



U.S. Department of Housing and Urban Development
**Southwest District Office of Inspector
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March 29, 1999

99-FW-155-0801

MEMORANDUM FOR: Marcia Dodge, Director
Office of Community Planning and Development
Office of Affordable Housing Programs, DGH

/SIGNED/

FROM: D. Michael Beard
District Inspector General for Audit, 6AGA

SUBJECT: City of Houston, Texas
Homebuyers Assistance Program (funded by the HOME Program)

During our audit of the City of Houston's HOME Program, we found two weaknesses in the HOME Program regulations. First, Houston provided assistance to homebuyers who did not need help to purchase a home. Second, in the case of non-competitively procured subrecipients, non-financial conflicts of interest can occur that are detrimental to HUD. Yet, HUD has not issued any guidance to restrict non-financial conflicts. (Attached is a copy of the audit¹ that explains the problems.) We are recommending that you revise the HOME Program regulations to limit assistance to low-income families who lack sufficient funds to obtain affordable housing and issue a notice clarifying HOME's conflict-of-interest regulations.

Lack of regulations allows unnecessary assistance

A lack of clear regulatory guidance in the HOME Program has resulted in unnecessary assistance being provided to some families. Our audit found that the City of Houston was providing unnecessary assistance to families with large cash savings. Unnecessary assistance occurred, in part, because the HOME regulations are silent about homebuyer's assets, except for including income earned from the assets in determining family income. We do not believe the intent of the Program is to provide assistance to families who have the means to obtain affordable housing on their own. However, the City of Houston disagreed. In their response to our audit finding, they stated that their current program complied with HOME regulations.

¹ OIG Report 99-FW-255-1004, issued on March 23, 1999.

Other participating jurisdictions could also be providing similar unnecessary assistance. Interviews with 8 of the 50 largest cities in the nation showed that only 4 had adopted policies and procedures to limit assistance to homebuyers with large cash savings. The other four cities had not adopted a policy and some indicated they would not because there was no such requirement. To prevent unnecessary assistance from occurring, we are recommending that you include language in the HOME regulations to limit assistance to families who truly need assistance to obtain affordable housing.

Non-financial conflicts are detrimental to HUD

Non-financial conflicts of interest can be very detrimental to HUD. However, your office has determined that non-financial conflicts of interests are allowable under the HOME regulations. We disagree. A non-financial conflict of interest between the City of Houston and a subrecipient resulted in the City being unable to support approximately \$422,000 in administrative costs. The conflict occurred because the Director of the City's Department of Housing and Community Development, who was also on the subrecipient's board, approved major contract modifications that were not in the best interests of the City or HUD. HUD has recognized that non-financial conflicts can occur and that they are detrimental to HUD. The comments section of CBDG regulations² concerning conflict of interest state:

“One of the most problematic areas has been with the respect of public officials participating in the affairs of local non-profit organizations...In such situations, the question arise whether the provision of CDBG funds to a non-profit organization constitutes a conflict because of a grantee official on the non-profits board...An important purpose of the conflicts rule is to protect the reputation of the program from the appearance of providing special treatment or servicing special interests. Clearly there are some situations where even a non-financial interest of benefit could create such an appearance. However, HUD has been unable to identify clear criteria that would serve to distinguish the kinds of personal interest of benefits that should be prohibited in such cases.”

In our opinion, public officials who have approval and funding authority for a nonprofit should not serve on a nonprofit's board, especially when a nonprofit is not competitively procured. We are recommending that you issue a clarifying notice on the conflict of interest regulations.

Within 30 days, please furnish this office for each recommendation in this memorandum, a status on : (1) corrective action taken; (2) the proposed corrective action and the date to be completed; or (3) why action is not considered necessary. Also, please furnish us copies of any correspondence or directives issued related to this memorandum.

² The CDBG conflict of interest regulations are similar to the HOME conflict of interest regulations.

If you have any questions, please contact D. Michael Beard, District Inspector General for Audit at (817) 978-9309.

Attachments

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