



Office of Public and Indian Housing, Washington, DC

HUD's Oversight of Public Housing Agencies' Compliance With Federal Lobbying Disclosure Requirements and Restrictions



To: Milan M. Ozdinec, Deputy Assistant Secretary, Office of Public Housing and Voucher Programs, PE
//signed//

From: David E. Kasperowicz, Regional Inspector General for Audit, Philadelphia Region, 3AGA

Subject: HUD Lacked Adequate Oversight To Ensure That Public Housing Agencies Complied With Federal Lobbying Disclosure Requirements and Restrictions

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of HUD's oversight of public housing agencies' compliance with Federal lobbying disclosure requirements and restrictions.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 215-430-6730.



Audit Report Number: 2015-PH-0001

Date: January 30, 2015

HUD Lacked Adequate Oversight To Ensure That Public Housing Agencies Complied With Federal Lobbying Disclosure Requirements and Restrictions

Highlights

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) oversight of public housing agencies' lobbying activities based on information we obtained while resolving recommendations from an audit of the Philadelphia Housing Authority¹ which showed that the Authority engaged in lobbying activities it failed to disclose. Our audit objective was to determine whether HUD oversight was adequate to ensure that public housing agencies complied with Federal lobbying disclosure requirements and restrictions.

What We Found

The audit showed that only 12 of about 3,300 agencies were reported to have engaged in lobbying activities during the audit period. However, HUD policies generally did not ensure that the agencies that lobbied complied with Federal lobbying disclosure requirements and restrictions. Of the 12 agencies reported to have engaged in lobbying activities, 9 spent \$2.5 million on lobbying activities that they failed to disclose as required. Four of the nine agencies were participants in HUD's Moving to Work (MTW) program and spent \$1.5 million on undisclosed lobbying activities. Therefore, the risk of violations appeared to be greater at agencies participating in HUD's MTW program. Three of the MTW agencies incorrectly certified that they had not used Federal funds for lobbying. Also, HUD could not provide all of the required lobbying certifications and disclosures for the 12 agencies on which lobbyists had reported during the review period. Because HUD failed to implement adequate policies to monitor agencies' compliance with lobbying requirements, (1) three agencies improperly spent about \$129,000 in Federal funds on lobbying activities, (2) HUD lacked assurance that other agencies did not spend Federal funds on lobbying activities or violate other lobbying-related requirements, and (3) HUD risked creating an appearance of a lack of transparency.

What We Recommend

We recommend that HUD require corrective action and pursue administrative sanctions as appropriate to address agencies' violations of Federal lobbying disclosure requirements and restrictions and implement additional control policies or procedures to ensure that agencies comply with lobbying disclosure requirements and restrictions.

¹ HUD Office of Inspector General (OIG) audit report number 2011-PH-1007, dated March 10, 2011

Table of Contents

Background and Objective.....	3
Results of Audit	4
Finding 1: HUD Policies Did Not Ensure That Housing Agencies Submitted Accurate Certifications and Disclosures Regarding Lobbying Activities	4
Finding 2: HUD Did Not Ensure That Agencies Consistently Submitted Required Lobbying Certifications and Disclosures	9
Scope and Methodology.....	11
Internal Controls.....	13
Appendixes.....	14
A. Auditee Comments and OIG’s Evaluation	14
B. Schedule of Payments Reported by Lobbyists	20
C. Schedule of Required Certifications Based on Payments Reported by Lobbyists	21
D. Schedule of Required Disclosures Based on Payments Reported by Lobbyists..	22

Background and Objective

The U.S. Department of Housing and Urban Development's (HUD) Office of Public and Indian Housing administers a range of housing programs to ensure safe, decent, and affordable housing; create opportunities for residents' self-sufficiency and economic independence; and ensure the fiscal integrity of program participants. The Office generally administers housing programs through public housing agencies.

Regulations at 24 CFR (Code of Federal Regulations) Part 87 state that Federal funds may not be used for lobbying in connection with any Federal contract, grant, loan, or cooperative agreement or any extension, continuation, renewal, amendment, or modification of them. The regulations also require recipients of more than \$100,000 in Federal funds or more than \$150,000 in Federal loans to file a certification² that they had not used and would not use Federal funds for lobbying and to file a disclosure³ if they had used or would use non-Federal funds for lobbying.

The Lobbying Disclosure Act of 1995 required lobbyists to register with both Houses of Congress and provide quarterly disclosures⁴ of lobbying activities conducted for each client. In addition, lobbyists and lobbying firms were required to provide an estimate of the total income received for each client, including payments received from other persons or parties for lobbying activities on behalf of the client in excess of \$5,000 quarterly.⁵ Lobbyists were also required to indicate if they received income that fell below the threshold. The U.S. Senate Office of Public Records received, processed, and maintained this information and made it available to the public in its Lobbying Disclosure Act database. In instances in which lobbyists indicated that they received income below the threshold, the database reflected \$0 in income. The Lobbying Disclosure Act defined "lobbying activities" as lobbying contacts and efforts in support of such contacts, including preparation and planning activities; research and other background work that was intended, at the time it was performed, for use in contacts; and coordination with the lobbying activities of others. Under the Act, any oral, written, or electronic communication with covered officials regarding the formulation, modification, or adoption of policy or legislation constituted a lobbying contact. Communications relating to the administration or execution of a Federal program or policy were also included. Covered officials included, among others, members of Congress and executive officials, such as agency heads and deputies and assistant and deputy assistant secretaries.

Our audit objective was to determine whether HUD oversight was adequate to ensure that public housing agencies complied with Federal lobbying disclosure requirements and restrictions.

² Form HUD-50071

³ Standard Form LLL

⁴ Semiannual disclosures were required before the Act was amended in September 2007.

⁵ In excess of \$10,000 semiannually before the Act was amended in 2007

Results of Audit

Finding 1: HUD Policies Did Not Ensure That Housing Agencies Submitted Accurate Certifications and Disclosures Regarding Lobbying Activities

Registered lobbyists reported receiving \$3.6 million related to lobbying activities conducted for 12 housing agencies; however, 9 of the agencies, that reportedly spent \$2.5 million on lobbying, failed to disclose the lobbying activities as required. Four of the nine agencies were participants in HUD's MTW program and spent \$1.5 million on undisclosed lobbying activities. Therefore, the risk of violations appeared to be greater at agencies participating in HUD's MTW program. Three of the MTW agencies incorrectly certified that they had not used Federal funds for lobbying. These problems generally occurred because HUD relied solely on agencies' self-certifications regarding lobbying activities. As a result, three MTW agencies improperly spent approximately \$129,000 in Federal funds on lobbying, and HUD lacked reasonable assurance that other agencies did not spend Federal funds on lobbying activities. Also, the lack of accurate lobbying disclosures could create an appearance of a lack of transparency.

Agencies Failed To Disclose Lobbying Activities Reported by Lobbyists

According to the U.S. Senate Lobbying Disclosure Act database, registered lobbyists reported receiving \$3.6 million from 12 housing agencies between 2002 and 2012. Appendix B shows a breakdown of all 12 housing agencies and the related lobbying expenses reported by registered lobbyists. Based on a review of lobbying disclosures for the same period provided by HUD for the 12 agencies, 9 agencies that reportedly spent \$2.5 million on lobbying failed to disclose the lobbying activities as required. Four of the nine agencies were participants in HUD's MTW⁶ program and spent \$1.5 million on undisclosed lobbying activities. MTW agencies represented about 1 percent of all public housing agencies; however, 44 percent of agencies that violated lobbying disclosure requirements were MTW agencies. Therefore, it appeared that the risk of violations was greater at MTW agencies.

Of the nine agencies that failed to disclose lobbying activities, we selected and performed a more detailed review of three MTW agencies to determine whether they complied with lobbying disclosure requirements and restrictions (discussed below). HUD needs to determine whether

⁶ In 1996, Congress authorized MTW as a HUD demonstration program. Congress exempted participating housing agencies from much of the U.S. Housing Act of 1937, as amended, and associated regulations as outlined in their MTW agreements. Participating housing agencies have considerable flexibility in determining how to use Federal funds. Agencies must submit an annual plan at the beginning of their fiscal years and an annual report at the end of the fiscal year.

the other six agencies⁷ identified by this audit violated lobbying requirements and restrictions and pursue corrective actions and administrative sanctions as appropriate for confirmed violations. Agencies should be required to repay Federal funds improperly spent on lobbying activities and implement management controls to prevent recurring violations.

Three MTW Agencies Violated Certification and Disclosure Requirements

The U.S. Senate Lobbying Disclosure Act database indicated that four MTW agencies spent \$1.5 million on lobbying activities that they failed to disclose. Regulations at 24 CFR Part 87 required recipients of more than \$100,000 in Federal funds or more than \$150,000 in Federal loans to file a certification that they had not used and would not use Federal funds for lobbying and to file a disclosure if they had used or would use non-Federal funds for lobbying. For the four MTW agencies, HUD either did not have their lobbying certifications and disclosures or the forms were inaccurate. We performed a more detailed review of three of the four MTW agencies to determine whether they complied with lobbying disclosure requirements and restrictions. The agencies violated lobbying-related requirements and improperly used approximately \$129,000 in Federal funds for lobbying activities. Discussions with agency officials indicated that agencies were not always fully aware of what constituted lobbying activities. We issued separate reports to the agencies to communicate our results. The following paragraphs provide details.

- The Philadelphia Housing Authority, Philadelphia, PA, failed to disclose lobbying activities for which it spent as much as \$660,000 during the period 2006 to 2010. It also improperly spent \$48,500 in Federal funds on lobbying activities conducted through law firms. The Authority's former executive director falsely certified that the Authority had not spent or would not spend Federal funds on lobbying and falsely certified that the Authority had no lobbying activities to disclose. The Authority repaid the funds it improperly spent on lobbying activities. We recommended that HUD pursue civil action against the Authority's former executive director, ensure that responsible Authority officials are formally trained on Federal lobbying disclosure requirements and restrictions, and include coverage of the Authority's compliance with the requirements and restrictions in future monitoring reviews (Office of Inspector General (OIG) memorandum report number 2013-PH-1803, dated April 26, 2013).
- The Housing Authority of the City of Pittsburgh, PA, failed to disclose lobbying activities on which it improperly spent as much as \$80,000 in Federal funds in 2004 and 2005. The Authority's former executive director falsely certified that the Authority had not spent or would not spend Federal funds on lobbying and falsely certified that the Authority had no lobbying activities to disclose. We recommended that HUD require the Authority to repay Federal funds it spent on lobbying activities, ensure that responsible Authority officials are formally trained on Federal lobbying disclosure requirements and

⁷ Housing Authority of the County of Santa Clara, Allegheny County Housing Authority, Wisconsin Housing and Economic Development Authority, Housing Authority of the City of Alameda, Tampa Housing Authority, and St. Cloud Housing and Redevelopment Authority

restrictions, and include coverage of the Authority's compliance with the requirements and restrictions in future monitoring reviews (OIG memorandum report number 2014-PH-1803, dated May 2, 2014).

- Home Forward (previously known as the Housing Authority of Portland), Portland, OR, failed to disclose lobbying activities conducted on its behalf between 2006 and 2010. It also improperly allocated \$643 in lobbying-related expenses to Federal sources of funds in 2007 and 2008. Also, in at least one instance, it incorrectly certified that it had not used Federal funds for lobbying activities and in another instance, could not demonstrate that it had certified, as required, that it had not used and would not use Federal funds for lobbying. During the audit, Home Forward reclassified to non-Federal funds the \$643 it had improperly allocated to Federal funds. We recommended that HUD ensure that responsible Authority officials receive comprehensive training on Federal lobbying disclosure requirements and restrictions, and include coverage of the Authority's compliance with the requirements and restrictions in future monitoring reviews (OIG memorandum report number 2014-PH-1806, dated September 5, 2014).

HUD Relied Solely on Self-Certifications To Monitor Housing Agencies

HUD accepted and relied on agencies' certifications and disclosures without performing additional verification. According to program officials, HUD monitored agencies' compliance with lobbying certification and disclosure requirements solely through self-certification due to limited resources. Therefore, HUD did not monitor any of the agencies reviewed for compliance with regard to lobbying requirements. Program officials stated that field office staff would have forwarded any disclosures that indicated lobbying activities to HUD's Office of Ethics and then conducted monitoring to ensure that related lobbying expenses had not been paid with Federal funds.

HUD's policy⁸ emphasized that the prohibition against the use of Federal funds for lobbying applied even for awards of less than \$100,000 and that field offices should be alert to possible violations. Based on its policy of monitoring via self-certification, it is highly unlikely that HUD would become aware of violations in these instances because agencies were not required to submit certifications or disclosures for awards not exceeding \$100,000.

HUD informed us that its field offices based their annual monitoring plans on risk and that no risk had been identified in relation to lobbying since agencies we reviewed did not disclose lobbying activities. Program officials also stated that HUD considered the issue of lobbying to be low risk because, other than relatively large housing authorities, most agencies did not have the funds or inclination to engage in lobbying. HUD stated that as a normal component of routine monitoring of agencies' budgets and expenditures, field offices questioned and addressed any data indicating that Federal funds might have been used for lobbying. However, HUD also stated that financial information and other relevant agency submissions did not provide sufficient

⁸ Public and Indian Housing Handbook 7570.1, section 2-6C

information to identify potential instances of Federal funds being spent on lobbying. In addition, information we obtained while reviewing the three MTW agencies indicated that some agencies might not be fully aware of what constituted lobbying activities. These challenges indicated that HUD needed to implement additional controls to increase its likelihood of detecting violations.

Conclusion

HUD lacked adequate controls to ensure that public housing agencies submitted accurate required certifications and disclosures regarding their lobbying activities. Potentially 75 percent of agencies for which lobbyists reported they had received payments for lobbying activities failed to disclose the lobbying activities as required. The risk of violations appeared to be greater at MTW agencies, which represented roughly 1 percent of public housing agencies but made up 44 percent of the noncompliant agencies identified. Also, three MTW agencies we reviewed incorrectly certified that they had not used Federal funds for lobbying. These problems generally occurred because HUD relied solely on agencies' self-certifications to monitor their compliance with lobbying disclosure requirements and restrictions. As a result, three MTW agencies improperly spent approximately \$129,000 in Federal funds on lobbying activities.⁹ In addition, HUD lacked reasonable assurance that agencies did not spend Federal funds on lobbying activities, and the lack of accurate lobbying disclosures could create an appearance of a lack of transparency. HUD needs to implement additional control policies and procedures to ensure that agencies comply with lobbying disclosure requirements and restrictions. Also, since the risk of violations appeared to be greater at MTW agencies, as an added control, HUD should require them to include lobbying certifications in their annual plans and lobbying disclosures in their annual reports.

Recommendations

We recommend that the Deputy Assistant Secretary for Public Housing and Voucher Programs

- 1A. Review records for the other six agencies identified by this audit to confirm whether they violated Federal lobbying disclosure requirements and restrictions and require them to take appropriate corrective actions.
- 1B. Pursue administrative sanctions as appropriate against the responsible agency officials for any of the six agencies that are confirmed to have violated Federal lobbying disclosure requirements and restrictions.
- 1C. Implement additional control policies or procedures to ensure that housing agencies submit accurate lobbying certifications and disclosures. At a minimum, annually run a query of the publicly available Congressional databases and compare the information to its records.

⁹ We made recommendations to address the violations identified during our reviews of the three MTW agencies in separate reports. Therefore, we made no recommendations to address those violations in this report.

- 1D. Require MTW agencies to incorporate lobbying certifications into their annual plans and lobbying disclosures into their annual reports.
- 1E. Ensure that the six public housing agencies are fully aware of Federal lobbying disclosure requirements and restrictions.

Finding 2: HUD Did Not Ensure That Agencies Consistently Submitted Required Lobbying Certifications and Disclosures

HUD policies did not always ensure that agencies consistently submitted lobbying certifications and disclosures as required. HUD could not provide 20 of 65 certifications (31 percent) and 35 of 65 disclosure forms (54 percent) for 12 agencies for which lobbyists had reported receiving payments for lobbying activities during the review period. HUD also could not provide 20 of 43 required certifications (47 percent) based on Federal funding awards for 5 agencies reviewed. Of the five agencies reviewed, four were MTW program participants and were responsible for 95 percent of the missing certifications. These problems generally occurred because HUD relied solely on self-certifications to monitor agencies' compliance and program managers assumed that agencies had no lobbying activities if they did not submit disclosures with required lobbying certifications. Also, responsible program managers were not always aware of lobbying certification requirements and did not always follow HUD policy regarding certifications. As a result, HUD lacked assurance that agencies did not spend Federal funds on lobbying or violate lobbying disclosure requirements.

Agencies Failed To Consistently Submit Required Lobbying Certifications and Disclosures

HUD policies did not ensure that agencies consistently submitted required lobbying certifications and disclosures. Program managers could not provide 20 of 65 certifications (31 percent) (see appendix C) and 35 of 65 disclosure forms (54 percent) (see appendix D) for 12 agencies for which lobbyists had reported receiving payments for lobbying activities during the review period. MTW agencies were responsible for 10 percent of the missing certifications and 31 percent of the missing disclosures.

Also, we reviewed five agencies within our region for compliance with lobbying certification requirements based on funding awards and determined that they did not always comply. For each of the agencies, we obtained and reviewed related HUD funding histories for 2009 through 2012 to determine the funding awards that exceeded the \$100,000 threshold, thus requiring a certification in accordance with the Federal regulations.¹⁰ Program managers could not provide 20 of 43 required certifications (47 percent) for the 5 agencies. Of the five agencies, four were participants in HUD's MTW program and were missing 19 of 38 certifications. The missing certifications for the MTW agencies represented 95 percent of the total missing certifications. HUD policy¹¹ stated that field offices were required to review and ensure that certifications were complete before awarding funds and maintain copies of certifications; therefore, HUD should have ensured that agencies submitted the required certifications.

HUD Needs To Improve Its Oversight

As discussed in finding 1, HUD accepted and relied on agencies' self-certifications and disclosures regarding lobbying without performing additional verification. Agencies could avoid submitting the required lobbying disclosures without detection because program managers

¹⁰ 24 CFR Part 87

¹¹ Public and Indian Housing Handbook 7570.1, section 2-6A

assumed that agencies had no lobbying activities if they did not submit disclosures with required lobbying certifications. Also, agencies may not have fully understood what constituted lobbying activities. In addition, responsible program managers were not always aware of lobbying certification requirements and did not always follow HUD policy regarding certifications.

HUD needs to improve its oversight to increase agency compliance with lobbying certification and disclosure requirements. HUD should emphasize the need for agencies to comply with the requirements. HUD should also train responsible staff to ensure that they are fully aware of certification and disclosure requirements, and properly track and retain agencies' certifications and disclosures.

Conclusion

HUD policies did not ensure that agencies consistently submitted required lobbying certifications and disclosures as required. HUD could not provide all of the required certifications and disclosures for 12 agencies for which lobbyists had reported receiving payments for lobbying activities during the review period. HUD also could not provide all of the certifications required based on funding awards for five agencies reviewed. The problems generally occurred because HUD relied solely on self-certifications to monitor agencies' compliance and program managers assumed that agencies had no lobbying activities if they did not submit disclosures with required lobbying certifications. Also, responsible program managers were not always aware of lobbying certification requirements and did not always follow HUD policy regarding certifications. As a result, HUD lacked assurance that agencies did not spend Federal funds on lobbying or violate lobbying disclosure requirements.

Recommendations

We recommend that the Deputy Assistant Secretary for Public Housing and Voucher Programs

- 2A. Work with the agencies identified by the audit to obtain all required certifications and disclosures for the last 3 years.
- 2B. Issue guidance on lobbying certification and disclosure requirements to all public housing agencies to emphasize the need for compliance with the requirements.
- 2C. Implement staff training with updates as needed to ensure that responsible staff is fully aware of lobbying certification and disclosure requirements, and properly track and retain agencies' certifications and disclosures.

Scope and Methodology

We conducted the audit from October 2012 through September 2014 at our office located in Philadelphia, PA. The audit covered the period January 2002 through December 2012.

To accomplish our objective, we reviewed

- Relevant background information including prior HUD OIG audit reports;
- Applicable laws and HUD rules and regulations, handbooks, and guidance;
- MTW agreements, annual plans, annual reports, public housing agencies' annual contributions contracts, and audited financial statements;
- A forensic audit report of the Philadelphia Housing Authority prepared by KPMG, LLP, dated September 26, 2012;
- The U.S. Senate Office of Public Records Lobbying Disclosure Act database; and
- Lobbying certifications and disclosures made between 2002 and 2012 for 12 agencies for which lobbyists reported receiving payments during that period.

We communicated with HUD program officials and HUD's Philadelphia Regional Counsel.

We queried the U.S. Senate's Lobbying Disclosure Act database for housing authorities, using the period 2002 to 2012, and identified 12 agencies affiliated with HUD that were reported as clients of various lobbyists. We requested lobbying certification and disclosure forms related to program funds the agencies received from 2002 through 2012. We reviewed the certification and disclosure forms to determine whether each agency provided at least one certification and one disclosure form for each year that lobbyists had reported receiving payments from or on behalf of the agency for lobbying activities. We also reviewed the disclosure forms to determine whether the agencies disclosed lobbying activities as required. Five of the 12 agencies reported to have engaged in lobbying activities were MTW agencies. We selected three of the five agencies for a more detailed review. We considered this adequate to support our conclusions.

We selected for review five of the most prominent public housing agencies within our region. The agencies included the Housing Authority of Baltimore City, District of Columbia Housing Authority, Harrisburg Housing Authority, Philadelphia Housing Authority, and Housing Authority of the City of Pittsburgh. For each of the agencies, we obtained and reviewed HUD funding award histories for the period 2009 through 2012 and requested for review the related certifications that agencies should have submitted based on funding awards that exceeded the \$100,000 threshold provided by 24 CFR Part 87.

We relied in part on computer-processed data in HUD's Public and Indian Housing Information Center system and the U.S. Senate's Lobbying Disclosure Act database. We did not perform a detailed assessment of the reliability of data; however, we performed a minimal level of testing and found the data to be generally adequate for our purposes. The testing entailed matching funding amounts from HUD's information system to supporting documents. In certain instances, the funding amounts from the system did not reconcile with related file documentation. In those instances, we relied on the information in file documents. In addition, the payments for lobbying reported in the Senate's database were comparable to the corresponding amounts we identified in the accounting records for the three housing agencies reviewed.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Effectiveness of operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- HUD lacked adequate controls to ensure that housing agencies submitted accurate required lobbying certifications and disclosures and consistently submitted required lobbying certifications and disclosures.

Appendixes

Appendix A


Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

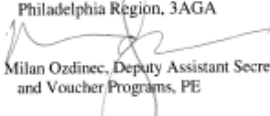
Comment 1

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

 December 17, 2014

OFFICE OF PUBLIC AND INDIAN HOUSING

MEMORANDUM FOR: David E. Kasperowicz, Regional Inspector General for Audit,
Philadelphia Region, 3AGA

FROM: 
Milan Ozdinec, Deputy Assistant Secretary, Office of Public Housing
and Voucher Programs, PE

SUBJECT: Comments on Office of Inspector General Draft Report: *"HUD Lacked Adequate Oversight To Ensure That Public Housing Agencies Complied With Federal Lobbying Disclosure Requirements and Restrictions"*

For your consideration, the Office of Public and Indian Housing has reviewed your draft audit report and have the following comments.

Your recommendations can be broken down into Three major groups. The first group recommends PIH take actions to investigate and take appropriate actions for the exceptions noted in the audit. PIH does not take issue in reviewing the exception cases noted and take whatever actions appropriate based upon the findings of the review.

1A. Review records for the other six agencies identified by this audit to confirm whether they violated Federal lobbying disclosure requirements and restrictions and require them to take appropriate corrective actions.

1B. If any of the six agencies are confirmed to have violated Federal lobbying disclosure requirements and restrictions, pursue administrative sanctions as appropriate against the responsible agency officials.

1C. Implement additional control policies and procedures to ensure that housing agencies submit accurate lobbying certifications and disclosures. At a minimum, annually run a query of the publicly available Congressional databases and compare the information to its records

1E. Ensure that the six public housing agencies are fully aware of Federal lobbying disclosure requirements and restrictions.

2A. Work with the agencies identified by the audit to obtain all required certifications and disclosures for the last 3 years.

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

The second group consists of recommendations targeted at HUD staff or reiteration of currently required policies. PIH also has no issues with these recommendations.

2B. Issue guidance on lobbying certification and disclosure requirements to all public housing agencies to emphasize the need for compliance with the requirements.

2C. Implement staff training with updates as needed to ensure that responsible staff are fully aware of lobbying certification and disclosure requirements, and properly track and retain agencies' certifications and disclosures.

The third group relates to the following recommendation:

1D. Require MTW agencies to incorporate lobbying certifications and disclosures into their annual plans and disclose lobbying activities in their annual reports.

We do not currently require MTW PHAs to submit lobbying disclosure forms to our office. The reason we do not collect these forms is because we do not provide funds to the PHAs, and the required submission of these forms is related to the receipt of funds. Thus MTW PHAs, like any other PHA, are required to submit lobbying forms to the offices from which they receive funds as a condition of the receipt of those funds (e.g. Cap Fund for capital funds, Op Fund for Operating Funds, Voucher Office for voucher funding). We do however include as part of the MTW Annual Plan a 'Certifications of Compliance' which restates many requirements that MTW PHAs continue to be subject to. The required submission of lobbying disclosures is a part of the Certifications of Compliance.

The second part of this recommendation is asking for MTW PHAs disclose their actual lobbying activities in the Annual MTW Report. We would not be supportive of including this requirement because such information is not required of non-MTW PHAs, and federal requirements relating to lobbying activities are the same for MTW and non-MTW PHAs.

We disagree and believe that the MTW PHAs should be treated the same way as the non-MTW PHAs. The requirements here are the same for all PHAs, and the documentation and oversight should be the same as well. Given the extremely small sample size and the nature of what was found in that small sample, we do not believe this is an MTW issue requiring a higher level of burden and disclosure be placed upon these PHAs and our office in monitoring these PHAs.

It should be noted that the expenditure of PHA and PIH staff time on documenting exception cases provides no tangible benefit. This expends limited resources to document historic issues and therefore does not warrant expenditure of effort.

Comment 2

Comment 3

Comment 4

Comment 5

Auditee Comments and OIG's Evaluation

Auditee Comments

Ref to OIG Evaluation

Comment 6

Comment 7

Comments 6 and 7

Comment 8

Comment 9

Comment 10

Comment 11

On page 2 of the draft report you state:

- "The audit showed that only 12 of about 3,300 agencies were reported to have engaged in lobbying activities during the audit period."
- "Of the 12 agencies reported to have engaged in lobbying activities, 9 spent \$2.5 million on lobbying activities that they failed to disclose as required."
- "Four of the nine agencies were participants in HUD's Moving to Work (MTW) program and spent \$1.5 million on undisclosed lobbying activities."

To address these issues you recommend a significant expenditure of effort by both the PHAs and HUD staff.

Given the small nature of the error rate and related exposure noted above, it appears that (i) PHAs generally are complying with the policy not to expend Federal funds for lobbying (e.g. only 12 of 3,300 PHAs had issues) and (ii) current policies and procedures are reasonably being followed (e.g. only 9 of 3,300 PHAs failed to file required disclosure).

In light of these facts, the recommendations are overly burdensome to implement in relation to limited error rate and limited staff resources. The following is a discussion of such recommendations:

1. The implementation of additional control policies and procedures to include, at a minimum, an annual query of the Congressional databases would cause an additional strain on the already limited staff resources. To require staff to run queries on approximately 3,200 PHAs does not appear to be an effective control to cover 12 or so exception cases.
2. HUD's method of monitoring of PHAs for compliance with Federal lobbying disclosure requirements and restrictions will have to continue to rely on self-certifications by PHAs, again because of limited resources. The suggestion that HUD staff take proactive steps to detect violations related to lobbying activities would present an enormous challenge to HUD staff.
3. The implementation of an additional process to obtain, track and retain lobbying certifications and disclosures is not a necessary remedy. Currently, PHAs are required submit the lobbying certifications and disclosures as a part of the annual Capital Fund submission process. Updating of HUD guidance and training of HUD staff on this process would be more viable solution.

Accordingly, PIH believes the results of the audit do not show a significant enough level of non-compliance to warrant any policy changes.

OIG Evaluation of Auditee Comments

- Comment 1 HUD categorized the audit recommendations into three groups and stated that the first group, including recommendations 1A, 1B, 1C, 1E, and 2A, recommended that it investigate and take appropriate actions for the exceptions noted in the audit. However, recommendation 1C addresses identification and prevention of future deficiencies. Nevertheless, we are pleased that HUD took no issue with all five recommendations, as well as recommendations 2B and 2C which it categorized into a second group which it stated focused on HUD staff and the reiteration of current policies.
- Comment 2 HUD stated that the MTW annual plan includes a “Certifications of Compliance” which restates many requirements for MTW agencies and covers the submission of lobbying disclosures. However, the certification simply shows that an agency has certified that it will comply with the lobbying requirements provided by regulations at 24 CFR Part 87, and does not include any evidence that the agency has complied with the requirements.
- Comment 3 HUD stated that it would not be supportive of asking MTW agencies to disclose their actual lobbying activities in the annual MTW report because such information is not required of non-MTW agencies. We do not expect the MTW agencies to disclose their actual lobbying activities. The intent of the recommendation is for the agencies to attach the standard certifications and disclosures required by regulations at 24 CFR Part 87 to their annual plans and reports respectively. This simple action would provide HUD another way to ensure that the agencies comply with the lobbying certification and disclosure requirements. We updated the wording in the audit recommendation to clarify the intent.
- Comment 4 HUD stated that the MTW agencies should be treated the same way as the non-MTW agencies. While only 12 agencies were reported to have engaged in lobbying activities, as explained in the audit report, the majority of those agencies failed to fully comply with lobbying requirements; and about half of the noncompliant agencies were MTW agencies which only represented approximately 1 percent of all public housing agencies. Therefore, the issue is that agencies reported to have engaged in lobbying activities generally failed to comply with lobbying requirements, and the risk of noncompliance appeared to be greater for MTW agencies. We disagree that the incorporation of lobbying certifications and disclosures into MTW agencies’ annual plans and reports respectively would impose a higher level of burden on the agencies and HUD. Since MTW agencies, like any other public housing agency, are required to submit lobbying forms to the offices from which they receive funds as a condition of receipt of those funds, they could simply attach their certification and disclosure forms to their annual plans and reports respectively.

- Comment 5 HUD stated that the expenditure of agency and HUD staff time on documenting exception cases provides no tangible benefit. The audit disclosed that three MTW agencies improperly spent Federal funds on lobbying. If other public housing agencies have spent Federal funds on lobbying, those funds must be repaid. Also, to help prevent future instances of noncompliance, HUD needs to ensure that agencies are fully aware of lobbying requirements and what actions constitute lobbying activities. We do not believe an unreasonable expenditure of effort would be required to investigate and implement corrective action related to the audit exceptions.
- Comment 6 HUD stated that we recommended a significant expenditure of effort by both the agencies and HUD staff. We disagree that the audit recommendations constitute a significant expenditure of effort by both the agencies and HUD. We simply asked HUD to investigate and take appropriate action related to the audit exceptions, ensure that its staff and public housing agencies are aware of lobbying requirements, and at a minimum, implement a simple annual procedure to help identify and prevent future deficiencies. In the case of MTW agencies, we simply asked that they attach certifications and disclosures that they are required to complete pursuant to regulations at 24 CFR Part 87 to their annual plans and reports respectively. In its response to the audit report, HUD essentially stated that it had no issues with seven of the eight audit recommendations.
- Comment 7 HUD stated that it appears that agencies generally are complying with the policy not to expend Federal funds for lobbying and current policies and procedures are reasonably being followed. However, as explained in the audit report and in comment 4 above, the issue is that the majority (75 percent) of agencies reported to have engaged in lobbying activities generally failed to comply with lobbying requirements. We did not review compliance with lobbying requirements for all 3,300 public housing agencies. We only focused on the 12 agencies for which lobbyists reported to Congress that they had received payments for lobbying activities. We believe it is possible that some lobbyists failed to disclose the required information on lobbying to Congress. It is also possible that some agencies handled lobbying activities in-house or through attorneys or other professional service providers and failed to submit the appropriate disclosures. For example, the Philadelphia Housing Authority improperly spent Federal funds on lobbying activities conducted through law firms and also failed to submit required lobbying disclosures to HUD. Therefore, the audit results do not constitute or support a basis for HUD's statements that agencies generally are complying with the policy not to expend Federal funds on lobbying and current policies and procedures are reasonably being followed.
- Comment 8 HUD stated that an annual query of the Congressional databases would cause an additional strain on already limited staff resources. As we explained during and after the exit conference, implementation of recommendation 1C would not involve separate queries of 3,300 public housing agencies. The annual query

would entail searching the online congressional database using the appropriate keyword parameters to identify public housing agencies that were reported to have paid lobbyists for lobbying activities.

- Comment 9 HUD stated that due to limited resources it will continue to rely on agency self-certifications and that the suggestion that HUD staff take proactive steps to detect violations related to lobbying activities would present an enormous challenge to HUD staff. However, HUD's objection relates to an audit recommendation that is not in the final audit report. Consistent with our audit process, we discussed the draft audit report with HUD during the exit conference and considered HUD's feedback and proposals for feasible solutions to address the audit deficiencies. Based on our discussion with HUD we updated the audit recommendations and provided an updated report to HUD for comment. However, in its response, HUD addressed a draft recommendation that is not in the final audit report. After we received HUD's response on December 17, 2014, and noted that it was addressing recommendations from the draft report rather than the updated draft report, we contacted the HUD audit liaison officer and informed him of the situation. We offered HUD the opportunity to provide an updated response but the audit liaison officer declined the offer and stated that we should accept the response as-is.
- Comment 10 HUD stated that implementation of an additional process to obtain, track and retain lobbying certifications and disclosures is not a necessary remedy and that updating its guidance and training staff would be a more viable solution. However, HUD's objection relates to an audit recommendation that is not in the final audit report. As explained in comment 9 above, we followed our audit process and also offered HUD an opportunity to provide an updated response. However, HUD declined the offer. Recommendations 2B and 2C are consistent with HUD's proposed solutions and in its response to the audit report HUD stated that it had no issues with the recommendations.
- Comment 11 HUD stated that it believes that the audit results are not significant enough to warrant any policy changes. However, in its response HUD stated that it had no issue with seven of the eight audit recommendations. We are pleased that HUD has agreed to implement recommendations to help improve public housing agencies' compliance with lobbying requirements.

Appendix B

Schedule of Payments Reported by Lobbyists

	Housing agencies	Payments reported by lobbyists (2002-2012)	Amount not disclosed by housing agencies	Amount not disclosed by MTW agencies
1	Housing Authority of the County of Santa Clara (MTW)	\$ 750,000	\$ 750,000	\$ 750,000
2	Philadelphia Housing Authority (MTW)	660,000	660,000	660,000
3	Allegheny County Housing Authority	530,000	530,000	
4	Housing Authority of the City of Milwaukee	435,000		
5	Housing Authority of the County of San Bernardino (MTW)	445,000		
6	Wisconsin Housing and Economic Development Authority	310,000	310,000	
7	Housing Authority of the City of Alameda	160,000	160,000	
8	New York City Housing Authority	160,000		
9	Housing Authority of the City of Pittsburgh (MTW)	80,000	80,000	80,000
10	Tampa Housing Authority	20,000	20,000	
11	Housing Authority of Portland (now Home Forward) (MTW)	0 ¹²	0	0
12	St. Cloud Housing and Redevelopment Authority	0 ¹²	0	
	Totals	\$3,550,000	\$2,510,000	\$1,490,000

¹² The Lobbying Disclosure Act Database showed \$0 in income when lobbyists reported amounts that were less than the dollar thresholds identified by the Lobbying Disclosure Act.

Appendix C

Schedule of Required Certifications Based on Payments Reported by Lobbyists

	Housing agencies	Minimum # of required certifications (2002-2012)	Certifications provided	Certifications not provided
1	Housing Authority of the County of Santa Clara (MTW)	8	7	1
2	Philadelphia Housing Authority (MTW)	5	5	0
3	Housing Authority of the County of San Bernardino (MTW)	8	8	0
4	Housing Authority of the City of Pittsburgh (MTW)	2	2	0
5	Housing Authority of Portland (now Home Forward) (MTW)	5	4	1
Totals (MTW)		28	26	2
6	Allegheny County Housing Authority	9	6	3
7	Housing Authority of the City of Milwaukee	4	4	0
8	Wisconsin Housing and Economic Development Authority	10	0	10
9	Housing Authority of the City of Alameda	4	4	0
10	New York City Housing Authority	2	1	1
11	Tampa Housing Authority	1	1	0
12	St. Cloud Housing and Redevelopment Authority	7	3	4
Totals (non-MTW)		37	19	18
Grand totals		65	45	20

Appendix D

Schedule of Required Disclosures Based on Payments Reported by Lobbyists

	Housing agencies	Minimum # of required disclosures (2002-2012)	Disclosures provided	Disclosures not provided
1	Housing Authority of the County of Santa Clara (MTW)	8	2	6
2	Philadelphia Housing Authority (MTW)	5	5	0
3	Housing Authority of the County of San Bernardino (MTW)	8	8	0
4	Housing Authority of the City of Pittsburgh (MTW)	2	2	0
5	Housing Authority of Portland (now Home Forward) (MTW)	5	0	5
Totals (MTW)		28	17	11
6	Wisconsin Housing and Economic Development Authority	10	0	10
7	Housing Authority of the City of Milwaukee	4	4	0
8	Allegheny County Housing Authority	9	3	6
9	Housing Authority of the City of Alameda	4	1	3
10	New York City Housing Authority	2	1	1
11	Tampa Housing Authority	1	1	0
12	St. Cloud Housing and Redevelopment Authority	7	3	4
Totals (non-MTW)		37	13	24
Grand totals		65	30	35