

November 22, 1996

OFFICE OF THE ASSISTANT SECRETARY FOR
CONGRESSIONAL AND INTERGOVERNMENTAL RELATIONS

Honorable Lauch Faircloth
Chairman, Subcommittee on HUD
Oversight and Structure
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510-6075

Dear Mr. Chairman:

On behalf of Secretary Cisneros, thank you for your letter of October 21, 1996, concerning the charges made by Ervin & Associates in its lawsuits against the Department.

Let me begin by stating that we believe the Ervin litigation represents the baseless allegations of a disgruntled contractor. Ervin and Associates was well compensated for providing miscellaneous contract services to HUD beginning in 1989. The firm continued to win contracts during the early part of this Administration. But when FHA decided to dispose of and privatize large portions of its owned inventory, rather than manage it one mortgage or property at a time, as in the past, the nature of services we required from contractors changed. Since then, Ervin and Associates has been unsuccessful in winning many of the contracts for which the firm has competed. The firm's proposals have been reviewed by a host of separate evaluation boards on different procurements and other firms were selected.

Nonetheless, HUD is taking appropriate steps to see if there is any substance to the charges. HUD's independent Inspector General is conducting an investigation and Secretary Cisneros has ordered an independent review of HUD's procurement decisions and practices. We are committed to taking prompt, appropriate action if any mistakes are found.

Meanwhile, however, I fear that these charges will fuel the fires of those who seek to turn back the clock at the Federal Housing Administration (FHA) -- to the days of lax enforcement, of project owners who faced few consequences when they did not make their mortgage payments, of project owners who did not maintain their properties, and of passivity in the face of taxpayer losses. Those days were bad for residents, bad for communities, and bad for taxpayers. We will not turn back the clock.

When this Administration arrived at HUD, it found FHA in financial disarray. Four years later, every financial indicator is positive. Reserves are up, claims are down, property and note

is positive. Reserves are up, claims are down, property and note inventories are down, and customers praise a streamlined and revitalized FHA. Mortgage insurance processing that once took up to six weeks now takes two days.

One key to the turnaround has been the FHA note sales program. In 1992, FHA had an inventory of 2400 defaulted multifamily mortgages and 95,000 defaulted single family mortgages. After collecting their insurance claims from FHA, lenders turned the defaulted mortgages over to FHA. Some borrowers felt little compunction about not making payments to HUD. Attending to these notes diverted resources from preventing new defaults. The portfolio was growing far faster than piecemeal disposition strategies could manage. The longer the mortgage was in FHA's hands, the more the amount FHA would collect declined. For rental projects, the tenants suffered as conditions deteriorated.

In 1993, HUD Secretary Henry Cisneros called the management and disposition of HUD's inventory of defaulted multifamily mortgages "the single largest problem I have inherited in the Department."

In 1994, we began an aggressive program to sell these notes. Today, we have cut inventories in half, spurred new capital investment in the projects, produced dramatic savings, and freed staff to vigorously enforce standards, prevent new defaults, and avoid taxpayer losses. These charges must not be allowed to undermine those successes.

* * *

I respond below to your specific questions.

1. Contracts with the Hamilton Securities Group

Enclosed please find copies of all contracts and task orders with Hamilton or another firm for which Hamilton is a subcontractor. We also enclose a summary of the nature of Hamilton's activities under these contracts and task orders, as well as the amount obligated and expended under each contract or task order. We also provide a general summary of the nature of competition for these contracts or task orders (when competed) and the other bids.

There were numerous different bids for some of these basic contracts. Many of these bids were made on a basis which is not easily comparable to the others. Moreover, some of the information we would need to provide to summarize these bids in more detail is protected from public disclosure as confidential business information or trade secret information under provisions of the Freedom of Information Act or the Trade Secrets Act.

These statutes do not prevent the Department from sharing such information with the Subcommittee, but do not permit its public disclosure.

In addition, as you know, many of these contracts are the subject of on-going litigation. Therefore, we ask that the Subcommittee review the summary provided and identify specifically the contracts or task orders for which they wish to see summarized additional detail on other bids. Given the litigation, our attorneys recommend that subcommittee staff review the additional summaries requested at HUD. We also would suggest that the information be used only in conjunction with the work of the Subcommittee and not be publicly disclosed, to protect any rights the bidders might have under the Freedom of Information Act and the Trade Secrets Act.

2. Congressional Testimony

During Secretary Cisneros' tenure, no contractor has written testimony to be submitted by HUD before Congress.

To more fully answer your question, we have asked the Office of Housing, where your inquiry seems to be focused, about any involvement of contractors related to Congressional testimony. A number of Office of Housing contractors or subcontractors have supported the Office of Housing as they prepared testimony or supporting schedules or handouts. Specifically, Marion Morris provided editorial support for testimony on appropriations on April 26, 1994. Marion Morris and Lori Bamberger provided editorial support in preparing testimony on the Future of FHA on May 4, 1995. Hamilton Securities Group provided analyses and editorial support that informed HUD's preparation of testimony on portfolio reengineering on June 13, 1995 and June 27, 1996. Aspen Systems Corporation (with subcontractor Nancy Andrews) provided analyses that informed HUD's preparation of testimony on portfolio reengineering on June 27, 1996 and July 30, 1996. Similarly, Ernst Young Kenneth Leventhal prepared a study which was discussed in some detail in HUD's testimony on portfolio reengineering on June 27, 1996 and July 30, 1996.

3. Congressional Lobbying Activities

During Secretary Cisneros' tenure, no contractor has lobbied Congress on behalf of HUD, attempted to influence pending or prior legislation on behalf of HUD, or been compensated by HUD for such activity.

To more fully answer your question, we have asked the Office of Housing, where your inquiry seems to be focused, about any involvement of contractors with work related to Congressional testimony. Staff of some contractors (specifically, Hamilton Securities Group, Ernst Young Kenneth Leventhal, and Aspen

Systems Corporation (with subcontractor Nancy Andrews)) have accompanied HUD staff to meetings with Congressional staff. They were present to support HUD staff in discussing technical aspects of various legislative proposals, based on analytical work that the contractors and subcontractors had done for the Department.

HUD does not, and cannot, limit the exercise of First Amendment rights by HUD contractors. There is no prohibition on HUD contractors lobbying Congress on their own behalf to express their own views if public funds are not used. We have no way of knowing about any such activity, if there was any, by HUD contractors. Thus, we do not have information responsive to the first part of this inquiry.

4. Discrimination

Under Federal agency Equal Employment Opportunity (EEO) procedures, employees may file a complaint against the Secretary alleging discriminatory behavior by a supervisor. EEO staff would first counsel the employee making the allegation and, if they wish to pursue the complaint, investigate the allegations. However, Ms. Dunlap has never been the subject of any such complaint by a HUD employee. Thus, no investigation has been commenced.

5. Helen Dunlap

Helen Dunlap was the Deputy Assistant Secretary for Multifamily Housing from June 1993 through December 1995. In the summer of 1995, the General Deputy Assistant Secretary for Housing, Jeanne Engel, announced that she would leave her position later that year. That occasioned Assistant Secretary Nicolas P. Retsinas to review the staffing in key positions in the Office of Housing.

Reviewing the work of the first few years of his tenure, he concluded that he needed to focus more attention on reengineering administrative processes (e.g., budgeting, field organization, procurement, personnel) that had created barriers to accomplishing programmatic reforms. He asked Deputy Assistant Secretary Dunlap to take on that challenge as Deputy Assistant Secretary for Operations, because of her success in developing strategies for the troubled multifamily portfolio and reinvigorating FHA's multifamily insurance programs.

As for the note sales program, it had been managed by the Office of the FHA Comptroller, the Office of Single Family, and the Office of Multifamily, but with no single lead. Assistant Secretary Retsinas decided that it was best to give oversight responsibility for the note sales program to one official and selected Ms. Dunlap because of her expertise as a financial

The designation of Ms. Dunlap to oversee the note sale program was made at the time of her transfer and Mr. Greer's arrival -- not subsequently.

This fall, Ms. Dunlap decided to take on a new challenge by taking over the leadership of the National Low Income Housing Coalition (NLIHC). Her departure was entirely voluntary. We congratulate NLIHC for getting such a talented and tireless advocate for the nation's low-income residents.

* * *

I hope that this information is helpful. If you have any further questions, please do not hesitate to contact Assistant Secretary for Housing, Nicolas Retsinas, at (202) 708-3600 or Deputy Assistant Secretary for Operations, Sarah Rosen, at (202) 708-1104.

Sincerely,



Hal C. DeCell III
Assistant Secretary

Enclosures

I. Contracts involving
The Hamilton Securities Group, Inc.

1. Contract HC-18161 for Financial Advisor Services.
Task orders issued under the contract are listed below:

Task Order Number	Funding	Description
1	Obligated: \$87,873 Paid: \$60,588 through October 30, 1996 Unpaid: \$27,285	Support for sale of Section 221(g)(4) project mortgages
2	Obligated: \$817,634 Paid: \$815,634 through October 30, 1996 Unpaid: \$2,000	Support for sale of Section 221(g)(4) SF mortgages
3	Obligated: \$298,462 Paid: \$298,462 through October 30, 1996 Unpaid: \$00.00	Development of a MF action plan (options for MF portfolio mgmt)
4	Obligated: \$4,864,132 Paid: \$4,195,107 through October 30, 1996 Unpaid: \$669,025	Design and pilot program for sale of subsidized mortgages through state HFAs and nonprofits
5	Obligated: \$1,322,684 Paid: \$1,306,633 through October 30, 1996 Unpaid: \$16,051	Support for sale of formerly insured and co- insured mortgages in Southeast Region
6	Obligated: \$1,585,932 Paid: \$1,460,314 through October 30, 1996 Unpaid: \$125,618	Support for reassignments to FNMA; Modified later to include advisory services for Section 221(G)(4) sales
7	Obligated: \$2,255,631 Paid: \$2,146,292 through October 30, 1996 Unpaid: \$109,339	Support for sale of Non- performing mortgages West of the Mississippi
8	Obligated: \$269,100 Paid: \$136,045 through October 30, 1996 Unpaid: \$133,055	Support for sale of Section 530 premium income -- terminated prior to completion
9	Obligated: \$3,010,000 Paid: \$2,927,737 through October 30, 1996 Unpaid: \$82,263	Support for two sales of single-family assigned mortgages

10	Obligated: \$390,817 Paid: \$180,000 through October 30, 1996 Unpaid: \$210,817	Support for communication with rating agencies -- terminated prior to completion
<p style="text-align: center;">Summary of competing offerors for Contract HC-18161:</p> <p>HUD issued the solicitation for this contract on February 16, 1993 and mailed copies to 29 sources. HUD received nine proposals. A Source Evaluation Board reviewed proposals and determined that two firms were in the competitive range of offerors eligible for award of the contract. Hamilton Securities was one of these firms. The two firms submitted best-and-final offers and participated in oral discussions with HUD representatives. The Source Evaluation Board reviewed these offers and determined Hamilton Securities to be the successful offeror. The Board recommended award of the contract to Hamilton Securities.</p> <p>The Board indicated in its recommendation that Hamilton Securities would work as a team with Samuel A. Ramirez & Company under the contract. Hamilton Securities, in addition, would employ Coopers & Lybrand and the Asset Strategies Group, Inc. as sub-contractors. Source Selection Officer Nicolas Retsinas approved the Board's recommendation in writing on April 10, 1993.</p>		

2. Contract HC-18505 for Financial Advisory services.
One task order (the "cross cutter") has been issued under the contract and is listed below:

Task Order Number	Funding	Description
1	Obligated: \$20,842,000 Paid: \$3,473,668 through 10/30/96 Unpaid: \$17,368,332	Financial Advisory (FA) services to manage cross-cutting issues on portfolio and note sales program

Summary of competing offers for Contract HC-18505:

A technical evaluation panel reviewed proposals received under the solicitation for the subject contract. Based on the initial review of proposals, HUD selected ten firms to be in the competitive range of firms eligible to receive contract award. On January 24 and February 16, 1996, HUD awarded contracts to four of these firms: C.S. First Boston; Cushman & Wakefield; Hamilton Securities; and Merrill Lynch.

Two unsuccessful offerors protested the awards to the General Accounting Office. HUD addressed the protest immediately. HUD re-opened discussions with the ten firms in the original competitive range. The Contracting Officer sent to these firms written questions concerning weaknesses, deficiencies, omissions and ambiguities found in the proposals. The Contracting Officer invited each firm to submit a new best-and-final offer and a response to an actual task order for the Midwest sale of multi-family mortgages, which the panel would review to help determine successful offerors.

Seven of the ten firms submitted best-and-final offers by the April 10, 1996 closing date. Two firms, including C.S. First Boston, one of the original awardees, withdrew from the competition. On May 10, 1996, the evaluation panel concluded its review of the best-and-final awards and recommended, in writing to Source Selection Official Nicolas Retsinas, awards to the following four firms: Cushman & Wakefield; E&Y Kenneth Levanthal; Hamilton Securities; and Merrill Lynch.

In order to determine which awardee would perform services under each task order, HUD decided to conduct mini competitions for each task order among the four firms. HUD would advise each firm of the services required for each task order, request a proposal from each firm for the task order, then review proposals to determine the successful offeror. HUD competed the award of Task Order 1 in this manner among the four firms. HUD received offers from only two firms, Hamilton Securities and Cushman and Wakefield. A HUD evaluation panel reviewed each proposal and determined Hamilton's proposal to be the successful one. The panel advised Source Selection Officer Nicolas Retsinas in writing of its recommendation to award the Task Order to Hamilton Securities. Mr. Retsinas approved the panel's recommendation.

II. Hamilton Securities was a Subcontractor for the following:

1. Contract HC-18410, awarded to Williams Adley, for due diligence and other services to support the note sales program. Hamilton provided services as a subcontractor to Williams Adley under the following task orders:

Task Order Number	Amounts Paid to Hamilton, as reported by Williams Adley	Description
4	\$5,807,606 through October 30, 1996	Support for sale of partially assisted multi-family mortgage notes; modified later to require supplemental environmental assessments
5	\$1,046,553 through October 30, 1996	Support for sale of multifamily performing unsubsidized notes
6	\$60,085 through October 30, 1996	Development of models to estimate the credit subsidy cost/benefit from note sales
9	\$58,792 through October 30, 1996	Support for the sale of Title I loans

Summary of competing offerors for Contract HC-18410:

Williams Adley is an 8(a) contractor. The contract was awarded sole source, after informal interviews with potential 8(a) contractors. Williams Adley selected its own subcontractors.

2. Contract HC-18437, awarded to Price Waterhouse for product market, pricing, and design work to support present and future FHA products in each business line. Hamilton provided services as a subcontractor under the following task order:

Task Order Number	Amount paid to Hamilton, as reported by Price Waterhouse	Description
2	\$113,331 through October 30, 1996	Multifamily product market, pricing and design support

Summary of competing offerors for Contract HC-18437:

This contract was awarded through a limited competition. Seven firms were given an opportunity to bid. Three firms submitted bids (including one firm that was the result of the merger of two of the firms given an opportunity to bid). Two firms were found to be in the competitive range and were asked specific questions about their proposals and then asked to submit best and final offers. Both firms were asked about their technical expertise in certain product areas. As part of its best and final offer, Price Waterhouse identified Hamilton as one of a number of subcontractors with which it would be working to meet FHA's product needs. Hamilton's role was limited to supporting PW on the MF task order.

3. Contract HC-16986, Department Management Studies contract awarded to Coopers & Lybrand, under which Hamilton provided services under the following task order:

Task Order Number	Amount paid to Hamilton, as reported by Coopers & Lybrand	Description
9	\$588,375 through October 30, 1996	Services and support in developing a computer-based model to evaluate alternative organization and policy scenarios, amended to cover market analysis tools, proposal analysis, and model enhancements

Summary of competing offerors for Contract HC-16986:

The Department awards a series of indefinite quantities contracts with firms available to provide analytical support to the Department and its program offices. Coopers & Lybrand was one of a number these Departmental Studies contractors. Task Order 9 was issued to Coopers & Lybrand for the services described above. They selected their own subcontractors.