



U. S. Department of Housing and Urban Development
Office of Inspector General
New York/New Jersey Office
26 Federal Plaza – Room 3430
New York, NY 10278-0068

MEMORANDUM NO. 2010-NY-0801

September 13, 2010

MEMORANDUM FOR: Joan Spilman, Director, Office of Public Housing, Buffalo Field
Office 2CPH

Edgar Moore

FROM: Edgar Moore, Regional Inspector General for Audit, New York/New Jersey, 2AGA

SUBJECT: Corrective Action Verification
Utica Municipal Housing Authority
Low-Rent Housing Program, Utica, New York
Audit Report 2006-NY-1005

INTRODUCTION

We performed a corrective action verification review of the audit recommendations for findings 1 and 2 of Audit Report Number 2006-NY-1005, issued February 21, 2006 pertaining to the general operations of the Utica Municipal Housing Authority. The purpose of the corrective action verification was to determine whether the selected audit recommendations were implemented and the deficiencies cited in the report were corrected.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

SCOPE AND METHODOLOGY

The corrective action verification focused specifically on Recommendations 1A, 1B, 2A, 2B, 2C, 2D, and 2E from the subject audit report. To accomplish our objective, we reviewed the audit report and associated supporting documentation, as well as the U.S. Department of Housing and Urban Development (HUD) management decisions and the supporting documentation used by HUD to close the recommendations. We interviewed officials from the HUD Buffalo Office of Public Housing and the Utica Municipal Housing Authority (Authority). We also reviewed Authority files, board minutes, accounting records, journal vouchers, other supporting documentation, and applicable HUD regulations.

BACKGROUND

We reported three findings in our February 21, 2006 audit of the Authority's general operations of its low-rent housing program (Report No. 2006-NY-1005). Finding 1 of the report noted that contrary to the policy enacted by its board and applicable federal regulations, Authority management allowed for the payment of certain medical insurance costs provided to retirees that were not authorized or necessary. The unauthorized costs were incurred because Authority management did not establish controls to ensure that policies and procedures put into practice conformed to the provisions of enacted board resolutions. Finding 2 of the report noted that the Authority's procurement and contract award activities did not always comply with HUD regulations and requirements. As a result, the Authority could not ensure that costs incurred for procured contract services were reasonable and necessary. Finding 3 of the report pertained to the Authority's role as contract administrator for seven HUD assisted Section 8 11B projects. At the time of our corrective action verification review the Authority no longer acted as contract administrator for the HUD assisted Section 8 11B projects. Accordingly, we focused our verification on the recommendations from Findings 1 and 2 of the report. We recommended that the director of HUD's Buffalo Office of Public Housing instruct the Authority to:

- 1A. Establish controls to ensure that policies enacted by its board are fully implemented in a timely manner.
- 1B. Reimburse the low-income housing program from nonfederal funds the \$511,480 in medical benefits paid to Civil Service Employee Association and non-Civil Service Employee Association retirees who did not meet the board requirements for receiving health, dental, and prescription benefits.
- 2A. Establish controls to ensure compliance with all applicable federal, state and local procurement policies and regulations, to include compliance in the areas of (1) performing cost estimates and/or price analyses for all future procurement activities, (2) adequately soliciting and documenting all proposals submitted in response to a request for proposals for professional services to substantiate the selection, and (3) properly executing contracts for all professional services provided.
- 2B. Provide documentation to justify the \$98,316 in unsupported costs (\$46,666 for legal services and \$51,650 for labor relations services) so that HUD can make an eligibility determination.
- 2C. Reimburse from nonfederal funds the amount of any unsupported costs determined to be ineligible.
- 2D. Enforce the damages clause of the elevator contract to ensure that the program is not deprived of \$33,150 in penalty income, thus resulting in funds to be put to better use. The penalty amount should also be increased if the work is not completed.

- 2E. Reimburse from nonfederal funds the ineligible costs of \$8,650 incurred from improperly procuring auditing services.

Finding 1 Proposed Management Decisions

In response to recommendation 1A, the Authority was required to provide the HUD Buffalo Office of Public Housing (Buffalo Office) a copy of its Board Directive Compliance Book created to better control implementation of Board policies and procedures. The book was to include the date of the Board directive, a copy of the directive, signoff by the manager assigned to implement the directive, and date of accomplishment of the directive. On September 27, 2006, the Buffalo Office confirmed that it had reviewed the Authority's Board Directive Compliance Form and Compliance Log, and determined that they would be useful in tracking the Authority's policies and ensuring that procedures are implemented in a timely manner.

In regard to recommendation 1B, the Buffalo Office notified the Authority that it was to reimburse the Low Rent Public Housing Program from nonfederal funds the \$511,480 in previous health insurance payments to retirees who did not meet the Board requirements for receiving health, dental, and prescription benefits. If nonfederal funds were not available, HUD required the Authority to submit a signed certification attesting to the fact that nonfederal funds were not available. Furthermore, in accordance with the Real Estate Assessment Center's (REAC) Accounting Issue #7 concerning disallowed costs, HUD required evidence that the Authority prepared adjusting journal entries to record the disallowed costs as a prior period adjustment.

Finding 2 Proposed Management Decisions

For recommendation 2A, the Buffalo Office required the Authority to provide evidence of the corrective measures it had taken regarding the implementation of procurement controls. Controls were to be established to ensure compliance with its procurement policy, including, compliance in the areas of performing costs estimates and/or price analyses for all procurement activities, adequately soliciting and documenting all proposals submitted in response to a request for proposals for professional services to substantiate the selection, and properly executing contracts for all professional services provided.

For recommendations 2B and 2C, the Buffalo Office stated that the Authority was unable to secure billing documentation for the providers of labor relations and general legal counsel services, and therefore the \$98,316 in unsupported costs were determined to be disallowed costs. To eliminate the problem from happening in the future, the Authority provided assurance that appropriate billing procedures, which included documentation of services, were put into place effective February 1, 2006. As with recommendation 1B, HUD required reimbursement of the disallowed costs from nonfederal funds or a signed certification stating nonfederal funds were not available and adjusting journal entries to record the disallowed costs.

For recommendation 2D, the Buffalo Office requested that the Authority provide a detailed "finding of fact" document that defines the parties who are responsible for the contract delays in order to release the Authority from enforcing the liquidated damages clause.

For recommendation 2E, as with recommendations 1B and 2C, the Buffalo Office required reimbursement of the disallowed costs from nonfederal funds or a signed certification stating that nonfederal funds were not available and adjusting journal entries to record the disallowed costs.

By November 7, 2007, HUD's Office of Inspector General (OIG) concurred with all of the proposed management decisions.

RESULTS OF REVIEW

The corrective action verification found that although the Authority has effectively implemented the recommendations, the appropriate action was not taken for all of the recommendations in the audit report on the general operations of the Authority. During the onsite review, it was determined that the Authority had

- Established an adequate procedure to ensure that Board policies are fully implemented in a timely manner.
- Certified to the Buffalo Office that it had no unrestricted nonfederal funds available for the repayment of disallowed costs. The Authority also complied with the requirements of REAC's Accounting Issue No.7, concerning disallowed costs, having recorded \$618,446 as an "Inter-program Due From" account for the disallowed costs included in Finding 1 and 2 of the Audit Report. Based on the HUD Inspector General's current position, these amounts will remain on the Authority's book until reimbursed with nonfederal funds or written documentation has been received, in a future period, relieving the Authority of its obligation of reimbursement of these monies. Specifically for recommendations 1B, 2C, and 2E, the Buffalo Office followed through with all existing protocols and guidance at the time the audit was conducted. However, based on the implementation of asset management and the existence of Central Office Cost Center nonfederal funds that were not available when these recommendations were initially closed out, the OIG has determined that these recommendations should be reopened in HUD's Audit Resolution and Corrective Action Tracking System (ARCATS) to reflect future reimbursement with nonfederal funds.
- Implemented adequate procurement controls that included a revised procurement policy, routinely updated, staff training on their duties as they relate to procurement, and a procurement protocol that defines duties by person or title. In addition, the Authority implemented controls to assure that appropriate billing procedures, including documentation of services, had been put into place.
- Provided the Buffalo Office a comprehensive "Finding of Fact" which supported the fact that enforcing the liquidated damages clause in the contract would not be appropriate since the Authority had given the contractor its permission for the elevator work to be delayed so that the contractor could complete work on another Authority project.

CONCLUSION

The corrective action verification found that the Authority had effectively implemented the recommendations in the audit report pertaining to the general operations of the Authority. In addition, although the Buffalo Office had adhered to all existing protocols and guidance at the time of the audit, the OIG has determined that recommendations 1B, 2C and 2E should remain open to reflect future reimbursement with nonfederal funds or until written documentation has been received relieving the Authority of its obligation of reimbursing these monies.

In accordance with the Real Estate Assessment Center's (REAC) Accounting Issue #7 concerning disallowed costs, the Authority established a payable account due to HUD. However, since this account was established and cannot be written-off until the Authority provides evidence to support that their attempts to earn nonfederal funds were unsuccessful; it is necessary for HUD to keep the recommendation open as a receivable in ARCATS until the funds are repaid, or the payable account at the Authority is properly written off. Thus, the Buffalo Office needs to take appropriate action and make the corrections in its ARCATS system to reflect the Authority's promised future reimbursement of the disallowed costs when nonfederal funds become available.

The recommendations pertaining to findings 1 and 2 of Audit Report 2006-NY-1005 are considered resolved. However, further action is warranted to accurately reflect in HUD's ARCATS system the possible future reimbursement of disallowed costs pertaining to recommendations 1B, 2C and 2E.

RECOMMENDATIONS

We recommend that the director of HUD's Office of Public Housing

- 1A. Reopen recommendations 1B, 2C, and 2E in HUD's Audit Resolution and Corrective Action Tracking System (ARCATS) to reflect future reimbursement with nonfederal funds.

AUDITEE'S RESPONSE

We discussed our results with your office during the review. We also provided your office a draft memorandum on August 12, 2010, to which your office provided informal comments on August 26, 2010 and September 1, 2010. The informal comments were taken into consideration and we have revised the draft memorandum to reflect that the Buffalo Office took the appropriate action at the time of the Audit.