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United States General Accounting Office
Washington, DC 20548

Office of Special Investigations

B-283473

September 20, 1999

The Honorable Christopher S. Bond
Chairman
Subcommittee on Veterans Affairs, HUD, and Independent Agencies
Committee on Appropriations
United States Senate

Subject: HUD: Allegations of Conflict of Interest and Misrepresentations
Regarding GAO Review of Bucklin Report Are Unfounded

Dear Mr. Chairman:

As you requested on August 18, 1999, we are reporting to you concerning Donald T. Bucklin's allegations regarding our letter, HUD: Review of Bucklin Report Prepared to Assist HUD in Defending Against EEO Complaint by HUD's Deputy Assistant Inspector General (GAO/OSI-99-16R, Aug. 3, 1999). Mr. Bucklin alleges that GAO's lead investigator in our Housing and Urban Development (HUD) investigation that resulted in our letter had an obvious conflict of interest. He also contends that we made false and misleading representations in our correspondence to you. His allegations are without merit. Further, prior to issuing our letter, we afforded Mr. Bucklin an opportunity to explain the inaccuracies that we had identified in his report, but he did not respond to our offer.

Mr. Bucklin alleges that GAO's lead investigator should not have been assigned to the HUD investigation because he had previously been denied employment with the HUD Office of Inspector General (OIG) after interviewing with HUD's Deputy Assistant Inspector General for Investigations. In fact, neither Special Agent Ronald Malfi nor Special Agent John Ryan, the two investigators assigned to this case, has ever applied for a position with the HUD OIG or been interviewed by the Deputy Assistant Inspector General. For the reasons provided in the enclosed response, we adhere to our position that the Bucklin report contained the factual inaccuracies that we identified.

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We will send copies of this letter to the Honorable Andrew Cuomo, Secretary of Housing and Urban Development. We will also make copies available to others upon request. If you have any questions, please contact me at (202) 512-7455.

Sincerely yours,

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

Robert H. Hast
Acting Assistant Comptroller General
for Special Investigations

Enclosure



United States General Accounting Office
Washington, DC 20548

Office of Special Investigations

September 17, 1999

Donald T. Bucklin
Squire, Sanders & Dempsey, LLP
1201 Pennsylvania Avenue, NW
P.O. Box 407
Washington, DC 20044-0407

Dear Mr. Bucklin:

This letter responds to your August 13, 1999, correspondence concerning the results of GAO's investigation for Senator Christopher Bond, HUD: Review of Bucklin Report Prepared to Assist HUD in Defending Against EEO Complaint by HUD's Deputy Assistant Inspector General (GAO/OSI-99-16R, Aug. 3, 1999). In your letter, you assert that GAO's lead investigator for the Department of Housing and Urban Development (HUD) investigation had an obvious conflict of interest and also contend that we made false and misleading representations in GAO's correspondence to Senator Bond.

Your assertion regarding a conflict of interest on the part of the lead investigator is without merit. In fact, neither John Ryan nor Ronald Malfi, the two investigators from my office assigned to this case, has ever applied for a position with HUD's Office of Inspector General (OIG) or been interviewed by HUD's current Deputy Assistant Inspector General for Investigations for such a position. Additionally, on August 19, 1999, a GAO attorney interviewed Judith Conti, co-counsel for the Deputy Assistant Inspector General. Ms. Conti advised us that after Mr. Malfi and Mr. Ryan interviewed her and co-counsel Steven Hoffman on February 9, 1999, she and Mr. Hoffman advised their client of the names of the GAO investigators. Ms. Conti said that their client stated that the name John Ryan was familiar to him and that he thought he may have interviewed him for a position at HUD OIG. According to Ms. Conti, she and Mr. Hoffman then requested that their client attempt to determine whether he had in fact interviewed Mr. Ryan. Their client thereafter advised them that he was unable to confirm or substantiate the information. Ms. Conti said that you were advised of their client's inability to confirm or substantiate that he had previously interviewed Mr. Ryan. According to Ms. Conti, these conversations took place before you wrote your letter on August 13, 1999.

In your letter, you also challenge 4 of the 11 inaccuracies we identified in the Bucklin Report. These challenges are also without merit. Although you admit that the citation in your report to FAR section 13.602 was incorrect and that no such section exists in the FAR, you nonetheless assert that it was obvious from the context of the discussion that you were referring to FAR section 13.002. However, nothing in the context of the discussion or the parenthetical explanation following the citation to FAR section 13.602, both of which focused on sole-source acquisitions and contracting for expert services, would suggest to the reader that

you intended to cite FAR section 13.002, which simply describes the general purpose of simplified acquisition procedures.

The remaining three inaccuracies that you challenge relate to our statement of your misleading use of Equal Employment Opportunity (EEO) statistics. In your report and again in your letter, you claim that there were 48 EEO complaints in the OIG in fiscal years 1994 through 1998, i.e., October 1993 through September 1998. You also assert that there were 27 EEO complaints in the Office of General Counsel and 43 in the Office of Community Planning and Development for the same period. However, as you admit in your letter, seven complaints in the OIG carried over from fiscal year 1993. Similarly, complaints carried over from fiscal year 1993 were included in your totals for the Office of General Counsel and the Office of Community Planning and Development.

The inclusion of complaints on hand at the beginning of fiscal year 1994 in your statistics is in fact misleading. Susan Gaffney was detailed as the Inspector General (IG) in April 1993 and confirmed in August 1993. Of the seven EEO complaints on hand at the beginning of fiscal year 1994, our review of the documentation shows that only one was filed after IG Gaffney was detailed. Including the seven complaints on hand at the beginning of fiscal year 1994 makes it appear that more EEO complaints were filed during IG Gaffney's tenure than actually were. Moreover, because the OIG had more EEO complaints carried over from fiscal year 1993 than did either the Office of General Counsel or the Office of Community Planning and Development, your statistics distort the comparison of these three offices.

Finally, it is important to note that our overall investigation focused on the propriety of HUD's award of contracts to two law firms—Williams & Connolly and Day, Berry & Howard, LLP—to investigate the Deputy Assistant Inspector General's EEO complaint. We did not review the merits of the complaint filed by the Deputy Assistant Inspector General.

Sincerely yours,



Robert H. Hast
Acting Assistant Comptroller General
for Special Investigations

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