



**U. S. Department of Housing and Urban Development  
Office of Inspector General**

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**MEMORANDUM NO: 2009-SE-0801**

December 08, 2008

MEMORANDUM FOR: Janet M. Golrick, Acting Deputy Assistant Secretary for Multifamily Housing, HT

*Joan S. Hobbs*

FROM: Joan S. Hobbs  
Regional Inspector General for Audit, OAGA

SUBJECT: HUD's Recent Performance-Based Contract Administration Activity Was Inconsistent with Agreed-Upon Management Decisions between HUD and HUD OIG on Audit Report 2007-SE-0001, Dated June 7, 2007

**INTRODUCTION**

We performed a review of the U.S. Department of Housing and Urban Development's (HUD) recent invitation to submit applications (invitation) for performance-based contract administrator services for Southern California to be effective June 1, 2009, and its related annual contributions contract (contract) due to a complaint and concerns that this activity may have been inconsistent with agreed-upon management decisions on Audit Report 2007-SE-0001. The purpose of this review was to determine whether the invitation and the related proposed contract were consistent with the management decisions on our audit report and to advise you of any inconsistency.

**METHODOLOGY AND SCOPE**

To determine whether the invitation and its contract were consistent with the agreed-upon management decisions between HUD and the HUD Office of Inspector General (OIG) on Audit Report No. 2007-SE-0001, issued June 7, 2007, we focused on recommendations 1A and 1B and conducted an analysis of the invitation and its contract. Our objective was to inform HUD management of any inconsistencies between the invitation/contract and the management decisions.

To accomplish our objectives, we compared the following documents:

- HUD's invitation, issued October 1, 2008, and its contract.

- HUD's prior invitation, issued in 2003, as well as the original request for proposals and other versions of the contract.
- HUD OIG Audit Report No. 2007-SE-0001 and the management decisions between HUD and HUD OIG for recommendations 1A and 1B of that report.

This was a limited scope review. Therefore, our work was not performed in accordance with generally accepted government auditing standards. We performed our review in October and November 2008 in the HUD OIG office in Seattle, Washington.

## **BACKGROUND**

We previously audited HUD's payments to project-based Section 8 contract administrators (contract administrators) for selected incentive-based performance standards (Audit Report 2007-SE-0001, issued on June 7, 2007). We determined that HUD had eliminated the work required by the contract related to tenant income matching and funding for the housing assistance payments contracts. We also determined that although the work had been eliminated for a task relating to budgets and requisitions, HUD specifically informed the contract administrators that they would continue to receive the administrative fee for this task until the contracts were revised. However, HUD continued to include all of the tasks for which work was no longer required when entering into or renewing contracts. Once new contracts were executed, HUD continued to make payments because the tasks were still included in the contracts and there were no provisions for reducing the administrative fee.

Finding 1 of the report noted that HUD paid project-based Section 8 contract administrators for work that HUD no longer required and the contract administrators did not perform. As a result, during fiscal year 2006, HUD paid a cumulative total of \$27.2 million, 19 percent of the total basic administrative fee, to the 53 program contract administrators nationwide for work that HUD did not require the contractors to perform.

We recommended that the Deputy Assistant Secretary for Multifamily Housing

- 1A. Revise the annual contributions contract when entering or renewing contracts so that it properly reflects the work required.
- 1B. Include in the revised annual contributions contract a method for adjusting administrative fees when HUD modifications change or eliminate work for which contract administrators are specifically paid. This revision would result in about \$27.2 million in annual savings from discontinuing payments for services that are no longer required.

The October 5, 2007, proposed management decisions from the Acting Deputy Assistant Secretary for Multifamily Housing stated that for recommendation 1A,

The Office of Housing has initiated actions to begin the process of revising the Performance Based Annual Contributions Contract (PB-ACC) reflecting current program practices and related contract administration activities. Based on the recommendations of

a private third party assessment of the contract, there will be significant conceptual and structural changes which will require clearance internally and externally, including posting proposed program changes in the Federal Register for comment. Upon contract finalization additional implementation activities include guidebook revisions and training for HUD, the industry representatives and Performance Based Contract Administration staff. Target Date for completion: December 31, 2008.

For recommendation 1B, the Acting Deputy Assistant Secretary for Multifamily Housing stated,

PB-ACC revisions will consider commensurate administrative fees for required contractual performance. Due to the extent of contract changes, funds attributable to better use of funds in the audit will not bear a direct relationship to the revised contract due to the changes in tasks and commensurate functions. Target Date for completion: December 31, 2008.

On October 31, 2007, our office concurred with the proposed management decisions with final action target dates of October 31, 2008. The target date is the date by which HUD should have implemented OIG's recommendations.

On September 19, 2008, we followed up with the Acting Deputy Assistant Secretary for Multifamily Housing to find out whether HUD was still on target to meet the October 31, 2008, final action target date for revision of the contract. The Acting Deputy stated that "based on limited staff and travel resources, a working group has not yet been established to revise the contract. We are anticipating forming a working group in the late first quarter of FY [fiscal year] 2009." While the Office of Multifamily Housing delays the implementation of our recommendations, HUD continues to waste \$27.2 million annually nationwide on all of its performance-based contract administration contracts for tasks that are no longer performed.

### **RESULTS OF REVIEW**

On October 1, 2008, HUD's Office of Multifamily Housing issued an invitation to eligible bidders to enter into a contract for contract administration services to make and administer housing assistance payments for the Southern California geographic service area. We reviewed this invitation and its related proposed contract and determined that HUD's actions were inconsistent with the management agreement reached on OIG Audit Report 2007-SE-0001. This memorandum is to advise you of this inconsistency.

Our review found that HUD did not implement the two recommendations. As a result, the deficiencies reported in our audit report were not corrected. Consequently, HUD could pay as much as \$1.9 million or 19 percent of the contract's basic fee each year for work not required and not performed on this contract<sup>1</sup> and will not achieve its objective of obtaining the best value for dollars spent for contract administrator services.

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<sup>1</sup> These amounts are based on the basic fee earned by the current contract administrator for Southern California for fiscal year 2006, the year reported on in HUD OIG Audit Report 2007-SE-0001.

## **Recommendation 1A**

Our review of the invitation and its proposed contract revealed that both continued to include tasks for which the contract administrators were not required to perform any work. Specifically, tasks 8, related to tenant income matching; 11, related to budgets, requisitions, and revisions; and 12, related to year-end settlement statements were still included in the invitation and the contract.

During our prior audit, HUD officials told us that the contract was not changed once work was eliminated because the work eliminated was replaced by new work requirements and an independent assessment of the contract was considered necessary before changes were made. However, our prior audit work determined that these additional work requirements were already covered elsewhere in the contract. During current work on a separate assignment, when we asked for documentation to show what new work, not included in the contract, that the contract administrators were required to perform, we were told that there was nothing formal that could be easily provided, so nothing was provided.

Further, the invitation stated in its Technical Approach section that applicants would not be required to address tenant income verification (task 8) or budget statements (task 11). However, the incentive-based performance standards performance requirements summary tables in both the invitation and the contract continued to include these tasks. In addition, these tasks accounted for 3 percent and 8 percent of the contract basic fee, respectively.

During our current review of the contract under a separate assignment, HUD told us that it paid about \$300,000 for an independent party to assess the contract and provide recommendations. The final deliverable was received by HUD on February 9, 2007. This independent assessment recommended that HUD modify the contract to eliminate obsolete tasks and realign the fee structure with resource requirements since the tasks and the core program requirements were no longer in step with the work being conducted. The independent assessment estimated that the time it would take to revise the tasks would be about five months including the involvement of HUD's Office of General Counsel. It further estimated that an additional one to two months would be required to amend the contract and provide adequate training and explanation of the changes to each of the contract administrators. Even though HUD had more than a year and a half to incorporate these changes, it released the current invitation without the recommended changes. This issue will be further analyzed in our separate review of the contract.

The following factors may have contributed to these recommendations remaining uncorrected:

- The Director of HUD's Office of Housing Assistance Contract Administration Oversight explained that HUD rebid the performance-based contract administrator contract for the geographic area of Southern California before making the agreed-to changes because of the length of time needed to review proposals and the need for the Southern California area to be rebid. HUD entered into a short-term extension with the current contract administrator to provide sufficient time to rebid the contract, and it had not completed the revised contract. However, as noted above, HUD had known that it needed to make changes to the contract since February 2007 and agreed with OIG to revise the contract by October 31, 2008.

- HUD's position continued to be that although the contract included tasks that the contract administrators were no longer required to perform, they performed tasks that were not included in the framework of the original contract. However, as noted above, we found in our audit report 2007-SE-0001 that the tasks referred to were already included in other tasks found in the contract. In addition, when we asked for documentation of any additional tasks, HUD could not provide that documentation.

### **Recommendation 1B**

Additional review of the invitation and contract showed that neither document included the agreed-to provision for allowing for programmatic flexibility and did not include any provision for making adjustments to the contract in the future, which would allow HUD to make adjustments to the workload and related administrative fees as program needs change. Without the ability to make these changes to the contract, HUD could pay as much as \$1.9 million or 19 percent of the contract's basic fee each year for work not required and not performed on this contract.<sup>2</sup> Consequently, HUD will not achieve its objective of obtaining the best value for dollars spent for contract administrator services because it would be paying for services not received.

## **RECOMMENDATIONS**

We recommend that HUD's Assistant Secretary for Housing

- 1A. Immediately rescind the invitation until such time as it and its related contract are revised so they do not include tasks that are not required, include a mechanism to adjust workload and commensurate fees as program needs change, and include a provision for making adjustments to the contracts in the future if requirements change.

## **MANAGEMENT'S RESPONSE**

We discussed our results with your office during the review. We also provided your office a draft report on November 26, 2008. You disagreed with the finding. Your response and our evaluation of your response are included in the appendix to this report.

In accordance with HUD Handbook 2000.06, REV-3, for each recommendation in this memorandum, please provide a status report within 60 days on (1) the corrective action taken, (2) the proposed corrective action and the date to be completed, or (3) why action is considered unnecessary. Additional status reports are required 90 days and 120 days after this memorandum is issued for any recommendation without a management decision. Also, please furnish us copies of any correspondence or directives issued because of this review.

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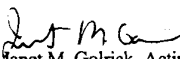
<sup>2</sup> These amounts are based on the basic fee being earned by the current contract administrator for Southern California.

# Appendix

## AUDITEE COMMENTS AND OIG'S EVALUATION

### Ref to OIG Evaluation

### Auditee Comments

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	<b>U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</b> WASHINGTON, DC 20410-8000			
OFFICE OF HOUSING	DEC - 4 2008			
MEMORANDUM FOR:	Joan Hobbs, Regional Inspector General for Audit, OAGA			
FROM:	 Janet M. Golrick, Acting Deputy Assistant Secretary for Multifamily Housing Programs, HT			
SUBJECT:	Draft Report – HUD’s Recent Performance Based Contract Administration Activity was Inconsistent with Agreed upon Management Decisions between HUD and HUD OIG on Audit Report 2007-SE-0001, Dated June 7, 2007			
	<p>This response is in follow up to your e-mail dated November 26, 2008, transmitting the subject report. This Office has reviewed the draft report and is providing the following written comments.</p>			
<b>Comment 1</b>	<p>The work to revise the Annual Contributions Contract (ACC) and all related documents continues and is anticipated to be completed within the next 12-18 months. The information provided in this report does not accurately represent the information provided during the referenced audit in support of the continued work of the Performance Based Contract Administrators (PBCAs) under the ACC and work performed in addition to the required ACC tasks which was provided to the auditors. Additional tasks have been assigned as an adjunct to the contract providing added value to the Department that enhance oversight and monitoring of the project-based Section 8 Housing Assistance Payment Contracts. Moreover, information has been provided regarding tasks that are performed by the PBCAs that are not required as a contractual obligation and do not have contract reimbursement. The comments regarding ACC revision completion provided in the contractor assessment report were estimates only provided by the contractor without the benefit, review and understanding of departmental priorities, resources and program objectives.</p>			
<b>Comment 2</b>				
<b>Comment 3</b>				
<b>Comment 4</b>	<p>Due to the aforementioned information and actions that support the interests of the Department, this Office is planning to proceed with processing proposals received under the invitation for application for the Southern California geographic service area.</p>			
	<p>If you have any questions, please contact Deborah Lear, Director, Office of Housing Assistance Contract Administration Oversight at (202) 402-2768.</p>			
	cc: Ronald Spraker, General Deputy Assistant Secretary for Housing – Deputy Federal Housing Commissioner			
	Deborah Lear, Director, Office of Housing Assistance Contract Administration Oversight			
	www.hud.gov      espanol.hud.gov			

## OIG Evaluation of Auditee Comments

- Comment 1** During our prior audit, we determined that these additional work requirements were already covered elsewhere in the contract.
- Comment 2** When we asked for documentation of any other tasks that replaced the three tasks no longer required, HUD was unable to provide any such documentation. It is inappropriate for HUD to require contract administrators to perform services for which they are not under contract. Without written documentation of the services required, there is no way to measure the contract administrator's performance under a performance-based contract or to determine if the contract administrator has provided the required services. Consequently, there is no way to hold them accountable for performance. Further, without this documentation, there is no basis for determining whether costs of any tasks added were similar and otherwise uncompensated.
- Comment 3** On September 24, 2008, we requested a copy of the draft framework for the new contract. On November 19, 2008, we were only provided with a "PowerPoint" presentation showing a concept for the revision of the contract. This was nearly two years after HUD received the report of the independent assessment of the contract and almost one and one-half years after OIG issued audit report 2007-SE-0001 recommending changes to the contract. While HUD delays revising the contract, we estimate that HUD spends \$27.2 million a year for three tasks it no longer requires to be performed. This annual waste of funds has occurred since 2004 after HUD eliminated the need to perform the three tasks.
- Comment 4** If HUD proceeds with its plan to award a contract for the Southern California geographic service area, it will continue to pay as much as \$1.9 million annually for work not required on this contract. This represents 19 percent of the contract's basic fee. Consequently, HUD will not achieve its objective of obtaining the best value for dollars spent for contract administrator services.