



HUD's Office of Housing Assistance and Grant Administration, Washington, DC

Assisted Living Conversion Program



Issue Date: January 4, 2013

Audit Report Number: 2013-CH-0001

TO: Catherine Brennan, Director, Office of Housing Assistance and Grant Administration, HTH

FROM: Kelly Anderson, Regional Inspector General for Audit, 5AGA

SUBJECT: HUD Did Not Always Provide Adequate Oversight of Its Assisted Living Conversion Program

Enclosed is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final report of our audit of HUD's oversight of the Assisted Living Conversion Program.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8L, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (312) 353-7832.



January 4, 2013

HUD Did Not Always Provide Adequate Oversight of Its Assisted Living Conversion Program

Highlights

Audit Report 2013-CH-0001

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) oversight of the Assisted Living Conversion Program. We initiated the audit as part of the activities in our fiscal year 2012 annual audit plan, which included contributing to the improvement of HUD's execution of and accountability for fiscal responsibilities. Our audit objective was to determine whether HUD had adequate oversight of its Assisted Living Conversion Program.

What We Recommend

We recommend that the Director of HUD's Office of Housing Assistance and Grant Administration (1) identify the ineligible items and seek reimbursement from grantees from nonfederal funds for completed projects or adjust grant amounts accordingly for active projects, and consult with HUD's Office of General Counsel on the eligibility of items or activities, where necessary; and (2) implement adequate policies, procedures, and controls to address the deficiencies cited in this audit report.

What We Found

HUD did not always ensure that grant applications contained eligible work items or construction activities. Specifically, 9 of the 19 grant applications reviewed contained items or construction activities that were not directly related to the conversion of units and common space for assisted living. Further, HUD did not ensure that the performance period for six grants did not exceed 18 months. These weaknesses occurred because HUD lacked procedures and controls for identifying ineligible activities and ensuring that grants were executed within 18 months according to HUD requirements. Additionally, the field offices lacked sufficient understanding of the program's requirements. As a result, HUD lacked assurance that grant funds were solely used for eligible activities as prescribed by the program requirements and guidance. Further, HUD lacked assurance that projects will be completed in a timely manner and without unnecessary waste to meet the special needs of the elderly and disabled persons.

HUD did not always ensure that grantees submitted required biannual progress reports before it released payments. Further, it did not ensure that it conducted bimonthly onsite inspections of the construction activities as required. These conditions occurred because the field offices disregarded or lacked knowledge of the program requirements for progress reporting and inspections. Consequently, HUD lacked assurance that funds were properly used to meet the program objectives, and did not effectively protect its interest.

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BACKGROUND AND OBJECTIVE

The Assisted Living Conversion Program was authorized under section 202b of the Housing Act of 1959 and section 522(c) of the Appropriations Act of 2000. The grants funded under this program were designed to enable our Nation's elderly to live in familiar surroundings, as they age and need more specialized features and support services to remain independent, and provide an affordable option to nursing homes. This is part of the U.S. Department of Housing and Urban Development's (HUD) Housing Security Plan for Older Americans, an initiative to expand the housing options of low-income seniors. The purpose of the program is to provide private, nonprofit owners of eligible developments with grants to convert some or all of the dwelling units in the project into an assisted living facility.

Assisted living facilities are designed to accommodate the frail elderly and people with disabilities who can live independently but need assistance with activities of daily living (for example, assistance with eating, bathing, grooming, dressing, and home management activities). Assisted living facilities must provide support services such as personal care, transportation, meals, housekeeping, and laundry. The program provides funding for the physical costs of converting some or all of the units of an eligible multifamily development into an assisted living facility, including the unit configuration, common and services space, and any necessary remodeling, consistent with HUD's or the State's regulations, whichever is more stringent. Support services are funded by a number of State and local agencies, private grants, and donations.

The program grants are awarded competitively on the basis of the extent to which the proposed conversion serves the needs of the frail elderly, quality and effectiveness of the conversion in planning and managing meals and supportive services, the ability of the project owner to secure community resources to help achieve the program's purposes, and the ability of the project owner to complete the conversion on time. The owners are responsible for ensuring that converted units comply with all local standards, codes, and regulations governing assisted living facilities. The projects must also be licensed and regulated by the appropriate governing body.

HUD's Office of Multifamily Housing, Office of Housing Assistance and Grant Administration, is responsible for administering the Assisted Living Conversion Program, and the day-to-day oversight of the program is managed by HUD's field offices. The Notice of Funding Availability (NOFA) and Technical Processing Memorandum, issued annually by the Office of Housing Assistance and Grant Administration, provide guidance to HUD's field offices for the oversight of the program. For the program administration and oversight, HUD is responsible for reviewing the applications; awarding the grants; and ensuring that (1) the grant progress reporting by the projects is received, (2) bimonthly inspections are conducted in accordance with HUD Handbook 4460.1, (3) change orders are approved and supported appropriately by HUD, (4) vouchers submitted for payment through the Line of Credit Control System are reviewed to ensure that appropriate support for the payments was presented, (5) the work is progressing within appropriate timeframes, (6) appropriate licensing of the project is approved by the local authorities, (7) the grant is closed after processing the final voucher, (8) funds not used have been deobligated, (9) an independent auditor's report is completed, and (10) the Assisted Living

Conversion Program declaration of restrictive covenants and extension of regulatory agreement is executed.

For fiscal years 2008 through 2010, the total funds available and funded for the Assisted Living Conversion Program grants were as follows:

Fiscal year	Grant funding available	Total grants issued	Number of units converted	Total grant funding
2008	\$24,750,000	7	195	\$27,394,747
2009	20,000,000	5	104	18,773,800
2010	30,000,000	7	183	23,690,096
Totals	\$74,750,000	19	482	\$69,858,643
Note: If funding was not used within a fiscal year, it was rolled over to the next fiscal year.				

Our audit objective was to determine whether HUD had adequate oversight of its Assisted Living Conversion Program to ensure that program funds were properly used to convert units for eligible multifamily housing projects. Specifically, we wanted to determine whether HUD (1) appropriately approved grant applications and executed grant agreements, (2) ensured that progress reports were submitted by grantees in a timely manner, and (3) conducted inspections in accordance with its requirements.

RESULTS OF AUDIT

Finding 1: HUD Did Not Always Ensure That Grant Applications Contained Eligible Work Items or Construction Activities

HUD did not always ensure that grant applications contained eligible work items. For the 19 grant applications reviewed, 9 contained items or construction activities that were not directly related to the conversion of units and common space for assisted living. Further, HUD did not ensure that the period of performance for six grants did not exceed 18 months. These weaknesses occurred because HUD lacked procedures and controls for identifying ineligible activities and ensuring that grants were executed within 18 months according to HUD requirements. In addition, the field offices lacked sufficient understanding of the program's requirements. As a result, HUD lacked assurance that grant funds were solely used for eligible activities as prescribed by the program requirements and guidance. Further, HUD lacked assurance that projects will be completed in a timely manner and without unnecessary waste to meet the special needs of the elderly and disabled persons.

Approved Applications Contained Ineligible Construction Items or Activities

We reviewed 100 percent of the program grants awarded from 2008 through 2010. Of the 19 approved grants, 9 (47 percent) applications contained ineligible construction items or work activities, such as parking lot repairs, roofing, siding, entryway canopies, and building signage. The NOFA specified that the program funds would be used for converting existing units and common areas within the multifamily project or the entire project into assisted living units. Any costs that were not directly related to the conversion of units and common space for assisted living were not eligible.¹

The items or construction activities identified as not being directly associated with the conversion were

- Entrance canopies;
- Sidewalks and curbing not directly associated with the conversion;
- Resurfacing of pavement;
- Restriping in parking lots;
- Landscape work to include benches, shrubs, and planters;
- Signage for parking lots;
- A corridor not directly associated with the conversion;

¹ NOFA, paragraphs I(A) and IV(E) (see appendix B)

- Roof coping and flashing (the building had seven floors, and the conversion was for the first, second, and third floors);
- Generator replacement for the building;
- Fencing not directly associated with the conversion;
- Correction of poor drainage from a previous program grant;
- Light for the exterior of the building; and
- A video surveillance system for the exterior of the building.

HUD stated that the above-mentioned items or activities were either eligible or to be determined for seven of the nine grant applications. Further, for one of the remaining two grant applications, HUD changed the grant to exclude work items before it was executed. However, it did not specifically indicate that the excluded items were ineligible. The grant’s funding was reduced for the project; however, the work items removed were identified as being funded through the low-income housing tax credit program. For the last grant application, HUD agreed that it contained an ineligible activity.

The funding amounts for each of the ineligible activities could not be completely identified since HUD requires the construction costs to be submitted on form HUD-2328, Contractor’s and/or Mortgagor’s Cost Breakdown, which identifies budget costs by sections, such as concrete, masonry, and other general areas.

HUD Failed To Execute Six Grants for a Prescribed Timeframe

HUD failed to ensure that the performance period for six grants did not exceed 18 months. HUD’s NOFA states that a fully executed program grant agreement obligates the funds and establishes the legal relationship between HUD and the award recipient. Additionally, HUD will base the period of performance on the scope of work, which should not exceed 18 months.² However, contrary to its requirements, HUD executed five grants for 24 months and one grant without a grant term or effective dates.

HUD Lacked Knowledge and Understanding of Its Own Requirements

HUD’s Office of Housing Assistance and Grant Administration lacked adequate procedures and controls for addressing the identification of ineligible activities during the application review. Even though HUD identified ineligible activities in the NOFA, it did not ensure that applications were reviewed for ineligible activities. The Office of Housing Assistance and Grant Administration assumed

² NOFA, paragraph II – Award Information (see appendix B)

that the field offices would identify ineligible activities and ensure necessary corrections were made before the execution of the grant agreements. In addition, it did not ensure that its reviewing officials in the field offices fully understood the program's requirements when reviewing and approving grant applications. For instance, one reviewing official explained that if an activity or item was part of the multifamily project and used by the residents in the assisted living units, that activity or item would be eligible.

HUD's reviewing officials in the field offices generally said that they did not receive appropriate guidance for the program. Therefore, they developed their own procedures for oversight and application processing, which varied among the field offices.

HUD field offices did not ensure that the terms of executed grant agreements did not exceed 18 months. The reviewing officials in the field offices were not familiar with the NOFA requirements when executing the grant agreements. One reviewing official stated that there was not enough guidance for the program, although this requirement was included in the NOFA. Another reviewing official stated that a staff in another field office prepared and executed one of the grant agreements, knowing that the grant could not exceed 18 months.

Conclusion

HUD did not always ensure that grant applications contained eligible work items. For the 19 grant applications reviewed, 9 contained items or construction activities that were not directly related to the conversion of units and common space for assisted living. Further, HUD did not ensure that the period of performance for six grants did not exceed 18 months. These weaknesses occurred because HUD lacked procedures and controls for identifying ineligible activities and ensuring that grants were executed within 18 months according to HUD requirements. In addition, the field offices lacked sufficient understanding of the program's requirements. As a result, HUD lacked assurance that grant funds were solely used for eligible activities as prescribed by the program requirements and guidance. Further, HUD lacked assurance that projects will be completed in a timely manner and without unnecessary waste to meet the special needs of the elderly and disabled persons.

Recommendations

We recommend that the Director of HUD's Office of Housing Assistance and Grant Administration

- 1A. Identify the ineligible items or activities and seek reimbursement from the grantees from nonfederal funds for completed projects, or adjust the grant amounts accordingly for active projects, and where necessary, consult with

HUD's Office of General Counsel on the eligibility of construction items or activities.

- 1B. Implement adequate procedures and controls regarding the application review and grant execution process to ensure that program funds are used for eligible activities and grants are executed for a period not exceeding 18 months. These procedures and controls should include, but not limited to, providing clear guidance to field offices regarding the grant application review and execution process to ensure compliance with requirements.

Finding 2: HUD Did Not Always Adequately Monitor Its Program Grantees

HUD did not always adequately monitor its program grantees. Specifically, it did not ensure that (1) grantees submitted required biannual progress reports before payments were released and (2) it conducted bimonthly onsite inspections of construction activities. These conditions occurred because HUD's Office of Housing Assistance and Grant Administration was not aware that the field offices were not following the program requirements and guidance. Further, its field offices disregarded or lacked knowledge of the program requirements for progress reporting and inspections. Consequently, HUD lacked assurance that funds were properly used to meet the program objectives, and did not effectively protect its interest.

HUD Did Not Ensure That Progress Reports Were Submitted and Inspections Were Conducted Within Required Timeframes

According to HUD requirements, grantees must submit a progress report every 6 months after the effective date of the grant agreement.³ Progress reports should include reports on both performance (logic models) and financial progress. Financial reports should be submitted on Standard Form 269, Financial Status Report. No grant payments will be approved for projects with overdue progress reports. Further, HUD requires that inspections be conducted in accordance with HUD Handbook 4460.1, which requires a minimum of bimonthly inspections.⁴

We reviewed 100 percent of the program grants for fiscal years 2008 through 2010 and determined that the biannual progress reporting requirement applied to 14 of the 19 grants reviewed. Of the remaining five grants, two had not received payments as of July 2012, and three had not reached the 6-month point; therefore, the progress reports were not available. Based on our review, we have identified the following:

- Payments were released to the grantee without the timely submission of the required progress reports for 14 grants,
- The logic model was not submitted biannually for 14 grants,
- A logic model was not submitted as required in the grant application for 1 grant,

³ Program grant agreement, article VI (see appendix B)

⁴ Technical Processing Memorandum, paragraph IV, and HUD Handbook 4460.1, paragraph 3-4(c) (see appendix B)

- A financial report was not submitted biannually for 10 of 14 grants,
- Inspections were not conducted bimonthly for 5 grants, and
- Inspections were not conducted for 1 grant.

HUD Lacked Knowledge of Its Own Requirements

The weaknesses discussed above occurred because HUD's Office of Housing Assistance and Grant Administration was not aware that the field offices were not following the program requirements and guidance. HUD's program staff lacked knowledge of the progress reporting and inspection requirements. For instance, the staff in the field offices stated that they were unaware that grantees had to submit required financial reports and logic models before they could release the grant payments.⁵ The reviewing officials responsible for monitoring 10 of the 14 grants stated that they were not aware of the progress reporting requirements, and the officials for 3 of those 10 grants explained that they had not read all the program guidance and regulations. Further, the reviewing officials for 7 of 14 grants stated that the logic model was difficult to work with.

Regarding the inspections, the reviewing officials for four grants stated that they were aware of the requirement but due to a lack of resources or other work obligations, they did not comply with the requirement for bimonthly inspections. However, these reviewing officials did not notify HUD headquarters' Office of Housing Assistance and Grant Administration that the field offices lacked sufficient resources to conduct the inspections. Further, one field office did not conduct any inspections for one grant, and did not agree it was required to conduct bimonthly inspections for projects under the Assisted Living Conversion Program. Conversely, HUD's Office of Housing Assistance and Grant Administration stated the field offices were required to conduct bimonthly inspections of the grant-funded projects in accordance with the program requirements and guidance. Another reviewing official did not provide an explanation for not complying with the inspection requirement.

Conclusion

HUD did not always adequately monitor its program grantees. Specifically, it did not ensure that (1) grantees submitted required biannual progress reports before payments were released and (2) it conducted bimonthly onsite inspections of construction activities. As a result, HUD lacked assurance that funds were properly used to meet the program objectives, and did not effectively protect its interest.

⁵ Program grant agreement, paragraph VI(D) (see appendix B)

Recommendations

We recommend that the Director of HUD's Office of Housing Assistance and Grant Administration

- 2A. Implement adequate policies, procedures, and controls to ensure that program staff complies with requirements concerning progress reporting and construction inspections. These controls should include, but not limited to, taking steps to ensure that field staff responsible for monitoring program grantees are adequately trained and familiar with the program requirements. HUD should also consider accumulating best practices and the field offices' input for improvements in the oversight of the program.

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed

- Applicable laws; regulations; NOFAs for fiscal years 2008 through 2010; HUD Handbook 4460.1; HUD's Technical Processing Memorandums – Guidance for Fiscal Years 2008 Through 2010 Application Review; HUD's program requirements at 24 CFR (Code of Federal Regulations) Parts 84 and 891; the Housing Act of 1959, section 202(b), as amended; the Consolidated Appropriations Acts for fiscal years 2008 through 2010; form HUD-50080 (08/2000); form HUD-2328 (05/1995); and form HUD-92045 (03/2002).
- Applications requesting assistance; application review checklists; grant agreements; drawdown requisition forms; contractors' invoices and change orders; architectural specifications and drawings; and grantee by-laws and articles of incorporation, budgets, and progress reports.
- Line of Credit Control System (LOCCS) data, HUD inspection reports, and HUD's organizational list.

We also interviewed HUD's staff.

We reviewed 100 percent of the 19 grants funded for fiscal years 2008 through 2010 to ensure that grant applications and agreements were approved and executed according to HUD requirements and progress reports were submitted by grantees according to HUD requirements and to determine whether HUD conducted inspections of the construction process according to its requirements.

We did not use computer-generated data to support our audit conclusions. We compared the source documentation maintained by HUD to data reported in LOCCS.⁶ All conclusions were based on source documentation reviewed during the audit.

We performed onsite audit work between February and April 2012 at HUD's offices located in Washington, DC, Buffalo, NY, and Columbus, OH. The remaining audit work was completed between May and September 2012 at HUD OIG's offices in Chicago, IL, and Columbus, OH. The audit covered the period July 1, 2008, through July 31, 2012.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

⁶ LOCCS is the HUD system used to disburse and track the payment of grant funds to grant recipients.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

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

- Effectiveness and efficiency of operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Reliability of financial reporting – Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with applicable laws and regulations – Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- HUD lacked adequate procedures and controls to ensure that (1) grant applications contained eligible work items, (2) the performance period for grants met requirements, and (3) progress reports were submitted and inspections were conducted in accordance with requirements (see findings 1 and 2).


APPENDIXES

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

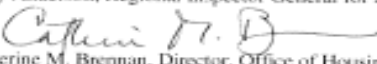
Auditee Comments⁷


OFFICE OF HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

DEC 21 2012

MEMORANDUM FOR: Kelly Anderson, Regional Inspector General for Audit, 5AGA

FROM: 
Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, HTH

SUBJECT: Response to Discussion Draft Audit Report – HUD's Oversight of Assisted Living Conversion Program (ALCP)

This is in response to the Discussion Draft Audit Report of your recently completed audit of HUD's oversight of the Assisted Living Conversion Program. Based on my review of the draft report and our discussion during the Exit Conference held December 5, 2012, I am providing written comments responding to the findings and recommendations.

Thank you for the opportunity to review the draft report. I believe that implementation of several of the recommendations will result in better program management and monitoring. The attached narrative and spreadsheet identify the findings where I agree or disagree. I have provided the reason and documentation as appropriate, in cases where I disagree, as well as corrective actions and/or alternative resolutions in instances where the finding or recommendation appeared to be valid.

If you have any questions concerning my response, do not hesitate to contact me by email or at 202-708-3000.

Attachments

cc:
Marcie Ibizugbe, Assistant Regional Inspector General for Audit
Marie D. Head, Deputy Assistant Secretary for Multifamily Housing Programs, HT
Auretha M. Williams, Director of Grant Policy and Management Division, HTHP
Katina X. Washington, Housing Program Manager, HTH
Clinton Bradley, Housing Projects Manager, HTGP
Larry E. McGhee, Departmental Audit Liaison Officer, FMA
Joan S. Hobbs, Deputy Assistant Inspector General for Audit, GA

⁷ This excludes a three-page spreadsheet and 64 pages of other documentation that were not necessary for understanding HUD's comments.

Ref to OIG Evaluation

Auditee Comments

Response to “Discussion Draft Audit Report on OIG’s Audit of HUD’s Oversight of the Assisted Living Conversion Program”

Finding # 1 HUD DID NOT ALWAYS ENSURE THAT GRANT APPLICATIONS CONTAINED ELIGIBLE WORK ITEMS OR CONSTRUCTION ACTIVITIES

Approved Applications Contained Ineligible Construction Items or Activities

Response:

Comment 1

After review of Finding 1, the grant applications of FY 2008-2010, and consultation with field staff, the Office of Housing Assistance and Grant Administration (HAGA) found that 8 grant applications contained items that were ineligible and 5 grants expended ALCP funds to pay for the ineligible activities. The NOFA states that funds available through this NOFA cover the cost of activities directly related to the conversion of units, common space, or service space. The items and/or construction activities that HAGA agrees are ineligible are:

- Entrance canopies
- Security Cameras
- Fences and benches not related to the conversion
- Roofing not directly related to the conversion
- Landscaping not directly related to the conversion
- Storm drain work not directly related to the conversion
- Generators
- Site lighting not directly related to the conversion

Comment 1

Attached is a spreadsheet and supporting documentation for the other items/activities identified as ineligible in the draft audit report but which HAGA’s review confirmed were eligible and necessary to the conversions.

Comment 2

While we agree that some of the grant applications were awarded with ineligible items, these applications were approvable in accordance with the NOFA. There is no step in the application process that affords an opportunity for applicants to remove ineligible items, nor does identification of ineligible items necessarily prevent an application from being awarded; such items may be removed at a later stage. The Guidance for Application Review memo states that during the rating and ranking of applications HUD may reduce the amount requested in the application if any of the proposed components are ineligible (please see excerpt below from Section I.E.4. of the Guidance for Application Review Memo). HAGA disagrees that the program lacks the necessary procedures for specifically identifying ineligible activities in the application review process. The following materials and resources were available to HUD staff for use during the review of applications; the ALCP NOFA, ALCP NOFA Broadcast, and Guidance for the Application Review memo. Headquarters staff were also available to provide instructions on the application review. HAGA agrees that more procedures and adequate

Ref to OIG Evaluation

Auditee Comments

Comment 2

controls are needed to establish better quality assurance and consistency among application reviewers specifically when identifying ineligible conversion activities. Currently, HAGA is implementing more quality assurance controls and procedures in reviewing current and future grant applications, such as revising the NOFA to provide more examples of ineligible items, revising the Guidance for Application Review memo to provide instruction on how to identify ineligible items included in the application, and revising the grant agreement.

Multifamily Housing Assisted Living Conversion Program Guidance for Application Review

4. Rating and Banking of Applications

All eligible applications that pass thresholds and have a total score of 75 or more points are eligible for funding. (See Attachment 5 for the standard rating criteria format.)

NOTE: Hub staff teams may reduce the amount requested in the application if any proposed components are ineligible or if the cost of any item is deemed unreasonable

HUD Failed to Execute Six Grants for Prescribed Timeframe

Response:

The Multifamily (MF) Housing Assisted Living Conversion Program (ALCP) Guidance for Application Review provides that the MF Hub or Program Center Director, as the Grant Officer, has the authority to make any necessary modifications to the Grant Agreement. The ALCP NOFA for Fiscal Years (FYs) 2008, 2009, and 2010 states "the period of performance will be based upon the scope of work but shall not exceed 18 months," but any modifications to the Grant Agreement such as the period of performance is at the discretion of the Grant Officer. For more information, please see the excerpt below from Section II.D.3. of the Multifamily Housing Assisted Living Conversion Program Guidance for Application Review.

Multifamily Housing Assisted Living Conversion Program Guidance for Application Review

Make any necessary modifications to the grant agreement, if applicable. Also, if any parts of the application were to be modified based on the results of the application review, attach these amended documents as well as any conditions for approval. The grantee must agree to meet these condition(s) when the agreement is signed.

HUD Lacked Knowledge and Understanding of Its Own Requirements

Response:

Based on the results of the audit, it appears that some HUD field staff may not have fully understood the program's requirements or did not follow the procedures outlined in the NOFA and in the Application Review memo for identifying ineligible activities and ensuring the Grant

Comment 3

Ref to OIG Evaluation

Auditee Comments

Comment 3

Agreements were executed in the manner required. Therefore, to ensure that HUD staff understands the guidance that is provided, HAGA is in the process of revising program guidance and the application review process to make sure ineligible activities are addressed and grants are executed as required.

Conclusion

HAGA agrees that grant application reviewers did not always properly identify ineligible conversion activities. Although procedures were already in place for identifying ineligible conversion activities, field staff may not have uniformly followed those procedures. As for ensuring grants are executed within the 18 month time period, HAGA contends that this is still at the discretion of the Grant Officer but does agree that a standardized procedure needs to be implemented to ensure that the conversion is completed in a timely matter. Further, HAGA concurs that additional training is needed for field offices as well as better communication between Headquarters and the field offices. HAGA's comments on the specific recommendations follow.

Recommendations

1A. Consult with HUD's Office of General Counsel to obtain legal interpretation on the eligibility of the construction items or activities identified in the audit report.

Comment 4

HAGA takes this recommendation under advisement but contends that eligible construction activities are established by the program office. When necessary, HAGA does consult with the program attorney in OGC.

1B. Identify the ineligible items or activities and seek reimbursement from the grantees from nonfederal funds for completed projects, or adjust the grant amounts accordingly for active projects.

Comment 5

To the extent possible, HAGA will work with OGC and the field offices to see if HUD should seek reimbursement for activities determined to be ineligible from grantees whose grants have been closed out. If the grants are currently active, the grant amount will be adjusted for the costs of the ineligible activity.

1C. Implement adequate procedures and controls regarding the application review and grant execution process to ensure that Program funds are used for eligible activities and grants are executed for a period not exceeding 18 months. These policies and procedures should include, but not limited to providing clear guidance to its field offices regarding the grant application review and execution to sure compliance with requirements.

Comment 6

HAGA revised the FY 2013 Assisted Living Conversion Program (ALCP) Notice of Funding Availability (NOFA) to provide better guidance regarding items that are ineligible conversion activities. The Guidance for Application Review memo is also being revised so that the reviews by the Project Manager and the Architecture and Engineering (A&E) staff will have specific instructions on how to identify ineligible items and the costs associated with the items as well as

procedures for reducing the grant amount, if applicable. The review forms will have specific questions for the reviewer to list any ineligible items and the cost for those items. HAGA will also provide additional guidance on the Grant Agreement to ensure offices are executing the Grant Agreement as required.

Finding 2: HUD DID NOT ALWAYS ADEQUATELY MONITOR PROGRAM GRANTEES

HUD Did Not Always Ensure That Progress Reports Were Submitted and Inspections Were Conducted Within Required Timeframes

Response:

HAGA agrees that some Field offices did not always ensure that the grantees were following HUD requirements for the submission of the Performance Reports (Logic Models) and the Financial Reports (Standard Form 269) before the approval of grant payments. The Grant Agreement requires that no grant payments will be approved for projects with overdue progress reports. Further, HAGA agrees that in some cases there was not sufficient oversight and monitoring of the grants to ensure that the required bimonthly inspection reports were completed.

HUD Lacked Knowledge and Understanding of Its Own Requirements

HAGA acknowledges that in some cases there was a lack of adequate oversight and monitoring for ensuring that field offices followed program requirements and guidance post-application award. Even though HUD field staff have full access to the Guidance Application Review memo that provides instructions on activities following the award, HUD field staff did not always follow the guidance provided. Therefore, grant payments were being approved without the required progress and financial reports being submitted and bimonthly inspections were not always conducted according to the guidance provided. HAGA is in the process of developing a program guide to field offices.

Conclusion

HAGA agrees that grants were not always adequately monitored due to inadequate oversight and monitoring of the ALCP. Specifically, field offices did not always ensure that required progress and financial reports were submitted on time and bimonthly inspections were not always conducted. Some field office staff appear to lack understanding of program requirements.

Recommendations

Implement adequate policies, procedures, and controls to ensure that program staff complies with requirements concerning progress reporting and construction inspections. These controls should include, but not limited to, taking steps to ensure that field staff responsible for monitoring program grantees are adequately trained and familiar with the program

Comment 7

Ref to OIG Evaluation

Auditee Comments

Comment 7

requirements. HUD should also consider accumulating best practices and the field offices' input for improvements in the oversight of the program.

HAGA is in the process of revising the program guide for field offices to include more information on ALCP program requirements and post-award activities. The ALCP program manager has already begun quarterly conference calls with field staff involved with the ALCP and is requiring quarterly progress reports to be submitted by field staff responsible for the management of ALCP grants.

OIG's Evaluation of Auditee Comments

Comment 1 OIG originally identified 10 of 19 grant applications reviewed contained ineligible items. However, HUD's Office of Housing Assistance and Grant Administration stated it found that eight grant applications contained ineligible items, and of those grants, the grantees for five grants spent program funds on the ineligible activities. Based on the documentation provided by HUD, we agree that the installation of a sprinkler system for the Peter Sanborn Place project is an eligible activity. OIG adjusted finding 1 for the project accordingly, thereby reducing the number of grant applications containing ineligible items from 10 to 9. However, for the remaining grants, HUD did not provide sufficient documentation to support its determination of the eligibility of the construction activities or items that the audit team identified as ineligible.

Comment 2 HUD stated that these applications were approved in accordance with the NOFA, and did not agree that the program lacked the necessary procedures for specifically identifying ineligible activities in the application review process. Although HUD had procedures such as the NOFA and the technical processing memorandum in place, they were not adequate for ensuring that applications were properly reviewed for ineligible activities during the application review and ranking process. The NOFA provides funding restrictions and lists the ineligible activities. However, for instance, one reviewing official revealed there was a lack of understanding on how to identify whether an activity or item would be eligible for a program project. Further, the Office of Housing Assistance and Grant Administration assumed that the field offices would identify ineligible activities and ensure necessary corrections were made before the execution of the grant agreements. However, if the ineligible activities are not addressed during the application review process, HUD lacks assurance that those ineligible activities would later be identified before funds are disbursed to the grantees because HUD did not always ensure that progress reports were submitted by the grantees as required, which we identified in finding 2. Therefore, the grants were not approved in accordance with the NOFA since the applications did not identify ineligible items. Approved applications' funding was not reduced nor was ineligible activities identified during the review and ranking process.

HUD agreed additional procedures and adequate controls are needed to establish better quality assurance and consistency among application reviewers, specifically when identifying ineligible conversion activities. We commend HUD for implementing additional quality assurance procedures and controls concerning the application review process.

Comment 3 HUD stated that any modification to the grant agreement is at the discretion of the grant officer. The Technical Processing Memorandum, which serves as instructions to HUD staff for processing the program grant applications, also provides that if any parts of the application were to be modified based on the

results of the application review, the amended documents as well as any conditions for approval should be attached. Although the grant officer has the discretion to adjust the performance period of the grant agreement, no adequate supporting documentation or explanation was provided for why the grant terms exceeded the timeframe of 18 months prescribed by the NOFA, other than that the grants were executed according to prior practices. We noted one exception for the grant terms for the Peter Sanborn Place project, for which the field office was aware of the grant term limit but extended the term to complete the relocation of tenants. We revised finding 1 for the one project accordingly.

For grant performance period, HUD agreed a standardized procedure needs to be implemented to ensure that the project conversion is completed in a timely manner. Further, HUD concurred with our recommendation concerning additional training for the field offices as well as better communication between Headquarters and the field offices.

- Comment 4** HUD takes Recommendation 1A of the audit report under advisement, and stated that the program office establishes the eligible construction activities. The NOFA provides funding restrictions and lists the ineligible activities the program funds are not to be used for. For example, the program funds should not be used to cover the cost of activities not directly related to the conversion of the units and common space. Based on the definition of ineligible activities presented in the NOFA, we disagree with HUD's explanation for activities it has identified as eligible. However, we agree that the program office has the responsibility for establishing the eligible construction activities or items, and where necessary, HUD should consult with its Office of General Counsel on the eligibility of the cited construction items or activities. We revised our recommendations for finding 1 accordingly.
- Comment 5** HUD agreed to implement Recommendation 1B of the discussion draft audit report which is Recommendation 1A of this audit report.
- Comment 6** We acknowledge the changes HUD is currently making to its procedures and controls to address Recommendation 1C of the discussion draft audit report, which is Recommendation 1B of this audit report.
- Comment 7** HUD agreed that grants were not always adequately monitored due to inadequate oversight and monitoring of the program. Additionally, HUD is in the process of revising its program guide for the field offices to further address program requirements and post-award activities. We commend HUD on its plan to implement additional procedures and controls to ensure its staff complies with program requirements.

Appendix B

FEDERAL REQUIREMENTS

Finding 1

NOFA 2008-2010, Assisted Living Conversion Program For Eligible Multifamily Housing Projects, I. Funding Opportunity Description, A. Program Description, state that the Assisted Living Conversion Program provides funding for the physical costs of converting some or all of the units of an eligible multifamily development into an assisted living facility, including unit configuration and related common and services space and any necessary remodeling, consistent with HUD or the state's statutes/regulations (whichever is more stringent). Typical funding will cover basic physical conversion of existing project units, as well as related common and services space.

NOFAs 2008-2010, Assisted Living Conversion Program For Eligible Multifamily Housing Projects, III. Eligibility Information, Eligibility Requirements, state:

1. Eligible conversion activities are:

a. Retrofitting to meet Section 504 accessibility requirements, minimum property standards for accessibility and/or building codes and health and safety standards for Assisted Living Facilities (ALF) in that jurisdiction. Meeting Section 504 regulations require compliance with the Uniformed Federal Accessibility Standards (UFAS). Examples are items such as:

1. Upgrading to accessible units for the Assisted Living Facility with moveable cabinetry, accessible appliances, sinks, bathroom and kitchen fixtures, closets, hardware and grab bars, widening doors, etc.;
2. An elevator or upgrades thereto;
3. Lighting upgrades;
4. Major physical or mechanical systems of projects necessary to meeting local code or assisted living requirements;
5. Sprinkler systems;
6. Upgrades to safety and emergency alert systems;
7. Addition of hallway railings; and
8. Medication storage and workstations.

b. Retrofitting to add, modify and/or outfit common space, office or related space for Assisted Living Facility staff including a service coordinator and file security, and/or a central kitchen/dining facility to support the Assisted Living Facility function (e.g., outfit lounge, common space/dining furniture, kitchen equipment for cooking/serving and dishware).

c. Retrofitting to upgrade a regular unit to an accessible unit for a person/family with disabilities who is being displaced from an accessible unit in the portion of the project that is being converted to the Assisted Living Facility, where another accessible unit is not available;

- d. Temporary relocation;
- e. Consultant, architectural, and legal fees;
- f. Vacancy payments limited to 30 days after conversion to an Assisted Living Facility; and
- g. Any excess Residual Receipts (over\$500/unit) and Reserve for Replacement funds (over \$1,000/unit) in Project Accounts that are not approved for another use at the time of application to HUD under this Notice of Funding Availability are considered available funds and must be applied toward the cost of conversion activities. Before making this determination, however, HUD staff will consider the extent of repair/replacement needs indicated in the most recent Real Estate Assessment Center (REAC) physical inspection and not yet approved and any ongoing commitments such as non-grant-based service coordinator or other funding, where existing, deduct the estimated costs of such items from the reserve for replacement and residual receipts balances to determine the extent of available residual receipts and reserve for replacement funds for the Assisted Living Conversion Program.

NOFAs 2008-2010, Assisted Living Conversion Program For Eligible Multifamily Housing Projects, IV (E) Funding Restrictions, Ineligible Activities, state that funds available through the NOFAs may not be used for the following:

- a. Adding additional dwelling units to the existing project;
- b. Paying the costs of any of the necessary direct supportive services needed to operate the assisted living facility;
- c. Purchasing or leasing additional land;
- d. Rehabilitating (see definition at 24 CFR 891.105) the project for needs unrelated directly to the conversion of units and common space for assisted living;
- e. Using the ALCP [program] to reduce the number of accessible units in the project that are not part of the ALF;
- f. Permanently displacing any resident out of the project (permanent relocation is prohibited under this program);
- g. Paying management fees;
- h. Covering the cost of activities not directly related to the conversion of the units and common space. (i.e., if an applicant is applying to convert 24 units on 2 floors of a 5-story elderly housing development and the inspection by the Fire Marshal reveals that sprinklers must be installed in the entire building, ALCP funds will be used only to install sprinklers for the 24 units on the 2 floors requested in the application. The cost to install sprinklers in the remaining units must be paid for out of other resources).

Regulations at 24 CFR 891.105, Definitions, states: “Rehabilitation means the improvement of the condition of a property from deterioration or substandard to good condition. Rehabilitation may vary in degree from gutting and extensive reconstruction to the cure of substantial accumulation of deferred maintenance. Cosmetic improvements alone do not qualify as rehabilitation under this definition. Rehabilitation may also include renovation, alteration, or remodeling for the conversion or adaptation of structurally sound property to the design and condition required for use under this part, or the repair or replacement of major building systems or components in danger of failure. Improvement of an existing structure must require 15 percent or more of the estimated development cost to rehabilitate the project to a life of 55 years.”

Technical Processing Memorandums, fiscal years 2008-2010 – Application Review Process, Rating and Ranking of Applications, state: “HUD may reduce the amount requested in the application if any proposed components are ineligible or if the cost of any item is deemed unreasonable.”

NOFAs 2008-2010, Assisted Living Conversion Program For Eligible Multifamily Housing Projects, II. Award Information, state that the program grant agreement, when fully executed, obligates the HUD funds. This agreement establishes the legal relationship between HUD and the program award recipient. HUD will base the period of performance on the scope of work, but it must not exceed 18 months.

Finding 2

NOFAs 2008-2010 – Assisted Living Conversion Program For Eligible Multifamily Housing Projects, VI. Award Administration Information, (C), Reporting, state: “Recipients of funding under this program Notice of Funding Availability must submit a progress report every six months after the effective date of the grant agreement. Each semi-annual report must identify any deviations from outputs and outcomes proposed and approved by HUD, by providing the information in the reporting TAB of the approved Logic Model.”

The Assisted Living Conversion Program grant agreement, article VI, Progress Reports, states: “(A.) Grantee must submit a progress report every six months after the effective date of the grant agreement. Progress reports should include reports on both performance and financial progress. (C.) Financial reports should be submitted on Standard Form (SF) 269. (D.) No grant payments will be approved for projects with overdue progress reports.”

Technical Processing Memorandum, III. Financial Procedures and Reporting Requirements for Fiscal Years 2008-2010, Semi-annual Financial Status Report (SF-269) (1), states “Grantees must complete this form for each six-month period of the program activity. If the SF-269 is not received when due, the Line of Credit Control System (LOCCS) will not allow grantees to draw additional funds.”

Technical Processing Memorandum, III. Financial Procedures and Reporting Requirements for Fiscal Years 2008-2010, Logic Model, states: “Grantees must submit a progress report every six months after the effective date of the grant agreement. Grantees must report progress in attaining

the goals and objectives proposed in their Program Logic model that was included in the application.”

Technical Processing Memorandum, IV. Review/Monitoring the Assisted Living Conversion Grant for Fiscal Years 2008-2010, states: “During the conversion process, the Hub/Point of Contact Director is responsible for scheduling reviews in accordance with HUD Handbook 4460.1, Architectural Analysis and Inspections. Reviews and inspections are made to ensure conformance to HUD regulations.”

HUD Handbook 4460.1, Architectural Analysis and Inspections for Project Mortgage Insurance, chapter 3, Architectural Inspections, paragraph 3-4(c), states: “The inspector must make at least two job site visits each month. The major functions during inspections are to: evaluate the construction supervision of the contractor and contract administration of the architect; report on occupancy, delays disputes, and changes; report non-compliance with the contract documents observed by the inspector and/or the supervisory architect; determine that amounts requested by the contractor and recommended by the architect for payment are reasonable; conduct employee wage interviews; and report on labor and Equal Employment Opportunity (EEO) compliance.”