



October 17, 1996

OFFICE OF THE ASSISTANT SECRETARY  
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

Ed Pound  
Tim Ito  
Reporters  
U.S. News and World Report  
2400 N Street, N.W.  
Washington, D.C. 20037-1196

Dear Ed and Tim:

I understand that you are filing a story about the Federal Housing Administration's note sales program. Over the course of our interviews and other discussions, we have provided you with facts that address the allegations that you are investigating. Please allow me to summarize those below.

If the magazine decides to go ahead with a story, I hope you choose to tell a story of the successful solution to what the Secretary called in June 1993 "the single largest problem I have inherited in the department -- the management and disposition of HUD's multifamily inventory." That story includes a reduction by half of FHA's note and property portfolios, staff freed to prevent defaults and taxpayer losses, new capital investment to improve the conditions of these projects for their residents, and \$1.3 billion in savings for the American taxpayers.

I hope your story will not concentrate on the allegations of those whose way of doing business or role in the department was threatened by change.

As Secretary Cisneros has said, we welcome independent scrutiny of our contracting. We have begun a prompt, independent review of both past decisions and on-going practices. If mistakes were made or changes are required, we will take immediate action.

#### **"BID-RIGGING"**

You suggest that HUD staff provided advance information to Blackrock and knew in advance that they would win a particular pool of loans. However, no advance information was provided to Blackrock on Sale #3 that was not available to every other bidder. The additional payment histories that Blackrock requested and received were on loans that they had already purchased in sale #2. That information was available to any purchaser who requested it.

Furthermore, you suggest that a member of our career staff gave Blackrock information about a particular pool of "place-based" loans to because she knew in advance

H/SM 000045

that they would win that pool. In fact, she says, she explained the requirements for bidders of that pool in response to their question about those requirements. She gave them the same information that was publicly available and she would have given to any other potential bidder who asked the same question.

She had no way of knowing Blackrock's bidding plans, let alone those of other bidders. As a result, there was no way that she could have known who would win those loans.

## **OPTIMIZATION**

You have criticized our choice of an optimization model, yet not suggested any better choice. Traditionally, loans were offered on either a wholesale basis (bid on all or none) or a retail basis (bid on individual assets and small pools). Under the wholesale approach, small bidders literally could not afford to bid. Under the retail approach, large bidders did not want to participate. Optimization allows them both to compete based on their inherent advantages – large bidder have a lower cost of funds and economies of scale and small bidders have local knowledge and specialized expertise. Optimization levels the playing field. It allows large bidders to create large pools and small bidders to create small or specialized pools. The combination that produces the best yield overall is selected.

We chose this approach because it would produce the highest return to the taxpayers. We rejected other approaches, like borrower settlements, that would have produced lower returns, but given opportunities for retaining the assets to those who had failed in the past to meet their financial obligations to the Federal Government. There have been more than 350 bidders and over 70 different winners comprised of large bidders on large pools, small bidders on individual mortgages, and everything in between.

## **SALES DESIGNED TO "STEER" TO LARGE WALL STREET FIRMS**

You allege that we have structured the note sale program to "steer" bids to large Wall Street firms. That is not true; however, whether big firms or little firms win is not important to the taxpayers. What matters is whether we get the best return possible.

To ensure that we get the best return on the notes sold, we have aggressively encouraged more bidders, including small firms, because their participation creates greater competition and raises prices. To ensure more participation by small firms, we have made special marketing efforts to them and continually improved the quality of the due diligence and the ease with which firms can get that information (e.g., use of CD rom and modem access to files).

If we successfully achieve broad participation and real competition – and we have (over 350 bidders, over 70 winners) – we can be confident that the results reflect the best return possible for the taxpayers.

**H/SM 000046**

## **THE INITIAL FINANCIAL ADVISOR CONTRACT AWARD TO HAMILTON SECURITIES GROUP**

You have suggested that a former FHA Commissioner's firm should not have been eligible to do business with HUD. Former Commissioner Austin Fitts had left HUD two years before her firm bid on this contract in 1992. Under procurement and ethics laws, she was eligible to compete.

Given these ethics rules, if I had refused, because of her prior role with the Department, to award a contract that her firm fairly competed for and was awarded by a panel of career employees, that would have been improper and would have looked like I disqualified that firm because of the political affiliation of its principal.

## **HUD'S DECISIONS TO EXPAND THE FIRST HAMILTON FINANCIAL ADVISORY CONTRACT**

You have criticized our decision to expand the initial Hamilton Financial Advisor contract rather than wait to award the work to the winner of a new procurement. I determined that the public interest would be harmed by a delay of up to 15 months in implementation of the note sales program. Due to underestimates of the cost of the notes sales program at the onset of the first procurement, we were left with a choice:

- (1) continue with the contractor that had been competitively selected while new procurements were begun; or
- (2) stop the program for as long as 15 months.

The results of continuing that program – \$1.3 billion for the U.S. Treasury and freeing staff to work to prevent defaults rather than manage defaults – proves to me that the taxpayers were the winners from that decision.

## **HAMILTON SUBCONTRACT UNDER WILLIAMS ADLEY CONTRACT**

You have implied that we forced Williams Adley to hire Hamilton as a subcontractor. My staff has strongly denied even making a suggestion to that effect. The decision to hire Hamilton was Williams Adley's.

## **AWARD OF THE CROSS-CUTTING FINANCIAL ADVISOR CONTRACT**

You have questioned why the award was made to Hamilton when not each member of the evaluation panel knew that the other firm's proposal was deemed "technically unacceptable" and when Hamilton's price was higher. I was not involved until recommendations were made to me, but in reviewing the bases for those recommendations, I remain confident we made an appropriate selection.

H/SM 000047

First, let me remind you that under the procurement laws, we were under no obligation to ask for proposals from these firms and evaluate them before selecting a cross-cutter. We could have simply selected any one of the four eligible financial advisors. We choose to use this process to better inform that choice.

Second, regardless of terminology used to explain the decision by the panel members, they were unanimous in concluding that Hamilton provided a better proposal and that the other bidder's proposal did not adequately address the scope of work described in the RPF. I have confidence in the professional judgement of the five members of that committee. Their decision seemed reasoned and well considered. For your information, however, I have brought to the attention of the Assistant Secretary for Administration the fact that the language characterizing this conclusion as finding the proposal "technically unacceptable" was not discussed with all the panel members before the recommendation memorandum was sent to me. I have asked for her view whether this affects the award.

Finally, the panel reached their conclusion that Hamilton's proposal was better even though Hamilton was a bit more expensive. However, as you know, the difference was not as great as it first appears because the pricing assumptions used by the other bidder were not consistent with the sales schedule or our consulting needs. Furthermore, because Hamilton's pricing proposal was a fixed price and incentive fee and the other bidder's pricing proposal included a number of different variables and was not fixed, if HUD's predictions about work required and complexity were underestimated, the other proposal might have proven to be more expensive, not less.

#### **"HELEN DUNLAP FAVORED WOMEN FOR PROMOTION AND RELEGATED MEN TO INFERIOR ROLES"**

First, Helen Dunlap was not responsible for hiring throughout the Office of Housing. Moreover, the statistics we provided to you on Office of Housing promotions and hiring show no such pattern. Generally, you would expect disproportionate promotions of women to senior levels in recent years, since they tend to be more prevalent in the middle management and scarce in senior management, many of whom started work here decades ago and are now retiring. However, promotions and hiring of women in the Office of Housing seem to be roughly proportional to their representation in the workforce.

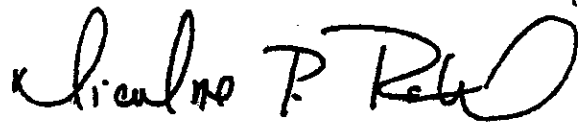
In particular, the people whom Helen has recommended to me for new opportunities include many white men along with women and minorities. Chris Greer, Kerry Mulholland, Joe McCloskey, Scott Werdal, Steve Martin, and Kevin McNeely are just a few examples of white men who were given new or expanded responsibilities at Helen's suggestion.

\* \* \* \* \*

Let me ask that you weigh carefully the words that you write. The media has enormous power to shape perceptions. If you wish to discuss this further, please feel free to call me.

H/SM 000048

Sincerely yours,

A handwritten signature in black ink, appearing to read "Nicolas P. Retsinas". The signature is fluid and cursive, with the first name being the most prominent.

Nicolas P. Retsinas  
Assistant Secretary for Housing -  
Federal Housing Commissioner

H/SM 000049