



State of Louisiana

OFFICE OF

STATE INSPECTOR GENERAL

HANO RESIDENTS COUNCIL

Report by

Inspector General Bill Lynch

Prepared for

Governor M.J. "Mike" Foster, Jr.

July 28, 1998

File No. 1-98-0012



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

HANO Residents Council

June 22, 1998

Report by

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Inspector General Bill Lynch

Approved by

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Governor M.J. "Mike" Foster, Jr.

File No. 1-98-0012

HANO Residents Council

A residents council representing a number of housing projects in New Orleans, misspent and failed to account for \$37,953 in program funds with a green light from the Housing Authority of New Orleans (HANO) in a 27-month period ending Oct. 31, 1997. The program is funded by the U.S. Department of Housing and Urban Development (HUD). Of the misspent amount, at least \$822 was fraudulent.

The expenditures were part of \$411,447 received by the Scattered Sites Resident Council from HUD through HANO. HUD requires accountability of all program fund allocations. The expenditures, which were made during the period July, 1995, through October, 1997, were not detected by the Housing Authority during regular program reviews, nor were they in accord with HUD approved purposes and the contract between Scattered Sites and HANO. The contract was for grounds maintenance and beautification.

HANO misinterpreted rules covering the expenditure of the program funds and allowed the council to spend the money for any purpose without documentation.

The questionable expenditures included such items as \$13,114 to American Express for unspecified items and checks made out to cash totaling \$5,770.

The Scattered Sites Resident Council failed to maintain complete and accurate records of various contract expenditures, and failed to follow federal regulations and its own by-laws when electing residents to the council's governing board and amending its by-laws.

Background

The Housing Authority of New Orleans (HANO) is an instrumentality of the state enacted by La. R.S. 40:391 to facilitate the provision of subsidized housing programs. The Housing Authority's programs are under the jurisdiction of HUD and most of its employees are classified in the state civil service system. HANO's programs are federally, locally and privately funded and do not receive any direct state funding.

The Housing and Community Development Act of 1974 authorized the formation of resident councils. Under this Act, resident councils are formed to advise, assist and represent residents, individually and collectively, in their relationship with HANO regarding their rights, obligations and opportunities. In order to receive official recognition, a resident

council must adopt a constitution or by-laws, and must have a democratically elected governing board elected by the voting membership. There are currently 12 resident council organizations recognized by HANO, receiving in excess of \$1.5 million of program funds to provide maintenance and beautification contract services each year.

The Scattered Sites Resident Council is a non-profit corporation organized in July, 1976, with a membership comprised of public housing residents living in various sites scattered around New Orleans.

HANO entered into one year Tenant Initiative Training and Employment Contracts with 11 resident council organizations during 1995 to provide basic grounds maintenance and beautification services. The Scattered Sites Resident Council contracted to provide all labor and perform all work required for the maintenance of grounds of the Scattered Sites units. HANO is to pay for documented labor costs and other costs associated with the contract on a cost reimbursement basis.

The contracts contained options to renew for an additional year. However, at the end of the first year, only nine contracts were renewed, due to performance concerns. HANO did not immediately exercise any of the one year options to renew, choosing to renew the contracts for two months, then three months, then on a month-to-month basis. Funding to the Scattered Sites Resident Council continues.

Funding for these contracts is provided through the HUD Comprehensive - Modernization Grant Program. One purpose of this funding is to provide job training and business development training for residents.

Contract Administration

HANO failed to properly administer Tenant Initiative Training and Employment Program contracts with the Scattered Sites Resident Council. The contract period commenced March 14, 1995, and the contract has been renewed through the current date. As of October, 1997, Scattered Sites has received \$411,447 through the contract. The contract is funded by HUD through HANO. HUD requires accountability for all program expenditures.

According to Linda Hull, director of Audit and Compliance at HANO, it was the intent of HANO to provide the Scattered Sites Resident Council with some funds from the contract which could be spent as "profit," without scrutiny. HANO considers "profit" to be the money left over from operational expenses incurred. Ms. Hull said it was HANO's position that the so-called "profit" could be spent in any manner without accountability. Ms. Hull further stated that HANO wanted to treat the contracts with the councils just as they would contracts with any other contractor. As with any other independent contractor, HANO could not tell the councils what to do with any profits which resulted from those contracts, she asserted.

Ms. Hull's position on accountability was disputed by a HUD official. According to Chester Drozdowski, director, Office of Public and Indian Housing, all federal funds received through a HUD approved program have to be accounted for. Mr. Drozdowski stated further that contrary to what HANO believes, the councils cannot spend any of the funds as they please. The councils have to follow an approved program budget, spend the funds for the purpose intended, and also maintain records of all expenditures.

The contract between HANO and the council is a cost reimbursement contract and therefore there should not be any so-called profit. HANO disbursed program funds to Scattered Sites monthly by simply dividing the total of the contract amount in 12 monthly installments, rather than on a cost reimbursement basis.

Improper Contract Payments

HANO did not follow contract payment requirements when it paid the Scattered Sites Resident Council monthly payments without properly ensuring that all program costs were allowable.

Article 2 of the contract required HANO to pay the Resident Council for any documented labor costs, and that labor costs shall not exceed 30 hours per week. The contract also required HANO to make payments of labor costs and other costs associated with the contract based upon the prior pay period. All payments to the Resident Council should have been in the form of reimbursements of allowable documented costs after they were reviewed.

Misspent, Fraudulent Expenditures

Improper administration by the Housing Authority of New Orleans (HANO) resulted in at least \$37,953 of misspent and fraudulent contract expenditures by the Scattered Sites Resident Council between July, 1995, and October, 1997. These expenditures were not reviewed by HANO during regular program audits and were not in accord with HUD approved purposes.

Guidelines in HUD handbook No. 7485.3, outline the categories of eligible and ineligible costs for program funds. Resident councils receiving funds from this category have the same reporting requirements and restrictions for spending as Housing Authorities. Resident councils are required to keep accurate and complete records of all revenues and expenditures to ensure that monies will only be spent for the HUD approved purposes.

The Resident Council has a checking account which is designated strictly for handling receipts and disbursements related to the contract. The officers authorized to sign checks on behalf of the Resident Council are the president and treasurer. Both signatures are required to execute checks. Shirley Bush has been the president and Mary Wilson the treasurer, during the beautification contract.

A. Fraudulent payroll payments

Oliver Bush, son of the president of the Resident Council, was paid \$144 for four days wages in December, 1995, \$180 for five days wages in February, 1997, and \$360 for ten days wages in February, 1998, for a total of \$684. Records show that on the dates he allegedly earned these wages, he was in the Orleans Parish Prison.

Payroll records of the Scattered Sites Resident Council revealed weekly sign-in sheets which contained a signature for Oliver Bush indicating that he was on-duty during the dates in question. Also, payroll check registers indicated that a check was issued to Mr. Bush for dates which correspond with dates of the weekly sign-in sheets.

Records obtained from the Orleans Parish Prison indicate Oliver Bush was arrested and detained on days which correspond with the three payroll periods he allegedly worked and was paid for. Ms. Bush was asked to provide an explanation about the apparent fraudulent payroll payments made to her son Oliver, but she stated that she had no comment at this time. Mr. Bush has been paid for work for times other than when he was in jail and is still listed as an employee of the Resident Council under its contract with HANO.

In another example related to conflicting payroll records, weekly time sheets for Ms. Wilson reflected that she was on duty with the Resident Council during times when she also was on duty at another job.

Ms. Wilson is also employed with Aramark Food Services in New Orleans, and according to company time sheets, Ms. Wilson had clocked in on the time clock at the times when she was listed as still working at the Resident Council office. From July, 1997, to February, 1998, Ms. Wilson had overlapping time totaling 17 hours and 22 minutes with Aramark Food Services and the Resident Council. These overlapping times resulted in Ms. Wilson receiving \$137.76 in fraudulent payments from the Resident Council, according to council payroll records.

When questioned about the apparent overlapping times, Ms. Wilson confirmed that she is and has been employed at Aramark Food, but claimed that she often worked past 7 p.m. during the week, and on Saturdays without extra compensation.

Circumstances surrounding the above fraudulent payroll expenditures cast doubt on the legitimacy of the entire payroll, which totaled more than \$300,000.

HANO failed to provide documentation that it had determined through monitoring that the work for which it paid was actually performed.

B. American Express payments

A review of canceled checks from the contract checking account revealed that payments totaling \$13,115 were made to American Express Corporate Card from July 1995 to October 1997. Receipts, invoices, purchase orders, etc., were not provided to our auditor to explain or document the purpose of those charges paid with contract funds. Charge card billing statements, which would normally be a part of a routine record keeping system were also not

provided. Repeated written and verbal requests have been made to Ms. Bush to provide our office with copies of the American Express statements so as to determine the nature of the purchases made with contract funds.

According to Ms. Bush, several requests were made to American Express for duplicate copies of the billing statements, but they have not yet been received by this office. American Express advised us that it sent the documentation to Ms. Bush.

Checks payable to American Express are as follows:

	<u>DATE</u>	<u>CHECK NO.</u>	<u>AMOUNT</u>
1.	July 21, 1995	149	\$165.00
2.	Nov. 7, 1995	1004	380.98
3.	Dec. 30, 1995	1017	522.14
4.	May 10, 1996	1069	154.00
5.	June 11, 1996	1077	389.38
6.	July 1, 1996	1086	907.51
7.	July 25, 1996	1095	517.37
8.	Aug. 1, 1996	1096	292.00
9.	Aug. 26, 1996	1102	735.90
10.	Sept. 26, 1996	1113	801.68
11.	Oct. 26, 1996	1120	459.30
12.	Dec. 3, 1996	1127	660.23
13.	Jan. 3, 1997	1132	616.13
14.	Feb. 4, 1997	1136	424.16
15.	Mar. 5, 1997	1141	350.00
16.	Mar. 26, 1997	1144	750.00
17.	Apr. 24, 1997	1163	765.03
18.	May 22, 1997	1175	921.47
19.	June 26, 1997	1183	850.00
20.	July 25, 1997	1191	700.79
21.	Aug. 23, 1997	1201	900.61
22.	Sept. 28, 1997	1209	<u>851.00</u>
		Total	\$13,114.68

C. Cash payments

Several checks totaling \$5,770 were written out to cash, which did not have the necessary receipts or records to document their purposes. According to Ms. Bush, the monies were spent on Halloween giveaways and Thanksgiving baskets for the residents, refreshments and lunches for Resident Council meetings, school supplies for resident children, T-shirts for Council members and other miscellaneous items. Ms. Bush stated that the Scattered Sites Resident Council's mission is to provide such services.

HUD handbook No. 7485.3 categorizes these expenditures as ineligible program costs.

Checks made payable to cash are as follows:

	<u>DATE</u>	<u>CHECK NO.</u>	<u>AMOUNT</u>
1.	Oct. 27, 1995	1001	\$2,270.00
2.	Oct. 30, 1995	1003	400.00
3.	Nov. 17, 1995	1008	860.00
4.	Aug. 8, 1996	1097	162.00
5.	Aug. 8, 1996	1098	162.00
6.	Oct. 10, 1996	1116	100.00
7.	Oct. 22, 1996	1119	25.00
8.	Nov. 6, 1996	1124	84.20
9.	Dec. 14, 1996	1125	200.00
10.	Dec. 27, 1996	1130	100.00
11.	Feb. 8, 1997	1137	47.00
12.	June 25, 1997	1182	300.00
13.	Oct. 7, 1997	1211	960.00
14.	Oct. 15, 1997	1214	<u>100.00</u>
		Total	\$5,770.20

D. Office Supplies

Purchases totaling \$3,852, were classified as office supplies. Some of these purchases were made from a grocery store, whereas the checks had a notation indicating the purchase was for office supplies. As with other disbursements, receipts or invoices were unavailable to substantiate the validity of these purchases. It should be noted that the Resident Council has an office staff consisting of two people.

Funding on-going operating expenses of resident council organizations are ineligible program costs according to HUD handbook No. 7485.3.

Checks for office supplies are as follows:

<u>DATE</u>	<u>CHECK NO.</u>	<u>PAYEE</u>	<u>AMOUNT</u>
1. Apr. 26, 1996	1066	Office Depot	\$ 282.40
2. Apr. 29, 1996	1067	Home Depot	177.96
3. May 9, 1996	1070	Postmaster of N. O.	32.00
4. May 28, 1996	1071	West C&C Bldg Mat.	205.35
5. June 11, 1996	1073	Home Depot	77.78
6. June 3, 1996	1074	West Bros.	40.84
7. June 11, 1996	1078	WalMart	336.44
8. June 18, 1996	1082	Office Depot	179.56
9. July 10, 1996	1088	K Mart	165.29
10 Aug. 8, 1996	1100	Schwegmann Store	79.84
11. Oct. 14, 1996	1117	Office Depot	244.35
12. Oct. 21, 1996	1118	Schwegmann Stores	183.87
13. Dec. 3, 1996	1126	Schwegmann Stores	86.29
14. Jan. 1, 1997	1134	Office Depot	100.84
15. Mar. 8, 1997	1145	Schwegmann	323.65
16. Mar. 21, 1997	1148	Office Depot	533.10
17. Apr. 8, 1997	1157	Office Depot	252.28
18. Apr. 8, 1997	1158	Service Merchandise	84.95
19. Apr. 29, 1997	1165	Schwegmann Stores	99.03
20. Sept. 15, 1997	1204	Office Depot	<u>366.54</u>
		Total	\$3,852.36

E. Payments to Friends, Relatives, Others

Friends, acquaintances and relatives of Ms. Bush or Ms. Wilson, received \$2,832 of funds from the contract. Some funds that were paid directly to individuals were allegedly for utility and resident assistance to Geraldine Phelps for \$400, Lisa Gray for \$249.04, Deonka Thompson for \$245.10, and Donna Thompson for \$250. A former employee, Frank Bacchus, received \$230 and a current employee, Geneva Lampton, received \$100, purportedly for providing extra services to the Resident Council. Council records listed Frank Bacchus as having the same address as Ms. Wilson.

Furthermore, Ms. Wilson received \$1,222.50, and Ms. Bush \$135 in checks that were listed as either reimbursements, payments for services or stipends. As before, the Resident Council could not provide receipts, or documentation of any kind validating these disbursements.

The stated purposes of the expenditures were not in accord with the contract.

We determined the relationships between Ms. Bush and the recipients through interviews with Ms. Bush.

Ms. Bush stated that she understood that one of the missions of the council is to provide various types of assistance to residents when needed. Checks payable to friends, relatives and others are as follows:

<u>DATE</u>	<u>CHECK NO.</u>	<u>PAYEE</u>	<u>AMOUNT</u>
1. May 30, 1996	1072	Frank Bacchus	\$ 50.00
2. June 6, 1996	1076	Frank Bacchus	30.00
3. June 13, 1996	1081	Frank Bacchus	50.00
4. June 20, 1996	1084	Frank Bacchus	50.00
5. June 27, 1996	1085	Frank Bacchus	50.00
6. Apr. 4, 1997	1155	Mary Wilson	68.00
7. Apr. 13, 1997	1159	Deonka Thompson	245.10
8. Apr. 10, 1997	1160	Donna Thompson	250.00
9. June 18, 1997	1171	Mary Wilson	450.00
10. May 8, 1997	1172	Mary Wilson	264.50

<u>DATE</u>	<u>CHECK NO.</u>	<u>PAYEE</u>	<u>AMOUNT</u>
11. May 22, 1997	1176	Geraldine Phelps	400.00
12. May 28, 1997	1177	Shirley Bush	85.00
13. June 12, 1997	1180	Lisa Gray	249.04
14. July 9, 1997	1187	Mary Wilson	300.00
15. Sept. 12, 1997	1203	Shirley Bush	50.00
16. Oct. 16, 1997	1217	Geneva Lampton	100.00
17. Oct. 28, 1997	1219	Mary Wilson	140.00
		Total	<u>\$2,831.64</u>

F. Refreshments purchased

In addition, checks were written totaling \$3,158 to grocery stores and other merchants, purportedly to buy refreshments. Notations made on the checks indicated the purpose of some of the purchases, and in some cases there were receipts from the stores. The purchases were outside the terms of the contract and HUD regulations.

These checks are as follows:

<u>DATE</u>	<u>CHECK NO.</u>	<u>PAYEE</u>	<u>AMOUNT</u>
1. Mar. 28, 1996	1063	Schwegmann Stores	\$ 445.43
2. June 20, 1996	1083	Schwegmann Stores	98.79
3. Aug. 26, 1996	1103	Schwegmann Stores	131.41
4. Aug. 26, 1996	1106	Guste Res. Coun.	140.00
5. Sept. 3, 1996	1107	Schwegmann Stores	111.36
6. Oct. 9, 1996	1112	Schwegmann Stores	168.09
7. Mar. 31, 1997	1151	Schwegmann Stores	127.95
8. Mar. 31, 1997	1152	Winn Dixie	37.36
9. Apr. 30, 1997	1166	Schwegmann Stores	79.10
10. May 6, 1997	1167	Eddie's Hardware	194.99
11. May 6, 1997	1168	Sam's	118.33
12. May 7, 1997	1169	Schwegmann	127.80
13. May 16, 1997	1170	Schwegmann	60.43
14. May 21, 1997	1173	Schwegmann	72.54

<u>DATE</u>	<u>CHECK NO.</u>	<u>PAYEE</u>	<u>AMOUNT</u>
15. July 11, 1997	1189	Schwegmann	116.19
16. Aug. 16, 1997	1198	Sam's	284.24
17. Aug. 19, 1997	1199	Winn Dixie	83.21
18. Sept. 15, 1997	1205	Winn Dixie	182.58
19. Sept. 16, 1997	1206	Winn Dixie	99.88
20. Sept. 17, 1997	1207	Sam's	167.57
21. Sept. 17, 1997	1208	Schwegmann	35.48
22. Oct. 11, 1997	1213	Sam's Club	162.95
23. Oct. 15, 1997	1215	Winn Dixie	24.77
24. Oct. 15, 1997	1216	Winn Dixie	<u>87.45</u>
		Total	\$3,157.90

G. Miscellaneous Purchases

As well as the purchases mentioned previously, \$2,971 was spent for payments to Bell South Mobility for cellular telephone usage. The cellular telephone was used by Ms. Bush, and we were unable to determine whether all calls were business related because monthly billing statements were also not provided as requested.

Miscellaneous purchases totaling \$5,434 were for items such as pager services, Sam's Club memberships, T-shirts for resident children who participated in Girl Scout events, T-shirts for Council officers, per diem funds given to residents who attended a National Association of Resident Management Council's conference, and registration fees and hotel expenses related to this conference. According to Resident Council records, Carol Moore, a former Council board member, received a stipend to attend a conference; Anthony Turner provided catering services for a youth summer camp sponsored by the Council; and Bobbie Carter and Demetria Ford provided office clerical assistance to the Council.

Payments were also made to utility companies, allegedly to assist the residents. However, no documentation such as the paid utility bill, or a record of a discussion or vote on this item with the full Governing Board of the Resident Council was available. Payments were made to cover tutoring sessions and summer camps for resident children.

These checks are as follows:

<u>DATE</u>	<u>CHECK NO.</u>	<u>PAYEE</u>	<u>AMOUNT</u>
1. Dec. 1, 1995	1010	Bell South Mobility	\$ 148.28
2. Dec. 12, 1995	1012	Circuit City	141.58
3. Dec. 30, 1995	1014	Bell South Mobility	224.82
4. Jan. 18, 1996	1040	Positive Comm. Co.	29.85
5. Jan. 31, 1996	1042	Bell South Mobility	135.63
6. Feb. 22, 1996	1044	Bell South Mobility	161.94
7. Feb. 26, 1996	1045	Schwegmann	139.38
8. Mar. 28, 1996	1062	Bell South Mobility	125.60
9. Apr. 16, 1996	1064	Scattered Sites R/C	100.00
10. Apr. 30, 1996	1068	Bell South Mobility	169.50
11. June 5, 1996	1075	Bell South Mobility	124.25
12. June 12, 1996	1079	Radio Tone Pgr. Srv	36.53
13. June 13, 1996	1080	Boy Scouts of Am.	100.00
14. July 1, 1996	1087	Bell South Mobility	155.64
15. July 10, 1996	1089	Girl Scout of S.E. La	200.00
16. July 15, 1996	1090	Sport Screen	264.68
17. July 11, 1996	1091	Hyatt Regency Hotel	594.00
18. July 11, 1996	1092	U.S.A. Travel	372.00
19. July 20, 1996	1093	Schwegmann	192.91
20. July 25, 1996	1094	Bell South Mobility	212.87
21. Aug. 8, 1996	1099	Unlimited Comm.	35.00
22. Aug. 16, 1996	1101	Bobbie Jean Carter	60.00
23. Aug. 26, 1996	1104	Bell South Mobility	323.25
24. Sept. 9, 1996	1109	Scattered Site R/C	28.48
25. Sept. 12, 1996	1110	Entergy	108.64
26. Sept. 12, 1996	1111	Entergy	73.85
27. Sept. 26, 1996	1114	Bell South Mobility	74.30
28. Oct. 26, 1996	1121	Bell South Mobility	103.33
29. Oct. 30, 1996	1123	Sam's Club	55.00
30. Dec. 3, 1996	1128	Bell South Mobility	118.83
31. Jan. 3, 1997	1131	Bell South Mobility	78.15
32. Feb. 4, 1997	1135	Bell South Mobility	72.04
33. Feb. 20, 1997	1140	Demetria E. Ford	130.00

<u>DATE</u>	<u>CHECK NO.</u>	<u>PAYEE</u>	<u>AMOUNT</u>
34. Mar. 6, 1997	1142	Bell South Mobility	111.17
35. Mar. 7, 1997	1143	All Print, Inc.	151.00
36. Mar. 8, 1997	1146	Gifts Unlimited	27.14
37. Mar. 26, 1997	1147	All Print, Inc.	39.00
38. Mar. 29, 1997	1149	Talk America, Inc.	182.90
39. Mar. 31, 1997	1153	St. Jude Comm. Ctr.	25.00
40. Apr. 15, 1997	1161	Bell South Mobility	68.07
41. Apr. 28, 1997	1162	Positive Comm.	49.85
42. Apr. 24, 1997	1164	Bell South Mobility	68.86
43. May 22, 1997	1174	Bell South Mobility	68.07
44. June 24, 1997	1181	Anthony Turner	375.00
45. July 3, 1997	1184	Anthony Turner	375.00
46. July 6, 1997	1186	Bell South Mobility	114.76
47. July 10, 1997	1188	Anthony Turner	375.00
48. July 19, 1997	1190	Anthony Turner	375.00
49. July 25, 1997	1192	Bell South Mobility	68.07
50. July 31, 1997	1193	All Print, Inc.	309.00
51. July 31, 1997	1194	Guste Lw-Rise R/C	112.50
52. Aug. 12, 1997	1196	Carol Moore	400.00
53. Aug. 10, 1997	1197	N.A.R.M.C.	125.00
54. Aug. 22, 1997	1200	Family Dollar	30.52
55. Aug. 27, 1997	1202	Bell South Mobility	127.18
56. Oct. 3, 1997	1210	Bell South Mobility	<u>116.41</u>
		Total	\$8,404.83

Documentation was not provided to support any of these expenditures as being allowed under the contract or HUD regulations.

Contract Record Keeping

The Scattered Sites Resident Council failed to maintain complete and accurate records of various contract expenditures. Resident Councils receiving federal funds through the HUD Comprehensive - Modernization Grant Program have the same record keeping requirements as Housing Authorities. Failure to follow program guidelines governing record keeping as set out in HUD handbook No. 7485.3 may result in restriction from future program participation.

As required, the Resident Council hired a licensed Certified Public Accountant to maintain financial records, reconcile bank statements, provide payroll services, and train Resident Council leadership on proper accounting procedures.

According to Ms. Bush, the CPA firm assigned a regular staff person to set up the books for the Resident Council, and she and Ms. Wilson were given training on the proper accounting procedures needed to maintain the financial records. However, Ms. Bush stated they were unable to adequately maintain the records as they were supposed to. Both Ms. Bush and Ms. Wilson stated that most times they felt overwhelmed or unsure of themselves when trying to perform some of the required procedures.

Improper Council Actions

The Scattered Sites Resident Council failed to follow federal regulations and its own by-laws when electing residents to the governing board, and amending its bylaws.

The by-laws of the Scattered Sites Resident Council dictate that elected representatives of the council shall serve two year staggered terms of office. A review of the application of incorporation filed with the Office of Secretary of State, revealed that these were the terms voted on and adopted when the Council was originally formed. Nothing in the records of

the Council indicated that the general membership had ever voted to change those terms. In 1994 the Scattered Sites Resident Council held a general election for the governing board membership in which eight Council members were elected.

According to the by-laws, all of those elected members should have run for office again in 1996. However, according to Ms. Bush, in 1995 the board discussed and agreed that the four members that received the highest number of votes in the last election would serve an additional year. The remaining four members would run for re-election. The four members receiving an additional term were Shirley Bush, Mary Wilson, Anna Joseph, and Carol Moore.

This change was not discussed with and voted on by the general membership. This was in direct violation of council by-laws. Section 964.130 of 24 CFR, requires that resident councils adopt and adhere to election procedures which shall include qualifications to run for office, frequency of elections and term limits if desired. If a resident council fails to satisfy HUD minimum standards for fair elections, or fails to follow its own election procedures as adopted, HUD may require the Housing Authority to withdraw recognition of the Resident Council and to withhold future resident services funds.

Ms. Bush, as president of the Resident Council, stated the correct procedure was misunderstood by the officers, and she takes responsibility for the misunderstanding.

Also in 1995, additional sections were placed in the by-laws regarding recall procedures, third party voting oversight, monitoring of elections, and reference to the 501 (c)(3) designation without a vote of approval by the general membership. That action taken by the governing board membership was in direct violation of the council's by-laws.

Ms. Bush stated that the governing board members were not aware that a general election should have been held to allow ratification of any changes or additions to the council's by-laws.

Conclusions:

1. The Scattered Sites Resident Council misspent \$37,953 in program funds from the Housing Authority of New Orleans, including at least \$822 that was fraudulent.
2. HANO failed to follow the U.S. Department of Housing and Urban Development guidelines for administering of HUD funds provided to and expended by the Scattered Sites Residents Council.
3. The Scattered Sites Resident Council failed to maintain complete and accurate records of various contract expenditures.
4. The Scattered Sites Resident Council failed to follow federal regulations and its own by-laws when electing residents to the governing board, and amending its by-laws.
5. The Housing Authority did not follow contract payment requirements when it paid the Resident Council in 12 monthly installments rather than on a cost reimbursement basis.
6. The Housing Authority did not assure that contract costs were allowable.
7. The president of the Resident Council failed to provide documentation for payments of more than \$13,000 to an American Express Account and nearly \$3,000 in cellular phone use.
8. Circumstances surrounding the fraudulent expenditures cast doubt on the legitimacy of the entire payroll, which totaled more than \$300,000.
9. HANO's deficient administration of the Scattered Sites contract makes payments to the other resident councils under this program questionable.

Recommendations:

1. This report should be referred to the U.S. Attorney's office for review.
2. This report should be referred to the U. S. Department of Housing and Urban Development to take appropriate action regarding the Housing Authority of New Orleans failure to properly administer program funds from the contract with Scattered Sites Resident Council.
3. HANO should immediately begin following its own contract and federal guidelines regarding reimbursement for allowable costs.
4. HUD should review the contract disbursements by HANO to all of the other resident councils receiving funds under the program.

Responses:

Responses from HUD, HANO, and Scattered Sites Resident Council are attached.

IG Comments:

In responding for HANO, attorney William J. Guste, Jr. implies that the agency had somehow successfully amended its contract orally to conform to its practices, a contention that, in our opinion, is both disingenuous and specious.

1. While oral amendments may be acceptable under some circumstances, in this instance any changes in the written contract would be subject to approval by the State Department of Civil Service, which did not happen.
 - A. The original contract stated:

"Any modification or extension of this contract shall be mutually agreed to in writing by the parties and incorporated as written amendments into the contract."

- B. Civil Service counsel advises that the agency does not approve verbal contract amendments.
- C. HANO'S credibility regarding an oral amendment is cast in doubt by the fact that the original written document was amended in writing and no effort was made to incorporate the "oral" amendment, and during the course of this investigation no such oral amendment was raised until counsel made the implication in response to the findings of this investigation.

The original contract expired March 14, 1996, one month after the current HANO administration assumed responsibility. HANO could have committed to writing at that time any verbal changes. Instead, the original written contract was amended in writing to extend the contract term. Further, the written amendment stated that "all other terms remain intact."

- 2. The defense that this state agency is using federal and not state funds seeks to ignore the fact that these are public funds and taxpayer dollars regardless of the vehicle used to funnel them.

HANO contends that its oral agreement abandoning the cost reimbursement requirement of the written contract stripped its right to control how the contract funds are spent. By HANO's account, the power it now claims to lack is the power it claims to have given away.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF PUBLIC HOUSING, 9TH FLOOR
HALE BOGGS FEDERAL BUILDING
501 MAGAZINE STREET
NEW ORLEANS, LA 70130-3099

May 29, 1998

Mr. Bill Lynch
State Inspector General
Louisiana Office of Inspector General
Post Office Box 94095
State Capitol Annex
Baton Rouge La. 70804-9095

Dear Mr. Lynch:

SUBJECT: Draft Report dated May 8, 1998
File No. 1-98-0012
Housing Authority of New Orleans (HANO)
Scattered Sites Resident Council beautification contract

This will acknowledge our receipt of your "Draft" report concerning the Scattered Sites Resident Council beautification contract. We have forwarded a copy of your "Draft" report to Bruno & Tervalon CPA's, HANO's Independent Auditors as well as to our own Office of Inspector General. The statements contained in your report relative to HUD's position on accountability are accurate. The Department has a zero tolerance policy relative to the waste, fraud and abuse of federal funds. Listed below are our detailed comments relative to your recommendations:

Recommendations:

1. This report should be referred to the U. S. Attorney's Office for review.

We concur with this recommendation.

2. This report should be referred to the U. S. Department of Housing and Urban Development to take appropriate action regarding the Housing Authority of New Orleans failure to properly administer program funds granted to Scattered Sites Resident Council.

HUD should recapture all program funds classified in this audit report as ineligible and or fraudulent. Additionally, HANO must properly document all program funds classified in this audit report as questioned costs. If the HANO cannot produce adequate documentation of these expenditures HUD should immediately recapture these funds.

3. HANO should immediately begin following its own contract and federal guidelines regarding reimbursement for allowable costs.

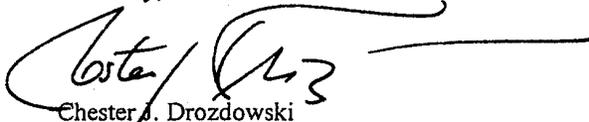
We concur with this recommendation.

4. HUD should review the contract disbursements by HANO to all of the other resident councils receiving funds under the program.

HANO's Internal Audit Department should review the contract disbursements of all resident councils receiving funds under the program. Additionally, HANO's Internal Audit Department should evaluate the effectiveness of the entire Internal Control System of the Agency relative to the disbursement of funds to the resident councils. This review should not be limited to the beautification program but should include all federal funds provided to the councils such as Per Unit Year funds. The bonding company should be notified of any cash shortages identified by HANO as a direct result of this review.

If we can be of further assistance, please contact Russell Mora, Staff Accountant at 589-7251, extension 3032.

Sincerely,



Chester J. Drozdowski
Director, Office of Public Housing
Louisiana - Mississippi HUB

Enclosure:

Ron Mason
Mike Kelly
Larry Tipton
Michelle Nuss



May 18, 1998

Bill Lynch
State Inspector General
State of Louisiana
Division of Administration
Office of the Commissioner
State Capitol Annex
Baton Rouge, LA 70804-9096

Dear Mr. Lynch:

RE: File No. 1-98-0012

The Housing Authority of New Orleans (HANO) does hereby submit its response to the above reference report.

BACKGROUND

The major focus of the report rests heavily upon the nature of the relationship between HANO and its contractor, the Scattered Sites Resident Council. The report however does not cite a statutory or regulatory basis for the alleged violations cited. The limited time allowed to respond to such a detailed report make it necessary to inform your office that additional information will be forth coming. HANO has engaged independent legal counsel to provide an opinion on the legal relationship of the Scattered Sites Resident Council to HANO as it relates to the Beautification Contract. The opinion will be provided to your office by May 29, 1998. The opinion is expected to support the Housing Authority of New Orleans' official position that the award was a contract and that the contract was for a fixed fee. The intent was for all funds to be disbursed to the Scattered Sites Resident Council in exchange for the services delivered.

CONTRACT ADMINISTRATION

The above referenced draft audit includes HANO's position, as related by Linda D. Hull, Director of Audit and Compliance, on accountability for funds awarded as a contract with the Scattered Sites Resident Council. The information provided by the local HUD Office of Public and Indian Housing that, "all federal funds received through a HUD approved program have to be accounted for" is in fact correct. However, the level of accountability required at the recipient level is directly related to the process by which funds are transferred. When a contract is a fixed fee arrangement there is no detailed accountability

for expenditures by the contractor. The accountability is required prior to the award of the contract when the "Cost Analysis " is conducted in support of the contract amount. In the case of the Beautification Contracts, the details of the cost analysis is contained within each of the contracts.

Contrary to information in the draft audit which states "The contract between HANO and the council is a cost reimbursable contract and therefore there should not be any so-called profit", cost reimbursement contracts do have "profits". The major difference is that they are more discernable than with fixed fee arrangements. The "profit" is included as part overhead cost, which represents the contractor's cost of doing business. This contract and many others are funded through the HUD Comprehensive Grant Program. It must be governed by the same rules as other contracts to prevent opportunity for discrimination against resident owned businesses.

IMPROPER CONTRACT PAYMENTS

All detailed reviews of the contract payments for labor and other costs were to ensure that the resident council was provided with sufficient technical assistance in this first venture as a contractor. The payment schedules that provided for monthly installments were in support of the fixed fee arrangement. The "not to exceed 30 hours per week" was to allow the employment to serve as a training opportunity rather than full time permanent employment. Ultimately, the objective of the contract was to secure the needed services, comply with Federal mandates to contract with resident owned businesses, and allow the Resident council to manage its contract for profitability. It is HANO's position the payment of a monthly fee was proper for this fixed fee contract.

MISSPENT, FRAUDULENT EXPENDITURES

The validity of the charges in this category is directly related to the type of contract arrangement existing with the Scattered Sites Resident Council and HANO. HUD handbook 7485.3 does not address expenditure of funds by contractors whose payments are funded by Comprehensive Grant Funding. The obligation to ensure that monies are spent for HUD approved purposes rest with the grantee. When the Authority has executed a contract for a HUD approved activity the requirement of the handbook has been met. It then becomes the responsibility of HANO to ensure that the services contracted for have been delivered. Specifically, Handbook 7485.3 Chapter 4 Eligible Costs, Section 4.9 Economic Development Costs, states: "*The PHA is strongly encouraged to train, employ and contract with residents in carrying out modernization activities. In providing training, contracting or employment opportunities for residents, the IHA is required, to the greatest extent feasible, to adhere to the Indian preference requirements in §905.165.*" Additionally, Paragraph (A) Resident Employment and

Contracting with Resident -Owned Businesses, of the same section states *“The Department strongly encourages the PHA and its contractors and subcontractors to hire residents or contract with resident-owned businesses to carry out any CGP-funded physical and management improvement or administrative activity.”*

It is HANO’s position that the activity contracted for was an eligible cost under Comprehensive Grant Program guidelines.

However, there are certain practices detailed in the draft report “items A-G” that involve payment of wages. These issues are governed by other regulations that are applicable to the Scattered Sites Resident Council as well as any other contractor. The Housing Authority will fully investigate all of these issues and take appropriate measures to address all alleged issues of fraud.

CONTRACT RECORD KEEPING

The Housing Authority has conducted its own internal audit review of the record keeping of the Scattered Sites Resident Council. HANO’s on-call auditor also cited the problem reported. Currently, our contractor for Resident Services is assisting the resident council in responding to and resolving the audit issues detailed in that report.

IMPROPER COUNCIL ACTION

The Institute of Resident Initiatives (IRI) has the responsibility of monitoring Resident Council activity. IRI is in the process of assessing the by-laws of all Resident Councils. Should their assessment indicate that a council has placed their legal standing in jeopardy appropriate action will be initiated by HANO. Additionally, by-law changes cited in the year 1995 were in fact initiated and required by the Department of Housing and Urban Development.

RECOMMENDATIONS:

- 1. This report should be referred to the U.S. Attorney’s office for review.**

Response:

The appropriate referral in this instance would be to the Department of Housing and Urban Development. (See HANO’s response to recommendation number 2).

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2. This report should be referred to the U.S. Department of Housing and Urban Development to take appropriate action regarding the Housing Authority of New Orleans' failure to properly administer program funds granted to Scattered Sites Resident Council.

Response:

Irrespective of the Housing Authority of New Orleans' position regarding the validity of this report, as it relates to our contract with the Scattered Sites Resident Council, we will contact the Department of Housing and Urban Development and provide them with a copy of this report.

3. HANO should immediately begin following its own contract and federal guidelines regarding reimbursement for allowable costs.

Response:

The Housing Authority of New Orleans does currently administer its contracts and adhere to federal guidelines and will continue to do so in the future.

4. HUD should review the contract disbursements by HANO to all of the other resident councils receiving funds under the program.

Response:

The Department of Housing and Urban Development upon receipt of the report will initiate action it deems appropriate.

Should you have any questions or require further information please call Linda Hull, Director of Audit and Compliance at 504-556-4390.

Sincerely,



Michael P. Kelly
Executive Director

cc:

Ronald Mason, Jr.
Linda D. Hull

WILLIAM J. GUSTE, JR.
ATTORNEY AND COUNSELLOR AT LAW
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NEW ORLEANS, LOUISIANA
70113-7103

Attorney General of Louisiana
1972-1992

Telephone: (504) 529-7200
Facsimile: (504) 524-9342

June 10, 1998

Mr. Bill Lynch
State Inspector General
Office of State Inspector General
P. O. Box 94095
State Capitol Annex
Baton Rouge, Louisiana 70804-9095

Re: Your File No. 1 - 98 - 0012

Re: REVIEW BY INSPECTOR GENERAL OF
SCATTERED SITE RESIDENTS COUNCIL
BEAUTIFICATION PROJECT

Dear Mr. Lynch:

The undersigned has been retained by the Housing Authority of New Orleans (hereinafter referred to as HANO), to respond to your "draft report" concerning your review of the Scattered Sites Residents Council beautification contract (hereinafter referred to as the "Contract").

I.

At the outset, there are certain facts which should be made clear.

A. The contract was dated March 14, 1995. It is entitled

MR. BILL LYNCH
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HOUSING AUTHORITY OF NEW ORLEANS TENANT
INITIATIVE EMPLOYMENT AND TRAINING PROGRAM,
CONTRACT #94-10-18. It was entered into by
and between HANO and Scattered Sites Resident
Council.

- B. THE CONTRACT WAS FIRST ENTERED INTO ON MARCH 1,
1995. THIS WAS LONG BEFORE FEBRUARY 10, 1996 WHEN
THE PRESENT ADMINISTRATION AT HANO HAD TAKEN
RESPONSIBILITY FOR ITS AFFAIRS. SINCE FEBRUARY 10,
1996, THE PRESENT ADMINISTRATION AT HANO HAS BEEN
DILIGENTLY AND EFFECTIVELY WORKING TO IMPROVE THE
ADMINISTRATION BY HANO OF ITS AFFAIRS.
- C. Shortly after the beautification Contract was
entered into on March 14, 1995, an agreement was
reached by the parties to the Contract that the
Contract was intended by all parties to be a fixed
sum contract with 1/12 of the fixed sum being paid
to the contractor each month. These payments
included costs plus overhead and profit as with any
fixed sum contract.
- D. Just as with other general contracts entered into
by HANO, there was no requirement that the

MR. BILL LYNCH
STATE INSPECTOR GENERAL
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contractor report to HANO as to how it spent the payments made to it by HANO.

- E. The payments made by HANO to the contractor were not granted by HANO to the contractor. The contractor performed the Contract as required by its terms.
- F. HANO verified that the work required by the Contract was performed. And accounted to the Department of Housing and Urban Development (hereinafter referred to as HUD) for its use of the funds provided to HANO by HUD, all in accordance with HUD regulations and to HUD's requirements.
- G. The Scattered Site Resident Council with whom HANO contracted is not HANO. It was an independent contractor.
- H. HANO does not take issue with statements by the Inspector General of the very poor administration by the Resident Council of its affairs. It does not take issue with the statements of the Inspector General of possible misuse or even fraud on the part of members of the Resident Council.

IT WILL INVESTIGATE THESE ALLEGATIONS AND TAKE APPROPRIATE ACTION.

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But it should be made clear that HANO does not have the right under the law, or regulations, to control, as to tell a Resident Council or any other contractor, how it should spend monies paid to it as an independent contractor under a fixed sum contract.

HANO was required to see that the work required by the Contract was performed. This HANO did.

When the final Inspector General's report is received, HANO will send the report to HUD.

And HUD will determine what appropriate action it will take.

I. FINALLY, IT SHOULD BE CLEARLY UNDERSTOOD THAT NO STATE FUNDS ARE RECEIVED BY HANO.

ALL FUNDS IT RECEIVES ARE RECEIVED FROM HUD.

AND HANO ACCOUNTS TO HUD AS IS REQUIRED BY HUD FOR THE USE OF THESE FUNDS.

II. NATURE OF CONTRACT

In order to understand the nature of the contract between HANO and the Scattered Sites Resident Council (the Contractor), it is necessary to review certain matters. The factual information which follows was provided to me primarily by Ms. Linda Hull, who

MR. BILL LYNCH
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has been with HANO for 23 years. She has served in many capacities at HANO. From 1991 to 1995, she served as the Interim Executive Director. In late 1994 and in 1995, when the Contract was being discussed with the Tenant Council, she served as Contracting Officer at HANO.

- A. The Housing and Community Development Act of 1987 established a Comprehensive Grant Program (CGP) by which substantial funds were awarded to large housing authorities to enable them to

"operate, upgrade, modernize and rehabilitate public housing developments to insure their continued availability for low income families as decent, safe and sanitary rental housing at affordable rents".
- B. The CGP and other HUD regulations (24 CFR, Part 963) also urged housing authorities - [Public Housing Agencies (PHA's)] to involve tenants in its modernization activities. In pursuit of this policy, HANO entered into the Contract with the Resident Council.
- C. The Contract in general provided that the Contractor was to furnish all labor and perform all work required for the ground maintenance of HANO.

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D. Shortly after the Contract was signed, it became apparent to both parties to the Contract - HANO and the Contractor - that the Contract did not express in language the true intent of the parties. For example,

1. The Contract stated that it was a "cost payment" contract. But the text of the Contract provided only that "HANO shall pay for any documented labor costs." It did not provide for payment of all other costs which HANO intended to pay for and the Contractor expected to be paid for. At the same time, it required the Contractor to "keep in full force and effect all applicable permits, licenses, taxes and unemployment insurance." To do these things cost money. But the text of the Contract did not specifically state that the Contractor was to bill for same and be reimbursed by HANO for same. Yet, both parties to the Contract had intended that HANO would reimburse the Contractor for all costs required to administer and to perform the Contract.

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2. The Contract in Article 2A provided that immediately on its execution, HANO would advance to the Contractor the amount of the Contractor's projection of its first 2 weeks payroll. Yet, in Article 2B, the Contract provided that HANO was to advance to the Contractor 1/12th of the full amount of the Contract.
3. The Contract did not in its text state the full amount of the Contract. Instead, it stated that the cost of the Contract shall not exceed \$161,746.10. Yet, both parties to the Contract intended that the Contract be for the fixed sum of \$161,746.10.
4. Then again, Attachment D to the Contract is the "Annual Budget". This Annual Budget indicated a number of personnel required to be utilized and services to be performed by the Contractor; it budgeted for each and it arrived at a Grand Total Cost of \$161,746.10. But none of these statements in the text of the Contract or in the Budget clearly stated the intentions of the parties to the Contract

MR. BILL LYNCH
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that it was intended to be a fixed sum contract.

SIMPLY STATED, THE 1995 CONTRACT DID NOT ACCURATELY REFLECT THE INTENTIONS OF THE PARTIES.

E. Accordingly, HANO representatives and Contractor representatives met to agree on their interpretation of the Contract and to agree on how it was to be administered. The agreement reached was

1. That the Contract was intended to be a fixed fee Contract: That is for the fixed annual fee of \$161,746.10, the Contractor would provide all labor, supervision, administrative costs, insurance costs, certified public accounting services, printing services, computer supplies and software and training costs, tax preparation fees and operational costs.
2. It was agreed that the fixed Contract price of \$161,746.10 would be paid to the Contractor by HANO in monthly installments of 1/12th of this

amount. These payments included overhead and profit.

3. HANO would advance the first 1/12th installment.
 4. It was also agreed that thereafter, this loan amount (of the first 1/12th) would be repaid by the Contractor in twelve (12) monthly installments. This amount would be deducted from the 1/12th of the full fixed fee amount of \$161,746.10 which would be paid to the Contractor each month.
- F. These agreements represented the intention of both parties to the Contract when they entered into the Contract. Accordingly, through the duration of the Contract, it was considered by the parties to it
1. to be a fixed fee Contract and
 2. it was administered as a fixed fee Contract as set forth above.
- G. These agreements by the parties to the Contract as to their intention with respect to the Contract were never reduced to writing. Nevertheless, the Contract during its existence was basically administered according to these terms.

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The Contractor performed the services required by the Contract. HANO monitored the services performed. HANO determined that the services were in fact actually performed to its satisfaction. And HANO paid the Contractor in accordance with the agreement of HANO and the Contractor as to the intent of the Contract.

III. OPINION

- A. Two well-settled principles govern the interpretation of contracts:
1. The courts seek to determine the intention of the parties. In this case, the parties to the Contract themselves agreed on what their intention was. That is that the Contract was a fixed fee contract.
 2. In seeking to determine the intention of the parties, the court looks to the manner in which the Contract was administered by the parties. "Contemporaneous Construction" assists the court in determining the intention of the parties to a contract. In this case, the Contract was administered by the parties

MR. BILL LYNCH
STATE INSPECTOR GENERAL
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in accordance with their agreement as to their intention when the Contract was entered into.

It was administered as a fixed fee contract.

Accordingly, it is our opinion that the courts of law would consider the agreement of the parties to the Contract as to their intentions with regard to the nature of the Contract and its administration to be binding on the parties to the Contract.

- B. It is also clear from the facts related above that the payments made by HANO to the Contractor were not grants. They were payments for services provided under a fixed fee contract.
- C. The report states that Mr. Chester Drosdowski with HUD said that there should be full accountability for grant funds.

This is absolutely correct.

- * HANO has accounted to HUD for funds granted to it by HUD,
- * In this case, HANO has accounted to HUD for the fact that it entered into a Contract with

MR. BILL LYNCH
STATE INSPECTOR GENERAL
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residents as recommended by HUD regulations and policy,

* HANO has accounted to HUD for its verification that the work required under the Contract was performed, and

* HANO has accounted to HUD for the fact that the Contract had been paid in accordance with the agreement between HANO and the Contractor.

D. As a general matter, a contractor to a fixed fee contract is not required to account to the other party to the contract as to how the contractor spends the money he receives in payment unless there is a specific provision in the contract requiring the contractor to do so.

In this case, there was no such provision in the Contract.

Furthermore, there was no federal regulation or HUD guideline that required HANO to secure this information from the Contractor.

E. Under the last section of the report entitled "Recommendation", it is stated:

2. that HANO failed "to properly administer program funds granted to Scattered Sites Resident Councils."

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This statement is incorrect. HANO GRANTED NO FUNDS TO RESIDENT COUNCILS. ON THE CONTRARY,

- * HANO CONTRACTED WITH RESIDENT COUNCILS TO PERFORM CERTAIN SERVICES,
- * HANO PAID THE RESIDENT COUNCIL IN ACCORDANCE WITH ITS AGREEMENT WITH IT,
- * HANO VERIFIED TO HIS SATISFACTION THAT THE WORK REQUIRED BY THE CONTRACT WAS PERFORMED, AND
- * HANO REPORTED TO HUD WITH RESPECT TO THE FUNDS HUD HAD PROVIDED IT IN ACCORDANCE WITH ALL HUD REQUIREMENTS.

In recommendation 3, it is stated

3. HANO should immediately begin following its own contract and federal guidelines regarding reimbursements for allowable costs.

1. THE ABOVE SUGGESTS THAT HANO HAS NOT BEEN FOLLOWING ITS OWN CONTRACT WITH THE RESIDENT COUNCIL. THIS IS INCORRECT. HANO HAS FOLLOWED ITS CONTRACT. THAT IT HAS DONE SO IS FULLY EXPLAINED ABOVE IN THIS LETTER.
2. RECOMMENDATION 3 ABOVE ALSO SUGGESTS THAT HANO HAS NOT FOLLOWED THE "FEDERAL GUIDELINES" REGARDING REIMBURSEMENT OF ALLOWABLE COSTS. THIS IS INCORRECT. HANO HAS FOLLOWED ALL HUD

GUIDELINES WITH RESPECT TO THE USE OF FUNDS IT HAS RECEIVED FROM HUD AND WITH WHICH IT HAS CONTRACTED WITH THE RESIDENT COUNCIL FOR GROUNDS MAINTENANCE SERVICE. HANO HAS REPORTED TO HUD AS HAS BEEN REQUIRED BY HUD WITH REGARD TO ITS USE OF SUCH FUNDS.

IV. FURTHER BACKGROUND

- A. In or before 1994, HANO was declared by HUD to be a "Troubled Authority".

HUD had found that HANO was deficient in its maintenance and management of its property and its administration of the funds provided by HUD to it under the Annual Contributions Contract between HUD and HANO.

- B. In order to deal with these problems, HUD and the City of New Orleans entered into a Cooperative Endeavor Agreement on February 8, 1996. Under the agreement, HUD would take over the assets and operation of HANO.
- C. At its meeting of February 10, 1996, the HANO Board of Commissioners did in fact deliver possession of all assets of HANO and all activities of HANO to HUD. Furthermore:

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1. HUD named Mr. Kevin Marchman to assume the responsibilities of the Board of Commissioners of HANO.
2. And Mr. Ronald Mason, Senior Vice President and General Counsel for Tulane University, was appointed by HUD to serve as the HANO Board of Commissioners in the absence of Mr. Marchman. Mr. Mason serves as Executive Monitor for HUD to coordinate the activities of HUD and HANO, and to correct the problems which HANO was experiencing as expeditiously as possible.
3. With HUD assistance and the guidance of Mr. Ronald Mason, and with a new Executive Director, Mr. Michael Kelly, the operational program at HANO is being completely reorganized.
4. And great progress has been made. And this progress has been recognized by HUD and the national and local press.

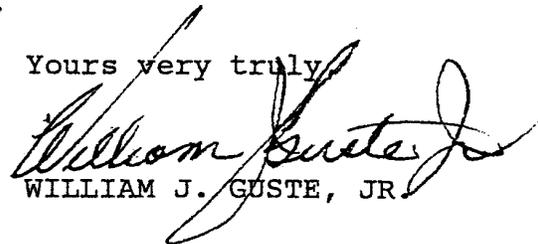
Accordingly, you may be sure that

1. ADDITIONAL INVESTIGATION OF THE TENANT COUNCIL ACTIVITIES WILL BE MADE BY HANO,

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2. WHERE FRAUD OR MISUSE OF FUNDS IS FOUND TO EXIST, APPROPRIATE ACTION WILL BE TAKEN,
3. HUD IS BEING KEPT INFORMED OF THESE MATTERS, AND
4. HANO IS CURRENTLY AGGRESSIVELY WORKING TO ADMINISTER ITS AFFAIRS IN ACCORDANCE WITH ALL FEDERAL GUIDELINES AND WILL CONTINUE TO DO SO IN THE FUTURE.

Yours very truly



WILLIAM J. GUSTE, JR.

WJG,Jr/sl

SCATTERED SITES RESIDENT COUNCIL
4200 ROYAL STREET- APT 6
NEW ORLEANS, LOUISIANA 70117

Mr. Bill Lynch , Inspector General
State of Louisiana
Division of Administration
P.O. Box 94095
State Capital Annex
Baton Rouge , La. 70804-9095

Dear Mr. Lynch:

This letter will serve to respond to your draft report based on your review of the Scattered Sites Resident Council's (the Council) grounds maintenance contract.

By way of background, be advised that during 1994, the Housing Authority of New Orleans(HANO) was desirous of promoting self sufficiency of all residents including but not limited to the development of economic opportunities. Accordingly, the residents of the various developments and sites expressed their willingness and desire to be providers of ground maintenance services to HANO through the use of residents.

As such, on December 30,1994, the board of commissioners of HANO unanimously **approved a contract agreement** for the provision of grounds maintenance by the Scattered Sites Resident Council.

Two pertinent points of the executed contract that require restatement are as follows: Article 2 of the executed contract states “ **This is a fixed cost contract**” . It further states that “ **HANO shall pay the contractor for performance of the Agreement**” . Furthermore, Article 3 states that “ **The contractor is an independent contractor and is solely responsible for, but not limited to serving and keeping in full force and effect during the term of this contract all applicable permits, licenses, taxes, etc. ...**”.

As is evident from the above, we continue to maintain that the Council has fulfilled its contractual responsibility with HANO under the terms of the **contract** . To that extent, all funds received and expended are in accordance with the fixed cost contract executed with HANO.

The following represents a brief response to the findings included in your draft report (File No. 1-98-0012) dated May 8, 1998:

CONTRACT ADMINISTRATION

Condition:

HUD requires accountability for all program expenditures.

Mr. Bill Lynch
page 2.

Response:

As we indicated to your staff throughout the course the audit, this is a fixed cost contract for which the Council complied with all aspects of the scope of services.

Condition :

The Councils have to follow an approved program budget, spend the funds for the purpose intended, and also maintain records of all expenditures.

Response:

Again, the contract was not a grant and therefore did not require a program budget. It is a fixed cost contract that required the performance of specified services. It is our opinion that we have complied with all material aspects of the contract.

FRAUDULENT PAYROLL PAYMENTS:

Condition:

Two employees were compensated for services not performed

Response:

It is the policy of the Council to provide to its employees ten(10) vacation and five(5) sick days in any calendar year, As such, the time sheet should have reflected the use of vacation time . In addition, the other employee identified used her lunch break on the days that she left with the prior approval of her supervisor.

Considering that you reviewed all timesheets, payroll registers and canceled checks, we find your comment regarding the legitimacy of the entire payroll to be inappropriate and misleading to the uninformed reader.

AMERICAN EXPRESS PAYMENTS:

Condition:

Receipts, invoices, purchase orders, etc. were not provided to your auditor.

Response:

Your auditor was provided with a financial statement for November 1997, which reflected those charges referred to above as a receivable and not an expense to the Council.

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CASH PAYMENTS:

Condition:

Several checks totaling \$ 5,770.00 were written to cash.

Response :

Most of our residents do not have access to the benefits of a checking and/or savings accounts. To accommodate that we had funds cashed and made available for the disbursement to the appropriate parties. We continued to explore other ways of serving our residents within the constraints discussed as well as provide for an audit trail. It is our opinion that the expenditures are allowable as previously discussed.

OFFICE SUPPLIES:

Condition:

Purchases totaling \$ 3852.00 were classified as office supplies. It should be noted that the receipts and invoices were not available.

Response:

Receipts were made available to your auditor.

PAYMENTS TO FRIENDS, RELATIVES, OTHERS:

Condition:

Friends, acquaintances and relatives received \$ 2,832.00 of funds.

Response:

All individuals identified in your report are neither friends, nor relatives. These individuals all of whom are residents were compensated for services performed . The applicable invoices or receipts are available . In addition, none of them exceed the threshold for the issuance of a IRS form 1099.

REFRESHMENTS PURCHASED:

Condition:

Checks totaling \$ 3,158 for refreshments were outside the terms of the contract and HUD regulations.

Response:

Again, these purchases were in accordance with the performance of our function as a resident council as well as the fixed cost contract executed with HANO.

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MISCELLANEOUS PURCHASES:

Condition:

Funds were expended for services such as cellular telephone, pager, Sam's Club membership, conferences, etc.

Response:

It is our opinion that the referenced expenditures are reasonable and necessary in the effective management of our office as well as providing the level of services necessary to our residents.

CONTRACT RECORD KEEPING

Condition:

The Council failed to maintain complete and accurate records of various contract expenditures.

Response:

The Council continues to upgrade and provide continued training for its staff in the area of financial management.

IMPROPER COUNCIL ACTIONS:

Condition:

The Council failed to follow federal regulations and its own by-laws when electing residents to the governing board, and amending its by-laws.

Response:

Section 2 of the Council's by-laws address the issue staggered term. Specifically, it dictates the process for the term and how officers should serve. This section of the by-laws states "at no time should an election bring about a completely new board". Your auditor was provided with a copy of this document.

Should you have any questions and/or comments do not hesitate to call.

Sincerely:



Shirley Bush



Mary Wilson