audit report
OFFICE OF INSPECTOR GENERAL

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98-NY-214-1001

TO: Rosalind Lamberty, Director, Multifamily Housing Division
Buffalo Area Office

FROM: David J. Niemiec, Acting District Inspector General for Audit
New York/New Jersey

SUBJECT: Limited Review of BRACO I
Multifamily Mortgagor Operations
Buffalo, New York

Introduction

We completed a limited review of selected activities of the multifamily project, BRACO I, Project Number 014-44047 (herein called the Project), located in Buffalo, New York. The Project is owned by BRACO I Partnership (herein called the Mortgagor), a limited partnership, and is currently managed by Clover Management (herein called the Management Agent). The review generally covered the period between January 1, 1994 and June 30, 1996, and was expanded to cover other periods as we considered necessary.

Objectives and Methodology

The objectives of the review were to determine: (1) whether the Mortgagor complied with its Regulatory Agreement and applicable regulations and requirements of the U. S. Department of Housing and Urban Development (HUD) concerning the establishment of life insurance and pension plans and their costs; and (2) whether project funds were improperly transferred out of the project's account to establish a trust fund. To accomplish our objectives we reviewed the financial statements and audit reports for Fiscal Years 1993, 1994, and 1995, interviewed members of the Management Agent's and Project's staffs, as well as examined pertinent HUD and project records and files. The review was conducted in accordance with generally accepted government auditing standards.

Summary

This report contains two findings which disclose that the Mortgagor did not comply with provisions of the Regulatory Agreement and/or HUD regulations and requirements dealing with the establishment of life insurance and pension plans and incurring related costs; and that the Mortgagor violated a provision of the Regulatory Agreement by transferring project funds to an investment account to establish a trust fund. Specifically, our review disclosed that between 1993 and 1995 the

Mortgagor spent $478,488 of project funds to establish life insurance and pension plans for its employees. However, we determined that $463,757 of that costs were excessive and unreasonable and therefore ineligible for inclusion in project costs.

Our review also disclosed that in 1991 the Mortgagor transferred $140,901 of project funds to an investment account to establish a trust fund without obtaining HUD approval. The trust fund was established to earn money to eventually pay off a $300,000 Residual Receipt Note executed with HUD when the project received a $300,000 Flexible Subsidy Loan under HUD's Flexible Subsidy Program. Nonetheless, such a transfer of project funds required HUD approval pursuant to Paragraph 6b of the Regulatory Agreement.

We recommend that you require the Mortgagor to: (1) return the $478,488 used to fund the project's employee life insurance and pension plans to the project's account; and (2) develop and submit a new plan for HUD approval before implementation. Regarding the trust fund, we recommend that the amount used to establish the trust along with all earnings be deposited in the project's Residual Receipt Account and used to pay off the Residual Receipt Note.

The results of the audit were discussed with the Mortgagor's representative during the course of the audit. Generally, the Mortgagor's representative disagrees with our recommendations. The Mortgagor's written responses have been incorporated in the body of each finding.

Follow-up on Prior Audits

This is the initial OIG audit of the subject entity. The Mortgagor's last audit was performed by an Independent Public Accountant (IPA) and was for the year ended December 31, 1995. The report did not contain any audit findings.

Internal Controls

In planning and performing our audit, we considered internal controls of the Mortgagor to determine our auditing procedures and not to provide assurance on internal controls. Internal controls are the process by which an entity obtains reasonable assurance as to achievement of specific objectives. They consist of interrelated components, including integrity, ethical values, competence, and the control environment which includes establishing objectives, risk assessment, information systems, control procedures, communication, managing change, and monitoring.

We determined that the following internal controls categories were relevant to our audit objectives: (1) controls over cash receipts and disbursements; and (2) controls over the maintenance of books and records. We evaluated all of the control categories identified above by determining the risk exposure and assessing control design and implementation.

It is a significant weakness if internal controls do not give reasonable assurance that resource use is consistent with laws, regulations, and policies; that resources are safeguarded against waste, loss and misuse; and that reliable data are obtained, maintained, and fairly disclosed in reports.

We found that the Mortgagor's controls over cash receipts and its maintenance of books and records were generally adequate. Regarding cash disbursements, we found that project funds were not always used consistent with regulations and requirements as discussed in the attached findings.

Within 60 days, please furnish this Office, for each recommendation cited in the report, a status report on: (1) the corrective actions taken; (2) the proposed corrective action and the date to be completed; or (3) why action is not considered necessary. Also, please furnish copies of any correspondence or directives issued related to the audit.

If you have any questions, please contact Alexander C. Malloy, Assistant District Inspector General for Audit at (212) 264-8000, extension 3976.

Background

In 1973 the Federal Housing Administration (FHA) insured a $5,003,500 mortgage of BRACO I under Section 236 of the National Housing Act. The Project, BRACO I, is owned by BRACO I Partnership a New York State Limited Partnership. The Managing General Partner of BRACO I is Tudor Associates. The Project consists of 12 apartments buildings scattered throughout Buffalo, New York and has 220 units. Project operations are governed by a Regulatory Agreement with HUD dated October 30, 1973. The Project also receives Section 8 subsidies from HUD, which reduces the amount of rent that is paid by a participating tenant.

Attachments:

1. Findings and Recommendations
2. Report Distribution

Excessive and Unreasonable Life Insurance and Pension Plan Costs

Our review disclosed that between 1993 and 1995 the Mortgagor expended $478,488 of project funds on establishing life insurance and pension plans for its employees. However, we determined that $463,757 of that amount was excessive and unreasonable, and therefore ineligible for inclusion in project costs. In our opinion, the excessive costs were incurred because the Mortgagor failed to comply with the provisions of the Regulatory Agreement and HUD handbook requirements pertaining to life insurance and pension plans. Because funds were used to pay excessive costs, the financial position of the project has been weakened and the project has been deprived of funds that could be available to pay eligible operating and improvement costs.

Criteria

Paragraph 9(b) of the Regulatory Agreement states that "Payment for services, supplies, or materials shall not exceed the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished." Paragraph 6.38e of HUD Handbook 4381.5 REV-2, The Management Agents Handbook, provides requirements for retirement accounts for front line staff, as discussed later in this finding.

Background

The Mortgagor used project funds to establish life insurance and pension plans for project employees. Since the funding for the plans is a cost to the project, the amount paid with project funds must not exceed the amount ordinarily paid for similar benefits in the area. Contrary to this requirement, we found that cost charged to the project as a result of funding both the insurance and pension plans were excessive by $463,757. We found that this occurred because the mortgagor funded the plans at excessive levels, causing their costs to exceed the amounts paid for such benefits by others in the area. Details pertaining to the life insurance and pension plans are discussed below.

a. Excessive Life Insurance costs

Excessive life insurance costs

On December 29, 1994, the Mortgagor established a life insurance plan for project employees (approximately ten) and its Partners by depositing $150,000 in a trust account. In 1995 the Mortgagor added $187,841 to the amount which increased the total funding to $337,841. The plan provides life insurance benefits to the project's employees at a rate of 12 times their salary. Regarding the Partners, the plan does not specify the amount of coverage provided. Based on information obtained from insurance companies, the benefits provided by the project's plan exceed the recommended industry levels. According to available information, the life insurance industry recommends coverage at a rate of 5 to 6 times the salary of an individual who has a mortgage and family obligations. By comparison, the annual cost of the project's life insurance plan is excessive.

Additionally, our review indicated that the cost of the life insurance coverage is more expensive than comparable coverage would cost if it was obtained in the open market. For example, in 1995 the project incurred life insurance costs of $187,841. Our review disclosed that the open market cost of comparable coverage would have ranged from $7,669 to $13,734 depending on whether employees are smokers or non-smokers. We believe that if the Mortgagor would have obtained life insurance for the project's employees in the open market it would have resulted in a saving to the project of an amount between $174,107 to $180,172. Consequently, the project's current life insurance plan needs to be terminated and a new HUD approved plan implemented to ensure that adequate life insurance coverage is provided to the project's employees at a more reasonable cost.

While analyzing the cost of the project's life insurance plan, we noted that the cost attributable to the coverage on the Partners could be considered a form of compensation to the Partners, which is prohibited by Paragraph 6(j) of the Regulatory Agreement. This paragraph prohibits the paying of any compensation to partners. Therefore, the project's Partners should not have been covered under the project's life insurance plan.

b. Excessive Pension Plan Costs

Pension plan cost limited to five percent of pay

Paragraph 6.38e(2)(c) of Handbook 4381.5 REV 2, The Management Agent Handbook, provides that for retirement accounts the projected cost of employer contributions to be paid out of project funds may not exceed five percent of the base pay of eligible employees.

An analysis of the pension costs that were charged to the project between 1993 and 1995 disclosed that the amounts significantly exceeded five percent of the base pay of the employees, as shown below.

Year	Total Employee Base Pay	5 Percent of Employee Base Pay	Actual Pension Costs	Excessive Pension Costs
1993	$ 97,551	$ 4,878	$ 45,000	$ 40,122
1994	87,271	4,364	35,203	30,839
1995	109,789	5,489	60,444	54,955
TOTAL	$294,611	$14,731	$140,647	$125,916

$125,916 in excessive pension plan costs

As shown above, the total amount of excess pension plan costs between 1993 and 1995 was $125,916. During our review, we contacted a management agent who manages projects that provide pension plans to their employees. Based on information obtained from the management agent, we determined that the annual pension costs charged to projects of similar size was approximately $2,700. This is a fraction of the $60,444 that the project expended for the pension plan in 1995. Thus, we consider pension plan cost of $125,916 to be excessive and therefore ineligible for inclusion in project costs.

Part time employees covered

Paragraph 6.38e(2)(b) of Handbook 4381.5 REV 2 provides that only permanent front-line employees who work full time (more than 30 hours per week) are eligible to participate in a project funded pension plan. Our review disclosed that the project's pension plan covers employees who work 1000 hours in a plan year. This is approximately 20 hours per week. Consequently, the project's pension plan covers employees that are not full-time and therefore are not eligible for coverage.

Plan not managed by outside entity

The Handbook further provides that the plan should be managed by a qualified outside entity with an established history of handling such programs. Our review disclosed that the General Partner of the Project is the Plan Trustee and the Plan Administrator. Also, our review disclosed that the Trustee can register investments in his own name. Because the Trustee, the Project's General Partner and the Plan Administrator are the same person, commingling of pension funds with personal and project funds could readily occur. Therefore, we believe that if the project's employee pension plan is allowed to continue, it should be managed by an outside entity, as required, to ensure that funds are properly handled.

Pension plan not submitted to HUD

Finally, the Management Agent Handbook requires that HUD be informed that the plan meets all of HUD's requirements prior to funding. The HUD field office was not provided with this certification by the Mortgagor. Consequently, HUD was not aware of the Mortgagor's intentions to use project funds to establish a retirement fund for the project's employees.

Auditee Comments

Paragraph 9(b) of the Regulatory Agreement addresses "services, supplies or materials," the context of which has no reasonable application to life insurance or pension plan costs. Even if applicable, the amounts paid do not exceed" the amount ordinarily paid" for such plans.

On June 11, 1997 your office provided us with copies of pages 6-33 and 6-34 of what appears to be a HUD reference manual numbered 4381.5 REV-2, the effective date is unknown to us. We are not certain that this manual applies to the BRACO-I project and we were not aware of its contents. Even if it does apply, I note that Paragraph 6.38(e)(2)(c), which indicates a limit of 5 percent of base pay of eligible employees, for the cost of retirement accounts, speaks of the "projected cost" of such a benefit. We believe that a proper calculation of the entire projected period for BRACO-I would show that the plans comply with this provision, especially taking turnover into account.

You also take liberty in your reference to Paragraph 6(j) of the Regulatory Agreement in asserting that a life insurance benefit constitutes the payment of compensation. Strictly construing the regulation, the words "pay any compensation, including wages or salaries..to..." connote the delivery of a thing of tangible value which can be used or spent, hardly applicable to a death benefit which the employee does not and never will receive. Nor is the benefit an "obligation" incurred by the owner, since life insurance is an obligation of the life insurance company.

Furthermore, you seem to assume that the employees covered by the life insurance plan include the owners, directors, stockholders and partners of the project. This is not so. Only eligible employees are covered.

You freely use the words "excessive" and unreasonable" in characterizing the life insurance and pension plan costs, words which I assume you will agree are subjective. Others might have a different opinion upon evaluating the project as a whole.

Despite the bold assertions in your opening paragraph, you offer no specific instance where the financial position of the project "has been weakened" or where funds have been unavailable "to pay eligible costs" because of these expenditures. In actuality, there has been no such instance and that is not the financial condition of the project.

You conclude that the project's expense for life insurance is excessive because it provides for approximately double of what you call "recommended industry levels," another ambiguous standard you reply upon without much definition. Such a criteria opens a wide door to a quarrelsome statistical argument that can have no right answer.

To the extent that the project is objectively out of compliance with the Regulatory Agreement, the Management Agent Handbook (if even binding on the Owner) and/or any other HUD requirements, we or our managing agent were unaware of same and/or did not have or have access to the specific documents. Such non-compliance would have been inadvertent. Our benefit plans have been noted in our financial statements for years and it is fair to say that we have been lulled by the passage of time into believing that the acceptance of our financial statements constituted, albeit indirectly, approval of our benefit programs. Certainly, had there been earlier objections of this type, if warranted, we would not have continued to provide these benefits to the employees.

One suggestion we can make is that if, indeed, the project is objectively out of compliance, no further contributions will be made to the life insurance and pension plan programs (assuming it is lawful not to make annual contributions) unit ratios, cost-benefits and other rules of thumb reach levels approved by HUD. To the extent that other changes or amendments can be made to achieve HUD approval, we will consider doing so if legally permissible.

Assuming that this letter will be part of the final audit report and that I and the Owner will be copied when it is issued to HUD's Buffalo Office. I respectfully invite the local office to make arrangements whereby the project's employee benefit programs can be modified henceforth so as to meet with the satisfaction of the agency.

OIG Evaluation of Auditee Comments

While reviewing the costs of the project's employee life insurance and pension plans, we compared those costs to amounts charged to a similar projects as well as amounts recommended by companies in the insurance industry. We determined that the cost of the project's employee life insurance and pension plans, which was in excess of 200 percent of the employees' salaries, was not only unreasonable, but in excess of amounts ordinarily paid for such services by other projects. In this regard, the mortgagor violated Paragraph 9(b) of the Regulatory Agreement as discussed in this finding. The fact that project funds were used to pay for excessive and unreasonable life insurance coverage and pension benefits, precludes the funds from being available to pay eligible project costs.

Regarding the pension plan cost, it is our determination that Paragraph 6.38 of the Management Agent Handbook 4381.5 limits the payment of pension cost to 5 percent of a project's annual eligible employee base pay, and that the handbook is applicable to HUD insured projects.

Item h, page 6 of the life insurance plan states "each proprietor and partner shall have the same benefits as if he were an Employee". Paragraph 6(j) of the Regulatory Agreement states that the owners shall not be paid any compensation, including wages or salaries, or incur any obligations, to themselves, or any officers, directors, stockholders, trustees, partners, beneficiaries under a trust, or to any of their nominees. We consider the use of project funds to pay for life insurance benefits for the Partner an ineligible cost pursuant to Paragraph 6(j) of the Regulatory Agreement.

We do not agree with the Mortgagor's suggestion to discontinue making contributions to the employees' life insurance and pension plans until they reach levels approved by HUD. It is our opinion that the funds in the plan's trust accounts should be returned to the project and new HUD approved plans should be implemented.

Recommendations

We recommend that you instruct the Mortgagor to:

1A. Return the $478,488 used to fund the project's employee life insurance and pension plans to the project. Also, all interest earned on those funds should be remitted with the principal amount, which is currently being held in trust accounts.

1B. Submit new employee benefit plans (life insurance and pension) to HUD for approval and assurance that they meet all HUD requirements and regulations.

Additionally, we recommend that your office:

1C. Determine what impact that the return of the $478,488 will have on surplus cash for operating years 1993 through 1995 and require the Mortgagor to make any required deposits to the residual receipts account from the funds returned.

Trust Fund Established Without HUD's Approval

In 1991, without obtaining HUD's approval, the Mortgagor transferred $140,901 of project funds to an investment account in order to establish a trust fund. Approval was required, pursuant to the Regulatory Agreement, because the Mortgagor is not allowed to transfer project funds except for the purposes of making allowable distributions or for paying reasonable operating expenses and necessary repairs. The trust fund was established to earn money to eventually pay off a $300,000 Residual Receipts Note executed with HUD when the project received a $300,000 Flexible Subsidy loan under HUD's Flexible Subsidy Program. Additionally, we noted that the Mortgagor's accountability of the trust funds gives the appearance that the funds are not project funds, when, in fact, the $140,901 that was used to establish the trust, along with all earnings, belong to the project. In our opinion, the funds in the trust should be used to pay off the Residual Receipts Note since the amount in the trust currently exceeds the current amount of the Residual Receipt Note.

Criteria

Paragraph 6(b) of the Regulatory Agreement stipulates that without the prior written approval of the Commissioner the Mortgagor cannot assign, transfer, dispose of, or encumber any personal property of the project, including rents, or pay out any funds, other than from surplus cash, except for reasonable operating expenses and necessary repairs.

Background

Our review disclosed that on August 31, 1982, the Mortgagor executed a Financial Assistance Contract, a Financial Assistance Depository Agreement, and a Residual Receipts Note with HUD. The amount of the Residual Receipts Note is $300,000 with a one percent per annum interest rate, and was executed to serve as collateral for a $300,000 Flexible Subsidy loan that the Mortgagor obtained from HUD. The loan was provided to assist the Mortgagor in making improvements to the project. Section 10(e) of the Financial Assistance Contract, which is one of the agreements executed under HUD's Flexible Subsidy Program, provides that no distributions of surplus cash may be made or accrued unless and until the Residual Receipts Note is discharged.

Correspondence between the Mortgagor and HUD in 1987 and 1988 indicated that HUD was to try to amend the note to allow for the accrual and distribution of surplus cash. The correspondence further indicated that the Mortgagor had intentions of fully paying off the Note by the end of 1988. However, we found that the Residual Receipts Note was not paid off by the end of 1988, and neither HUD nor the Mortgagor could provide documentation to show that the note had been amended. Therefore, HUD should advise the Mortgagor that future distributions of surplus cash are not to be made or accrued until the Residual Receipt Note is either amended or discharged.

Trust fund established without HUD approval

Instead of paying off the loan or allowing funds to accumulate in the project's Residual Receipts Account, the Mortgagor used $140,901 of project funds to establish a Defeasance Trust on March 31, 1991. The Dictionary of Business Terms, published in 1994 by Barron's Educational Series, Inc., defines a defeasance instrument as a technique used by corporations to avoid retiring low-interest-rate debt. Instead, they purchase U.S. Treasury Bonds earning a higher rate and pledge the Treasury Bonds as collateral against the debt they owe. In this regard, the Mortgagor established a Defeasance Trust to earn money to eventually pay off a low-interest rate Flexible Subsidy loan due HUD. In establishing the trust, the Mortgagor transferred project funds to an investment account of the Trust, which is a non-project account. We believe that this violated Paragraph 6 (b) of the Regulatory Agreement because HUD approval is required to transfer project funds out of the project's account, except for earned distributions or to pay for reasonable operating expenses and necessary repairs.

Risk level of trust misstated

In its accounting records, the Mortgagor classified the trust fund transaction as an extinguishment of debt. According to Statement 76 of the Statement of Financial Accounting and the previously provided definition of a defeasance instrument, in order for the Mortgagor to have classified the transaction that was made to establish the trust as an extinguishment of debt, the trust must have been restricted to owning "essentially risk free" assets that are obligations of the U. S. Government, guaranteed by the U.S. Government, or backed by U.S.

Government obligations. A note to the Project's 1995 Financial Statements provides that the trust invests in essentially risk free securities. However, we found that the trust agreement does not limit trust investments to "essentially risk free" securities. The trust agreement provides a liberal investment policy, including but not limited to loaning funds, trading on exchanges, using nominees, and purchasing real estate. As a result, the note to the financial statements misstated the risk level of the trust.

Increase in the value of the trust fund

The trust fund value has had significant fluctuations, the following table shows the changes in the trust balances since inception.

Year	**Trust Balance**	**Percentage change in Trust**
3/1/91	$140,901	
12/31/92	$170,238	20.8 %
12/31/93	$213,402	25.4 %
12/31/94	$191,072	10.5 % Loss
12/31/95	$243,268	27.3 %
6/30/96	$322,124	32% (6 months)

Trust fund balance exceeds principal amount of note

The significant fluctuations, including a loss in value one year, show that the trust fund is not invested in essentially risk free securities. However, as of June 30, 1996, the trust fund balance was $322,124. This is more than double the value of the trust fund at its inception and is sufficient to cover the outstanding principal on the Residual Receipts Note. In addition, since the Defeasance Trust does not appear as a asset on the Financial Statements, its absence gives the appearance that the funds in the trust are not project funds. Contrary to the appearance, we determined that the funds used to establish the trust came from project funds; therefore that amount along with all earnings are project funds. Since the current amount in the trust fund exceeds the amount of the Residual Receipts Note, we believe that the trust should be terminated and the funds deposited into the project's account and used to pay off the Residual Receipts Note.

Auditee Comments

With respect to the Residual Receipts Note, we absolutely disagree with your treatment and conclusions. Members of your own Office of Inspector General have stated to me in the past that they have no criticism of BRACO concerning the absence of an amended note - only, perhaps, of your Buffalo Office. If it becomes necessary, I will attribute those comments by date and person(s).

Furthermore, as you must know, a March 31, 1988 letter from your Buffalo Office to Dr. Lawrence White stated, among other things that:

a. "Your distribution of $155,053, paid while the flexible subsidy residual receipts note is still in effect, does not have to be repaid;"

b. "You will be able to accrue and make distributions....."

c. "The residual receipts note will <u>be amended</u> at a future date to allow for the accrual and distribution of surplus cash."(Underlining added)

The letter also made clear that repayment of principal would not be required until transfer of ownership or expiration of the HUD subsidy term and/or mortgage term. Clearly, there was no longer any expectation on HUD's part that the Mortgagor would "fully pay off the Note by the end of 1988." (Your Background comment).

Your recommendation that the Note be repaid at this time is incompatible with HUD's aforesaid commitments to the Owner.

As to the Defeasance Trust, I am certain that we can establish that HUD knew that it was established. HUD has known for many years from the annual financial statements dating back to 1991. HUD should be estopped from now contending that BRACO "entered into the Trust without HUD's approval."

Finally, if our financial statements have in any way mischaracterized the trust, it was inadvertent and done by others. If future notes can be more appropriately phrased, we will consult with the project accountant to do so.

We take issue with your statement that "instead of paying off the loan, on March 31, 1991 the Mortgagor took $140,901 in project funds and placed them in a defeasance trust." The trust was established in 1991 only after HUD refused to accept that sum in partial payment to reduce the principal balance of the residual receipts note! Furthermore, despite your criticism of the investment policy of the trust, all funds are invested in AAA insured zero coupon bonds, rated equal to government securities! That will not change for the life of the trust.

Given the performance of the trust to date, given that it will ultimately be used to fully repay the residual receipts note (an outcome not otherwise assured in any way), and given the involvement of HUD's local office in the history of this particular matter, I would hope that we can avoid a dispute which will likely be lengthy and clearly favors the Owner.

With respect to the trust, I would also look into the possibility of modifying and restricting the trustee's powers so as to limit trust investments to the quality currently held by the trust.

I am available to work with the local office on these suggestions.

OIG Evaluation of Auditee Comments

In our finding and during our discussions with the Mortgagor's Attorney, we acknowledged the existence of cor-respondence from HUD to the Mortgagor concerning the Residual Receipts

Note. We have not recommended the return of any distributions of surplus cash based on those letters. However, the legal documents (Residual Receipts Note and Financial Assistance Contract) were not amended and the Mortgagor did not obtain HUD approval to use project funds to establish a Defeasance Trust.

Further, the accounting of the Trust transaction is not in compliance with Financial Accounting Standards, which has caused the financial position of the project to be misstated. Thus, it is our position that the entire balance in the Defeasance Trust Fund be return to the project's residual receipts account and that the provisions of the Residual Receipts Note and Financial Assistance Contract (including the prohibition on distributions of surplus cash) be enforced until the residual Receipts Note is discharged.

Recommendations

We recommend that you:

2A. Require the Mortgagor to deposit the amount used to establish the trust fund along with all earnings into the project's Residual Receipts Account. Accordingly, the Mortgagor is to deposit $140,901, along with all earnings realized as a result of the funds being invested

2B. Require the Mortgagor to pay off the Residual Receipts Note with funds from the Residual Receipts Account. Until the note is discharged the Mortgagor should not be allowed to make or accrue distributions of surplus cash, as stipulated in the Flexible Subsidy Program's Financial Assistance Contract.

2C. Instruct the Mortgagor to obtain HUD approval before withdrawing funds from the project's account to establish trust funds.

Attachment 1

Finding 2

Attachment 2

Distribution

Secretary's Representative, New York/New Jersey, 2AS
Director, Multifamily Housing Division, 2CHM, Buffalo
Area Office (2)
Field Comptroller, Midwest Field Office, 5AF
Mid-Atlantic Office of Comptroller
Buffalo Area Coordinator, 2CS (2)
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Room 5132) (5)
Acquisitions Librarian, Library, AS (Room 8141)
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Deputy Chief Financial Officer for Finance, FF
(Room 10166) (2)
Director, Participation & Compliance Division, HSLP, Room 9164
Director, Housing Finance Analysis Division, REF, Room 8204
Associate General Counsel, Office of Assisted Housing and
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O'Neill House Office Building, Washington, DC 20515 (Attention: Cindy Sprunger)
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Mortgagor Representative, BRACO I, Buffalo, New York