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District Office of the Inspector General
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April 14, 1999

No. 99-AT-204-1804

TO: Ledford L. Austin, Director, Office of Public Housing, 4FPH

FROM: Nancy H. Cooper
District Inspector General for Audit-Southeast/Caribbean, 4AGA

SUBJECT: Citizen Complaints
Housing Authority of the City of Asheville
Asheville, North Carolina

In response to a citizen's complaints, we reviewed activities of the Housing Authority of the City of Asheville (Authority) as they relate to activities of the Residents Council of Asheville Housing Authority, Inc. (Council). The purpose of our review was to determine whether the Authority maintained proper control over HUD funded activities, conducted such activities in an efficient and economical manner, and complied with applicable laws and regulations.

SCOPE

We interviewed HUD North Carolina Office of Public Housing staff and Authority staff, and reviewed their related files and documents. We interviewed Council staff and reviewed their files and documents. We also interviewed the complainant.

Our review generally covered the period October 1, 1995 through November 30, 1998. The review was extended to other periods when appropriate. We conducted our review November 1998 through January 1999.

BACKGROUND

We received several complaints from a citizen beginning in August 1998. The general theme of the complaints concerned the Authority not properly controlling Council activities which were funded by HUD through the Authority.

The Authority administered a Public Housing Program of 1,278 units and a Section 8 Housing Program of 1,402 authorized units. The Authority also managed a Drug Elimination Program and a HOPE I Program. In fiscal year 1997, the Authority's expenditures for all programs totaled about \$10.7 million.

The Authority contracted with the Council for services in the Authority's 1996 Drug Elimination Program grant at a cost of \$51,000. Beginning in 1985, the Authority contracted with the Council for lawn mowing services for the Authority's Public Housing communities. The annual cost of the mowing contract in 1997 and 1998 was \$70,000.

SUMMARY

The Authority paid ineligible monthly stipends of \$33,455 to Public Housing residents as part of its Drug Elimination Program. The payments were ineligible based on the Notice of Funding Availability for the program which prohibited the payment of wages or salaries to housing residents for their participation in voluntary tenant patrols. Authority staff thought that this prohibition did not apply to their program.

The Authority improperly loaned Public Housing funds of \$44,550 to the Residents Council when the Council could no longer pay expenses it incurred mowing lawns under a contract with the Authority. The Authority then paid the Residents Council \$70,000 a year for lawn mowing services that the Council subcontracted to a third party for \$60,000. The annual difference of \$10,000 was an unnecessary cost.

The Authority needed to improve management controls over its activities with the Residents Council. The Authority made payments to residents without proper support and did not report the payments to the Internal Revenue Service. The Authority also did not have a written agreement for its lease of mowing equipment to the Council.

We are recommending that HUD determine whether the stipend payments of \$33,455 are eligible. We are recommending the Authority obtain reimbursement of the \$44,550 loan to the Council and terminate its mowing contract with the Council. We are also recommending improvements in the Authority's management controls over its activities with the Council.

Details of the findings and recommendations are in Attachment A

We provided the Authority a draft of the findings and discussed them with Authority staff on March 11, 1999. The Authority staff disagreed with Finding 1 and stated HUD should determine the stipend payments to be eligible. In regard to Finding 2, the Authority thought its loans and contracting activities with the Council were reasonable. The Authority staff generally agreed with Finding 3 and promised corrective actions. We summarized the Authority's comments in the findings and included them as Attachment B.

Within 60 days, please give us, for each recommendation in the report, a status report on: (1) the corrective action taken; (2) the proposed corrective action and the date to be completed; or (3) why action is considered unnecessary. Also, please furnish us copies of any correspondence or directives issued because of this review.

We provided a copy of this memorandum to the Authority.

If you have any questions, please contact me at (404) 331-3369, or Bruce Milligan, Senior Auditor at (336) 547-4056.

Attachments:

- A - Findings and Recommendations
- B - Auditee Comments
- C - Schedule of Unnecessary/Unreasonable Costs
- D - Distribution

FINDINGS AND RECOMMENDATIONS

Finding 1 - The Authority Paid \$33,455 in Ineligible Stipends to Housing Residents

The Authority paid ineligible monthly stipends of \$33,455 to Public Housing residents as part of its Drug Elimination Program. The payments were ineligible based on the Notice of Funding Availability (NOFA) for the program which prohibited the payment of wages or salaries to housing residents for their participation in voluntary tenant patrols. Authority staff thought that this prohibition did not apply to their program.

Criteria

The NOFA for the 1996 Drug Elimination Program was published in the Federal Register, Volume 61, Number 68, April 8, 1996. Section (7) states that the Authority may contract with resident councils to develop security and drug abuse prevention programs involving site residents, and that such programs may include, among other activities, voluntary tenant patrol activities. Section (10) states that funding is not permitted for any wages or salaries for voluntary tenant patrol participants.

Ineligible Payments

Using funds from its 1996 Drug Elimination Program grant, the Authority paid monthly stipends of \$33,455 to public housing residents. The payments were on a salary basis and ranged up to \$200 per month per resident. The payments were for resident patrol services including:

- Checking playground areas for needed repairs to equipment.
- Checking lawn and common exterior areas for debris and trash.
- Picking up glass and other debris.
- Identifying apartments in which drug and other illegal activities occur.
- Cleaning bus shelters.
- Checking apartment fire doors and stairwells and removing hazards.

The payments were ineligible because they were payments of salaries for voluntary tenant patrols which were specifically prohibited by the NOFA.

Authority staff thought the payments were eligible because they interpreted the NOFA differently. They relied on the NOFA's provision allowing contracts with resident councils for various activities including voluntary tenant patrols.

The HUD North Carolina Office of Public Housing staff reviewed the payments and questioned their eligibility in a review in November 1998. They agreed that Drug Elimination Program funds could be used to pay for training of the residents for patrol duties and supervision of the residents' patrol activities. However, they questioned the Authority's payments to the residents because the payments were prohibited salaries.

The resident stipends were not an effective use of Drug Elimination Program funds because they were payments for resident services which were supposed to be voluntary.

Authority Comments (summary)

The Authority disagreed with the finding. The Authority stated that HUD had reviewed the Authority's Drug Elimination Program in 1996 and did not question the stipend payments. The Authority stated, and provided documentation, that it had also advised HUD of the stipend payments in reports and technical evaluations. The Authority stated the payments were a resident involvement activity and were eligible under Section (7) of the NOFA. They thought that the prohibition of stipend payments included in Section (10) of the NOFA pertained only to voluntary tenant patrols acting in cooperation with law enforcement agencies. The Authority stated it had such a program, Citizens on Patrol, and the Authority did not pay stipends for that activity. The full text of the Authority's comments, less exhibits, is included in Attachment B.

Evaluation of Response

The previous reviews of the Authority's Drug Elimination Program did not include any documented determinations of the eligibility of the stipend payments. The fact that HUD did not question the payments in previous reviews did not preclude HUD from making a final determination of the matter. The prohibition of the stipend payments included in Section (10) of the NOFA is not restricted to voluntary tenant patrols acting in cooperation with law enforcement agencies.

Recommendation

We recommend you:

- 1A. Require repayment of the ineligible stipends of \$33,455.

Finding 2 - Improper Loan and Excessive Costs for Mowing Contracts with the Residents Council

The Authority improperly loaned Public Housing funds of \$44,550 to the Residents Council when the Council could no longer pay expenses it incurred mowing lawns under a contract with the Authority. The Authority then paid the Residents Council \$70,000 a year for lawn mowing services that the Council subcontracted to a third party for \$60,000. The annual difference of \$10,000 was an unnecessary cost.

Criteria

The Annual Contributions Contract, Part Two, Section 201, November 1969, requires the Authority to operate its program in an efficient and economical manner. Section 401(D) prohibits the Authority from loaning Public Housing funds without HUD approval. Office of Management and Budget Circular A-87, Cost Principles for State and Local Governments; Revised May 4, 1995; Attachment A, Section C.1a, provides that costs must be necessary and reasonable for proper and efficient administration of the program.

Improper Loan

The Authority began contracting with the Residents Council for lawn mowing services in 1985. In 1994 the Council did not have sufficient funds to pay tax withholdings to the Internal Revenue Service for employees working for the mowing contract, and the Authority began making loans to the Council. In addition to funds to pay the tax liability, the Authority loaned the Council funds to purchase a truck and a lawnmower. The loans increased to \$48,699 at September 30, 1997. The balance at November 30, 1998 was \$44,550.

The loans were improper because they were not approved by HUD, and they put HUD program funds at risk because the loans were unsecured and the Council did not have sufficient revenue to repay them.

Unnecessary Contract Expense

After the Authority began making the loans to the Council, it became apparent that the Council could no longer provide the mowing services with its own employees. The Council subcontracted the work in 1997 and 1998. The Authority paid the Council \$70,000 each year and the Council subcontracted the work for \$60,000.

The subcontract arrangement enriched the Council by \$20,000, \$10,000 for each year, at the expense of the Authority. The Authority could have contracted directly with the provider and saved the \$20,000.

The Authority's Director of Operations stated that the Authority increased the mowing contract price in 1997 and 1998 because the contract covered additional sites and to include an amount for increases in operating costs. The Director of Operations stated that the Authority found the subcontractor who was willing to perform the work for the lower price and that the difference between the \$70,000 contract price and \$60,000 subcontract price was coincidental.

Although the subcontract arrangement created a \$10,000 annual profit for the Council, the Council did not reduce its payable to the Authority. The Authority's loan to the Council increased from \$40,405 at October 1, 1996, to \$44,550 at November 30, 1998.

Authority Comments

The Authority thought its loans and contracting activities with the Council were reasonable in meeting its objective of supporting the Council.

Evaluation of Response

We agree with the Authority's objective of supporting Council activities. However, the loans and excessive contract cost were not a reasonable means of accomplishing the objective.

Recommendations

We recommend you:

- 2A. Require the Authority to seek recovery of the \$44,550 loan from the Council. If unsuccessful, the Authority should repay the \$44,550 from non-HUD program funds.
- 2B. Terminate the contract with the Council for mowing services.

Finding 3 - Need to Improve Internal and Administrative Controls

The Authority needed to improve management controls over its activities with the Residents Council. The Authority made payments to residents without proper support and did not report the payments to the Internal Revenue Service. The Authority also did not have a written agreement for its lease of mowing equipment to the Council.

Criteria

The Code of Federal Regulations, 24 CFR Part 85.20(b), published in the Federal Register March 11, 1988, requires the Authority to maintain an effective financial management system.

Inadequate Control Over Stipend Payments

The Authority did not have proper control over stipend payments to Public Housing residents who performed patrol duties. The Authority made the payments by check, but for two cases each month, the checks were not payable to the persons who were to receive the funds. The Authority relied on the check recipients to negotiate the checks and pass cash on to the persons who performed the patrol duties. As a result, the Authority did not have evidence of who actually received the money.

Authority staff stated they made the payments through third parties because the residents did not have bank accounts. This reason was not valid because the residents could open a bank account or negotiate checks through other parties.

Payments Not Reported to Tax Authorities

The Authority did not report stipend payments the Authority made to residents to tax authorities as required. The payments to some of the residents exceeded \$600 per year. The Authority was required to file an Internal Revenue Service Form 1099 to report the income. The Authority did not file the Forms 1099.

Authority staff mistakenly thought the forms were not required.

Lease Agreement Not Documented

The Authority paid the Council about \$225 per month during the mowing season for the use of mowing equipment owned by the Council. The Authority did not have a written agreement but relied on a verbal understanding of the arrangement. The Authority should have a written agreement to support the payments and document the terms of the arrangement.

Authority Comments

The Authority agreed with the finding and stated corrective actions would be taken.

Evaluation of Comments

The Authority's comments are responsive to the finding.

Recommendations

We recommend that you require the Authority to:

- 3A. Disburse stipend payments to each recipient by check.
- 3B. Submit 1099 forms to the Internal Revenue Service for the stipend payments when required, including past years.
- 3C. Document the mowing equipment lease arrangement in a written agreement.

AUDITEE COMMENTS

Finding 1 - The authority Paid \$28,985 in Ineligible Stipends to Housing Residents

March 11, 1999

AUTHORITY COMMENTS:

According to your finding, the HUD North Carolina Office of Public Housing staff reviewed the payments of stipends and questioned their eligibility in a review in November 1998. We would appreciate being provided a copy of their determination. To date, we have not received any written notification from HUD regarding their review.

We agree the Notice of Funding Availability prohibits the funding of voluntary tenant patrols acting in cooperation with officials of local law enforcement agencies. This is our Citizens on Patrol (COP) program. However, the stipend payments we made for the Drug Education Prevention and Outreach Program (DEPOP), which is part of Resident Involvement, should be considered eligible under paragraph seven (Exhibit A) which addresses Residents Councils and Residents Associations developing security and drug abuse prevention programs involving site residents. We believe part of the misunderstanding is that this program (DEPOP) has been loosely referred to as a voluntary tenant patrol. Please understand that the COP program is the voluntary tenant patrol for which payments are prohibited, while the DEPOP program is an activity which the residents perform relative to drug prevention under Resident Involvement.

The Housing Authority worked with the Residents Council and Residents Associations to develop programs under the Resident Involvement line item of our drug grants. The DEPOP program was one of four areas the Residents Council and Residents Associations requested. They are: COP, DEPOP, Community Health Action Team (CRAT) and Resident Leadership.

The Housing Authority has clearly operated a COP program (a voluntary tenant patrol) and the DEPOP program as separate and distinct activities. Payments have not been made to participants of the voluntary tenant patrol. However, stipends have been made for the DEPOP program. We have operated the COP and DEPOP programs since the inception of our drug grant funding and this has been made clear through our program status reports and technical evaluations by Mr. Herbert A. Carter, a HUD-approved consultant.

Members of the HUD field Office, Greensboro, North Carolina, did a review of the 1995 Drug Grant, July 15 - 19, 1996, five days. We have enclosed a copy of their letter (Exhibit B - specifically see page 4) concerning that review for your reference. Also enclosed (Exhibit C) is a copy of the ledger sheet that reflects transactions at that time. Based on information on the ledger sheet, there were a total of 52 journal vouchers and check vouchers for costs incurred. Of that number, 50% were for stipend payments. Based on this percentage, it is reasonable that the HUD reviewers would have been aware of the stipend payments. In our response to that review by letter dated September 27, 1996 (Exhibit D), we submitted technical evaluation reports. The fourth quarter technical evaluation report by Herbert Carter for the period November 1996 through February 1997 (Exhibit E, paragraph two, page eight), clearly identifies Resident Involvement, Drug Elimination Outreach Program and stipends that were being paid.

The midyear report for the 1996 Public Housing Drug Elimination Program (Exhibit F) also refers to

stipends being paid under Resident Involvement and that same report refers to the COP program. The closeout report for the 1996 Public Housing Drug Elimination Program (Exhibit G) also refers to stipends being paid under Resident Involvement and that same report refers to the COP program. Again, we have clearly advised HUD of the stipend payments through these reports.

As stated earlier, the DEPOP program has been an ongoing activity of our drug elimination grant programs since their inception. In addition to what we have cited above, many other status reports and technical evaluations for the various program years have documented that the Housing Authority operated the DEPOP and COP programs and they have identified stipends under the DEPOP program.

Based on the above, it is our opinion that the stipend payments under the DEPOP program are eligible and that HLJD has been aware of these payments. We are asking that the eligibility for stipend payments be reviewed and a determination made that those payments are eligible.

SCHEDULE OF UNSUPPORTED AND UNNECESSARY/UNREASONABLE COSTS

<u>Recommendation</u>	<u>Ineligible¹</u>	<u>Unnecessary/Unreasonable²</u>
1A	\$33,455	
2A		\$44,550
2B		20,000

¹ Ineligible costs are those that are questioned because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement or document governing the expenditure of funds.

² Unnecessary costs are those that are not generally recognized as ordinary, prudent, relevant, and/or necessary within established practices. Unreasonable costs exceed the costs that would be incurred by the ordinarily prudent person in the conduct of a competitive business.

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