



## **Little Haiti in Miami, FL, Did Not Fully Comply With Federal Rules When Administering NSP2**



Issue Date: September 6, 2012

Audit Report Number: 2012-AT-1015

TO: Maria R. Ortiz, Director of Community Planning and Development, Miami Field Office, 4DD

FROM: //signed//  
James D. McKay, Regional Inspector General for Audit, Atlanta Region, 4AGA

SUBJECT: Little Haiti in Miami, FL, Did Not Fully Comply With Federal Rules When Administering NSP2

Enclosed is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final results of our review of Little Haiti Housing Association's administration of the Neighborhood Stabilization Program 2 funds authorized under the American Recovery and Reinvestment Act of 2009.

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 8L, 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 404-331-3369.



September 6, 2012

## Little Haiti Did Not Fully Comply With Federal Rules When Administering NSP2

# Highlights

Audit Report 2012-AT-1015

### What We Audited and Why

We audited Little Haiti Housing Association as a result of a complaint received regarding its administration of the multifamily activity funded under the Neighborhood Stabilization Program 2 (NSP2). Our objective was to determine whether Little Haiti used NSP2 funds in compliance with Federal regulations. Specifically, we focused on determining whether (1) Little Haiti complied with Federal regulations when selecting and using the developer, contractor, and management company in the purchase, rehabilitation, and management of the multifamily property; (2) NSP2 funds were used for eligible program costs and were sufficiently supported; and (3) obvious deficiencies occurred in the rehabilitation work performed on the multifamily property.

### What We Recommend

We recommend that the Director of Community Planning and Development of the Miami field office require the grantee to repay \$20,183 to its NSP2, provide documentation to support that products purchased for the multifamily development complied with energy efficiency and water conservation standards, and repay \$34,869 in excess rent to tenants.

### What We Found

We found no evidence that the allegations in the complaint were valid. However, Little Haiti did not fully comply with Federal requirements when administering its multifamily activity under NSP2. It reimbursed itself for tenant certification services, although the codeveloper fee that Little Haiti received covered this service. In addition, it did not ensure that energy efficiency and water conservation standards were met and failed to comply with the affordable rent definition stated in the consortium's NSP2 application to HUD. Little Haiti believed that the fee earned was not required to be spent on the multifamily development costs, that it complied with green improvement standards, and was unaware of the rent policy established in the grantee's NSP2 application. In addition, Neighborhood Housing Services did not monitor Little Haiti to ensure compliance with the latter two NSP2 requirements. As a result, \$20,183 in NSP2 funds was inappropriately reimbursed to Little Haiti, tenants may have paid higher utility costs, and 31 tenants paid excess rent amounts totaling \$34,869.

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## BACKGROUND AND OBJECTIVE

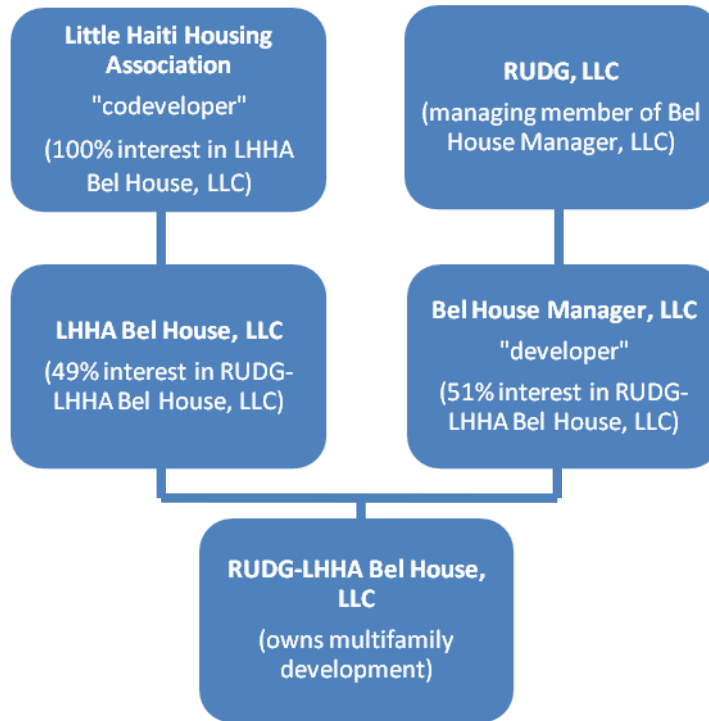
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On February 17, 2009, Congress enacted Public Law 111-5, known as the American Recovery and Reinvestment Act of 2009. Title XII of Division A of the Recovery Act provided additional emergency assistance for the redevelopment of abandoned and foreclosed-upon homes as initially authorized under Division B, Title III, of the Housing and Economic Recovery Act of 2008. The U.S. Department of Housing and Urban Development (HUD) implemented the Neighborhood Stabilization Program 2 (NSP2) to stabilize neighborhoods the viability of which had been and continued to be damaged by the economic effects of foreclosed-upon and abandoned properties. NSP2 references the funds authorized under the Recovery Act. HUD awarded \$1.93 billion in NSP2 funds, on a competitive basis, to 56 grantees, which included States, units of general local government, nonprofits, and a consortium of public and private nonprofit entities.

As the lead agency, the Neighborhood Housing Services of South Florida, in a consortium agreement with the City of North Miami, Carrfour Supportive Housing, Little Haiti Housing Association, Opa-Locka Community Development Corporation, St. John Community Development Corporation, and the Urban League of Greater Miami, was awarded more than \$89 million. The consortium, which is the grantee, planned to use NSP2 funds to stabilize neighborhoods in north central Miami-Dade County through the acquisition and rehabilitation of existing housing units or the redevelopment of vacant or blighted structures.

Little Haiti Housing Association (Little Haiti) is a tax-exempt nonprofit community development corporation that serves the needs of low-income residents in the area of Little Haiti. Its mission is to provide decent, affordable housing to residents of Little Haiti and neighboring communities as a basis to improve their lives. The March 31, 2012, quarterly report to HUD shows that the consortium allocated nearly \$6.7 million in NSP2 funds to Little Haiti. Little Haiti planned to use the grant funds to purchase and rehabilitate 43 houses for single-family home ownership in the Little Haiti area and other areas of greatest need. It also planned to purchase and rehabilitate a 65-unit development, located in North Miami, for affordable rental housing. Of the 65 units, 25 will benefit households at or below 50 percent of the area median income, and 40 will benefit households at or below 120 percent of the area median income.

Little Haiti, through a partnership with a limited liability company, purchased the multifamily development on December 27, 2010, as presented below.



The joint entity used more than \$3.3 million in NSP2 funds and \$1.4 million in private funds to purchase and redevelop the property. Bel House Manager, LLC, was established as the developer and received a developer fee paid from NSP2 funds. Little Haiti was established as the codeveloper and received a codeveloper fee paid from the private funds.

We initiated the audit as a result of a complaint we received against Little Haiti regarding its administration of the multifamily activity. The complaint alleged that Little Haiti had a conflict-of-interest relationship with the developer, paid the developer for work that was not in the original scope of work, and paid for substandard work.

Our objective was to determine whether Little Haiti used Recovery Act NSP2 funds in compliance with Federal regulations. Specifically, our work focused on the purchase and rehabilitation of the multifamily property to determine whether (1) Little Haiti complied with Federal regulations when selecting and using the developer, contractor, and management company in the purchase, rehabilitation, and management of the multifamily property; (2) NSP2 funds were used for eligible program costs and sufficiently supported; and (3) obvious deficiencies occurred in the rehabilitation work performed on the multifamily property.

## RESULTS OF AUDIT

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### Finding: Little Haiti Did Not Fully Comply With Federal Requirements

We found no evidence that the allegations in the complaint were valid. However, Little Haiti did not fully comply with Federal requirements when administering its multifamily activity under NSP2. It reimbursed itself for tenant certification services, although the codeveloper fee it received paid for this service. In addition, it did not ensure that energy efficiency and water conservation standards were met and failed to comply with the affordable rent definition stated in the grantee's NSP2 application to HUD. Little Haiti believed that the fee earned was not required to be spent on the multifamily development costs, that it complied with green improvement standards, and was unaware of the rent policy established in the grantee's NSP2 application. In addition, Neighborhood Housing Services did not monitor Little Haiti to ensure compliance with the latter two NSP2 requirements. As a result, \$20,183 in NSP2 funds was inappropriately reimbursed to Little Haiti, tenants may have paid higher utility costs, and 31 tenants paid excess rent amounts totaling \$34,869.

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#### Assessment of Complaint

We found no evidence that the allegations in the complaint were valid. The audit showed that Little Haiti complied with Federal regulations when it partnered with a developer, which then selected the contractor and management company to assist with the purchase, rehabilitation, and management of the multifamily property. In addition, although Little Haiti paid for work that was not in the original scope, the additional work was in the form of necessary and requested change orders that Little Haiti or the developer approved. Further, we found no evidence that NSP2 funds paid for substandard work.

#### Noncompliance With Federal Requirements

The audit showed that Little Haiti did not fully comply with Federal requirements when administering the program by (1) reimbursing itself for tenant certification services already paid for in the codeveloper fee it received that covered this service, (2) not ensuring that energy efficiency and water conservation standards were met, and (3) failing to comply with the consortium's affordable rent definition.

(1) Tenant Certification Services Paid by Codeveloper Fee and NSP2 Funds

The agreement executed between the owner of the multifamily development and Little Haiti, as the codeveloper, stated that “in consideration of the performance by the co-developer of the development services...the Company [owner] shall pay to the co-developer a development fee.” As the codeveloper, one of Little Haiti’s responsibilities was to “assist, advise and consult on the selection of and provide coordination and supervision of the tenant certification process.” Little Haiti explained that the responsibility involved the income certification of tenants. However, drawdown packages showed that Little Haiti also charged its NSP2 for tenant certification services. The purpose of the charges was to reimburse Little Haiti for staff salaries and consultant fees to perform tenant intake and income certification services.

Little Haiti reasoned that there was no expectation to use the codeveloper fee on costs associated with the multifamily development. In addition, it emphasized that the tenant certification services are an allowable project delivery cost under NSP2. Similarly, Neighborhood Housing Services believed that Little Haiti earned the negotiated portion of the developer fee by being the equity partner in the transaction and agreed that the tenant certification services were an eligible cost to its NSP2.

Appendix A of 2 CFR (Code of Federal Regulations) Part 230 states that to be allowable under an award, costs must be reasonable for the performance of the award. Little Haiti received both the codeveloper fee and NSP2 funds for performing tenant certification services. Therefore, it was not reasonable or eligible for Little Haiti to receive additional NSP2 funds for performing that service. Although tenant certification services are eligible activity delivery costs, NSP2 funds cannot pay for these services when Little Haiti has already received payment from its codeveloper fee.

Drawdown packages showed that NSP2 funds reimbursed Little Haiti \$33,743 for costs related to tenant certification services. Of that amount, \$20,183 reimbursed Little Haiti for the salaries of the staff and consultant that performed the tenant certification function. The \$20,183 is ineligible because the codeveloper fee paid to Little Haiti had already reimbursed it for this service. The other \$13,560 paid the consultant for work not related to the tenant certification services on the multifamily activity and for work on the single-family activity. Since Little Haiti’s multifamily and single-family activities are separate, the cost to each activity should also be tracked and reported separately. Little Haiti acknowledged that it should have separated the time worked on the two activities. Further, the developer budgeted \$65,000 in tenant certification services for the project’s development. The balance of the funds not yet reimbursed to Little Haiti under this category, \$31,257 (\$65,000 - \$33,743), would be funds to be put to better use and should be reallocated for grantee’s other eligible NSP2 activities.



(2) Purchased Goods Not Energy or Water Efficient

In its NSP2 application, the grantee defined the standards for its housing rehabilitation work. It indicated that it would require NSP2 housing construction to be energy efficient and incorporate cost-effective green improvements. The grantee adopted HUD's standard for gut rehabilitation for residential buildings up to three stories, which must be designed to meet the standard for Energy Star Qualified New Homes. Other rehabilitation must meet these standards to the extent applicable to the rehabilitation work undertaken, such as replacing older obsolete products and appliances with Energy Star-labeled products. Water-efficient toilets, showers, and faucets, such as those with the Water Sense label, must be installed. The grantee stated that these green features would save homeowners 20 to 25 percent of their energy costs.

Little Haiti believed that the products purchased complied with the standards. However, our review of documentation provided by the contractor and Internet searches of the products, such as the toilet, air conditioning unit, and refrigerator purchased for the multifamily units, did not support that they complied with the energy efficiency or water conservation standards. Neighborhood Housing Services acknowledged that it did not incorporate monitoring procedures to ensure that the multifamily development complied with the green standards, but that it will incorporate them into future inspections. By not installing energy- and water-efficient products, Little Haiti may have caused tenants to unnecessarily pay more for their energy consumption, which was not the intent of the program.

(3) Excess Tenant Rents

Appendix I.B.2.a. of the May 4, 2009, Notice of Fund Availability for NSP2 states that the applicant in its NSP2 application will define the "affordable rents" that it will apply for each or all of its NSP2 activities. In its NSP2 application, the grantee stated that it adopted the HOME Investment Partnerships Program standards for affordable rent definition, rent limitations, utility allowances, and rental and home ownership periods of affordability and other provisions. Specifically, it defined affordable rents as rents that do not exceed 30 percent of the monthly gross income of eligible households.

We reviewed the rents paid by tenants living at the multifamily development. As of the March 31, 2012, rent roll, 61 of the 65 units were occupied. Of the 61 families, 31 paid rents that exceeded 30 percent of their monthly gross income. The excess rent paid by the 31 families totaled \$34,869.

Little Haiti had appropriately set aside 25 of the 65 units to house families with incomes at 50 percent of the area median income or below and allowed them to pay a lower rent amount. It explained that due to the cash flow needs of the development, the lower rent amounts were available only on the studio and one-bedroom units, not the two-bedroom units. When additional eligible

families wanted to rent at the development or to rent a two-bedroom unit, officials from Little Haiti and the management company said that a family could only do so if its monthly gross income was at least 2.5 times the rent amount. Officials explained that the 2.5 threshold was used because it was an industry standard. The rent amounts were below the HUD published fair market rents for the area.

However, the procedure followed by Little Haiti was not consistent with what the grantee agreed to in its NSP2 application. Little Haiti was not aware of the affordable rent definition established in the grantee's NSP2 application, nor was it aware of the grantee's policies and procedures related to rent limits. Additionally, Neighborhood Housing Services stated that it had not yet performed a review on the tenant files to ensure that Little Haiti complied with the affordable rent definition, but moving forward it will take steps to ensure compliance.

For the 31 families, we calculated the monthly excess rent amount by subtracting 30 percent of the family's monthly gross income from the monthly rent amount. We calculated the excess rent amount for a period by multiplying the monthly excess rent amount by the number of full months the tenant leased the unit through June 30, 2012 (see appendix C for details). Because the grantee defined "affordable rent" as rent that does not exceed 30 percent of the monthly gross income of the eligible household, the \$34,869 was an ineligible receipt and should be repaid to the respective tenants.

## Conclusion

We found no evidence that the allegations of the complaint were valid. However, the audit showed that Little Haiti did not fully comply with Federal requirements by (1) reimbursing itself for tenant certification services performed, although the codeveloper fee Little Haiti received paid for this service; (2) not ensuring that energy efficiency and water conservation standards were met; and (3) failing to comply with the consortium's affordable rent definition. The first deficiency occurred because Little Haiti believed that the codeveloper fee earned was not required to be spent on the multifamily development costs. For the second deficiency, it believed it complied with the green standards. The third deficiency occurred because Little Haiti was unaware of the rent policy the grantee established in the NSP2 application. In addition, Neighborhood Housing Services did not monitor Little Haiti to ensure that it complied with the energy efficiency and water conservation standards and the affordable rent definition established by the grantee in its NSP2 application. As a result, \$20,183 in NSP2 funds was inappropriately reimbursed to Little Haiti for the services paid for by the codeveloper fee; tenants may have paid higher utility costs, which is contrary to the program's intent; and 31 tenants paid excess rents totaling \$34,869.

## Recommendations

We recommend that the Director of Community Planning and Development of the Miami field office require Neighborhood Housing Services to

- 1A. Repay its NSP2 from non-Federal funds for \$20,183 in tenant certification services paid to Little Haiti.
- 1B. Determine the amount of the \$13,560 in consultant costs charged to the tenant certification services line item that is related to the single-family program and reclassify that amount to the single-family activity. In addition, it should determine the amount of the \$13,560 that is related to the multifamily program but not related to the tenant certification services and reclassify that amount to an appropriate multifamily line item.
- 1C. Reallocate the \$31,257 in funds not yet drawn down from the tenant certification services line item for other eligible NSP2 uses.
- 1D. Support that appliances and products purchased with NSP2 funds for the multifamily development complied with the energy efficiency and water conservation standards stated in the grantee's NSP2 application.
- 1E. Repay the excess rent amount of \$34,869 to the 31 families living in the multifamily property whose rent amount exceeded 30 percent of their monthly gross income.
- 1F. Revise and enforce its policies and procedures to ensure that the consortium members comply with the standards and definitions stipulated in the NSP2 application. Specifically, Neighborhood Housing Services should incorporate detailed guidance on what and how to monitor its consortium members to ensure that appliances and products purchased with NSP2 funds meet the energy efficiency and water conservation standards and that rents charged to eligible households meet the affordable rent definition.

## SCOPE AND METHODOLOGY

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Our objective was to determine whether Little Haiti used Recovery Act NSP 2 funds in compliance with Federal regulations. Specifically, our work focused on the purchase and rehabilitation of the multifamily property to determine whether (1) Little Haiti complied with Federal regulations when selecting and using the developer, contractor, and management company in the purchase, rehabilitation, and management of the multifamily property; (2) NSP2 funds were used for eligible program costs and sufficiently supported; and (3) obvious deficiencies occurred in the rehabilitation work performed on the multifamily property.

To accomplish our objective, we

- Reviewed relevant Federal laws and regulations to include the Recovery Act, Notice of Fund Availability for NSP 2, 24 CFR Part 230, and NSP Policy Alerts;
- Communicated with HUD officials to clarify HUD regulations and policies and discuss deficiencies; and
- Interviewed Neighborhood Housing Services and Little Haiti officials to understand the procedures staff followed in administering NSP2 as they related to our audit objectives and to obtain clarifications during fieldwork.

In addition, we determined whether the purchase of the multifamily property and rental of the units complied with Federal requirements. Our review indicated an issue with the tenant rents. As of the March 2012 rent roll, 61 of the 65 units were occupied. Using the tenants' income data and the rent amounts provided by Little Haiti, we identified 31 tenants whose rent may have exceeded 30 percent of the income amount. We selected these files for review to determine whether Little Haiti complied with the affordable rent definition indicated in the grantee's NSP2 application to HUD.

We also reviewed deposits and disbursements from Little Haiti's operating account for the period January 1, 2010, to April 4, 2012, to determine whether deficiencies existed. We selected 16 the transactions based on high dollar amount, frequency of receipt or payment, name of payee, or description of the transaction. We also reviewed drawdowns to assess whether the expenditures were eligible to be paid with NSP2 funds and sufficiently supported. Excluding the vouchers reviewed by HUD during its monitoring review, we selected four vouchers that had the largest drawdown amounts from Little Haiti's multifamily rental activity. The vouchers, totaling \$1,280,052, accounted for 37 percent of the total drawdown amount from the multifamily activity and 29 percent of the total drawdown amount for all Little Haiti activities.

We did not perform a 100 percent selection or a representative selection of the tenant files, deposits and disbursements listed on Little Haiti's operating account, or drawdown packages using statistical or nonstatistical sampling. Given our methodologies, the results of our review apply only to the samples selected for review and cannot be projected to the universe of tenants, Little Haiti's deposits and disbursements, and drawdowns.

Further, to review the rehabilitation work, we interviewed the general contractor and developer to obtain information and clarification on the work performed, inspectors who performed the inspections before the drawdown of NSP2 funds was approved, and a former City of North Miami plumbing inspector. We subpoenaed and reviewed records from the City pertaining to code violations and permit history regarding the multifamily property. In addition, we compared the green building features the grantee established in its NSP2 application with the rehabilitation work, and selected a few products purchased and installed at the multifamily development to determine whether they complied with the energy efficient and water conservation standards. Lastly, we conducted an onsite visit to inspect the property and selected units.

We determined that computer-processed data generated by Little Haiti or Neighborhood Housing Services were not used to materially support our audit findings, conclusions, and recommendations. Thus, we did not assess the reliability of their computer-processed data.

Our review generally covered the period February 1, 2009, to January 31, 2012, and was extended as needed. We performed the work from March to July 2011 at Little Haiti's office located at 181 NE 82<sup>nd</sup> Street, Miami, FL, at Neighborhood Housing Services' office located at 300 NW 12<sup>th</sup> Avenue, Miami, FL, and our office in Miami, FL.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# INTERNAL CONTROLS

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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.

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## Relevant Internal Controls

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

- Program operation - Policies and procedures that management has implemented to reasonably ensure that the program meets its objectives.
- Compliance with laws and regulations - Policies and procedures that management has implemented to reasonably ensure that program implementation is consistent with laws and regulations.
- Relevance and reliability of information - Policies and procedures that management has implemented to reasonably ensure that operational and financial information used for decision making and reporting externally is relevant, reliable, and fairly disclosed in reports.
- Safeguarding of assets - Policies and procedures that management has implemented to reasonably prevent and promptly detect unauthorized acquisition, use, or disposition of assets and resources.

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:

- Little Haiti did not fully comply with Federal requirements by (1) reimbursing itself for tenant certification services performed, although the codeveloper fee that Little Haiti received covered this service; (2) not ensuring that energy efficiency and water conservation standards were met; and (3) failing to comply with the consortium's affordable rent definition.

## APPENDIXES

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### Appendix A

#### SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

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<u>Recommendation number</u>	<u>Ineligible 1/</u>	<u>Funds to be put to better use 2/</u>
1A	\$ 20,183	
1C		\$ 31,257
1E	<u>\$ 34,869</u>	
Total	<u>\$ 55,052</u>	<u>\$ 31,257</u>

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. If the grantee implements our recommendation, it will reallocate the remaining funds from the tenant certification services line item to other eligible NSP2 uses.



## Appendix B

# AUDITEE COMMENTS AND OIG'S EVALUATION

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### Ref to OIG Evaluation

### Auditee Comments



**Little Haiti Housing Association, Inc.**

*"Building Homes. Building Lives. Building Community"*

August 8, 2012

James D. McKay  
Regional Inspector General for Audit  
Office of Audit (Region 4)  
Richard B. Russell Federal Building  
75 Spring Street, SW, Room 330  
Atlanta, GA 30303-3388

Dear Mr. McKay:

As requested in your letter of July 25, 2012 we are providing this letter electronically within 15 calendar days of receipt of your letter. This letter then serves as the written response of Little Haiti Housing Association, Inc. (LHHA) to the draft audit report provided to us by your office with the aforementioned letter.

We appreciate all the hard work the staff of the Office of Inspector General (OIG) has performed in its review of LHHA's administration of the Neighborhood Stabilization Program 2 (NSP2) funds, and the many courtesies extended to us throughout the process. In particular we appreciate being given the opportunity to meet with OIG staff twice in the last month to review and respond to their review results. We were extremely pleased to be notified that OIG staff "found no evidence that the allegations in the complaint [regarding Bel House Apartments] were valid". This was certainly the outcome we expected. LHHA is extremely proud of the completed work at Bel House apartments and took all actions necessary to make certain that at the end of the day the project is of exceptional quality.

In terms of the finding that LHHA did not fully comply with Federal requirements of the NSP2 program by 1) reimbursing itself for tenant certification services already paid for through co-developer fees, 2) not ensuring energy efficiency and water conservation standards were met as per the funding application, and 3) failure to comply with the affordable rent definitions as per the funding application. Responses to each of the three audit results/findings are as follows:

***Tenant Certification Services as a Project Delivery Cost versus Co-developer Fees:*** The Audit Report states that LHHA reimbursed itself for tenant certification services already paid for by the co-developer fee it received for completion of work at Bel House Apartments. However, the co-developer agreement (*see excerpt enclosed*) states that one of LHHA's roles as co-developer, and there are multiple roles, was to "assist, advise and consult on the selection of and provide coordination and supervision of the tenant certification process". The co-developer agreement in no way states that it was the responsibility of LHHA to do or perform the actual tenant certification. Furthermore, in the co-developer agreement there is not a "schedule of values" which states how much of the co-developer fees were to be received for fulfilling each of these

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### **Comment 1**

various responsibilities, but that these fees were to be received for completion of the project as a whole. Notably, co-developer fees were paid for with non-NSP2 funds.

A very distinct line item in the development budget was labeled as tenant certification services with a \$65,000 allocation. The actual work of performing tenant certification meant doing client intake, making certain that applications were properly completed and most importantly the collection of documentation of income and household size for assessment and verification of income eligibility. This activity also included significant copying of documents and filing and overall was a very labor intensive process. Providing and performing these direct services was an eligible project delivery cost and was very distinct from assisting, advising, consulting and coordinating the process. LHHA performed these services and did so for less than the \$65,000 with the balance of funds being reallocated to cover other approved development costs, notably additional construction costs that arose from change orders initiated by LHHA to create a superior project.

From the final exit meeting held with OIG staff on August 2, 2012 at the offices of Neighborhood Housing Services of South Florida (NHSSF) it was shared that in hindsight a separate service agreement for the provision of tenant certification services by LHHA should have been developed and executed, between LHHA and RUDG-LHHA Bel House, LLC (the LLC), as the owner entity for Bel House Apartments. It was also shared that LHHA had a verbal agreement with its development partner to provide and perform these services, as is evidenced by the signed draws coming from the managing member of the LLC and payment of these expenses to LHHA. To document this agreement LHHA will provide the OIG and HUD with a signed statement within the next 30 days from the managing member of the LLC that this agreement was indeed in place.

**Comment 2**

***Purchased Goods Not Energy or Water Efficient:*** LHHA and partners will work to collect documentation within the next 30 days as verification that all appliances purchased and installed were energy efficient and met the requirements for "green build" as established in the consortium application for funding. NHSSF as lead agency and grantee has also responded to this concern (see enclosed response letter from NHSSF).

**Comment 3**

***Excess Tenant Rent:*** LHHA, NHSSF (and all members of the Miami-Dade NSP Consortium) adopted the HOME affordability regulations as detailed in the funding application. However nowhere in the application did it state we would individually calculate each tenant's rent based upon that tenant's particular family income. The statement in the application that rents would not exceed "30%" of income was a clear reference to the manner of calculating maximum rents outlined in the HOME affordability regulations (24 CFR 92.252). Those regulations, in relevant part, state that the maximum amount of rent that can be charged shall be a "rent that does not exceed 30% of the adjusted income of a family whose annual income equals 65% of the median income for the area" and that 20% of the units must have a "rent that does not exceed 30% of the annual income of a family whose income equals 50% of the median income for the area".

In other words, maximum rent is calculated by first determining what 65% and 50% of the area median income is and multiplying each of those two numbers by 30%. Obviously tenants with incomes lower than those percentages will be paying more than 30% of their income in rent but that is clearly permissible under the HOME regulations.

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It was shared by the staff of OIG at the final exit meeting held on August 2, 2012 that this whole concern is based not so much of what was clearly defined in the application itself in terms of statements to adhere to HOME affordability regulations, but in an appendix for definitions whereby a general statement was made saying rents will be no more than 30% of tenants income. Staff of NHSSF and LHHA has suggested that an amended definition of affordable rents should be drafted and submitted for replacement in this particular appendix.

Finally, in the case of Bel House, there were two buildings, one vacant building being fully renovated, then rented, and another, occupied, to receive minor improvements. LHHA analyzed the income of the existing tenants in the second building, finding some with incomes well below 50% of AMI, but did not displace these tenants, nor change the terms of existing leases by lowering the rent called for in the leases. LHHA certainly was not going to move out tenants whose incomes happened to be well below 50% of AMI, but were good tenants who pay their rents. Therefore, all tenants have been treated fairly, and according to HUD HOME standards.

In conclusion, we appreciate the hard work of OIG staff in fulfillment of your offices mandate to ensure that taxpayer dollars, NSP2 funds in this case, are properly used and administered. We again also wish to express our appreciation for the professional and extremely courteous way OIG staff engaged with us, our development partners at Bel House Apartment, and our partners at NHSSF. I also need to applaud them for their considerable patience as well. We feel and hope that we have provided more than adequate response to all concerns detailed in this review and will diligently work to provide follow-up materials by the 30 days we have committed to in this letter. If there are any other actions or information required from us please let us know and we will act on this matter as quickly as possible. I can always be reached at 786.230.3779.

Sincerely,



Samuel Diller  
Executive Director

SFD

Enclosures: *Excerpt from Co-Developer Agreement and Response to Draft Report from NHSSF*

Cc: *Arden Shank, Peter McDougal and LeeAnn Robinson at NHSSF  
Kilah White, OIG  
Eileen Leung, OIG*

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Exhibit "C"

OWNER / CO-DEVELOPER AGREEMENT

THIS OWNER CO-DEVELOPER AGREEMENT (this "Agreement") is made and entered into effective as of the 15 day of December, 2018 by and between Little Haiti Housing Association, Inc. (the "Co-Developer"), and RUDG-LHHA Bel House, LLC (the "Company").

WITNESSETH:

WHEREAS, the Company has been formed for the purposes, inter alia, of acquiring, financing, owning, constructing, developing, maintaining, improving, operating, leasing and selling or otherwise disposing of certain real property together with all improvements, furnishings, equipment and personal property to be located thereon (together, the land and improvements are known as The Bel House Apartments and will be collectively referred to as the "Project"), which Project is intended to be rented and managed in accordance with NSP2 guidelines;

WHEREAS, in order to effectuate the purposes for which it has been formed, the Company has engaged the services of the Co-Developer with respect to overseeing the affordable housing tenant certifications and relocation act compliance of the Project for the Company; and

WHEREAS, the parties desire to enter into this Agreement that amends and restates in total any and all prior agreements and sets forth the obligations of, and the services to be performed by, the Co-Developer and the compensation for such services.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

**Section 1. Obligations of the Co-Developer.** The Co-Developer shall have the following duties, to the extent they have not already been performed:

- (a) to assist, advise and consult on the selection of and provide coordination and supervision of the tenant certification process;
- (b) to be cognizant of and advise the Company with respect to any and all rules and regulations of the NSP2 Program;
- (c) to assist, coordinate and supervise the relocation of any tenants under the Uniform Relocation Act;
- (d) to consult, advise and assist in dealing with the City of North Miami Community Development Department
- (e) to record the progress on all of the foregoing, and, as requested, submit written progress reports to the Company; and



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Miami Dade NSP Consortium's Lead Member Response  
HUD OIG Audit Report on Little Haiti Housing Association

Comment 1

1) Tenant Certification Services Paid by Co-developer Fee and NSP2 Funds:

While the co-developer agreement states that one of Little Haiti's responsibilities was to "assist, advise and consult on the selection of and provide coordination and supervision of the tenant certification process", specific compensation for the actual services would be and are listed expenses in the project budget. The other co-developer would be the first to object to "double-billing", but obviously did not object. In the extreme, the other co-developer would not be allowed to charge "developer overhead" in the project budget, certainly a valid expense. A developer fee is earned not for itemized expenses, but for the overall success of the project. Therefore, the payment of specific expenses of providing tenant certification should be deemed acceptable.

Comment 2

2) Purchased Goods Not Energy or Water Efficient:

NHS-SF realized during the audit that it had not yet instituted monitoring procedures for the energy efficient and cost-effective green improvements for all NSP2 projects. Bel House was the first building to be completed. When the auditors made comments on this deficiency, we advised the Consortium's third-party inspecting engineers to start monitoring all of the Consortium's projects for compliance to the energy efficient/green features, in this case, to determine if, in fact, the toilets, showers and faucets had the Water Sense labels or equivalent, and that the appliances and HVAC units were Energy Star. We will insure that Little Haiti responds to HUD appropriately by supplying backup paperwork, after the fact, to support the green features at Bel House. The HUD OIG observations have been helpful to us as Lead Member, as we continue to learn necessary elements of effective project monitoring.

3) Excess Tenant Rent:

Comment 3

The rents in an affordable project will be based on various levels of Area Median Income (AMI), whether that is 50%, 60%, or 80% of AMI. The rents for a designated number of units will be so stated. Applicants will apply to be tenants based on those posted rents. If a tenant applied for a unit with a rent based on 50% of AMI, his income could not exceed that 50% ceiling. If his income was in fact at 45% of AMI, but he was determined to be a qualified, responsible tenant, then a lease would be signed at the posted rent. If the AMI were \$50,000, then the tenant income ceiling would be \$25,000, and the annual rent would be \$7,500 (\$625 on a monthly basis). In the example above, if the actual tenant's income were at 45% of AMI, that is, \$22,500, then the \$625 contractual rent would work out to be 33.3% of his monthly income.

In the case of Bel House, there were two buildings, one vacant building being fully renovated, then rented, and another, occupied, to receive minor improvements. Little Haiti analyzed the income of the existing tenants in the second building, finding some with incomes well below 50% of AMI, but did not displace these tenants, nor change the terms of existing leases by lowering the rent called for in the leases. Little Haiti certainly was not going to move out tenants whose incomes happened to be well below 50% of AMI, but were good tenants who pay their rents. Therefore, all tenants have been treated fairly, and according to HUD HOME standards.

Neighborhood Housing Service of South Florida, Inc., HUD NSP2 Grantee

By: Peter McDougal  
Peter McDougal, Housing Finance Director & NSP2 Coordinator



## OIG Evaluation of Auditee Comments

**Comment 1** Little Haiti did not agree with the tenant certification services issue in the finding. It believed that one of its responsibilities as the codeveloper was to assist, advise, consult, coordinate, and supervise the tenant certification process, which differed from the actual performance of tenant certification. Little Haiti stated it had a verbal agreement with the owner to perform the tenant certification services. To clarify the issue, Little Haiti recommended that it execute an agreement with the owner of the multifamily development, RUDG-LHHA Bel House, LLC, to provide tenant certification services. In addition, Little Haiti indicated that it had reallocated the balance of the funds budgeted to the tenant certification line item to other approved development costs.

The overall performance of the tenant certification process entails assisting, advising, consulting, coordinating, and supervising the client intake, application and document collection, income verification, copying, and filing processes. OIG's assessment was based on the conditions established by the codeveloper agreement. HUD and the OIG will review documentation Little Haiti provides to determine whether the recommendation is resolved. In addition, to address recommendation 1C, Little Haiti needs to provide the applicable documents to show that it reallocated the balance of the funds to other eligible NSP2 activities.

**Comment 2** Little Haiti stated that it will collect documents to support that appliances purchased and installed met the requirements established in the grantee's NSP2 application. In addition, Neighborhood Housing Services stated that it advised its third party inspection engineers to monitor a project's compliance with the green features.

Little Haiti's submission of the abovementioned documents will resolve recommendation 1D. In addition, to address recommendation 1F, the grantee needs to provide to HUD its revised policies and procedures which incorporate detailed guidance on what and how consortium members will be monitored to ensure that appliances and products purchased with NSP2 funds meet the green improvement standards.

**Comment 3** Little Haiti disagreed with the rent calculation issue in the finding. It stated that the grantee adopted the HOME affordability regulations and that the affordable rent definition in the grantee's NSP2 application referred to the manner in which maximum rents are calculated, and not that tenant rents are calculated based upon the tenant's family income.

The Notice of Fund Availability for NSP2 allows an applicant to define the "affordable rents" it will apply for its NSP2 activities. In its NSP2 application to HUD, the grantee stated that it adopted the HOME standards for affordable rent definitions and it specifically defined affordable rents as rents that do not exceed

30 percent of the monthly gross income of eligible households. We based our assessment on this stipulation which the grantee established in its application to HUD. As a result, the grantee did not charge rents as defined in its NSP2 application and the \$34,869 in excess rents received should be repaid to the respective tenants.

## Appendix C

### CALCULATED EXCESS RENT AMOUNT

#	Unit # (a)	Lease start date	30% of tenant's monthly income	Lease rent (before 3/1/2012)	Total excess rent from lease start date to 3/1/2012 (b)	Lease rent (effective 3/1/2012)	Total excess rent from 3/1/2012 to 6/30/2012 (b)	Total excess rent amount (b)
1	W107	4/1/2011	\$ 208	\$ 564	\$ 3,913	\$ 533	\$ 1,299	\$ 5,212
2	W109	4/1/2011	\$ 231	\$ 564	\$ 3,666	\$ 533	\$ 1,209	\$ 4,876
3	W110	3/1/2011	\$ 266	\$ 564	\$ 3,575	\$ 533	\$ 1,068	\$ 4,642
4	W203	4/1/2011	\$ 261	\$ 564	\$ 3,330	\$ 533	\$ 1,087	\$ 4,417
5	W205	3/16/2012	\$ 478	\$ 541	\$ -	\$ 513	\$ 105	\$ 105
6	W208	3/1/2011	\$ 454	\$ 564	\$ 1,205	\$ 533	\$ 314	\$ 1,520
7	W210	2/1/2011	\$ 693	\$ 725	\$ 417	\$ 725	\$ 128	\$ 545
8	E101	2/1/2012	\$ 463	\$ 541	\$ 78	\$ 513	\$ 198	\$ 276
9	E102	1/21/2012	\$ 425	\$ 541	\$ 116	\$ 513	\$ 350	\$ 466
10	E103	12/17/2011	\$ 481	\$ 541	\$ 120	\$ 513	\$ 128	\$ 248
11	E104	12/17/2011	\$ 753	\$ 825	\$ 143	\$ 825	\$ 286	\$ 430
12	E106	2/20/2012	\$ 601	\$ 725	\$ -	\$ 725	\$ 496	\$ 496
13	E108	2/1/2012	\$ 654	\$ 725	\$ 71	\$ 725	\$ 284	\$ 355
14	E110	2/25/2012	\$ 652	\$ 725	\$ -	\$ 725	\$ 292	\$ 292
15	E111	2/8/2012	\$ 654	\$ 725	\$ -	\$ 725	\$ 284	\$ 284
16	E113	12/21/2011	\$ 650	\$ 825	\$ 350	\$ 825	\$ 700	\$ 1,050
17	E205	2/14/2012	\$ 550	\$ 725	\$ -	\$ 725	\$ 699	\$ 699
18	E206	2/25/2012	\$ 550	\$ 725	\$ -	\$ 725	\$ 701	\$ 701
19	E207	12/30/2011	\$ 551	\$ 725	\$ 349	\$ 725	\$ 697	\$ 1,046
20	E209	12/19/2011	\$ 786	\$ 875	\$ 177	\$ 875	\$ 354	\$ 532
21	E210	1/27/2012	\$ 673	\$ 725	\$ 52	\$ 725	\$ 209	\$ 261
22	E303	1/23/2012	\$ 475	\$ 625	\$ 150	\$ 625	\$ 600	\$ 750
23	E304	12/17/2011	\$ 702	\$ 875	\$ 346	\$ 875	\$ 692	\$ 1,038
24	E305	1/2/2012	\$ 560	\$ 725	\$ 165	\$ 725	\$ 660	\$ 825
25	E307	2/1/2012	\$ 570	\$ 725	\$ 155	\$ 725	\$ 620	\$ 775
26	E308	2/10/2012	\$ 507	\$ 533	\$ -	\$ 533	\$ 104	\$ 104
27	E309	12/29/2011	\$ 660	\$ 875	\$ 430	\$ 875	\$ 860	\$ 1,290
28	E311	2/20/2012	\$ 563	\$ 725	\$ -	\$ 725	\$ 649	\$ 649
29	E312	12/16/2011	\$ 700	\$ 725	\$ 50	\$ 725	\$ 100	\$ 150



## CALCULATED EXCESS RENT AMOUNT (continued)

#	Unit # (a)	Lease start date	30% of tenant's monthly income	Lease rent (before 3/1/2012)	Total excess rent from lease start date to 3/1/2012 (b)	Lease rent (effective 3/1/2012)	Total excess rent from 3/1/2012 to 6/30/2012 (b)	Total excess rent amount (b)
30	E313	1/18/2012	\$ 743	\$ 875	\$ 132	\$ 875	\$ 527	\$ 658
31	E314	12/15/2011	\$ 514	\$ 564	\$ 101	\$ 533	\$ 78	\$ 179
	Total				\$ 19,091		\$ 15,778	\$ 34,869

### Notes

(a) The multifamily development is comprised of two separate buildings, a 20-unit west building and a 45-unit east building. A "W" in front of the unit number signifies a unit from the west building, and an "E" signifies a unit from the east building.

(b) Differences in calculation are due to rounding.