



U.S. Department of Housing and Urban Development  
District Office of the Inspector General  
Office of Audit  
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Issue Date
May 12, 2008
Audit Report Number
2008-AT-0802

MEMORANDUM FOR: R. Edmond Sprayberry, Director, Office of Public Housing, 4CPH

*James D. McKay*

FROM: James D. McKay, Regional Inspector General for Audit, 4AGA

SUBJECT: Corrective Action Verification  
Opelika Housing Authority  
Public Housing Programs  
Audit Report 2004-AT-1011

We performed a corrective action verification of audit recommendations 1A, 1E, and 1F at your request. 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.

### **Scope and Methodology**

Our corrective action verification focused on recommendations 1A, 1E, and 1F from audit report 2004-AT-1011, issued July 23, 2004. 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 the staff of the Birmingham Office of Public Housing and the Housing Authority of the City of Opelika (Authority). We also reviewed Authority and Opelika Housing Development Corporation (Development Corporation) files, general ledgers, cash receipt and disbursement records, journal vouchers, and applicable HUD regulations.

### **Background**

On July 23, 2004, we issued audit report 2004-AT-1011 on the Authority's public housing programs. Finding 1 of the report noted that the Authority made improper transactions that benefited the Development Corporation, a not-for-profit corporation affiliated with the Authority. These improper transactions occurred because the Authority's board of commissioners and executive director served in conflicting roles and did not establish controls to

safeguard Authority resources, thereby weakening the Authority's financial position and exposing it to potential liability. The report included nine recommendations. At the request of the Office of Public Housing, we focused our verification on recommendations 1A, 1E, and 1F. We recommended that the Birmingham Office of Public Housing

- 1A. Consider requiring the executive director to resign his presidency of the Development Corporation.
- 1E. Require the Authority to collect the \$116,000 interest-free note to prevent a \$99,843 interest subsidy to the Development Corporation over the 20-year term.
- 1F. Require the Authority to amend the guarantee of general partner and developer obligations on the Ashton Way Apartments project to limit the Authority's liability to resources not regulated by its annual contributions contract.

The July 20, 2004, proposed management decisions from the Birmingham Office of Public Housing stated that for:

- Recommendation 1A, the Office of Public Housing will monitor the impact of the recommended training and internal controls for transactions between the Authority and the Development Corporation. If within one year from approval of these management decisions, the field office finds that these actions have not been sufficient to resolve the problems caused by the conflict of interest, it will require the executive director to resign.
- Recommendation 1E, the Birmingham Office of Public Housing will require the Authority to enter into a new repayment agreement secured by all current and/or future nonprofit assets. The repayment agreement will be for \$116,000 or the new price based on the new appraisal. It (the interest rate) will be 7 percent or some other objectively determined market interest rate. The term of the payment will be determined by the field office's assessment of the Development Corporation's ability to repay the funds without becoming bankrupt.
- For Recommendation 1F, the Birmingham Office of Public Housing will require the Authority to pursue amending the guarantee of general partner and developer obligations on the Ashton Way Apartments project to limit the Authority's liability to resources not regulated by its annual contributions contract.

On July 23, 2004, our office concurred with the proposed management decisions.

### **Results of Review**

#### **Recommendation 1A**

Based on our discussions with the executive director and our review of Development Corporation's board minutes, we determined that the executive director had not resigned as president of the Development Corporation. To resolve recommendation 1A, the executive director offered his letter of resignation to the Development Corporation's board on July 19,

2005, and provided a copy of the letter to the Birmingham Office of Public Housing. The Birmingham office closed the recommendation on July 21, 2005. The Development Corporation's board, however, elected not to accept the resignation. (Resignation rejected by board) The executive director did not notify HUD of the board's action and continued to perform duties as president. The executive director stated that he was not aware that he had to inform HUD of the Board's decision.

The Development Corporation's current operations are minimal. Its board consists of three members and has only met twice over the past two years. The last board meeting was held June 26, 2006. The board is now independent of the Authority. At the time of the audit, the boards were the same. The president does not have voting rights.

The Development Corporation currently owns three single-family homes, which it rents to low-income residents. The Authority maintains the houses for the Development Corporation. It reimburses the Authority based on a maintenance schedule. Maintenance costs have been minimal. For the period October 1, 2006, through January 31, 2008, total costs were \$406. The Development Corporation's other assets include cash and investments.

The executive director informed us that the Development Corporation's board was considering dissolving the corporation and provided a copy of an e-mail from the Authority's attorney recommending an attorney who deals with corporate dissolution. Also, in a letter, dated February 7, 2008, the executive director informed the Birmingham Office of Public Housing that the Development Corporation's board would decide the future of the Development Corporation. If the Development Corporation is dissolved, this would close the recommendation. However, if it is not dissolved and the executive director does not resign, the Birmingham Office of Public Housing should consider applying appropriate sanctions included in HUD Notice PIH 2007 -27 (HA), "Disallowed Costs and Sanctions Resulting from On-Site Monitoring." The Notice provides that if the Authority does not implement its corrective action within the timeframes approved by the field office, 5 percent of its monthly scheduled operating subsidy will be withheld beginning with the month the field office makes the sanction effective, and shall last until the Authority has complied with the program requirements.

If the recommendation is not resolved, the potential risk for continued ineligible activities remains, possibly weakening the Authority's financial position and exposing the Authority to potential liability.

On May 1, 2008, the executive director provided us a copy of the April 30, 2008, board meeting minutes of the Opelika Housing Development Corporation. According to the minutes, the Board accepted the executive director's resignation as president of the Development Corporation. As a result, we consider Recommendation 1A resolved, and no further action is required.

### **Recommendation 1E**

The Development Corporation has made regular monthly payments to the Authority to resolve this recommendation. On February 5, 2008, it made its final payment. This recommendation is resolved, and no further action is required.

## **Recommendation 1F**

On January 16, 2008, the Authority entered into a settlement agreement with Ashton Way Apartments, LLC, et al. The settlement was the result of a lawsuit between the above parties. The Birmingham office's chief counsel reviewed the settlement agreement. In her opinion, the agreement releases the Authority's guarantee of general partner and developer obligations. Based on this opinion, we consider the recommendation resolved, and no further action is required.

## **Other Matters Requiring Action**

During our review of the Authority's Section 8 general ledger, we noted a receivable due from the Development Corporation in the amount of \$57,900. This receivable represents ineligible Section 8 payments made to the Development Corporation by the Section 8 program.

HUD recovered the ineligible payments during 2005 through offset of Section 8 administration fees from the Authority's Section 8 program. However, the Development Corporation did not reimburse the Authority for the ineligible payments.

The Authority was aware of the receivable but had not taken action to collect it. The Birmingham Office of Public Housing needs to ensure that the Development Corporation pays the receivable to the Authority.

According to the April 30, 2008, Development Corporation Board meeting minutes, the certificates of deposit held as guaranty for Ashton Way Apartments will be used to pay the debt back to the Authority.

- 1A. Require the Authority to collect \$57,900 from the Development Corporation.

## **Auditee's Response**

We discussed our results with your office during the review. We also provided your office a draft report on April 10, 2008, and discussed the report with your representatives at an exit conference on April 29, 2008. On May 2, 2008, your office provided written comments regarding the draft report. You agreed with the results of this report and agreed to ensure the \$57,900 owed to the Authority by the Development Corporation is collected. In accordance with HUD Handbook 2000.6, REV-3, upon issuance of this report, we are recording the management decisions in the Department's Audit Resolution and Corrective Action Tracking system.

Your response and our evaluation of the response are included in the appendix to this report.

Appendix

**OIG Evaluation of Auditee Comments**



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MAY 2 2008

MEMORANDUM FOR: James McKay, Regional Inspector General for Audit-Southeast/  
Caribbean, 4AGA  
FROM: *R. Edmond Sprayberry*  
R. Edmond Sprayberry, Director, Office of Public Housing, Birmingham  
Office, 4CPH  
SUBJECT: Draft Report  
Housing Authority of the City of Opelika, Alabama

Comment 1

We have reviewed the subject draft audit report and agree with the report as written.  
We are in receipt of the Board Minutes of the OHDC dated April 30, 2008. The Board accepted the resignation of Mr. Popoola and this should clear and close Recommendation 1A of the audit report 2004-AT-1011.

Comment 2

Additionally, the minutes confirm that the OHDC is aware of the \$57,900 receivable due the OHA. This office will follow-up with the OHA to ensure the funds are repaid.

Thank you for the opportunity to respond to the draft report.

If we can be of any further assistance or answer any questions, please contact me at (205) 731-2635, extension 1101.

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## **Auditee Comments and OIG's Evaluation**

### **Refer to OIG Evaluation**

**Comment 1** We concur with the Office of Public Housing's position and consider Recommendation 1A resolved.

**Comment 2** We concur with the Office of Public Housing's position to follow-up with the Authority to ensure the funds are repaid.