998 PHDEP funds, in order to obtain HUD approval for new plans to use the allocated PHDEP funds. On October 18, 2000, he sent a memo with the final and adjusted request, based on their conversations, to the Field Office's PHDEP liaison. ACHA believes that full consultation was held with and approval of the change was obtained from the HUD Pittsburgh Field Office before ACHA proceeded with the revised plan.

On November 1, 2000, the Acting Director of the HUD Field Office wrote ACHA's Executive Director approving the budget request revision, and on November 8, sent him the executed form HUD-1044 Assistance Award/Amendment. The letter from HUD stated, "Our office has performed the pertinent transfer in the LOCCS System. **You can proceed with the activities approved by this budget revision.**"

Perhaps it would have helped the auditors when they reviewed the documentation of this expense if ACHA had more clearly indicated that the submitted costs were directly related to the ratio of the building's square footage related solely to PHDEP-eligible activities to the overall improvements to the building. These expenditures were not calculated as a pro-rata share of the total costs, as apparently the auditors assumed. Instead, as mentioned above, only the actual square footage cost for the dedicated PHDEP areas was charged to the PHDEP grant program. The HUD Pittsburgh Office reviewed ACHA's documentation to draw down PHDEP funds from HUD's LOCCS system and determined that these expenditures were eligible expenses and approved them.

Apparently, the auditors have disagreed with the determinations made of the eligibility of these expenditures under the PHDEP program, first by ACHA and then by the HUD Public and Indian Housing (PIH) program officials in the Pittsburgh Field Office. PHDEP was a program that Congress intended should provide flexibility in use of these funds for drug elimination activities, allowing recipients to design programs and plans to stem drug use and crime is clearly within the letter and the spirit of the law. **Since a reasonable basis for its use of these funds was provided to HUD officials, ACHA should not be required to repay expenditures reasonably undertaken on the basis of common sense reading of applicable requirements simply because the auditors differ in their interpretation of applicable program requirements.**

The beneficiaries of the timely use of these funds were, and are, the residents, for whose ultimate benefit Congress provided PHDEP funds. Since the police mini-station and the educational centers were eligible PHDEP activities, then the modifications necessary to accommodate them in this facility were equally eligible. The auditors'

interpretations of what were eligible activities should carry no greater weight than those of the ACHA, whose efforts were supported by HUD Field Office program staff.

### ***SAME SUPPORTING DOCUMENTATION***

#### **AUDITOR CONTENTION**

In the auditors' review of all LOCCS transactions made during the period covered by the audit, they found that the Authority sometimes used the same supporting documentation (purchase orders, vouchers, invoices, etc.) more than once to draw down PHDEP funds (see Recommendation 1C). The total of such drawdowns supported by the same documentation amounted to \$134,638 for grant years 1997 and 1998.

#### **ACHA RESPONSE**

Late in 2000, ACHA still had a considerable unspent balance left in its 1998 PHDEP fund. As noted above, the local Field Office informed ACHA in October of 2000 that no extensions would be granted for that PHDEP grant year. ACHA, in the interest of continuing the successful PHDEP programs that were in progress, made a conscious effort to make sure that all outstanding PHDEP-eligible expenses were requested and drawn down through LOCCS before the expiration of the grant.

To ensure that funds for all eligible expenses were drawn down, ACHA departments were directed to submit all eligible expenses to the Finance Department for payment. With the grant expiration deadline looming, the Finance Department was inundated with eligible expenses from the Grant Coordinator as well as the Purchasing Coordinator. As a result of this onslaught of paperwork, reimbursement for a number of expenses were incorrectly requested twice, in a prior LOCCS draws. A total of four LOCCS draws contained expenses that had been submitted for reimbursement on a prior LOCCS draw. However, it should be noted that, although reimbursement for the expenditures in question was requested twice from PHDEP grants, the vendors only received payment once, a fact that the auditors have verified.

Obviously, as the same documentation was used twice to support drawdowns of PHDEP funds from LOCCS, other non-federal funds should be used to reimburse such mistakes. ACHA received a substantial amount of non-federal funds that were contributed to and used for program activities that were fully eligible for reimbursement from PHDEP funds. ACHA will be providing the Field Office with additional documentation identifying and supporting the use of non-federal funds to cover eligible PHDEP expenses. These were substantial sums used for eligible purposes that would more than cover any bookkeeping mistakes that occurred and should be used to offset any errors in drawdowns of PHDEP funds that ensued, essentially as a credit. Less than 4 percent of the \$3.6 million in PHDEP funds were erroneously drawn down. And placed in ACHA's Operating Subsidy.

## DISCUSSION

HUD has, at times, permitted grant recipients to substitute valid, previously non-reimbursed non-federal expenditures as a credit to offset ineligible program expenditures. This procedure allows recipients to correct mistakes such as the ones that occurred here. An example of such substitution of other non-federal funds as an offset against a mistaken use of program funds is reflected in a letter from the Field Office to ACHA dated December 20, 1999. A copy of this letter is included as Attachment B-1.

That letter was in response to the 1996 PHDEP Monitoring Review Report conducted by the Field Office. The letter stated in part that, "Finding One: 'Ineligible Costs' – The Journal Voucher submitted as evidence of reimbursement of \$90,438.66 to account 100-112991 for ineligible expenses corrects the financial aspect of this finding. No further approval from HUD was required to perform the financial adjustment." In this particular instance, ACHA paid the City of Duquesne for police services with funds from the 1996 PHDEP grant. Part of the monies paid for this law enforcement agency included reimbursement for vehicle maintenance, gasoline and oil, firearms and ammunition, and uniforms. The monitoring review determined that, while these costs were allowed under the terms of contract between ACHA and the City of Duquesne, they were not eligible expenses under the PHDEP program. The Field Office, as indicated by the above-referenced letter, allowed ACHA to substitute PHDEP eligible expenses paid with Operating Subsidy funds for the ineligible costs cited in the review.

Three Rivers Communities, Inc., a non-profit subsidiary of ACHA, provided \$200,000 in non-federal funds to The Pittsburgh Foundation, a community foundation. In return for this funding, The Pittsburgh Foundation provided ACHA with PHDEP-eligible services that were worth over \$300,000. ACHA asks that those non-federal funds used to support PHDEP-eligible expenses be used to credit its operating subsidy account by \$134,638, the amount of this finding. This issue will be discussed with the HUD Field Office. A spreadsheet showing the non-federal funds received and the PHDEP qualifying activities they supported is being provided as Attachment B-2.

### ***MISCELLANEOUS EXPENDITURES***

There are a number of smaller (as little as \$340) proper ACHA PHDEP expenditures that have been questioned by the auditors as ineligible expenditures (see Recommendation 1D). As set forth below, ACHA believes that, with one exception, these expenses are clearly eligible.

## INTERIOR DESIGN SERVICES FOR THE PORTION OF THE COMMUNITY FACILITIES DEVOTED TO PHDEP PROGRAM ACTIVITIES

### AUDITOR CONTENTIONS

As part of its modifications of an existing community building at Hays Manor, ACHA paid \$15,913 for interior design advice related to the use of PHDEP program space in that building. These funds were also used to obtain artwork for the walls and furnishings to enhance the learning atmosphere in the Knowledge Connection Center, the room used for a year round educational program for children, and office space for the Resident Services staff who conduct PHDEP education and training programs in this facility. At the Millvue Acres Community Center, \$33,200 was used for similar purposes and these expenses were not questioned

The auditors felt these expenditures came under a prohibition against funding "construction costs" in a NOFA, and, while not ineligible under 24 CFR 761, were determined to be ineligible based solely on the statements in that NOFA.

As stated in the draft report: "The NOFA states that funding is not permitted for the costs of construction of any facility space in a building or unit, *although funding is permitted to modify an existing building space for eligible activities, such as: community police mini-station, adult/youth education and employment facilities.*" (Emphasis added.)

### ACHA RESPONSE

These expenses would appear to come within the language of the statute creating the PHDEP, 42 U.S.C. §11901 *et seq.*; and particularly §11903, "Eligible activities," such as "physical improvements which are specifically designed to enhance security," "programs designed to reduce use of drugs in and around public... housing projects ... including drug abuse prevention," and "an organized program or plan designed to reduce or eliminate drugs and drug-related problems in and around such projects." These expenditures were not ineligible under 24 CFR 761, nor were they ineligible under the non-binding statement in the NOFA set forth above on which the auditors relied, in light of the express permission in that statement that "funding is permitted to modify an existing building space for eligible activities."

The auditors clearly understood that the activities to be housed in these facilities were eligible. The modifications of the existing facility space including the interior design work were necessary and reasonable to transform the PHDEP space in the facility from an otherwise antiseptic atmosphere into one that has a warm, welcoming tone. The

artwork and the design services created an attractive learning atmosphere for residents and youth so that they could be motivated and attracted to the educational and training programs, and were well with applicable requirements of the PHDEP program.

## DISCUSSION

The auditors acknowledged the only relevant issue raised in the draft report is whether the design services and acquisition of artwork and furnishings involved a modification of a facility to accommodate eligible program activities or were ineligible as new construction. The nature of the interior design advice and furnishings were integral to the modifications in the form of physical improvements that were made for these PHDEP programs. The auditors appear to have decided that if the modifications constituted ineligible construction work to convert the facilities from their original planned uses, then the interior design work for that space was ineligible as well.

In addition, ACHA has raised the issue of the validity of using NOFA language that is not subject to the rule-making procedures required to provide interpretive language for the statute creating this program. As noted above under "COSTS TO MODIFY EXISTING FACILITIES FOR PHDEP ACTIVITIES," NOFAs are not an appropriate basis for an audit finding or sanction since they are not regulations subject to rulemaking as required by the Administrative Procedures Act (APA). A more extensive discussion of the invalidity of NOFAs for imposition of sanctions is provided above.



A warm and inviting community room for PHDEP activities at Millvue Acres

The planning for space usage, interior design work, and the decoration of appropriate interior space for PHDEP activities are clearly appropriate expenditures. As stated above, they were necessary to adapt space in the Community Building at Hays

Manor to accommodate new uses as community police mini-stations, Knowledge Connection Centers, rooms for the "Year Round" educational program for resident children, and office space for the Resident Services staff of ACHA who administer the PHDEP programs

Care was taken in the redesign of these portions of the facility to create a warm, welcoming atmosphere for the youth and adults in these communities. Interior design was a necessary element in creating appropriate space to carry out these programs. It was a value-added task beyond the normal scope of the building architect's responsibilities and consisted of furniture selection for ergonomic purposes (computer learning), space planning for learning and play, artwork recommendations to produce a warm, supportive environment (prints, photos, gouaches, oil paintings, banners, drawings, posters, and lithographs); installation of security lock hardware, selection of furniture, recommendations of fabric for benches used in program activities, paint selection for the walls, window treatments, and flooring appropriate for the contemplated uses. The vendor in question also coordinated the writing of specifications and purchasing of these items by obtaining three bids from various sources.

## **COSTS OF FOOD AND ITS PREPARATION FOR YOUTH**

### **AUDITOR CONTENTION**

The Report questioned the eligibility of \$29,354, for food purchased and prepared in order to ensure that the children enrolled in the "Year Round" educational program were provided at least one substantial meal each day and as a means of attracting consistent attendance by the children.

### **ACHA RESPONSE**

While the auditors acknowledged that "eligible activities under a drug prevention program include educational opportunities, youth services, and economic and educational opportunities for resident adult and youth activities" apparently they question whether provision of meals for the children was a valid expenditure. Expenses for food preparation and feeding of children participating in PHDEP activities in PHDEP facilities are clearly eligible under the PHDEP program. The auditors give no specific references to justify their statement in the Draft Report that these expenditures were ineligible.

### **DISCUSSION**

No specific basis for the auditors' ineligibility determination of this expenditure was provided other than a statement that "the purpose of the Drug Elimination Program is to reduce or eliminate drug-related crime in public housing developments.... an eligible drug prevention program activity must correlate to the overall purpose of the Grant

Program.” The dispute is apparently whether ACHA can provide meals and snacks as part of its educational program for youth who attend these educational programs year round.

ACHA believes that providing nourishment and an incentive for attendance and participation by these young persons is a legitimate and important part of the programs that have been developed for them. The auditors’ apparent restrictive interpretation of what are permissible program expenditures is inconsistent with Congress’ intent to allow flexibility to authorities in developing drug elimination programs and activities. The provision of food to participating children is clearly contemplated under the PHDEP program as reflected in a partner’s program manual and the participation of many state and local groups that have partnered with ACHA to provide these food services.



Two cooks preparing nutritious food for PHDEP youth

These expenditures are for activities that tie in to the strategies and goals of ACHA programs contained in earlier PHDEP proposals as well as its more recent Annual Plans for use of these funds. The nurturing environment that is provided by including food as part of the attraction for resident children helps facilitate the plan’s objective of providing these youths with an opportunity to experience positive group setting and behavior as an alternative to drug-related gangs. The program helps to provide an alternative to the destructive behavior patterns many resident children are exposed to (including dropping out of school and associating with youth gangs) and provide an attractive option with positive social group interaction. These types of programs that give positive options for social activities have been operated successfully by housing authorities all across the country.

The rationale for meals or snacks for an after-school or summer programs is simply this: children function more effectively with food in their stomachs, especially if

the meals and snacks are healthy and balanced. Frequently, the children arrive for homework or physical activity (i.e. sports or dance) at the community facility on the housing site with little or no healthy food in their stomach. Some fall asleep, while others are hyperactive from excessive sugar intake and other dietary deficiencies. They may have eaten junk food at school, after school, or may have not eaten at all.

The PHDEP investment is also highly leveraged, given the partners who participated in these efforts with ACHA. These partners include the Monongahela Valley Education Consortium, Greater Pittsburgh Community Food Bank, Heritage Health Foundation; Allegheny County Department of Human Services, and the Office of Children, Youth and Families. In the annual "Year Round" after-school grant from the Beverly Jewel Wall Lovelace Fund for Children Program, there is a requirement that states, "Adequate nutrition is a primary element in child safety. All applicants must have current site and cook certification from the Allegheny County Health Department. Site certifications must be obtained annually and cook certifications must be obtained every three years."

Another part of the Lovelace Fund application, Section (VI), is called "About Food Services." It states, in subpart A, that "Providing...daily snack and dinner are requirements. This must be provided by a vendor." In the Lovelace program manual, the following recommendation is made: "a nutritious snack/meal to children [should be provided] during each scheduled day." In addition, the State Child and Adult Care Food Program supplies various forms to the ACHA partners to monitor the ages of the children, the size serving, the meal requirements, and the food used. In light of these clear identifications and acknowledgements that provision of food is part of the program, **ACHA is quite mystified why the auditors have not recognized the eligibility of this expenditure. All the items are eligible expenses and were used to feed the children during their hours spent in the PHDEP-related programs in PHDEP funded facilities.**

## MAINTENANCE EXPENSES

### AUDITOR CONTENTION

The Report lists expenses amounting to \$25,596 that were incurred during three PHDEP program years (1997-99). The auditors designated these expenses as "routine maintenance expenses" rather than expenditures that qualify under the PHDEP program. These included \$19,914 for a wood chipper; \$2,358 for flats and containers of flowers; \$984 for cleaning supplies; \$1,209 for a toilet partition and \$1,131 for several other expenditures they classified as non-eligible miscellaneous maintenance expenses.

## ACHA RESPONSE

ACHA designated expenditures that related specifically to the PHDEP program and activities carried out under it as eligible program expenses. The largest proportion of these challenged expenditures was related to increasing security in the developments. For instance, the wood chipper was acquired as part of the effort to eliminate potentially dangerous conditions around some developments because existing plantings, trees, shrubs and bushes, provided opportunities for shielding criminal activities. A vicious rape that occurred at one of the PHDEP-funded sites prompted the purchase of this wood chipper. The rape occurred, in part, because the attacker was able to hide in the existing landscaping prior to and during the attack. The flowers, in turn, were used to replace the plantings that were removed so that ACHA could provide landscaping without the potential for endangering residents. These expenditures were part of crime prevention activities eligible for payment from PHDEP funds based upon program guidelines.

## DISCUSSION

The auditors stated that, “an eligible drug prevention program activity must correlate to the overall purpose of the Grant Program.” This finding had two categories of items listed: (1) items used to create and define defensible space around the outside of the buildings, and (2) items used to support the PHDEP program activities being carried out in portions of community facilities used exclusively for PHDEP program activities.



Woodchipper Used to Prevent Rapes and Other Crimes

### Wood Chipper Used to Create Defensible Space

The wood chipper listed in this category was purchased to facilitate removal of overgrown trees, bushes and shrubs that surrounded buildings at four PHDEP sites:

Millvue Acres, Hays Manor, Burns Heights, and Ohioview Acres. It was purchased a few months after the rape occurred outside one of the PHDEP buildings.

Starting with Oscar Newman's 1970s' work on changing how urban planners design buildings and surrounding environments for crime prevention, much has been accomplished since. ACHA has educated its employees in the various forms of security for residents through changes in its building structures and interiors, use of screening and formal surveillance mechanisms, and reducing-the-rewards strategies. One aspect is the need to make use of the "natural" surveillance provided by people as they go about their daily activities. A PHDEP training manual states, "trimming trees and bushes also allows residents to observe activities that occur outside of their dwelling units. This makes potential offenders feel exposed and vulnerable, which in turn makes them less likely to commit crimes."

The wood chipper was purchased after a decision by ACHA's Public Safety Department, with the concurrence of local law enforcement officers, to improve security at the sites by creating "defensible space" around the buildings. Overgrown plants foster opportunities for crime - a potential predator can hide safely while searching for a victim, and drug deals and other criminal transactions can occur in relative privacy when hidden behind a screen of overgrown shrubbery. Taking proactive steps to provide defensible space and protect residents to retard crimes on public housing properties clearly comes within the statutory language in §11903, "physical improvements which are specifically designed to enhance security." It is hard to comprehend why an objection is being made to such efforts given the demonstrated need to clear out such overgrown bushes, trees and shrubs to protect residents against violent attacks.

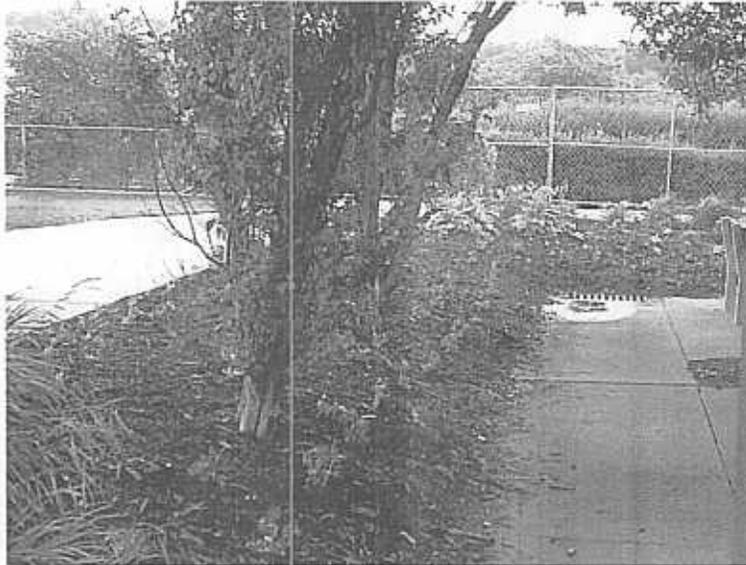
#### Flowers to Define Defensible Space and Community Cohesion

The flowers were planted in an effort both to define the defensible space and to eliminate the stark look left when the overgrown shrubbery was removed or severely trimmed back as part of ACHA's overall defensible space strategy designed to reduce opportunities for crime at its sites. In addition, the plantings symbolized ACHA's drug elimination efforts - they were an outward sign of ACHA's dedication to creating communities that residents could take pride in.

#### Expenditures in Facilities Exclusively Devoted to Support PHDEP Programs

The expenditures identified by the auditors in this category involved items that were used solely in those portions of the Community Building that housed the PHDEP activities (the community police mini-station, the Knowledge Connection Center, the library, the Year Round program room, and the Resident Services staff offices) at Hays Manor and Ohioview Acres. The cleaning, janitorial, and maintenance supplies were available only for the use of the staff that administers these programs in these facilities.

For instance, the HVAC materials were purchased to repair the HVAC system that services these specific rooms. Hence all of these expenditures were eligible PHDEP program expenses.



Flowers defining defensible space

## YOUTH DRUG-PREVENTION EVENTS

### AUDITOR CONTENTION

The auditors cited seven expenditures that were deemed ineligible on the basis of a statement in a non-binding NOFA that, "funding is not permitted for the costs of entertainment, amusements, or social activities and for the expenses of items such as meals, beverages, lodgings, rentals, transportation, and gratuities related to these ineligible activities." The expenditures that were deemed ineligible included the following:

- Harlem Globe Trotters, \$340
- Just Ducky Tours, \$375
- Circus, \$528
- Pittsburgh Zoo, \$623
- Movies, \$1,703
- Kennywood Park, \$2,804
- Transportation Costs, \$2,883

### ACHA RESPONSE

It is not clear which statute or regulation the auditors are referring to, since no provision either in the statute, §11903 or the applicable regulation, 24 CFR 761, contains

language prohibiting these types of expenditures. Throughout the PHDEP program history, the HUD Headquarters PHDEP office has always made clear that if the types of events such as those cited above clearly support drug-prevention programs or constitute strategies to involve youth and adult in activities (after-school, education, employment, leadership, intervention, community development), then they are eligible.

Anyone who has worked at the public housing site level and been involved in outreach, recruitment, or program maintenance knows that it is necessary to create a sense of community and conduct organizing activities. The programs don't work well unless a feeling of community is created among participants various. Various "fun" trips and outings have been shown to be effective for these purposes. Attendance at events outside the residents' normal experience is exactly one of the activities that is designed to encourage involvement of the target participants.

## DISCUSSION

These activities allowed these children to experience positive group behavior as an alternative to drug-related gangs and the attendant behaviors such as dropping out of school that occur when there is no access to wholesome activities. These activities and outings, especially to sports events are part and parcel of the ACHA efforts to combat drugs in public housing. It would seem to be perfectly clear that involvement in alternatives such as these events allow children and youth to experience positive role models in action. The effect is very beneficial, and provides a strong counter to the gang philosophy.

Furthermore, the transportation costs incurred were necessary to support these activities, as most of the children, as well as many of the adult chaperones, have no access to vehicles.

The auditors' use of such terms as 'amusement' or 'entertainment' to describe these activities is misleading. These activities were not designed purely for pleasure, although they may be fun or entertaining. Instead, the PHDEP program staff designed such programs to communicate anti-drug messages and to build a sense of comradeship to replace the role that a gang may play to a child who has little family or other support.

ACHA believes that reasonable interpretations of both the statute creating the PHDEP program and 24 CFR 761 support its use of these funds for the purposes described above. However, rather than specify either statutory or regulatory language, the auditors apply narrowly statements in program announcements (the NOFAs), to support their determination that these expenses are ineligible.

As discussed in more detail under ACHA's response on "COSTS TO MODIFY EXISTING FACILITIES FOR PHDEP ACTIVITIES," a finding that could impose a

sanction (in this case, repayment of funds from other sources) cannot be based solely upon statements in a NOFA. As stated above, NOFAs do not comply with the requirements of the federal Administrative Procedure Act that requires enforceable regulations be subject to specific rule-making requirements.

To use such terms as amusement or entertainment to describe these activities is misleading as a characterization of these events by the auditors. That is not the point of the activity, although the event may be fun or entertaining. Instead, the PHDEP program staff design such programs so as to provide for anti-drug messages and build a sense of comradeship in the place of the gang, given the research that shows how the gang involvement can play that role with a child who has little family or other support. An alternative community and group involvement must be provided.

## CULTURAL AND RECREATIONAL ACTIVITIES

### AUDITOR CONTENTION

As part of the youth sports, youth leadership skills training, and cultural and recreational activities that ACHA sponsored under its PHDEP programs, various celebrations and award dinners or functions were held for program participants. The auditors deemed \$7,997 in expenditures for these events ineligible because they were "community celebrations." Their interpretation was based on a statement in a NOFA that "community celebrations" were not eligible.

### ACHA RESPONSE

Eligible activities under the PHDEP program include youth sports, youth leadership skills training, and cultural and recreational activities. Two of the program's objectives are to foster and maintain interest in activities such as these that involve outreach to the resident children and their parents. These activities are strategically designed to provide positive alternatives for both children and adults, to foster a sense of community, and to counteract the attractiveness of gangs who attempt to recruit individuals through gifts and recognition.



Police officers visit a youth PHDEP program

## DISCUSSION

These so-called “community celebrations” were discrete activities designed by the program staff and specifically described in the PHDEP applications submitted to HUD. **Given that HUD approved ACHA’s application for use of PHDEP funds, ACHA’s planned activities also appear to have been approved, and certainly were not challenged by HUD.** Such events are designed to provide positive community interaction between the resident adults and children at the sites. Events such as these are highly recommended by every community organization handbook and primer on the reference shelf. Public Safety officers attended these events to make anti-crime and –drug presentations and develop relationships with the participants.

The auditors also cited equipment purchased or rented for these events as ineligible. ACHA asserts that the equipment was necessary to not only support the goals of the events but to encourage participation by all residents.

Here again, the auditor’s sole basis for determining these expenses ineligible is from a non-binding NOFA. Their interpretation of the language in that NOFA is incorrect. Moreover, as discussed more fully above in “COSTS TO MODIFY EXISTING FACILITIES FOR PHDEP ACTIVITIES,” NOFAs cannot provide the basis for imposing a sanction.

## SUPPORTED WITH VOIDED CHECKS

### AUDITOR CONTENTION

There was no explanation for these items in the draft Report. In response to an email from ACHA, the following was received from the auditors:

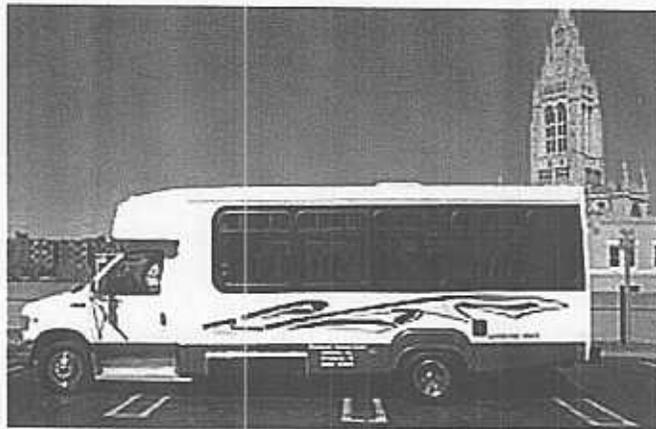
"After a discussion with [name withheld], it appears that these dollar amounts have always been questioned within our total, it was just the way she chose to label them which appears to have caused the confusion. She used this labeling system to ease her review, so she could break out where these voided checks had come from.

As [name withheld] completed her review, she identified other checks (the ones identified in the finding) that were voided as well, but were still used as support for the LOCCS draws. These voided checks were not part of the original questioned expenditures from HUD. Thus, she used the heading "Voided Checks Not Questioned" to identify these expenditures. These expenditures have always been questioned as unallowable, as an expenditure supported with a voided check is not allowable."

#### ACHA RESPONSE

ACHA is researching this issue, and will address its findings with the Pittsburgh Field Office.

#### TRANSPORTATION



Pittsburgh Transportation Company Van

#### AUDITOR CONTENTION

There is no explanation. It is just listed in a chart in the Draft Report by the auditors.

#### ACHA RESPONSE

The expense in question appears to be a \$2,250 payment to the Pittsburgh Transportation Company to transport residents to and from the First Steps Life and

Computer Skills Training courses. The First Steps Program was an eligible PHDEP expenses. ACHA believes that this expenditure is valid under PHDEP guidelines, especially in light of the fact that the majority of residents do not have access to transportation on their own. .

## DISCUSSION

The expense was submitted on a LOCCS draw from the 1999 PHDEP grant. The voucher (see Attachment C-1) was properly coded to indicate that it was charged to the 1999 PHDEP fund as an eligible activity for a drug prevention function

## SUPPORT OF COMMUNITY ACTIVITIES

### AUDITOR CONTENTION

Expenditures of \$2,121 in support of community activities was deemed ineligible without further explanation.

### ACHA RESPONSE

The expenses listed in this subsection were used to support PHDEP eligible programs. The expenditures fall into three categories: (1) items purchased to support community activities, (2) administrative costs incurred by the staff that support the PHDEP programs, and (3) supplies used specifically for PHDEP programs. All of these expenditures were used to support PHDEP activities identified and discussed in previous sections of this response and, being in support of such activities, are also eligible expenses under the program guidelines.

## DISCUSSION

The first category includes gift cards, gift merchandise, and table centerpieces. These items were purchased as part of the planned activities designed to encourage youth and adult participation in positive activities. The items in question were used to support activities such as award ceremonies for residents graduating from ACHA's Computer and Life Skills Classes. The second category includes petty cash and staff use of cell phones, which were administrative expenses incurred by the staff as they administered PHDEP programs and activities. The last category includes a reference to kitchen supplies used by staff who administer the "Year Round" program. As discussed above, this program specifically requires food service to participants, and the items purchased in this category were used only for this purpose.

All of these expenses were directly related to PHDEP-eligible programs and, as such, are clearly eligible.

## **PAID PRIOR TO EFFECTIVE DATE OF GRANT**

### **AUDITOR CONTENTION**

The auditors indicated that \$1,689 in expenses had been submitted that covered work prior to the grant authorization.

### **ACHA RESPONSE**

ACHA recognizes that expenditures prior to grant authorization are not permitted under 24 CFR 761. As mentioned elsewhere under "SAME SUPPORTING DOCUMENTATION," considerable amounts of non-federal monies were spent on PHDEP-eligible expenses. ACHA never submitted these expenses for reimbursement through PHDEP, although it certainly could have done so. Documentation for these other non-federal funds will be provided to the Field Office. ACHA believes that these non-federal funds will be more than sufficient to offset the expenses cited as being paid prior to the effective date of the grant.

### **DISCUSSION**

ACHA recognizes that costs incurred prior to the grant are not eligible. Non-federal fund payments that were eligible expenditures under PHDEP are sufficient to offset this expenditure. This will be included in the documentation reviewed with the Field Office.

## **COMMUNITY ORGANIZATION STRATEGIES**

### **AUDITOR CONTENTION**

The auditors did not provide an explanation as to why this \$520 expenditure was deemed ineligible.

### **ACHA RESPONSE**

While ACHA believes this expenditure was eligible as part of the PHDEP program on the same basis as discussed above in "CULTURAL AND RECREATIONAL ACTIVITIES," it has repaid its Operating Subsidy Account with monies from its non-profit subsidiary corporation, Three Rivers Communities, Inc. Copies of the voucher and the check cut to ACHA to repay the Operating Subsidy Account are provided as Attachment D-1.

## **ALLEGED UNSUPPORTED EXPENDITURES**

While conducting the audit, the auditors asked for and received literally thousands of documents that spanned a significant period of time. As an economy measure, ACHA only stores financial records for the previous three years on site. The balance is stored in an off-site, secure storage facility for at least seven additional years. The person in charge of the PHDEP grants during the period covered by the audit is no longer a Housing Authority employee.

In addition, ACHA's propriety accounting software package stores only the most recent years of records in its main program. Older transactions are stored in a separate module. These three facts combined to make finding specific pieces of documentation relating to transactions that had occurred a number of years previously a challenge to ACHA staff. However, ACHA expects that it will be able to produce appropriate supporting documentation when it discusses these findings with the Pittsburgh HUD Field Office.

### ***MISCELLANEOUS EXPENDITURES***

#### **AUDITOR CONTENTION**

The auditors indicate that documentation to support \$53,894 in miscellaneous expenditures will need to be provided to the Field Office (see Recommendation 1E).

#### **ACHA RESPONSE**

The ACHA researched these expenditures that were for items used to support the PHDEP programs being carried out by ACHA. These expenses included items such as computer hardware for training programs, payroll expenses for Resident Services staff, and supplies used to modify and maintain dedicated PHDEP rooms at the funded sites. Based on the available documentation, all of the questioned expenditures are supportable. ACHA will be providing that documentation to the Field Office for its review.

### ***SAMPLE LOCCS DRAWS***

#### **AUDITOR CONTENTION**

The auditors provided a table showing grant years and dollar amounts per year that were questioned as insufficiently supported (see Recommendation 1F). This amount came to \$39,105. To put it in perspective, this is 1% of the \$3,641,718 in PHDEP grant funds received from 140 LOCCS draws for the three years cited in this finding.

## ACHA RESPONSE

Of the total amount challenged as unsupported, ACHA has been able to locate full documentation for \$24,607 and has provided it to the auditors. Documentation to support the additional \$14,998 is still being obtained. This additional documentation is one of the matters ACHA will be reviewing with the Field Office.

## DISCUSSION

A spreadsheet titled, "Unsupported LOCCS Draws Analysis," is provided as Attachment E-1. It contains summaries of actual backup materials identified by vendor, including copies of check vouchers, invoices, purchase orders, requisitions and/or contracts. For questioned expenses that pertained to payroll, backup materials included copies of the payroll registers from ACHA's automated accounting system, as ACHA does not issue payroll checks but instead uses direct deposit. This documentation supports the \$24,607 of the contested amount that ACHA maintains is fully supported. Documentation for the remaining amount is being obtained for submission.

## *SALARIES FOR INVESTIGATIVE AND ADMINISTRATIVE STAFF*

### AUDITOR CONTENTION

The allocation of salaries amounting to \$240,321 that were charged to the PHDEP program grants do not comply with the salary record-keeping requirements set forth in OMB Circular A-87 (see Recommendation 1G). The allocation rates used to determine the proportion to be paid from PHDEP funds need to be supported. "Although...only employees directly related to Grant Program activities were charged to the Program, without the proper documentation to support the allocation charged to the grant, HUD has no assurance the allocation is accurate."

## ACHA RESPONSE

The salary expenses questioned occurred in FY2001. The administrative salary costs (totaling \$65,682), allocated to PHDEP included 50% of the grant administrator's time (\$47,260); 5% of the Director of Residential Services' time (\$9,937); and 25% of the time of the Associate Director of Resident Services (\$8,485). These allocation ratios were within the parameters set for salaries in ACHA's PHDEP grant applications, and were verified periodically by supervisory staff.

## DISCUSSION

For the administrative salaries, ACHA believes that it charged the PHDEP program less than the amount that it could have if actual time spent on PHDEP program activities had been tracked. Based on an analysis of PHDEP expenses versus ACHA's

total administrative expenses, PHDEP expenses comprised 79% of the total, yet ACHA charged only \$65,682 to the grant for administrative staff. The payroll expenses charged to PHDEP account for only slightly more than 2% of total grant expenditures, and this expenditure level falls well within any reasonable interpretation of the de minimus exception to detailed record-keeping permitted under the Office of Budget and Management (OMB) Circular No. A-87. This circular states, in Attachment B, Part 11(h)(6), that,

“Substitute systems for allocating salaries and wages to Federal awards may be used in place of activity reports. These systems are subject to approval if required by the cognizant agency. Such systems may include, but are not limited to, random moment sampling, case counts, or other quantifiable measures of employee effort.”

Part 11(h)(6), Subsection c, goes on to say that

“Less than full compliance with the statistical sampling standards noted in subsection (a) may be accepted by the cognizant agency if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the governmental unit will result in lower costs to Federal awards than a system which complies with the standards.”

Based on this provision, ACHA believes it properly used an allocated basis for the salary expenses for these administrators. Institution of a detailed record-keeping program to provide documentation for a program that has been discontinued is not justified in the circumstances, especially since these expenses comprise such a small portion of total grant expenditures and of administrative time. ACHA believes that the \$65,682 allocated to PHDEP for the grant period in question meets the requirements under Part B, 11(h)(6).

With regard to the investigative staff, a recent search of various storage facilities yielded a number of boxes of records such as mileage logs and activity logs for PHDEP years of 1998 and 1999. ACHA provided the auditors with activity and mileage logs as documentation supporting the allocations used during the two-year period in question. A review of those documents demonstrates that adequate time records exist to support the percentage allocation attributed to PHDEP funds. ACHA will review this supporting documentation with the Field Office. The documentation for each investigator will demonstrate ACHA's compliance with record-keeping requirements.



**Investigators with At-Risk Kids in Drug Prevention Program**

To provide better documentation in the future, ACHA has instituted a time record system for use by staff whose time is spent on more than program. The new timesheets allow staff to allocate their time on a daily basis to individual programs. ACHA's automated accounting system will then track the charges to individual grants and programs on each payroll run based on these timesheet records.

## ***PAYROLL DRAWS***

### **PHDEP AUDITOR CONTENTION**

The Authority could not provide sufficient supporting documentation for \$15,248 of the PHDEP Grant funds it drew down from LOCCS.

### **ACHA RESPONSE**

ACHA has attached documentation in the form of payroll registers that support the expenditures in this category. ACHA does not issue paper checks to its employees – instead, each employee's net earnings are directly deposited into his or her bank account. Although there are no paper checks to support these expenditures, the payroll registers contain not only the employee pay information (gross earnings, FICA, state and local taxes, etc.) but also document the accounts that these expenses are charged against.

### **DISCUSSION**

In the case of these expenditures, the payroll registers show the money being disbursed through the ACHA Operating Subsidy Account but charged to the PHDEP Program. The registers then show the money being reimbursed to the Operating Subsidy

Account once the PHDEP funds were requested and received via LOCCS. ACHA researched the items cited in this finding and is providing a spreadsheet that shows the breakdown of the questioned expenditures. This spreadsheet is included as Attachment F-1. Further supporting documentation will be reviewed with the Field Office.

## ACCOUNTABILITY IMPROVEMENTS

### AUDITOR CONTENTION

Additional documentation is needed to support the drawdown of \$183,306 in PHDEP funds that ACHA has stated were used to reimburse its Operating Fund Account that was originally used to advance payment for these expenditures (see Recommendation 11). ACHA needs to demonstrate that these funds were deposited into ACHA's Operating Subsidy Account.

### ACHA RESPONSE

In subsequent discussions with the auditors, ACHA has determined what further documentation is necessary to clear this issue. This documentation will be presented to and discussed with the Pittsburgh HUD Field Office.

### DISCUSSION

ACHA paid invoices from law enforcement agencies that provided protective police services to ACHA's PHDEP-designated projects. The protective services provided under contracts with law enforcement agencies are PHDEP eligible costs. In its efforts to ensure timely payment to these law enforcement agencies, ACHA disbursed payments from its Operating Subsidy Account. The funds in this account are provided by HUD periodically and do not require specific LOCCS draws to obtain them. Otherwise, ACHA would have needed to hold payment of these invoices until a LOCCS draw from the PHDEP program funds was prepared and forwarded to HUD for review, and once approved, were authorized under the LOCCS. The use of the Operating Subsidy Account to "front" grant expenses is a standard practice used by housing authorities nationally and Financial Reviews conducted by the HUD Pittsburgh Field Office have upheld this practice.

When a PHDEP eligible expense was paid from the Operating Subsidy Account, entries were set up in the automated accounting system that charged the expense to the appropriate PHDEP grant year. The entries indicated that (1) the PHDEP program owed the Operating Subsidy Account for the expense and (2) the Operating Subsidy Account would carry the amount of the expense as a receivable.

**Figure 3: Table Tracking “Use of Federal Funds to Pay PHDEP Expenditures”**

1 Item Number	2 LOCCS Payment Voucher Number	3 Grant Year	4 Vendor	5 Date of the LOCCS Request	6 Full Amount of the LOCCS Draw	7 Amount of the Expenditure	8 Date Monies Advanced from Operating Subsidy Account to Pay PHDEP Expense	9 Journal Entry Number (to book the receivable from PHDEP)	10 Date Monies Repaid to Operating Subsidy Account (Date the LOCCS Draw was received)	11 Journal Entry Number (to reverse the receivable from PHDEP)	12 Comments
1	018080013	1996	Stowe Township	1/26/99	\$157,329.61	\$7,000.00	1/28/98	95011906	2/2/99	95012055	Combined with Item 3 on Journal Entries
2	018080013	1996	Allegheny County Police	1/28/99	\$157,329.61	\$30,000.00	10/14/98	95011906	2/2/99	95012055	
3	018080013	1996	Stowe Township	1/26/99	\$157,329.61	\$14,000.00	1/27/98	95011906	2/2/99	95012055	Combined with Item 1 on Journal Entries
4	018080013	1996	City of Duquesne	1/26/99	\$157,329.61	\$15,333.34	9/11/98	95011072	2/2/99	95012055	Total payment to vendor on Journal Entries is \$46,000
5	018080013	1996	Stowe Township	1/26/99	\$157,329.61	\$14,000.00	10/14/98	95011505	2/2/99	95012055	
6	018080013	1996	City of Duquesne	1/26/99	\$157,329.61	\$23,000.00	1/31/99	95011909	2/2/99	95012055	
7	018081298	1996	Allegheny County Police	2/23/99	\$85,313.77	\$22,500.00	2/24/99	95011906	2/25/99	95012243	
8	018081298	1996	City of Duquesne	2/23/99	\$85,313.77	\$21,262.00	2/24/99	95011906	2/25/99	95012243	
9	018081298	1996	City of Duquesne	2/23/99	\$85,313.77	\$23,000.00	2/24/99	95011906	2/25/99	95012243	
10	01809172	1998	McKees Rocks Borough	9/22/99	\$43,977.44	\$13,210.31	8/5/99, 8/11/99 & 9/21/99	N/A	9/24/99	N/a	Incorrectly identified as "Allegheny County Police" on auditors' spreadsheet
<b>TOTAL</b>						<b>\$183,305.65</b>					

PHDEP eligible expenses paid through the Operating Subsidy Account were tracked and, when a sufficient number of expenses had been incurred, a LOCCS voucher (HUD Form 50080-DRUG) was prepared and submitted. Once HUD received and approved the voucher, it disbursed the PHDEP grant funds into ACHA’s Operating Subsidy Account. Upon receipt of the grant funds, entries were made into ACHA’s automated accounting system to indicate that the Operating Subsidy Account had been repaid by PHDEP grant funds for the monies it advanced for payment of PHDEP-eligible expenses.

In the case of these questioned expenditures, the payments to the law enforcement agencies totaled \$183,306 and were included in three LOCCS draws. The expenses itemized in the attachments were paid from Operating Subsidy Account funds. The Operating Subsidy Account was subsequently reimbursed when the PHDEP grant funds were received by ACHA. All of these transactions and the relevant documentation references have been provided to the auditors.

Figure 3 above analyzes of all of the questioned expenditures, by LOCCS draw, cited in this finding. The spreadsheet shows the date the Operating Subsidy advanced the funds for payment, and the date this account was reimbursed by PHDEP grant funds. The

auditors have also received supporting journal entries that show how the Operating Subsidy Account was credited and how the charge for the expenses was set up under the PHDEP grant years in question.

## **PROCUREMENT ISSUES**

### **AUDITOR CONTENTION**

#### **A. *Required Cost Or Price Analyses Were Not Prepared***

Six contracts for training services valued at \$400,000 were reviewed. While ACHA followed procurement procedures by going out for requests for proposals, the required cost or price estimates necessary to ensure the prices paid were reasonable were not developed.

#### **B. (1) *Bid Splitting Occurred***

After the bids were received, the work was split up among four of the five vendors that had submitted bids rather than being re-bid.

#### **(2) *Two Contractors Were Paid in Excess of the Contract Amounts That Were Capped Under ACHA's Own Procedures Amounting to \$20,206***

ACHA needs to reimburse HUD \$20,206 with non-Federal funds for contract overpayments made to two computer skills training contractors (from FY98 grants). Overpayments were made in excess of the \$40,000 limit on each contract.

#### **(3) *Contractor Qualifications Were Questioned***

Vendors whose qualifications were questioned were still given contracts.

#### **C. *Fees To Contractors May Have Been Unreasonable***

To determine whether ACHA had overpaid for the work carried out under the contracts, ACHA needs to establish what a fair and reasonable price should have been. The amounts questioned were \$156,254 (from FY1997 and FY1998 grants) for four contracts issued in 2000, and \$73,151 (from FY1999 and FY2000 grants) under two contracts issued in 2001.

#### **D. *Update of ACHA Procurement Policy Is Needed Along With Periodic Reviews to Ensure Compliance With HUD Requirements***

ACHA should update its procurement policy and conduct periodic reviews of its procurement activities to determine if it is complying with HUD's requirements.

## ACHA RESPONSE

### A. Required Cost Or Price Analyses Were Prepared.

#### A-1. Payment of \$156,254 from FY1997 and FY1998 grants for four computer and workplace skills training contracts issued in 2000.

ACHA carried out a price analysis for the service contracts involving computer training and workplace and life skills. ACHA obtained a price estimate for a "price per class hour" for instruction from the Allegheny County Community College. This occurred prior to the proposal application stage, based on the assumption that the training would be carried out at the college. An estimate was obtained as part of ACHA's preparation of its application to HUD for PHDEP funding.

ACHA made a good faith effort to arrive at an MOU with the College after the award of PHDEP funds, and before proceeding to preparation of a RFP. After discussions, ACHA determined that the College had not originally included its overhead costs in the price it quoted, i.e. that the hourly amount was not "loaded." The College decided not to follow up on its earlier quoted bid for various reasons, including because ACHA had revised its scope of services for the work and proposed to move the training to the resident sites in order to make it more convenient for the residents.

**The earlier price quotation from the College, however, was used as the basis for ACHA's price analysis before going out for bids through the RFP.** ACHA received bids for the one-year scope of work in the RFP from five vendors. One of the bids was determined to be non-responsive.

ACHA had originally estimated that roughly \$357,000 (\$185,000 for computer training and \$172,000 for work place and life skills training) should be allocated to cover the costs of two years of training in each area based on the scope of work in the RFP. Each of the bids received, however, substantially exceeded this amount and ACHA decided that the four qualifying proposals submitted were too expensive and discarded the bids based upon that RFP. Originally, ACHA had intended to provide the work in each training category to one vendor.

While that RFP was abandoned, ACHA had available to it the pricing data that had been submitted in the four bids. This pricing data provided a basis for analysis using a "price per class hour." The other major consideration was the number of instructors to be used.

These figures from the abandoned RFP competition, for which there were 8 requests for the RFP in the case of the computer training and 3 requests in the case of the

workplace and life skills training, clearly appeared to represent the pool of available firms interested in this work. From ACHA's perspective, some revision of the original work envisioned, which was clearly too expensive, needed to be made. Therefore, ACHA determined that the best way to proceed was to make these contracts into experimental "pilot" projects using two contractors each. Using two contractors for each type of training had the merit of providing a better basis for the evaluation of the methodology and validity of the training. Part of the work under the contract was to research into the needs and interests of the residents in such training and then to carry out several months of actual training.

An informal procurement available for "small purchases" was then used with a price analysis based upon the pricing data from the original bids, which is appropriate under a small-purchase procurement. While HUD requirements define small purchases as under \$100,000, ACHA's own procurement policy is more restrictive and only permits such informal procurements when the amount is below \$40,000. For contracts over \$40,000, ACHA requires a full procurement with RFP and related advertisement requirements.

Apparently there was some confusion for the auditors because at that time, the provision for small purchases involving informal procedures was erroneously listed in ACHA's Procurement Policy under "Non-competitive." These were clearly small purchase contracts, however, using informal procedures and were not non-competitive procurements.

Contracts for 5-month pilot programs, not to exceed \$40,000 each, were negotiated with each of the two bidders in each training category. The training became "pilot programs" to determine the feasibility and potential success for residents that could be achieved through such training.

**Thus, a required price analysis was performed relevant to the informal procurement carried out.** Based on the prior bid information and using the informal procurement process, ACHA performed an evaluation of the price data previously received as proposals for the RFP. In light of the eight requests for RFPs for computer training and three for workplace and life skills training, it was apparent that the Authority had received bids from all of those firms in the region that were likely to bid. It was clear that ACHA should focus on the four contractors who had submitted proposals for purposes of negotiating the small contracts for a 5-month pilot program. Two firms in each training category were selected to carry out contracts for pilot programs that emphasized different aspects of the original scope of work under the RFP. Negotiations took place in each instance to ensure reasonable costs.

As part of this informal procurement process, ACHA negotiated with each bidder in each training category concerning the prices that would be charged based upon

adequate staffing and the new scope of work. For computer training, one contractor had bid on the basis of providing two persons to carry out the work under the contract. The second contractor originally had only proposed one person to carry out work under the contract. As part of the negotiations carried out by ACHA, the first contractor agreed to reduce its per class price from \$750 to \$562, and its price per class hour from \$375 to \$281. The other contractor agreed to add a second person for the work who would be a resident under Section 3. As a result, their per class price was increased, from \$264 to \$562 and their price per class hour went from \$132 to \$281. The two contractors, as a result of the negotiations, were provided the same compensation but either reduced their original prices or added staffing and related costs

With regard to the workplace and life skills training, the price per class hour for the firm that had committed to providing two-person staffing was maintained. The other contractor was permitted to handle its development activities and training under the contract with only one person, but its class hours were reduced from 3 to 2 resulting in a slightly lower \$202 per class hour charge for the one instructor.

Clearly, the limited time available to obligate the PHDEP funds was a consideration in ACHA's decision to use informal procurement within applicable small purchase amounts. Basically, in order to obligate the PHDEP funds before they were recaptured, ACHA recognized that use of the much more quickly implemented informal procurement process was essential. Awards were made to obtain the best value for the Authority, as is always its intention.

In proceeding in the manner it did, ACHA followed applicable HUD regulations under 24 CFR 85.36 and also the HUD Handbook procedures and Sample Procurement Policy. **It specifies that an independent cost estimate is to be prepared before solicitation when the estimated amount will be above the small purchase limitation.** As to small purchases, these materials specify that a price analysis (described in the Procurement Handbook at 4-32 (B)(1)) can be satisfied if the Authority "compare[s] proposed prices received..."

This procedure was followed based upon the guidance provided in the HUD Handbook, Chapter 4, 4-32(B)(3), Competition. It states, "In competitive procurements, the force of competition is usually adequate to allow the HA to make a price reasonableness determination based simply on a comparison of the offered prices. This comparison may point out the need for verification of bids (in sealed bid procurements) or negotiations (in the competitive or noncompetitive proposals methods), if prices of the different offerors vary widely or seem unusually high or low compared to the independent cost estimate." ACHA followed these procedures and carried out meaningful negotiations with the bidders for the benefit of the Authority.

**A-2. Payment of \$73,151 (from FY1999 and FY2000 grants) under two contracts issued in 2001.**

Following the original pilot contracts, ACHA decided to provide both types of training on a one-year basis. In September 2000, ACHA made a price "inquiry" for a full-year workplace and life skills training program, preliminary to fashioning a competitive procurement through an RFP. Two firms that had carried out the initial pilot project training were solicited for estimates. The firms provided price estimates that averaged \$365 per class hour with each providing two persons and with prices for a two-hour class that averaged \$730.

In November 2000, ACHA also made a price "inquiry" of four firms for computer training. Three of the firms provided pricing based upon a single instructor that averaged \$137 per class hour, with considerable variation in length of classes. The two firms that had earlier provided computer training submitted a joint estimate based on two-person staffing for \$208 per class hour. Clearly obtaining these pre-bid independent price estimates and analysis by ACHA met applicable procurement requirements.

A competitive procurement was then held with RFPs that set forth a scope of work, with weighted factors, for the selection of a contractor. These weighted factors include price, which was given only a 5 percent weight. The RFPs are included as Attachments G-1 and H-1. For computer training, the contractor awarded the bid received an evaluation score of 77. Of the other three contractors that were responsive, the next highest score was 58.

The winning bidder's price per class hour was \$336 for 2 persons for a 2-hour class. As part of the later negotiations, the contractor agreed to provide a 3-hour class for the same price, reducing the per class hour price to \$224.

For workplace and life skills training, four bidders submitted responsive bids, and the winning bidder received a 76.4 evaluation score, with the highest of the other three bidders getting only a 61. The winning bidder proposed a \$441 per class hour price for a 2-person, 2-hour class. After negotiations, the contractor agreed to provide a 3-hour class for the same price, reducing the per class hour price to \$294. The same firm was selected for both training programs.

In light of the pricing data obtained, the analysis and the subsequent negotiations over price, ACHA more than met its obligations under applicable procurement regulations to conduct a price analysis for its 2001 contracts. It obtained pre-bid independent price estimates, and then went through a competitive ranking of bidders on the basis of the factors set forth in the RFP, in which price was one of the considerations, albeit not a significant one. ACHA fully met its obligation for conducting a price analysis for all six of the contracts that were issued.

**B. *BID SPLITTING OCCURRED***

**B-1. There Was No Splitting of Bids For The 2000 Contract Awards.**

The original RFP had contemplated that the total contract, based upon the earlier estimates from the Community College, would involve a total cost of roughly \$357,000 (\$185,000 for computer training and \$172,000 for work place and life skills) over a two-year period. Based upon the higher bids submitted in response to the RFP, the bids were rejected.

At that point, as noted above, ACHA used its informal procurement process to obtain contractors based upon a price evaluation. Based on the proposals received, each vendor had its own area of expertise that would be beneficial to ACHA. For instance, one contractor's field of expertise was work place skills. Another firm was more experienced with life skills training. One computer training firm offered a computer curriculum for adolescents while the other concentrated more on computer training for adults. These particular capabilities justified using all four contractors for this pilot project.

Therefore, based upon its analysis of each firm's capabilities and expertise, it was determined that ACHA would enter into agreements for separate pilot programs with all four firms who had bid on the discarded RFP. This approach was determined to be the most advantageous way for ACHA to proceed.

ACHA also used its small purchase authority and informal procurement to facilitate its commitment to encourage contracts with small, minority and woman-owned businesses to participate in its work.

In proceeding in this manner, ACHA utilized the procedures set forth in the following procurement guides: HUD Handbook 4-32 (B)(1) Price analysis techniques; 4-32 (B)(2) Small purchases; 4-32 (B)(3) Competition; 4-33(A) Price Analysis; 24 CFR 85.36 (e) (1) Contracting with small and minority firms, and 24 CFR 85.36 (e) (2) (iii) "

**B-2 An Overpayment Of \$20,206 Occurred In The 2000 Contracts**

ACHA has determined that the auditor's correctly determined that invoices of two of the contractors were inadvertently paid twice. ACHA notified the contractors in April 2003 of the overpayments that resulted in their each receiving two payments for the same invoice. ACHA has demanded return of the excess amounts mistakenly paid. A copy of

the demand from the legal counsel for the Authority to the contractors, for repayment of these funds, was provided to the auditors and is designated Attachment I-1.

ACHA will make every effort, including legal action, to obtain the applicable repayments that come to \$14,000. When the funds are received they will be paid back to the applicable accounts as determined at the time.

The auditors determined, and ACHA concurs, that an additional \$6,206, in excess of the contract amounts were inadvertently charged against the contracts. These were for PHDEP-eligible expenses that should have been charged directly to line item 9160 rather than to these contracts. The expenses involved included manuals, computer hardware and software related to ACHA's computers that were used for the training, for light snacks, for parking, etc. The accounting records will be corrected.

**B-3 Vendors Had Proper Qualifications For The 2001 Contract For Computer Training**

A contract review panel member initially questioned the proposers qualifications, while reviewing the submissions for the 2001 contracts for computer training. The reference was to a form of proprietary training, specifically Microsoft Certification. While such a certification can be useful, it certainly should not be a requirement. No formal qualifications requirement was specifically applicable to the procurement.

In any event, all of the vendors actually selected, in the unanimous opinion of the selection panel, were determined to have presented adequate qualifications sufficient for the work involved.

**C. Fees Were Reasonable Based Upon Comparative Fees Submitted By Vendors Under Similar Scopes Of Services Obtained By ACHA**

**C-1 The Reasonableness Of The Payment Of \$156,254 From FY1997 And FY1998 Grants For Four Small Purchase Contracts Issued In 2000.**

Several criteria were used as a means to determine the reasonableness of the prices paid for both the 2000 and 2001 contract awards. The 2000 contracts were a pilot program established for a period of five months while the subsequent contracts were issued for a period of one year. Comparisons to determine the reasonableness of the prices proposed and negotiated were made between price estimates obtained, competitive prices received in competitive bids, and through current market research. See attached Attachment J-1. Factors taken into consideration were the proposed price per class hour, proposed price per class, negotiated price per class hour, negotiated price per class, the number of staff who were to provide instruction under the contract, and the number of class hours proposed for the class.

A comparison of the competitive proposals received in 1999 to the independent price estimates received in 2000 for the 2001 procurement, the competitive proposals received in 2001 and the current market rate will show that the prices paid under the 97/98 PHDEP grant were reasonable.

HUD's Procurement Handbook states that the reasonableness of expenditures should be determined based upon a Price Analysis "for ... small purchases using one or more of the following approaches: "... compare proposed prices received, ...compare prior proposed prices and contract prices, [and] compare proposed prices with independent cost estimates. ACHA followed these approaches to determine that the prices paid were reasonable.

Cost and Price analysis techniques in HUD's Handbook at 4-32(A) include: "...the complexity [of the analysis] will be commensurate with the dollar value of the contract. Under 4-32 (B)(3), as to competition, the Handbook states that in "competitive procurements, the force of competition is usually adequate to allow the HA to make a price reasonableness determination based simply on a comparison of the offered prices. This comparison may point out the need for verification of bids (in sealed bid procurements) or negotiations (in the competitive or noncompetitive proposals methods), if prices of the different offerors vary widely or seem unusually high or low compared to the independent cost estimate." Here, negotiations were held under both procurements and resulted in lower prices to the benefit of the Authority.

**C-2 Payment of \$73,151 under two contracts to a contractor was based upon reasonable prices for the work performed.**

The payments covered invoices submitted during the period from July 13, 2001 to September 30, 2001 for work performed from the inception of the contracts. Payments were provided under separate contracts awarded for computer training and workplace and life skills training to the same contractor after competitive procurements. The contractor had evaluation scores substantially above those of the other bidders. Because of the critical importance of the quality of the services needed, price represented only 5 percent of the basis for award of the contracts. These contracts were awarded under competitive bidding and as HUD's Handbook notes, this is the most appropriate measure of reasonableness of the prices paid.

The determination that the contracts were fair and reasonable is supported by a number of rating factors set forth in the RFPs for each type of training, for which price was weighed only as a 5 percent consideration. All factors considered, the contracts resulted in what was the best value for the Authority and demonstrate that the questioned bids were reasonable. The attached RFPs indicate those criteria that were used in the selection and evaluation process.

The amount paid based upon the contracted prices were supported by the prices obtained in the pre-bid independent price estimates. Information from ACHA's procurement files, that was included in the documentation previously provided the auditors, supports the reasonableness of the amounts paid. The independent price estimates received in September and November of 2000, shown in Attachment J-1, are in addition to the pricing data used from the 2000 contracts. They were solicited after the completion of the 2000 contracts and before the issuance of the 2001 Request for Proposals. Their analysis reflects estimated prices that were higher than those actually included in the contract, especially following negotiations. That these prices were reasonable is further supported by the higher price estimates obtained in a current market inquiry that also obtained price estimates higher than those paid by ACHA for this work.

A current market inquiry regarding prices for both computer and workplace training was conducted in October 2003. Five firms were identified as potential bidders for such services and they were requested to respond with pricing information for the same scope of services that were used in ACHA's January 2001 request for proposals for each type of training. The inquiry resulted in price estimates from three firms. Of the other two solicited, one was non-responsive, and the other declined to submit price estimates because of concerns in their organization for the safety of their staff where training would be conducted on ACHA properties.

Each firm provided estimates that reflect prices per class hour. One firm estimated \$576 for workplace and life skills training and \$448 for computer training. Based upon a calculated price per class hour for a 2-hour, 2 person class, they were well above the successful 2001 bidder's negotiated price per class hour of \$224 and \$294, respectively. The average per class hour price for the other two firms was \$300 for a one-person, 2-hour class for each type of training, even above the \$224 and \$294 prices of the successful bidder per class hour for a two-person, 3-hour class.

Thus, even aside from this recent market data that shows the contractor's prices were reasonable, it can be seen that the successful 2001 bidder's contract price for a 2-person, 3-hour class resulted in a \$294 per class hour price for workplace and life skills training, less than the original negotiated price of \$372 in 1999 for the shorter 2000 pilot program. Its price is also less than its \$353 pre-bid price estimate in 2000. Its computer training 2-person, 3-hour class with a negotiated cost of \$224 per class hour is less than the two contractor's prices for the original pilot program's negotiated per class hour price of \$281.

An award was made to the most qualified bidder, price and other factors considered, for both of the competitive procurements for training services that occurred in 2001. The fact that both contracts were awarded to the same contractor who had also been given a contract under the pilot program in workplace and life skills is irrelevant.

That firm's competitive evaluation score was considerably higher than any of the other bidders for both types of training. One difference between the contract awards from 97/98 grant funds and the 2001 contract is that one additional site was added to the scope of services.

These price comparisons, along with the contractor's high evaluation score and price per class hour that is well under those obtained in a current market inquiry make clear that ACHA paid a reasonable price for these important training services for its residents. These services were provided by an experienced contractor whose work had been ranked most highly by the evaluation panel. There should be no question that the prices paid ACHA were fair and reasonable.

***D. ACHA's Procurement Policy Was Immediately Updated When A Request To Do So Was Made By the Auditors and the Field Office At the Exit Conference. Periodic Reviews Of Procurements Will Occur.***

The ACHA Board adopted a new procurement policy on September 17, 2003, and has requested the Pittsburgh HUD Field Office to review it to ensure that it is fully compliant with all HUD rules and regulations. ACHA is confident that it is appropriate because it was closely modeled on the sample procurement policy contained in Appendix one of Handbook 7460.8 REV-1, Procurement Handbook for Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs).

ACHA will ensure that its procurement procedures are being properly applied by performing periodic reviews of its procurement activities. Such reviews are now occurring as requested.

## MANAGEMENT CONTROLS

### AUDITOR CONTENTION

The draft report points out some weaknesses in management controls that ACHA should address:

The Authority did not have a system to ensure costs incurred were for eligible activities, properly supported by appropriate source documentation, and were allocated as grant expenditures (see Recommendation 1J).

The Authority did not have a system to ensure proper cash management and use of budgetary controls over expenditures (see Recommendation 1A and 1L).

### ACHA RESPONSE

As a result of the issues brought to light by this audit, ACHA has instituted new procedures for grant administration. The Finance Department has adopted a new formal written procedure to ensure that payments involving duplicate LOCCS requests do not occur in the future. Effective immediately, LOCCS requests will be based only on original source documentation. The steps involved in this procedure are as follows:

When an eligible expense is incurred under a grant program, the source documentation (original vouchers, purchase orders, invoices, etc.) is made ready for payment in accordance with established Purchasing and Accounts Payable procedures.

- The source documentation is sent to the accountant responsible for LOCCS draws.
- The accountant implements the LOCCS draw.
- The source documentation packet is marked with the LOCCS voucher number.
- Copies of the source documentation packet are made and attached to the LOCCS cover sheet.
- The original source documentation packet is forwarded to the Accounts Payable Specialist for payment.
- At the end of each month the Accounts Payable Accountant will reconcile revenues and expenses between LOCCS and the General Ledger.
- A monthly budget analysis by line item will be forwarded to the grant administrator.

A sample of a recent LOCCS request with the appropriate source documentation that shows the implementation of this new process is attached as Attachment K-1. A sample monthly reconciliation is provided in Attachment K-2.

ACHA has also instituted a formal grant administration procedure that must be followed by all staff involved in grant programs. The procedure mandates supervisory review of expenses, strict adherence to established grant budgets, and periodic reviews of the process by ACHA's internal Quality Control Department, and incorporates the Finance Department's procedure as outlined above.