

**OFFICIAL
FILE COPY**

DO NOT SEND OUT

(Xerox necessary
copies from this
copy and PLACE
BACK in FILE)

HOUSING AUTHORITY OF THE CITY OF ALEXANDRIA
ALEXANDRIA, LOUISIANA

**INDEPENDENT ACCOUNTANTS REPORT
ON APPLYING AGREED-UPON PROCEDURES**

Under provisions of state law, this report is a public document. A copy of the report has been submitted to the audited, or reviewed, entity and other appropriate public officials. The report is also available for public inspection at the Baton Rouge office of the Legislative Auditor and, where appropriate, at the office of the parish clerk of court.

Release Date 12-15-99

WILLIAM DANIEL MCCASKILL , CPA

A Professional Accounting Corporation

415 MAGNOLIA LANE

MANDEVILLE, LOUISIANA 70471

WILLIAM DANIEL MCCASKILL, CPA
A PROFESSIONAL ACCOUNTING CORPORATION

415 MAGNOLIA LANE
MANDEVILLE, LOUISIANA 70471

TELEPHONE 504-845-7772
FAX 504-845-1313
CELLULAR 504-807-6498
E-MAIL DANNYMAC@CMQ.COM

MEMBER
LOUISIANA SOCIETY OF CPAs
MISSISSIPPI SOCIETY OF CPAs
AMERICAN INSTITUTE OF CPAs

**INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES**

Board of Commissioners
Housing Authority of the City of Alexandria
Alexandria, Louisiana

US Department of Housing and Urban Development
Office of Public and Indian Housing
New Orleans, Louisiana

We have performed the procedures enumerated below, which were agreed to by the Housing Authority of the City of Alexandria (PHA) and the US Department of Housing and Urban Development (HUD), solely to assist the users in evaluating management's assertion about the PHA's compliance with Federal and State laws and regulations as well as with the PHA's policies regarding

- 1) PHA Procurement
- 2) Attendance and Leave
- 3) Fixed asset controls and disposition
- 4) The use of Modernization Funds for non-PHA purposes
- 5) Other matters that came to our attention that may be of help to the PHA if they are reported on

during the 24 month period ending 7-31-99, included in it's representation letter dated August 13, 1999. This agreed-upon procedures engagement was performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purposes for which this report has been requested or for any other purpose.

Our procedures and findings are as follows:

1. PROCUREMENT

Interview staff and research documentation concerning procurement.

The specified users (the PHA and HUD) clarified this work task by stating "We question if the PHA has been complying with Federal and State regulations and it's own procurement policy and desire the contractor to document this."

Management's assertion for our use for this AUP states "As to procurement, the PHA probably did not comply with all Federal and State laws and regulations as well as the PHA's own procurement policy."

The work done by this firm to perform this work task and the results are as follows:

In order to perform the documentation research as stated in the statement of work, we scanned check registers for the Low Rent Program and the DOT fund (Department of Transportation fund, which the PHA considers to be a State fund not regulated by Federal laws) as well as some Modernization (MOD) transactions. Our testing was for the purpose of determining if the transactions were in compliance with

- A) Federal and State laws and regulations
- B) the PHA's procurement policy.

We randomly chose 25 transactions totaling \$53,523.23 to test. The results of this work is as follows:

8 Transactions totaling \$35,637.67 where no exceptions were noted.

99-1 5 Transactions totaling \$256.28 where sales tax was paid. PHA's are exempt from paying sales tax per State law.

99-2 10 Transactions totaling \$17,159.43 where specific procurement actions are required per the PHA's procurement policy but no procurement documentation was provided to us.

The PHA's procurement policy states "For small purchases in excess of \$1,000.00 but not exceeding \$10,000.00, no less than three (3) offerors shall be solicited to submit price quotations...The names, addresses, and/or telephone numbers of the offerors and persons contacted; and the date and amount of each quotation shall be recorded and maintained as a public record."

99-3 2 Transactions totaling \$469.85 where liquor was purchased and charged to the DOT fund, which the PHA considers to be regulated by State law rather than by Federal law. The Attorney General's office indicates that the purchase of alcohol with State funds may be in violation of LRS 14:140, Attorney General Opinions 96-458, 95-167, and 90-63. This firm makes no legal conclusion on this matter.

We were directed by the specified users to specifically test certain documentation where they indicated possible procurement problems existed. At their direction, we tested 45 transactions and /or contracts totaling \$2,218,987.58. The results of this work is as follows:

99-4 We examined 4 independent audit contracts covering annual PHA audits for 10 years with a total contract amount of \$118,588. We were provided no documentation to indicate that Competitive Procurement policies were followed. The two (2) contracts prior to 1995 were for periods of three years each. The Annual Contributions Contract between the PHA and HUD in effect at that time required HUD approval of any contract in excess of two (2) years. HUD indicates that they did not approve these contracts. Additionally, HUD's position is that PHA's are required to follow 24 CFR 85.36. The PHA's procurement policy states that it follows 24 CFR 85.36. Communication with HUD and HUD OIG reveals that they both feel that all four (4) audit contracts were not in compliance with 24 CFR 85.36 regarding the documentation of competitive proposals.

99-5 We examined two (2) monthly accounting contracts with two (2) separate CPA firms, one (1) being the same firm that performs the annual audit. The contracts were for \$9,600 per year and the other for \$12,900 per year. No competitive proposal documentation was provided us on either of these contracts to enable us to determine if they were in compliance with 24 CFR 85.36.

99-6 We examined the 1998 expenditure for security patrol in the amount of \$105,120. No documentation was provided indicating that the PHA's procurement policy Sections II and III was followed.

99-7 We tested 2 Transactions totaling \$1,967,070 where deductions of \$2,000 and \$2,300 were made to sealed bids. The PHA's engineering firm indicates that this is an acceptable practice allowing the contractor to incorporate last minute changes in subcontractor quotes. We understand that this matter has been referred by HUD to HUD OIG. This firm makes no conclusion on this matter but is simply stating what we found.

99-8 We tested 36 transactions totaling \$5,709.58 which was the payment of employee annual incentive bonuses using the DOT fund. We understand that the PHA calculation of the incentive bonus is strictly based upon the employees longevity, which may violate State law Article VII, Section 14 of the State Constitution. Additionally, the payment of these incentive bonuses may cause some employees to be paid in excess of the amount allowed by State Civil Service.

In order to perform the staff interviews as stated in the statement of work, we obtained a list of PHA employees and the specified users suggested particular employees to interview.

Our interviews were conducted to determine if the staff was aware of PHA activities that were not in compliance with

- A) Federal and State laws and regulations
- B) the PHA's procurement policy.

The work done by this firm to perform this work task and the results are as follows:

99-9 On August 12, 1999 or August 13, 1999, we interviewed the MOD Coordinator, taking notes of the interview. The notes reveal that he indicated that the procurement of the 1998 Security Patrol contracts with patrol officers described in the preceding documentation testing had not been done following any guidance included in the PHA's procurement policy or 24 CFR 85.36.

99-10 On August 9, 1999, two (2) firm staff members interviewed the Interim ED, taking independent notes of the interview. He indicated that it was common practice for the Board of Directors to conduct a board meeting, adjourn the meeting, and then retire to a local restaurant whereby meals and alcohol was provided by the PHA. He questioned whether this was a proper use of PHA funds. The PHA attorney indicates that no business was conducted at the restaurant gatherings so the State Open Meetings Law was not violated. If no business was conducted at the restaurant, the issue is raised whether or not the expenditure of public funds is proper. This firm makes no judgement on this matter.

2. ATTENDANCE AND LEAVE

Interview staff and research documentation concerning attendance and leave.

The specified users (the PHA and HUD) clarified this work task by stating "We question if the PHA is now complying with State Civil Service regulations and it's own personnel policy regarding the former Executive Director's leave payments and desire the contractor to document this."

Management's assertion for our use for this AUP states "As to attendance and leave, the PHA probably did not comply with all State Civil Service regulations as well as the PHA's own personnel policy."

The work done by this firm to perform this work task and the results are as follows:

Addressing the matter of leave, in order to perform the documentation research as stated in the statement of work, we examined the following documentation provided by the specified users. Our examination was for the purpose of documenting whether or not PHA activities were in compliance with

- A) State Civil Service regulations
- B) the PHA's personnel policy.

The work done by this firm to perform this work task and the results are as follows:

99-11 We examined letters from the Executive Director to the Board and PHA staff dated May 1999, indicating his intention to begin taking annual leave at that time and to retire effective January 2, 2000.

99-12 We examined a local CPA firm's AUP report addressed to the board dated May 27, 1999 addressing the issue citing the PHA personnel policy, MJF Executive Order 98-23, State Civil Service Commission, Section XXX, and Section XXVI G. and stating that "... under voluntary termination "you may be eligible for payment of accrued annual leave not to exceed 300 hours.""

99-13 We examined board minutes dated May 27, 1999 whereby the board of commissioners voted to permit the ED to begin taking annual leave in May 1999 and to retire effective January 2, 2000.

Addressing the matter of attendance, in order to perform the documentation research as stated in the statement of work, we examined the following documentation provided by the specified users. Our examination was for the purpose of documenting whether or not PHA activities were in compliance with

- A) State Civil Service regulations
- B) the PHA's personnel policy.

The work done by this firm to perform this work task and the results are as follows:

99-14 We examined a letter from the Board Chairman to a HUD staff member in May of 1999, in which the Board Chairman states "Mr. Lanier has never come to the board to ask for any time off, but he takes off weeks at a time and never works on fridays---can be documented by workers for the Housing Authority."

99-15 We examined the ED's attendance and leave records dating back to his employment in 1988. The leave records during this eleven (11) year period reflect that he took leave on 2 occasions, once in 1990 and once in 1991.

99-16 We examined a staff member's calendar which noted leave taken by the ED from May 1997 through 5-13-99. The calendar reflects that the ED took off 259.5 hours during that time period, in direct conflict with the ED's attendance and leave records.

99-17 We examined a letter from the ED to Mr. Drozdowski of HUD staff dated 7-8-98, whereby the ED concludes the letter by stating "I apologize for the delay in this matter. I was on vacation." Review of the ED's attendance and leave records indicates no leave taken at all for the calendar year 1998. Review of the staff member's calendar indicates that the ED was on leave of 40 hours from 6-22-98 through 6-26-98, 16 hours for 6-29-98 and 6-30-98, and 24 hours from 7-1-98 through 7-3-98.

99-18 We examined an Agreed-Upon Procedures report of a local CPA firm dated 5-27-99, which states that "...We were informed of several instances where the Executive Director was gone on an extended periods but no leave slips were completed and no time was eliminated from his leave records."

In order to perform the staff interviews as stated in the statement of work regarding attendance, we obtained a list of PHA employees and the specified users suggested particular employees to interview.

Our interviewing staff was for the purpose of determining if the staff knew of PHA activities that were not in compliance with

- A) State Civil Service regulations
- B) the PHA's personnel policy.

The work done by this firm to perform this work task and the results are as follows:

99-19 On August 9, 1999, August 12, 1999, and August 13, 1999, two (2) members of our staff interviewed three (3) PHA staff members. Both of our staff members were present for these interviews and each took independent notes of the interviews. The PHA staff interviewed on these dates represented that the ED almost never worked on Fridays.

99-20 During the interview of August 9, 1999, we asked to examine the record of the ED's comp time. We were told by the PHA staff member that no record of the ED's comp time existed. We did not discuss these issues with the ED because he was on leave during the time we performed the procedures.

3. FIXED ASSET CONTROLS AND DISPOSITION

Interview staff and research documentation concerning fixed assets control and disposition.

The specified users clarified this work task by stating "We question if the PHA is complying with Federal and State laws and regulations as well as the PHA's own disposition policy as well as whether or not the PHA maintains adequate internal controls over fixed assets and desire the contractor to document this,"

Management's assertion for our use for this AUP states "As to Fixed Assets controls and disposition, the PHA may not have adequate control over fixed assets and probably did not comply with the PHA's own disposition policy."

The work done by this firm to perform this work task and the results are as follows:

In order to perform the staff interviews as stated in the statement of work regarding fixed asset controls, we obtained a list of PHA employees and the specified users suggested particular employees to interview.

Our interviewing staff was for the purpose of determining if the staff knew of PHA activities

- A) not in compliance with Federal and State regulations
- B) that indicates that the PHA maintains adequate internal controls over fixed assets.

The work done by this firm to perform this work task and the results are as follows:

99-21 On August 10, 1999 and August 11, 1999, two (2) firm staff members interviewed the two (2) PHA accounting department staff members, each taking independent notes of the interviews. The accounting department is now charged with fixed asset controls. The staff member responsible for fixed asset controls indicated that there are "...no controls..." over fixed assets.

99-22 On August 10, 1999, two (2) firm staff members interviewed a PHA maintenance department staff member, each taking independent notes of the interview. The PHA staff member indicated that there was no longer a gasoline usage log maintained for the gasoline tank on site.

99-23 On August 11, 1999, a firm staff member toured the maintenance department in the company of a PHA maintenance department employee. When asked about inventory controls over the approximate 75 stoves and refrigerators on site, many still in the shipping crate, the PHA employee indicated that there was no inventory control over these items.

99-24 On August 10, 1999, two (2) firm staff members interviewed two (2) PHA maintenance department staff members, each taking independent notes of the interviews. Both staff members indicated that the stock room containing maintenance materials was often entered at night and that they noted some materials missing the next morning. They indicated that too many PHA employees have keys to the stock room and the maintenance gate itself.

In order to perform the documentation research as stated in the statement of work regarding fixed asset controls, we examined documentation that we thought appropriate to complete the work task.

Our documentation research was for the purpose of determining if the PHA fixed asset controls were

- A) in compliance with Federal and State regulations
- B) adequate for the PHA to maintain internal controls over fixed assets.

The work done by this firm to perform this work task and the results are as follows:

99-25 We examined the PHA's computerized property ledger. The first page of the section containing stoves and refrigerators indicates 8 stoves and refrigerators (out of 50 on the page) with an acquisition date in 1999 recorded at a cost of zero (0).

99-26 We examined the PHA's gasoline log provided to us in 11-99. The latest entries on the log were for 7-99. We were not provided any documentation to indicate that any entries into a log were made subsequent to 7-99.

In order to perform the staff interviews as stated in the statement of work regarding fixed asset dispositions, we obtained a list of PHA employees and the specified users suggested particular employees to interview.

Our interviewing staff was for the purpose of determining if the staff knew of PHA disposition activities that were not in compliance with

- A) Federal and State regulations
- B) the PHA's disposition policy.

The work done by this firm to perform this work task and the results are as follows:

99-27 On August 9, 1999, August 10, 1999, August 12, 1999 and August 13, 1999 two (2) firm staff members interviewed four (4) PHA staff members, each taking independent notes of the interviews. All four (4) PHA employees indicated that, in 1995, the ED sold two (2) tractors to an individual for a total of \$700. They indicated that the tractors were not advertised for sale and we were provided no competitive bidding documentation. Three (3) of the staff members indicated that the \$700 price was extremely attractive. One (1) of the staff members indicated that the tractors were driven on the buyer's trailer without mechanical assistance, an indication that they were in running condition.

99-28 On August 9, 1999, August 10, 1999, and August 13, 1999 two (2) firm staff members interviewed four (4) PHA staff members, each taking independent notes of the interviews. All four (4) PHA employees indicated that, prior to going on annual leave, the ED purchased from the PHA a TV/VCR set for \$25, and a 12" band saw for \$50. All four (4) staff members indicated that the items were in good condition and there was no competitive bidding documentation provided for our review.

In order to perform the document research as stated in the statement of work regarding fixed asset dispositions, we examined documentation we thought relevant after interviewing PHA employees.

Our document research was for the purpose of determining if the PHA disposition activities were in compliance with

- A) Federal and State regulations
- B) the PHA's disposition policy.

The work done by this firm to perform this work task and the results are as follows:

99-29 We examined the PHA's disposition policy adopted in 1966. Even though State law has changed since 1966, it appears the disposition policy was never changed and is still in effect. The disposition policy states "If the estimated sales value of the personal property offered for sale is less than \$100 the Executive Director may negotiate a sale in the open market after such informal inquiry as he/she considers necessary to insure a fair return to the local authority." "For sales from \$100 to \$1,000 the Executive Director shall solicit informal bids orally, by telephone, or in writing from all known prospective purchasers and a tabulation of all such bids received shall be prepared and retained as part of the permanent record."

99-30 We examined the purchase documents for two (2) tractors later sold to an individual on 2-23-99 and confirmed that they cost \$7,500 each. We asked to review competitive bidding documentation for the original purchase of these tractors in 1995 and were provided no documentation to examine. We examined the Bill of Sale from the PHA to the individual for \$700 dated 2-23-99. We asked for but were provided no documentation regarding the sale of these tractors to determine if the disposition policy had been followed.

4. USE OF MODERNIZATION FUNDS FOR NON-PHA USE

Interview staff and research documentation concerning the possible use of Modernization (MOD) funds for non-PHA use.

The specified users clarified this work task by stating "Staff rumors include the use of Modernization funds for non-PHA purposes and desire the contractor to document this,"

Management's assertion for our use for this AUP states "As to the use of Modernization funds, the PHA may or may not have allowed some Modernization funds to be used for non-PHA purposes."

The work done by this firm to perform this work task and the results are as follows:

In order to perform the staff interviews as stated in the statement of work regarding the use of modernization funds for non-PHA use, we obtained a list of PHA employees and the specified users suggested particular employees to interview.

Our interviewing staff was for the purpose of determining if the staff knew of any specific instances where MOD funds were used for non-PHA purposes.

The work done by this firm to perform this work task and the results are as follows:

99-31 On August 10, 1999 and August 13, 1999 two (2) firm staff members interviewed two (2) PHA staff members, each taking independent notes of the interviews. These employees reported rumors of non-PHA use of MOD funds. However, they had no proof of these rumors and offered no suggestions on how to prove them.

Based on the above, we did not research any documentation on this matter.

5. OTHER MATTERS

Interview staff and research documentation on matters coming to your attention that may be of help to the PHA if they are reported on.

The specified users , when they clarified the work tasks, added a fifth (5) work task requesting reporting on "Any other matters that may come to your attention during the course of your work under this contract that may be of help to the PHA is they are reported on."

Management provided no assertion for our use for this AUP work task.

The work done by this firm to perform this work task and the results are as follows:

In order to perform the staff interviews as stated in the statement of work regarding other matters coming to our attention, we simply made notes of other matters during the course of interviews on the original four (4) work tasks.

Our interviewing staff was for the purpose of determining if the staff knew of any other matters that may be of help to the PHA if we reported on them.

The work done by this firm to perform this work task and the results are as follows:

99-32 On August 9, 1999 two (2) firm staff members interviewed the Interim ED, each taking independent notes of the interview. The PHA staff member questioned whether or not the City was providing police protection to the PHA residents at the same level of service as other City residents. His position was that the PHA has two (2) off duty City policemen on duty at the PHA twenty four (24) hours every day. Since these off duty police officers receive the "first call", and since there rarely are two (2) calls at the PHA at the same time, the question is if the PHA is simply subsidizing the City police department.

99-33 On August 12, 1999, we interviewed the MOD coordinator, taking notes of the interview. He indicated that he was responsible for receiving cash for the sale of surplus equipment, providing a cash receipt for the item, and providing a Bill of Sale for the item. He is not using a pre-numbered receipt book for this task, but agreed doing so may improve internal controls.

99-34 On August 10, 1999 two (2) firm staff members interviewed an accounting department employee, each taking independent notes of the interview. It came to our attention that the DOT fund did not have a budget. State law LRS 39:1304 requires a budget for all State funds. Federal law A-87 requires an entity-wide budget.

99-35 On August 10, 1999 two (2) firm staff members interviewed an accounting department employee, each taking independent notes of the interview. We asked if the PHA had any units in flood zones. The staff member indicated that they did not know and that the PHA has no flood insurance. HUD requires the PHA provide flood insurance on all units in a flood zone. HUD will pay for this insurance as an add on to the Operating Subsidy.

In order to perform the documentation research as stated in the statement of work regarding other matters coming to our attention, we chose documentation to examine based on interviews with PHA staff in performing the first four (4) work tasks and based on other documentation we examined in performing the first four (4) work tasks.

Our documentation research was for the purpose of determining any other matters that may be of help to the PHA if we reported on them.

The work done by this firm to perform this work task and the results are as follows:

99-36 We examined the PHA personnel policy and notes to the PHA's annual financial statements, both of which clearly state that the PHA provides pension benefits for all full time employees through a defined contribution plan and that the PHA's contribution is equal 7% of each employee's compensation. The Ed does not participate in this plan but instead directed PHA staff to pay amounts equal to between 13.7% and 19% of his annual salary to a Life Insurance Annuity. This difference in benefits between staff members may be in violation of A-87. None of the PHA's contributions over the years has been included in W-2 reporting to the IRS. This firm is not a tax firm and make no conclusion but we are simply informing the PHA of the issue.

99-37 We examined MOD documents and the Low Rent operating budget. The MOD coordinator self-admittedly performs many functions not connected to MOD, however all of his salary is charged to MOD. Per A-87, all salaries should be appropriately allocated to the different programs the staff member works on.

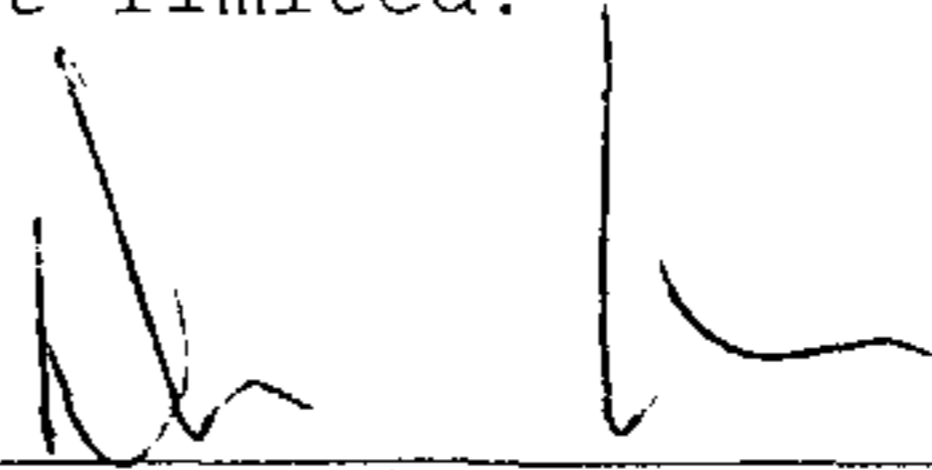
99-38 We requested a copy of the 6-30-99 balance sheet and operating statement to determine if the PILOT was being properly handled. Per HUD regulation, the PHA pays no property taxes but instead pays the City a Payment in Lieu of Taxes (PILOT). In return, per the cooperation agreement between the City and the PHA executed 10-8-41, the City must deliver all required public services to the PHA's developments at no cost. As of 6-30-99, the PHA has withheld \$168,935 of PILOT from the City. The PHA recorded no PILOT expense for the fiscal year ended 6-30-99. We were advised by a PHA staff member on 8-9-99 that the PHA and the City were in a dispute causing the withholding of this payment. Per the Guidebook for Monitoring and Enforcing Public Housing Agency Cooperation Agreements, published by the HUD OIG, page 8 "PHA's should be aware that under the terms of both the Annual Contributions Contract and the Cooperation Agreement, the Federal Government could have reason to institute a cause of action against either the PHA or the local governing body or both, if they cancel or abrogate the Cooperation Agreement without HUD's consent or if either or both fail to comply with their obligations thereunder." On page 13 of the same document it states "The Field Office has the authority to refuse to accept any ineligible expenses as part of the PHA's operating budget. An ineligible expense may be one that was incurred by the PHA to purchase a service that it was already entitled to under its Cooperation Agreement."

99-39 We requested a copy of the operating budget to determine if there was a proper allocation of insurance between the programs. It appears that the DOT houses have insurance but that the cost is being charged to Federal programs in violation of A-87.

We were not engaged to, and did not, perform an examination, the objective of which would be the expression of an opinion on management's assertion. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the use of the specified users listed above and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes. However, this report is a matter of public record and its distribution is not limited.

August 13, 1999



William Daniel McCaskill, CPA
A Professional Accounting Corporation

GIST, METHVIN & HUGHES
A PROFESSIONAL LAW CORPORATION
THE LAWYERS BUILDING
803 JOHNSTON STREET
P. O. BOX 1871
ALEXANDRIA, LOUISIANA 71309-1871

HOWARD B. GIST, JR.
DeWITT T. METHVIN, JR.
DAVID A. HUGHES
HOWARD B. GIST, III
GEORGE C. GAIENNIE, III
PAUL M. LAFLEUR
JEFFREY S. INGRAM

TELEPHONE
(318) 448-1632
TELECOPIER
(318) 442-5360

November 24, 1999

Mr. William Daniel McCaskill
Certified Public Accountant
415 Magnolia Lane
Mandeville, Louisiana 70471

Re: Independent Accountant's Report on
Applying Agreed-Upon Procedure

Dear Mr. McCaskill:

We have reviewed a copy of the revised report which you faxed to Carroll Lanier on November 15, 1999 (the report or your report). On behalf of Housing Authority of the City of Alexandria (AHA), we offer the response and comments set forth below. This response is in addition to our November 3, 1999 response (our response - Attachment A) to your initial report which was received by the AHA on September 21, 1999 (the initial report).

We formally request that you furnish us with a copy of all notes of interviews conducted by you or your staff, including the identity of any person interviewed by you, as well as a copy of any records, correspondence, reports, or other writings received by you from any representatives of the AHA, the United States Department of Housing and Urban Development (HUD), or anyone else and on which you rely.

1. PROCUREMENT

Your report, as does the initial report, refers to a "DOT Fund"; however, as is clear in the response to the initial report, these funds were generated from the sale and lease of property acquired by the AHA from the Louisiana Department of Transportation and Development (DOTD), a state agency, not the United States Department of Transportation (DOT). These are not federal funds. You continue to intimate that they are. It is the AHA's position that these funds have nothing to do with HUD and therefore are outside any restrictions imposed by HUD on their expenditure. To reiterate: The funds you refer to as "DOT funds" are not subject to HUD regulations.

Mr. William Daniel McCaskill
November 24, 1999
Page 2

=====

The AHA, in order to avoid any confusion in the future, has now designated all property acquired from DOTD and sources other than HUD, as Alexandria Housing Authority Private Properties.

You indicate you randomly chose 25 transactions totaling \$53,523.23 to test to determine if the transactions were in compliance with federal or state law and the AHA's procurement policy. By your own admission, these funds include "DOT funds" and as we have indicated, these funds are not subject to federal law and regulation.

Of the 25 transactions, transactions totaling \$35,637.67, you complain about the following:

- 99-1 5 transactions totaling \$256.28 where sales tax was paid. The AHA is aware of the fact that it is not liable for state or local sales tax. By your own admission in the initial report, the AHA expends in the neighborhood of \$4,000,000.00 annually, and your report notes only \$256.28 in expenditures where sales tax was paid. As you may be aware, when a retail purchase is made, the vendor collects sales tax from the buyer. In order for a buyer who is exempt from the payment of sales tax to take advantage of the exemption, the fact of the tax exempt status must be documented and in many cases a refund applied for. The documentation and application for a refund requires someone to fill out the paperwork and apply for the exemption. The sales tax on \$256.28 is \$20.50.

- 99-2 Our response acknowledges the AHA's intent to document its transactions. The fact that the written procurement policy which you may have reviewed may not have been followed in every respect does not make the procurement unlawful or a violation of the ACC or federal regulations. The written policy is just that, a guideline for employees to use. AHA purchases are reviewed and approved by the Board on a regular basis. To the extent that there may have been some variance from the written policy, the Board ratified any procurement that varied from the policy.

- 99-3 Alcohol purchases have been curtailed and will not be made in the future. The transactions were meal purchases, and AHA denies that the public contract fraud statute was violated. There is no general intent to violate any law, rule or regulation.

Your report addresses "possible procurement problems" in which you "tested 45 transactions and/or contracts totaling \$2,218,987.58."

Mr. William Daniel McCaskill

November 24, 1999

Page 3

=====

99-4 We addressed in our response the fact that there is no requirement for competitive bidding for the procurement of accounting services. 24 CFR 85.36(d)(1) requires only that price or rate quotations be obtained from an adequate number of qualified sources. While there may be a lack of written evidence that quotations were obtained, the AHA denies that these quotations were not obtained or known alternative cost not considered.

The AHA intends to obtain approval from HUD for any contract for which HUD approval is required.

99-5 24 CFR 85.36(d)(1) does not require "competitive proposal documentation." It requires only that price or rate quotations be obtained from an adequate number of qualified sources. While there may be a lack of written documentation to indicate that these quotations were obtained, the AHA denies that the accounting contracts were procured in violation of 24 CFR 85.36.

99-6 As discussed exhaustively in our response, the AHA contracts with, for security purposes, persons who are regularly employed by the City of Alexandria Police Department. They are not on duty for the City of Alexandria when working at AHA. They are paid by the AHA. The officers have been trained and work with City Police. This program is highly successful and "competitive procurement" is impractical and not realistic.

If a tenant makes a call for police protection, that call is usually made to the city police or through the 911 service. The dispatcher then dispatches a police officer to the scene. The dispatcher also calls the security person on duty at the AHA. Sometimes the city police arrive first, sometimes the AHA security does, and whoever arrives second provides backup.

The AHA hires these off-duty policemen as contract workers. The hiring of a contract worker, be it part-time or full-time, is not subject to the provisions of 24 CFR 85.36.

If the AHA wants to hire a security guard on a part-time basis, it is only required to comply with those provisions of law relating to the employment of part-time employees or contract workers. 24 CFR 85.36 is not applicable to the hirings of contract workers or employees.

Mr. William Daniel McCaskill

November 24, 1999

Page 4

=====

Simply put, the procurement policies and objectives set forth in 24 CFR 85.36 don't apply to the hiring of contract workers or employees.

99-7 Our response addressed your allegations of "bid-rigging." Apparently you were convinced that something sinister occurred involving Scallan Construction Company; your conclusion is wrong. What happened was the contractor prepared a bid, then decided, for whatever reason, to reduce the amount of the bid. He then submitted the reduced bid in the sealed package that was submitted to AHA. It is no different from preparing a proposal for accounting services, for example, with a fee for the services at \$150.00 per hour plus expenses, preparing to submit that proposal to a potential client, and then at the last minute, before submitting the proposal, adding a cover letter that tells the potential client that the work will be done for \$145.00 an hour plus expenses instead, and then submitting the original proposal together with the cover letter to the prospective client.

This is not an uncommon practice in the construction industry. Most general contractors use subcontractors for the majority of the work to be performed and don't always have available a quote from the subcontractor until the last minute. In other cases, the general contractor may have obtained a bond for a certain amount before he has all information available to him. In any event, however, the deduction from the amount of the bid was submitted with the sealed bid, not after the submission of the sealed bid. To suggest some sort of improper behavior on the part of a reputable contractor such as Scallan Contractors without full investigation of the facts is irresponsible.

99-8 There is no "DOT Fund." Earned incentive pay is proper. Unearned incentive bonuses are not allowed. The constitutional provision cited only prohibits gratuities.

Adequate grievance procedures are available under the Civil Service laws.

99-9 The fact that the MOD coordinator indicated that the procurement of security patrol contracts was not done following the procurement policy or 24 CFR 85.36 means only that the MOD coordinator may have said that. The fact remains that contracts for security at AHA property is not a biddable item. The hiring of part-time contract workers to perform security is not subject to any federal procurement regulation that we are

Mr. William Daniel McCaskill
November 24, 1999
Page 5

=====

aware of any more than is the hiring of any other employee or contract worker.

99-10

As mentioned in our response, no federal funds were used to purchase meals or alcohol. The practice of using non-federal funds has been discontinued. The attempt to tie the expenditure of non-federal funds to the open meetings laws is mixing apples and oranges; they have no relationship to each other. The open meetings law is concerned with whether notice is given to the public; it is not concerned with expenditure of funds. The open meetings laws, as mentioned in the response, applies only to a "meeting" which is a defined term in which members of a public body either deliberate, take action, or receive information. By its terms, the law does not apply to social gatherings. Nothing in the public meetings laws prohibits discussions at social gatherings provided there is no deliberation, taking of action, or receiving of information. The open meetings law does not concern itself with whether or not "business was conducted." Alcohol purchases from any source have been discontinued.

2. ATTENDANCE AND LEAVE

We have previously responded to the questions you raised about Carroll Lanier's attendance at work as Executive Director and his request for leave. See our letter of September 29, our letter of November 3 addressed to Chester Drozdowski, Tim Green's letter to you of November 3, 1999, and our response (Attachment A).

Carroll Lanier is presently the Executive Director of the AHA. When he notified the Board of Commissioners of the AHA of his intent to retire, he requested that he be allowed to take accrued annual leave.

The Executive Director is an employee of the AHA. He is in the unclassified service, and in that sense, he is not subject to the state civil service laws. See R. S. 40:539C(8). The Executive Director's duties include the employment of AHA employees, permanent and temporary, and he determines their qualifications, duties, and compensation, and he has authority over their termination. In carrying out these functions and responsibilities, he is subject to applicable civil service requirements. R. S. 40:539C(2). While in carrying out his functions and responsibilities in relation to the employment of other AHA employees, he is required to comply with civil service requirements, the employment of the Executive Director by the AHA is not subject to civil service requirements since he is in the unclassified service. The AHA board by statute fixes the Executive Director's compensation. R.S. 40:539.

=====

Despite the fact that the Executive Director's employment is not subject to civil service requirements, as mentioned in our response, Carroll Lanier has never taken the position that he is entitled to accumulated annual leave in excess of 300 hours after his separation from employment.

The Executive Director is paid an annual salary. He is not employed on an hourly basis. His hours at work depend on the amount of time required to do the job. He works Saturdays, Sundays, holidays, nights, and is on call 24 hours per day. He is not paid overtime; he is paid for his services only with his annual salary and the other compensation which the AHA Board of Commissioners decides to pay him. He is exempt from the Fair Labor Standards Act (29 U.S.C. 213, et seq.)

Attachment B consists of copies of AHA security police reports that demonstrate that Mr. Lanier did work for the AHA after 5:00 p.m. and before 8:00 a.m. on numerous occasions in 1989, 1990, 1991, 1992, 1993, and 1994. These records clearly demonstrate the fact that Mr. Lanier worked at times other than 8:00 a.m. to 5:00 p.m. The records don't show all of the times that he did so.

- 99-11 While you may have examined correspondence from May 1999, you failed to discuss the matter with Mr. Lanier. As mentioned in our response, Mr. Lanier has never taken the position that he is entitled to any leave that is not available to other employees of the AHA. The suggestion in your report that Mr. Lanier is somehow taking the position that he is entitled to leave that is not available to other AHA employees is denied.
- 99-12 The Executive Director does not contend that he is entitled to more than 300 hours of accumulated annual leave. While civil service regulations do not govern Mr. Lanier's employment by the AHA, he does not contend that he is entitled to any leave that is not available to other AHA employees. Your suggestion that Mr. Lanier's employment is subject to state civil service requirements is an erroneous conclusion of law.
- 99-13 Mr. Lanier did not begin taking annual leave until June 1999. We made this clear in our response and in our other correspondence. The implication that Mr. Lanier is not currently employed by the AHA as the Executive Director and is on annual leave is misleading at best.

On the question of the Executive Director's attendance at work, we again point out that his employment by the AHA is not subject to civil service requirements. He is an unclassified employee.

=====

99-14 We have previously addressed the implied findings by you that Mr. Lanier "takes off weeks at a time and never works on Fridays." See our letter of September 29, 1999. Despite our response, you apparently insist that this finding is justified.

The assertion that Mr. Lanier takes off weeks at a time and never works Fridays is completely wrong.

99-15 The records which you examined speak for themselves.

99-16 As we discussed in our letter of September 29, Carroll Lanier was employed by the AHA as Executive Director approximately 11 years ago, in part, to remedy problems that the AHA had with crime on its premises. Mr. Lanier tirelessly worked at times around the clock, and problems with illegal drug sales, violence, and trespassing on the AHA property have virtually been eliminated. Mr. Lanier worked nights, weekends, and holidays in his efforts to clean up the projects.

The fact that Mr. Lanier may have taken comp time from May 1997 through May 1999 is neither unlawful nor improper. The Executive Director's work after hours and on weekends must be considered. There is no "direct conflict with the Executive Director's attendance and leave records."

We enclose a copy of AHA checks dated July 1, 1998, signed by Mr. Lanier which clearly demonstrate that he was working that day. Obviously your finding that he was not working then was error.

Additional documentation to establish Mr. Lanier's working nights, holidays, and weekends is available from the Alexandria Police Department, the security alarm company, and elsewhere. You made no effort to discuss that issue with Mr. Lanier and for that reason alone your findings are based in the wrong data.

99-17 While the AHA's records of leave taken by its Executive Director could be more detailed and accurate as to exact leave taken, the AHA denies that Mr. Lanier took any leave that he was not entitled to and denies that Mr. Lanier did not diligently perform his duties as Executive Director.

Mr. William Daniel McCaskill

November 24, 1999

Page 8

=====

As Executive Director, Mr. Lanier supervised all AHA employees. No AHA employee or anyone else has or ever had any authority to keep track of the hours he worked; only Mr. Lanier did that, and since you did not discuss this with him, you have no basis to conclude when he may have worked.

99-18 While better leave records for the AHA Executive Director could be maintained, the AHA denies that Mr. Lanier took unauthorized leave.

We again reiterate that the employment of the Executive Director by the AHA is not subject to civil serve requirements. As discussed in our letter of September 29, his employment is not subject to the requirements of the Fair Labor Standards Act. The AHA has the authority to fix the compensation of the Executive Director. R. S. 40:539C(1).

99-19 We have previously addressed your finding that Carroll Lanier never worked on Fridays. No further comment is necessary.

99-20 The AHA admits that the comp time and leave records for the Executive Director could be better documented. The AHA denies that the Executive Director ever took unauthorized leave or failed to devote adequate time to his duties. Night and weekend work by the Executive Director is to be considered.

3. FIXED ASSET CONTROL AND DISPOSITION

While the AHA has acknowledged that some of its fixed asset control procedures may need to be changed, the AHA is not aware of any violation of any federal or state requirement.

99-21 We previously furnished you with inventory control records. Your finding implies that the AHA has no controls over fixed assets, but that finding is obviously based only on a statement made by an unknown "staff member" without consideration of AHA records, copies of which have been furnished to you and which you have ignored. The AHA admits that the fixed asset control procedures may need revision, but the AHA denies that there is no control. Fixed Asset Control data is available (Exhibit 6 to our response).

Mr. William Daniel McCaskill

November 24, 1999

Page 9

=====

99-22 In our response, we attached records of gasoline use and procedures (Exhibit 6-8); nevertheless, you choose to ignore these records and rely instead on the statement of an employee that there was no longer a gasoline usage log maintained. The AHA denies this finding.

99-23 We previously furnished you with a copy of inventory control records (Exhibit 6 to our response). The AHA denies that no inventory control exists.

99-24 The AHA acknowledges that the asset control procedures may need revision so that access to the inventory is limited to certain employees.

99-25 We note that you have examined a computerized property ledger of the AHA, yet the implication in Paragraphs 99-21 through 99-24 is that there are no records. The AHA has acknowledged that its fixed asset control procedures may need to be improved, and the acquisition costs probably should be shown on the ledger.

99-26 It is our understanding that your audit did not cover a period that extended beyond July 1999. The AHA does not need to respond to your audit covering a period ending July 1999 by furnishing records of transactions that occurred after that date.

As mentioned in our response, the AHA denies that it unlawfully disposed of any surplus property.

99-27 The AHA sold the tractors which were only lawnmowers. They were inoperable junk. The AHA complied with applicable federal and state law. You have determined otherwise. The AHA disputes your *determination and finding*.

The TV/VCR and band saw were not disposed of improperly. After Mr. Lanier bought the TV/VCR, he has had to have it repaired approximately four times. The band saw had no blade, and the motor was burned up; of course, it was about 20 years old. The AHA denies any implication in your finding that there was anything improper in the disposition of these items. The board of commissioners approved of their disposition in this manner.

=====

99-28 The AHA complied with the applicable federal and state requirements for disposition of surplus property. In 1997, the legislature enacted R.S. 40:406B which provides as follows:

"The following provisions of law, and any regulations relating thereto, shall not apply to a local housing authority unless legislation imposing such requirements is expressly and specifically applicable to local housing authorities or the local housing authority expressly elects to be governed by such legislation or regulations.

* * *

Any law, ordinance, or regulation governing or otherwise applicable to the * * * disposition of property by public agencies of this state."

It is our opinion that any 1966 procurement policy that may have heretofore been in effect was superseded by this legislation which was adopted over 30 years later.

There was no illegal or improper disposition of any property. While the AHA probably could better document the disposition of surplus property, the lack of such documentation does not mean that the disposition of the property was unlawful as implied in this finding.

99-30 The two tractors are more accurately characterized as riding lawnmowers. At the time of their disposition, each of them had a cracked engine head. The AHA determined that the cost of repair did not justify the retention of these lawnmowers, and they were sold for junk. There was nothing unlawful about the way the lawnmowers were disposed of.

=====
4. USE OF MODERNIZATION FUNDS FOR NON-PHA USE

Your report addresses the "possible" use of MOD funds for non-PHA use and is admittedly based upon "staff rumors." Possibilities and rumors do not form a reasonable basis for conclusions or findings.

99-31 We note your comments that your staff interviewed two AHA employees who reported rumors of non-PHA use of MOD funds and your note that they had no proof of these rumors and offered no suggestions as to proof *of them and that based on this you did not research any documentation on the matter.*

Since these were admittedly rumors without any factual basis and since you did not search for any documentation, we question why you include any comments about this at all.

5. OTHER MATTERS

99-32 As we have exhaustively discussed and explained, the AHA hires off-duty police officers as part-time employees or independent contractors to provide security for the AHA property and tenants. You "question" whether the AHA is subsidizing the City Police Department, but we do not understand your question. You assume that because a security guard of the AHA is the first person who might be called to investigate an incident that that somehow subsidizes the City of Alexandria. It involves no transfer of funds to the City. Whether an on-duty policeman is called to investigate an incident or not does not involve the expenditure of one cent more or less by the City of Alexandria. It cannot be a subsidy.

The "question" makes no sense. It is unreasonable. Would you have the AHA, if there was a criminal complaint, call the Alexandria City Police Department without sending one of its own security personnel to the scene? If a tenant wants to call Alexandria City Police with a complaint, how can the AHA prevent that from happening? Would you have the AHA not hire security personnel and simply call the Alexandria Police Department every time there might be a need for security personnel or police protection? If the AHA should not call its security personnel to the scene of an incident, who would you have the AHA call?

Mr. William Daniel McCaskill
November 24, 1999
Page 12

=====

- 99-33 The AHA agrees that cash sales should be better documented and agreed that this should be done. See our response.
- 99-34 The AHA will comply with state requirements for the DOTD funds; federal law does not apply to their expenditure.
- 99-35 As indicated in our response, no AHA property has been flooded in over 10 years. If HUD requires that AHA obtain flood insurance in spite of this fact, the AHA will comply with HUD requirements.

For your information, we attach a copy of an environmental assessment conducted for the 1997 fiscal year. In view of this, do you persist in your view that the AHA should purchase flood insurance? From whom should it be purchased?

- 99-36 The Executive Director's compensation is fixed by the Board of Commissioners. R. S. 40:539C(1). The Executive Director does not fix his own compensation. The Executive Director is in the unclassified service, and his compensation is not subject to the civil services laws while that of most other AHA employees is.

We have previously addressed the issue of the Executive Director's compensation and demonstrated that the compensation paid to him is lawful, yet you continue to intimate that there is something improper about the AHA's furnishing the Executive Director with an annuity. For approximately seven and a half years the Executive Director had no retirement benefits of any sort. The decision of the Board to include an annuity in his compensation package was made as a result of Mr. Lanier's untiring service to the AHA. Your implication that the Executive Director unilaterally "directed PHA staff to pay" an annuity is improper. This was authorized by the Board as part of the director's compensation.

The AHA will consult with appropriate tax experts to determine whether IRS reporting requirements are complied with, and the AHA fully intends to comply with all IRS requirements.

We are not aware of any violation of A-87 which is involved in the AHA's compensation package for Mr. Lanier.

Mr. William Daniel McCaskill

November 24, 1999

Page 13

=====

99-37 The MOD Coordinator is a contract employee of the AHA. He performs the duties assigned to him by the AHA. The AHA will fully comply with any federal requirements relating to the payment of his compensation and any related budget requirements.

99-38 We are aware of the requirements of the ACC.

There is a dispute between the AHA and the City of Alexandria regarding PILOT. Pending resolution of that dispute, PILOT payments have not been made to the city. That does not mean that the agreement between the AHA and the City has been cancelled or abrogated.


99-39 The AHA will investigate whether the property acquired from the *Department of Transportation and Development* is covered by insurance purchased with federal funds in violation of federal guidelines, and the AHA intends to fully comply with all federal requirements.

CONCLUSION

We have responded to your report on several occasions and note that Tim Green has likewise addressed your concerns. It appears to us that you have made several findings and reached conclusions that are without any justifiable basis whatsoever and you persist in many of these findings and conclusions in spite of overwhelming evidence to the contrary. We addressed specific findings you made and concerns you raised in your initial report, yet you chose to ignore our response. We again respond to your latest report. We expect a more reasonable assessment in any subsequent report.

Yours very truly,

GIST, METHVIN & HUGHES
(A Professional Law Corporation)

BY: 
GEORGE C. GAIENNIE, III
HOWARD B. GIST, III

GCGIII:gbs
Enclosure

GIST, METHVIN & HUGHES

Mr. William Daniel McCaskill

November 24, 1999

Page 14

=====

cc: Dr. Dan Kyle, Legislative Auditor
Mr. Chester J. Drozdowski, Director, Office of Public Housing
Alexandria Housing Authority and all commissioners
Mayor Edward G. Randolph, Jr.
Mr. James C. Downs
Mr. Carroll Lanier