

ERVIN and ASSOCIATES

FL-265536

INCORPORATED

To: William Barth

Date: 5/6/99

From: David Ervin

Pages: 3  
(Includes cover page)

Sender's Phone: 301/469-3422

Message:

Please see attached.

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**ERVIN and  
ASSOCIATES**  
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PI-265536

May 6, 1999

Mr. William K. Barth  
Managing Attorney  
Office of General Counsel, Freedom of Information Act Division  
U.S. Department of Housing and Urban Development  
451 Seventh Street, SW  
Washington, D.C. 20410-0500

Via Facsimile to (202) 401-7901

Re: Request for Information Under the Freedom of Information Act (FOIA) -  
Independent Analysis of Bid Results

Dear Mr. Barth:

In a December 12, 1997 letter from Hal C. DeCell III, Assistant Secretary, to the Honorable Connie Mack, Chairman, Subcommittee on Housing Opportunity and Community Development, Mr. DeCell stated:

The Department has initiated an independent analysis of the bid results [of HUD's Note Sales].

(See page 16 of response to Senator Mack, attached hereto).

Under the provisions of the Freedom of Information Act, please provide us with all documents identifying the results of HUD's independent analysis, as well as all workpapers or other documents which were relied upon or otherwise referred to by HUD in conducting the independent analysis.

Ervin and Associates agrees to pay up to \$50 for the processing of this request. If the anticipated fees are to exceed \$50, please call me immediately at (301) 469-3422 so I may have an opportunity to reformulate the request or approve the additional fees without delaying the processing of the request.

Very truly yours,  
ERVIN and ASSOCIATES, INCORPORATED

  
David J. Ervin

FI-265536

RESPONSE TO 11/14/97 REQUEST FOR INFORMATION

With respect to records that refer or relate to the impact of the error on winners and losers in note sales, attached is the unsigned December 4, 1996 draft memorandum from Hamilton to the FHA Comptroller and the unsigned December 20, 1996 memorandum from Hamilton to the Assistant Secretary for Housing/Federal Housing Commissioner and the FHA Comptroller. FHA asserts that it is not aware of any specific complaints from bid losers. The Department is also unaware of any existing records that refer or relate to whether the government is exposed to any liability from those bidders that were affected by the error. The Department has initiated an independent analysis of the bid results.



(3) Records that refer or relate to why no effort was made to recover the alleged loss when it was initially discovered about a year ago.

While the Department is not aware of any documents directly responsive to this question, as set out above in response to a related question (question (1) in section B.), the Office of Housing offers the following narrative explanation:

Commissioner Retsinas has stated that his overriding priority was to maintain the momentum and results achieved by the note sales program, while protecting the integrity of the sale process and securing HUD's right to recover any damages that might have resulted. At the time the optimization errors were disclosed to HUD, HUD was in the market with an asset sale and had another sale scheduled within a month. In those two sales HUD returned \$874 million in net income to the Treasury.

Commissioner Retsinas took the following steps upon learning of the errors:

- v Directed the adoption of procedures to ensure and verify that no mistakes were made in the immediately upcoming sales, thereby capping any damages to HUD from the errors. Specifically:
  - 1) Hamilton was directed to provide a full report documenting what happened and the financial impact of the errors;
  - 2) A new protocol was imposed requiring Hamilton and Lucent to each independently verify that instructions for use of the optimization model were consistent with instructions to bidders;