



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

September 2, 2014

MEMORANDUM NO:
2014-CF-1808

Memorandum

TO: Dane M. Narode
Associate General Counsel, Office of Program Enforcement, CACC

//signed//

FROM: Kimberly Randall
Director, Joint Civil Fraud Division, GAW

SUBJECT: Final Civil Action: NDC Real Estate Management, Inc. Settled Allegations of Falsifying or Modifying Records and Documents to Maximize HUD's Section 8 Housing Assistance Payments

INTRODUCTION

The Office of Inspector General (OIG) assisted the U.S. Attorney's Office for the Eastern District of Kentucky in the investigation of NDC Real Estate Management, Inc. (NDC). The investigation began due to a *qui tam*¹ filing in the U.S. District Court for the Eastern District of Kentucky. The relator alleged that NDC falsified or modified records and documents to maximize the amount of rental subsidies, known as Section 8 housing assistance payments (HAP), received by the project owners of Madison Avenue Apartments and Madison Towers Apartments in Richmond, KY.

BACKGROUND

The U.S. Department of Housing and Urban Development (HUD) distributes federal funds through HUD's Section 8 project-based assistance program to assist eligible very-low and low income individuals in obtaining decent, safe, and sanitary housing. The Section 8 program provides rental subsidies in the form of housing assistance payments pursuant to a HAP contract

¹ The False Claims Act allows private persons to file suit for violations of the False Claims Act on behalf of the Government. A suit filed by an individual on behalf of the Government is known as a *qui tam* action, and the person bringing the action is referred to as a "relator."

between HUD and the multifamily rental property owner. The Section 8 HAP program is administered on HUD's behalf by local public housing agencies.

The owners of the Richmond properties are Madison Avenue Apartments Phase I, Ltd. and Madison Towers Associates, Ltd. The management agent is NDC, an affiliated entity.

The Kentucky Housing Corporation administers the Section 8 HAP program for Kentucky. The housing corporation processed the project owners' requests for assistance payments, called the Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures (form HUD-50059), that NDC submitted on the project owners' behalf, and remitted the Section 8 assistance payments to the project owners for the Richmond properties. Between January 2007 and December 2012, the housing corporation made assistance payments for the Richmond properties of \$4,088,627.²

RESULTS OF INVESTIGATION

Based, in part, on our investigation of the project owners' requests for assistance payments and the supporting documentation, the U.S. Attorney's Office contended that the United States³ had civil claims against NDC under the False Claims Act. These civil claims arose from NDC's alleged falsification or wrongful modification of the project owners' requests for assistance payment forms and the supporting documentation in an attempt to maximize the amount of assistance payments for the Richmond properties.

On August 4, 2014, NDC agreed to pay HUD \$750,000. HUD and NDC entered into this agreement to avoid the delay, uncertainty, inconvenience, and expense of litigation. The parties also agreed that the settlement did not constitute an admission of any liability or fault on the part of either NDC or the project owners, or others as named.⁴

RECOMMENDATION

We recommend that HUD's Office of General Counsel, Office of Program Enforcement,

- 1A. Allow HUD OIG to record the \$750,000 settlement in HUD's Audit Resolution and Corrective Actions Tracking System as an ineligible cost.

HUD's Office of General Counsel, Office Program Enforcement has agreed to the recommendation. No further action is required.

² Due to a change in contractors, the actual housing assistance payment amounts were not available for Madison Avenue for January 2007 through June 2007. Therefore, a monthly average was used for those months to compute the yearly total.

³ "United States" refers to the United States Department of Justice acting on behalf of HUD.

⁴ "Others as named" refers to any of NDC's or the project owners' principals, affiliates, shareholders, directors, partners, managers, officers, agents, divisions, component parts, representatives, employees, transferees, successors, or assigns (or any affiliated persons or entities of same).