



**US Department of Housing and Urban Development**

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96-FW-202-1802

MEMORANDUM FOR: Henry G. Cisneros  
Secretary, S

THROUGH Susan Gaffney  
Inspector General, G

FROM: D. Michael Beard  
District Inspector General for Audit, 6AGA

SUBJECT: Housing Authority of New Orleans  
Procurement of Resident Initiatives

During our current review of the Housing Authority of New Orleans (Authority), it has come to our attention that the Department may approve the "outsourcing" of the Authority's resident initiatives. Given the (1) history and present status of the Authority, (2) need for HUD to portray itself as a wise and impartial overseer of scarce resources, and (3) rationale underlying federal procurement regulations, we do not believe this procurement is in the best interest of the Authority or HUD. We strongly recommend that HUD not approve this contract. Further, we recommend the Department reassess its position on another similar procurement.

### **Scope of review**

We reviewed documents provided by Tulane, the Authority, and HUD; interviewed Tulane, Authority, and HUD New Orleans and Headquarters staff, and obtained an opinion from Counsel to the Inspector General regarding the use of non-competitive procurements in connection with a "Campus of Learning" project and a "Resident Initiative and Support Services" contract.<sup>1</sup>

### **Background**

On February 8, 1996, HUD and the City of New Orleans executed a Cooperative Endeavor Agreement that primarily provides for HUD's assumption of the duties of the Board of the

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<sup>1</sup> See attached legal opinion.

Authority. The Cooperative Endeavor Agreement appointed a HUD representative<sup>2</sup> to assume the duties of the Board of Commissioners for the Authority, and an Executive Monitor to act as the designee in his absence.

The Cooperative Endeavor Agreement states "HUD will seek sufficient resources to develop a collaboration with Tulane and Xavier Universities" to fund the following: 1) Campus of Learning; 2) Project FULCRUM; and 3) the Executive Monitor.

On March 15, 1996, HUD executed a Memorandum of Understanding with the Authority and the Tulane Educational Fund (Tulane). The Memorandum of Understanding says the Authority and HUD will provide at least \$2 million to Tulane and Xavier Universities for the first year of the Campus of Learning and Project FULCRUM initiatives. The agreement goes on to say the Authority and HUD will continue to fund the initiatives over an additional 4 years, subject to applicable program requirements and availability of appropriations.<sup>3</sup> The Memorandum of Understanding provides for the Authority or HUD to reimburse Tulane for the cost (salary and benefits) of the Executive Monitor and his support staff over the next 2 years. Also, the Authority agreed to pay for liability insurance.

**Sole-Source Contracts.** Since the Cooperative Endeavor Agreement was signed, HUD and HANO have spent considerable time and resources to award two sole-source contracts with the Executive Monitor's employer, Tulane University. However, neither contract addresses the long-standing conditions HUD cited as needed to improve the operation of the Authority in its proposal to seek a federally-appointed receiver. In that proposal, HUD stated "Urgent and more visible HANO needs for inventory maintenance, reconstruction and capital replacements of distressed sites hinge upon the Authority's ability to immediately institute or outsource project-based management." In our opinion, neither contract enhances the conditions of housing units or the reputation of HANO.

### **The TXI Resident Initiatives Program**

*Procurement.* In March 1996, the Authority and the Tulane/Xavier Institute for the 21st Century (TXI) began negotiating an Agreement for the Implementation and Administration of Resident Initiatives and Support Services (TXI Resident Initiatives Program). On May 7, 1996, the Authority requested HUD's authorization "to proceed with the acquisition of Tulane's services using the noncompetitive proposal method of procurement." In support of the request, the Authority stated that TXI possesses "unique qualifications and experience," and has a special relationship with HUD and the Authority pursuant to the Cooperative Endeavor Agreement and the Memorandum of Understanding.

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<sup>2</sup> HUD appointed the (then) Acting Assistant Secretary for Public and Indian Housing, Mr. Kevin Marchman.

<sup>3</sup> Some of the drafts of the Memorandum of Understanding stated the Authority and HUD would provide \$8 million to Tulane and Xavier over 4 years.

On May 10, 1996, the Director of the Maintenance and Supply Division, Office of Construction, Rehabilitation, and Maintenance, Office of Public and Indian Housing, recommended that HUD not approve the Authority's request.<sup>4</sup> The Director reasoned that the Authority failed to identify TXI's "unique qualifications and experiences," and that, given the scope of the work that TXI proposes to do, "it appears that there are firms on (sic) the private market that are capable of doing th[e] work." The Director also noted that the "existence of any relationship conveys no special privilege or entitlement to obtain contracts without competition. There is nothing presented in the justification identifying what in the relationship is so compelling as to override the basic procurement principle of full and open competition."

Based upon the Director's comments, on May 13, 1996, the General Deputy Assistant Secretary, Office of Public and Indian Housing,<sup>5</sup> instructed the Field Director of the HUD Target Team to tell Tulane and the Authority that the TXI Resident Initiatives Program contract could not proceed. If the Authority wanted to proceed with "outsourcing," it must be done competitively. Further, if Tulane and Xavier might be a respondent, the Executive Monitor, Mr. Ronald Mason, Jr., must recuse himself from the entire procurement process.<sup>6</sup> On May 16, 1996, you approved a request from Mr. Kevin Marchman<sup>7</sup> for Departmental authorization of a non-competitive award to TXI to implement and administer the Authority's Resident Initiatives Program. In the letter, you based your decision upon the contemplated reliance on TXI in the Cooperative Endeavor Agreement, and TXI's "unique position to implement a successful Resident Initiative Program expeditiously." Even with HUD's approval of this exception to use non-competitive procurement, we assert that the Authority still must address the issue of infeasibility of a competitive contract as stated in 24 CFR Section 85.36(d)(4)(i) before the procurement can proceed.

Your letter does not address infeasibility. Also, Office of the General Counsel officials could not satisfactorily explain why competitive procurement was infeasible. We acknowledge the Secretary or the Assistant Secretary for Public and Indian Housing can waive procurement regulations (section 85.36) pursuant to section 85.6(c) of Title 24, Code of Federal Regulations. However, such a waiver would have to be published in the Federal Register.<sup>8</sup>

The Office of the General Counsel, in response to a request made by the General Deputy Assistant Secretary for Public and Indian Housing, on May 23, 1996 raised the issue of a conflict on the part of the Executive Monitor due to his position at Tulane. The General

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<sup>4</sup> Many other HUD representatives expressed concerns, reservations, and disapproval of this contract.

<sup>5</sup> With respect to the Authority, this Deputy is the Acting Assistant Secretary for Public and Indian Housing.

<sup>6</sup> Mr. Mason is a Tulane Vice President.

<sup>7</sup> HUD officials were unable to provide us with a copy of this request.

<sup>8</sup> See attached legal opinion.

Counsel said "these conflict of interest issues need to be considered in any of the arrangements established between the Authority and Tulane." Subsequently, on or about June 5, 1996, you waived the conflict of interest provision of section 19 of the Authority's Annual Contributions Contract to the extent that it would preclude Mr. Mason from serving as both the Executive Monitor of the Authority and performing services under TXI contracts with the Authority.<sup>9</sup>

Again, we acknowledge that the Secretary has the authority to "waive" these provisions. However, we question why you would want to approve of the forgoing exception to award a non-competitive contract to the Executive Monitor's employer, and then waive the conflict of interest provision so that the person has the dual function of performing and monitoring the contract. Given the troubled history of the Authority, including political and board interference and favoritism, it would seem HUD should not only insist that the Authority comply with all federal requirements, including procurement guidelines, but should also be setting an example for the Authority to follow. By waiving regulations designed to instill impartiality and good economics into the procurement process, HUD risks loosening controls of an already weak Authority. Further, HUD risks giving the appearance, to an increasingly skeptical public, that the Department is "going along" with questionable practices that have helped create the deplorable situation at the Authority that has been reported by numerous sources for decades.

To date, HUD has not approved this contract, but TXI is nonetheless performing services without HUD approval.<sup>10</sup> The latest draft of the contract<sup>11</sup> provides for the effective date of the contract to be retroactive to March 1, 1996.

*Proposed Cost and Deliverables.* The proposed cost of the contract is \$2,740,609 per year. TXI proposes the Authority pay the contract from Comprehensive Grant Program and Public Housing Drug Elimination Program funds for the first year.<sup>12</sup> HUD staff have questioned whether the contract for resident initiatives is a management improvement under the Comprehensive Grant Program. The proposal does not include how it will be funded during the second year. The contract period is two years, but these and other similar resident services will need to be provided, and funded, indefinitely either by in-house staff or by contract. The cost stated in the contract does not include additional space and "equipment" that the Authority is required to provide under the proposed contract.

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<sup>9</sup> Actually, the Secretary should have waived section 515 because section 19 is included in the new Annual Contributions Contract form, and the Authority is still operating pursuant to the old form, which included a conflict of interest provision at section 515.

<sup>10</sup> Authority officials have inquired about allowing TXI to draw down 20 percent of the proposed contract.

<sup>11</sup> Obtained from the field office on June 6, 1996.

<sup>12</sup> TXI's proposal for funding falls short of the contract cost by \$200,554.

In TXI's proposal, the cost benefit analysis to justify the increased cost of resident initiatives is very general. The proposal says the benefits of: (1) improving the manageability of the agency; (2) providing site-based delivery of resident services; (3) and building healthy safe and functioning communities outweighs the increased costs. The cost benefit analysis, with respect to manageability of the agency, says: ". . . more importantly, the effective delivery of the services is expected to have a positive impact upon HANO's current PHMAP score of "F" in resident initiatives." As discussed below, the Authority today would have a grade of "A" in this PHMAP indicator.

The analysis explains that: "TXI will reach HANO's at large resident population by providing on-site resident services at all ten conventional developments and scattered sites." The proposal says TXI will hire 43 employees with a salaries and benefit cost of \$1,411,865. This contrasts to HANO's former resident initiatives staffing of 32 employees costing \$751,400. The proposal notes: "This difference in personnel translates to a 26 percent increase in personnel available," but did not note the 88 percent increase in personnel costs. With respect to employment the analysis points out that of the 43 employees TXI will hire, 17 will be HANO resident initiatives employees. Thus, 40 percent of TXI staff were those responsible for providing the in-house services for HANO, which the proposal states were ineffective.<sup>13</sup> The proposal has very few deliverables, and does not list the cost of delivering specific activities to residents. TXI lists only in general terms the areas of their responsibilities but rarely addresses how many residents will be involved in the: "Resident Council Development, Leadership Network Development, Capacity Building, Comprehensive Learning Centers, Resident Career Enhancement, Health Services, Crime Intervention and Prevention Symposiums, Home-ownership Training, Resident Business Development, Youth and Sports Programs, Youth Steering Committee and Youth Cultural Enrichment."<sup>14</sup> Also, the proposal does not compare/contrast what it will do with what the Authority has done in the past.

### **The Campus Affiliates Program**

In a procurement very similar to that of the TXI Resident Initiatives Program, HUD wants to contract with Tulane for the Campus Affiliates Program. According to the Executive Monitor, the Campus Affiliates Program is an outgrowth of the Project FULCRUM program that was referred to in the Cooperative Endeavor Agreement and the Memorandum of Understanding. Therefore, the Executive Monitor expects HUD to fund the Campus Affiliates Program in good faith. As of June 21, 1996, HUD had not officially approved the Campus Affiliates Program grant. We did obtain a draft memorandum requesting the General Deputy Assistant Secretary for Public and Indian Housing's signature to approve the \$2

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<sup>13</sup> One of the Authority employees hired by TXI failed a pre-employment drug test. The employee subsequently passed another drug test.

<sup>14</sup> In describing these areas, TXI proposes such activities as "positive thinking", "stress reduction", "burnout", "training on proper dress and decorum", "music", "arts", and "theater".

million Technical Assistance Grant to Tulane in support of the Tulane/Xavier Campus Affiliates Program.

The memorandum requests approval to execute the grant agreement, which limits Tulane to authorized expenditure of funds, not to exceed 20 percent of the total grant, until HUD approves needed revisions. Even though HUD has not yet approved the grant, Tulane is apparently incurring costs on this program.<sup>15</sup>

According to the proposal, Project FULCRUM is a: ". . . unique university-community partnership based on indigenous assets that can be tapped to address neighborhood-level problems. . . The initiative's ultimate goals were to upgrade housing, economic development, health care services and education through a long-term process that establishes linkages with the community by working toward objectives with mutual benefits for Tulane and its neighbors. . . . Tulane is set to embark on a two year planning process that will identify challenges within a 100 block target zone and form a strategic alliance with institutions and individuals within the area."

According to the Executive Monitor and the latest proposal, the Campus Affiliates Program is an academic-based program utilizing university resources to identify the problems of public housing. The program's focus and goals were: "In partnership with residents, Tulane and Xavier are committed to extending their resources to transform into affiliated campuses of learning the geographic 'clusters' that encompass each of the ten public housing developments." The proposal describes two goals: "economic self-sufficiency and urban action capacity enhancement." The Campus Affiliates Program is focused at the C.J. Peete development and if successful, may spread to other "regions" that would include the other nine public housing developments.

The Campus Affiliates Program objectives appear comparable to the objectives of the \$2,740,609 TXI Resident Initiatives Program. The General Deputy Assistant Secretary for Public and Indian Housing agreed TXI and the Campus Affiliates Program are the same program in intent. However, he felt the Campus Affiliates Program had much more university involvement to develop new ways to help residents.

According to TXI's Resident Initiatives Proposal, "The Institute will help public housing to become a transitory platform for residents through education and training programs designed to enhance self sufficiency." It also provides "The Institute will provide housing, educational and employment services." Further, "The primary purpose of the Institute is to help HANO residents become self-sufficient, and to allow them to actively and successfully participate in urban life."

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<sup>15</sup> This appears to be the norm. The Executive Monitor does not have an approved contract, although he requested and received a \$250,000 advance from the Authority on April 10, 1996.

It appears the TXI Resident Initiatives Contract and the Campus Affiliates Program are expenditures for comparable services. The Campus Affiliates Program appears to directly benefit Tulane, but does not appear to benefit Authority residents directly during Phase I. According to the proposal the:

"Campus Affiliates Program will be divided into two phases, a six-month initiation period to put in place the university/community infrastructure for the affiliates program and based on the outcome of Phase I, a five-year phase to implement the program in a manner in which it can become self sustaining." [Upon completion of Phase I, Tulane will prepare a report] "that describes the activities undertaken in Phase I, the results of studies carried out and analysis of the public housing and neighborhood regions in which the Tulane and Xavier faculty and staff have worked. A detailed plan of action also will be provided that focuses on strategies the universities can undertake, over a five year period, to assist the resident in selected HANO clusters to become economically self sufficient. This detailed action plan will include a timeline, budget and recommended individuals to implement the plan"

The unmistakable appearance is that the Campus Affiliates Program is merely another study, as opposed to a program which provides real and tangible value-added benefits for Authority residents.

### **The Authority Has More Urgent Needs Than Resident Initiative Programs**

The Authority's troubled status relates to its very low Public Housing Management Assessment Program (PHMAP) score. HUD staff informed us that the Authority received an "F" for resident initiatives on the PHMAP rating system for the last review period. Staff attribute the "F" to the Board of Commissioners not approving the appropriate resolutions and policies, as opposed to the Authority not providing sufficient resident services. HUD staff explained that the Authority Board has approved the required resolutions and policies; therefore, the Authority will receive an "A" in resident initiatives for the next review period.

Since the Authority will have the highest possible PHMAP rating for resident initiatives, why should it focus on an area that is no longer seriously deficient? For instance, the Authority received an "F" in the following categories:

- Vacancies
- Modernization
- Unit Turnaround
- Annual Inspection and Condition of Units
  - Systems to Track Inspections and Repair
  - Correction of Unit Deficiencies
  - Inspection and Repair of Units

Considering the pressing basic need for housing that is decent, safe, and sanitary, we question whether the Authority should dedicate so much of their limited resources to resident initiatives. Many reports, including our June 1994 report, note the terrible conditions of the units. According to a draft viability study, the Authority needs at least \$600 million for physical improvements. We believe HUD, the Authority, and especially the residents would be better served if the Authority would use scarce resources to maintain and modernize its housing stock. Since the signing of the Cooperative Endeavor Agreement, Tulane University has stood to gain large sums: \$331,000 for the Executive Monitor's time and staff; \$2,749,000 for TXI Resident Initiatives Program for two years (potential \$5.5 million); and at least \$2 million for the Campus Affiliates Program, with a commitment to fund the initiative for 4 more years (potential \$10 million). In our opinion, such additional expenditures are inappropriate until HANO is capable of performing its primary mission: providing residents with decent, safe, and sanitary housing in an efficient, effective, and economical manner.

### **Recommendations:**

We recommend you:

- 1A. Not approve the contract for the TXI Resident Initiatives Program, and inform the authority that HUD will not approve this contract;
- 1B. Not reimburse TXI for any expenses incurred to date regarding resident initiatives; and require TXI or the Authority to reimburse any amounts disbursed to date;
- 1C. Ensure that the Authority complies with all procurement requirements if it decides to "outsource" the resident initiatives;<sup>16</sup>
- 1D. Reevaluate if it is in the best interest of HUD and the Authority to fund the Campus Affiliates Program; and
- 1E. Ensure that any amounts disbursed for the Campus Affiliates or the Executive Monitor are for eligible reimbursements, and require Tulane or the Authority to repay any disbursements that are not.
- 1F. Rescind the conflict-of-interest waiver given HANO regarding the Executive Monitor and his relation to Tulane University.

Please inform us immediately what actions your Department wants to take to resolve the issues. If you or your staff have any questions or concerns, feel free to contact me or Frank Baca, Assistant District Inspector General for Audit.

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<sup>16</sup> The General Deputy Assistant Secretary for Public and Indian Housing suggested this on May 13, 1996.



1 Atch: IG Counsel Opinion dated June 21, 1996.