

RESTRICTED — Not to be released outside the General Accounting Office except on the basis of specific approval by the Office of Congressional Relations, a record of which is kept by the Distribution Section, Publications Branch, OAS

3.08.11

73-0497



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

RELEASED

B-177148

APR 17 1973

19
21
30

The Honorable Thomas F. Railsback
House of Representatives



Dear Mr. Railsback:

In response to your requests of September 26, 1972, and January 24, 1973, and discussions with your office, we examined the contract award for constructing a public housing project (ILL.-18-6) for the elderly in Rock Island, Illinois. The Department of Housing and Urban Development (HUD) is financing the project under its low-rent housing program.

We examined (1) HUD's basis for rejecting the proposal submitted by the Waters Construction Company (Waters) and the selection of the Com-Fam Corporation (Com-Fam) as the project developer and (2) questions raised by Mr. Chris Maiwald in his letters to you dated September 21 and November 8, 1972. Enclosed is a copy of our report to Congressman Robert H. Michel on consideration given to a proposal submitted by C. Iber & Sons, Inc. (Iber), Peoria, Illinois.

We interviewed officials and reviewed records at HUD headquarters, Washington, D.C., and HUD regional and area offices in Chicago, Illinois, and the Rock Island Housing Authority (authority). We also interviewed Mr. Maiwald and Mr. Loren Benson of Maiwald-Benson and Associates, the architects for Waters.

Our review is discussed in the following paragraphs and in enclosure I. Exhibits A and B contain the first floor plans included in the Waters and Com-Fam proposals, respectively.

BACKGROUND

On May 5, 1971, HUD approved a project for developing a 200-dwelling-unit high-rise building for the elderly in Rock Island. The authority chose the turnkey method for providing the low-rent housing units. Under this method a local housing authority (LHA) solicits proposals from developers to build low-income housing of their own design and of good design, quality, and workmanship on a suitable site of the developer. The turnkey method differs from the conventional bid method in which an LHA solicits competitive bids for the construction on its site in accordance with its detailed plans and specifications. Because proposals received by the LHA under the turnkey method

904514

089172

are not competitive bids, the lowest responsive bidder does not necessarily receive the contract. After the LHA and HUD accept a developer's proposal, the LHA enters into a contract with the developer to purchase the development when completed.

The authority in February 1972 submitted to HUD for its approval the advertisement and related material on the proposed project. On May 3, 1972, HUD authorized the authority to solicit proposals for constructing the project. The authority advertised the project in the Rock Island Argus, a local newspaper, on May 9 and 16, 1972. The authority received several expressions of interest from developers and sent to each a letter which described the proposed project and called for receipt of written proposals by 4 p.m. on June 2, 1972. The letter stated that each proposal would be evaluated on its merits and would not be considered as a competitive bid. Also the authority emphasized in the letters that it reserved the right to reject, accept, or request modifications of any or all proposals submitted.

Fifteen developers sent proposals. The five lowest cost proposals the authority received by the deadline follow.

<u>Developer</u>	<u>Initial proposal</u>	<u>Revised proposal</u>
C. Iber & Sons, Inc.	\$2,880,000	\$2,905,000
Waters Construction Company	2,948,434	2,988,952
Com-Fam Corporation	2,989,500	none
Lippman Associates	3,052,000	none
Shelter Development Corporation	3,059,930	none

SELECTING DEVELOPER

HUD turnkey procedures state that the LHA and HUD shall evaluate each proposal on the basis of:

"(a) site--its location, cost and other factors pertinent to the site report, (b) construction--its design and cost, (c) credentials of developer, (d) the developer's and/or builder's Statement of Disclosure of Interest.

"Evaluation of the price of the site and of construction will be in terms of whether these prices are within a reasonable range."

A developer's proposal must be acceptable to both the LHA and HUD.

On June 5, 1972, the authority sent copies of the five lowest cost proposals to HUD. On June 6, 1972, the authority's board of commissioners voted to hear 30-minute presentations on June 14, 1972, by the five developers who had submitted the lowest cost proposals. Also, the authority's consulting architect presented a preliminary analysis of these proposals pending a more detailed report. He evaluated these proposals and submitted his evaluation report to the authority on June 9, 1972. Specific comments in the report on the Waters proposal follow.

"There are several items * * * which do not conform with the program. They are as follows:

- "(1) Although the dwelling units are of adequate size they are essentially efficiency apartments. These are not allowed by the program.
- "(2) Bedroom alcoves do not have sufficient natural light and ventilation.
- "(3) Electric space heating is used in lieu of the prescribed gas fired hot water system. * * *
- "(4) Rough-in work is proposed for gas ranges instead of for electric ranges.
- "(5) Some dwelling units are placed on the first floor in lieu of the requirement that all dwelling units be placed on the second floor or above."

The authority's board of commissioners heard 30-minute presentations by the five bidders on June 14, 1972.

The authority's attorney ruled that Iber's initial proposal was not acceptable because it called for two progress payments during construction rather than a single payment as required by turnkey procedures. He ruled also that accepting Iber's revised proposal providing for single payment financing would be illegal because Iber knew the prices submitted by the other developers. On June 20, 1972, the board of commissioners selected Waters as the developer.

On July 12, 1972, authority and HUD officials met to discuss the proposals. The authority provided HUD with a written justification for its selection. A HUD official told us that during the meeting she advised the authority officials that on the basis of the deficiencies

in the Waters proposal, as indicated by the authority's consulting architect, Waters should not be awarded the contract. The HUD official stated Com-Fam should probably receive the award because it had submitted the lowest cost proposal which adequately complied with all requirements in the authority's invitation.

On August 9, 1972, HUD requested the authority to have Waters revise its proposal to provide for gas heat as required in the invitation for proposals. Waters submitted a revised proposal on September 5, 1972, increasing the price from \$2,948,434 to \$2,988,952.

In accordance with HUD's procedures, HUD's architecture and engineering section issued an evaluation report on the five lowest cost proposals on September 8, 1972. This report stated that the proposals had been judged on price, design, planning and amount of changes necessary to comply with HUD standards, and the authority's advertisement. The report stated that, although the Waters proposal was the authority's choice, the architecture and engineering section found that it contained too many deficiencies and flagrant violations of both the authority's advertisement and HUD's requirements to be accepted. The report listed 20 deficiencies and/or violations in the Waters proposal.

HUD's chief reviewer of the proposals in the Chicago area office told us that the Waters proposal was rejected primarily because it did not comply with the authority's invitation for proposals as approved by HUD. He said that the proposal provided for efficiency units when such units were specifically prohibited by the authority's invitation for proposals and included housing units on the first floor even though the authority's invitation stated that all units were to be above the first floor.

HUD informed the authority by letter dated September 12, 1972, that it disagreed with the authority's choice of developer and listed the deficiencies and/or violations it found in the Waters proposal. HUD recommended that Com-Fam be selected because its proposal was the lowest cost which substantially met the conditions set forth by the authority and HUD.

The authority's board of commissioners, at a special meeting on September 14, 1972, adopted a resolution that Com-Fam be selected.

- - - -

As agreed with your office, we did not obtain written comments on this report from the parties involved. However, we discussed the

B-177148

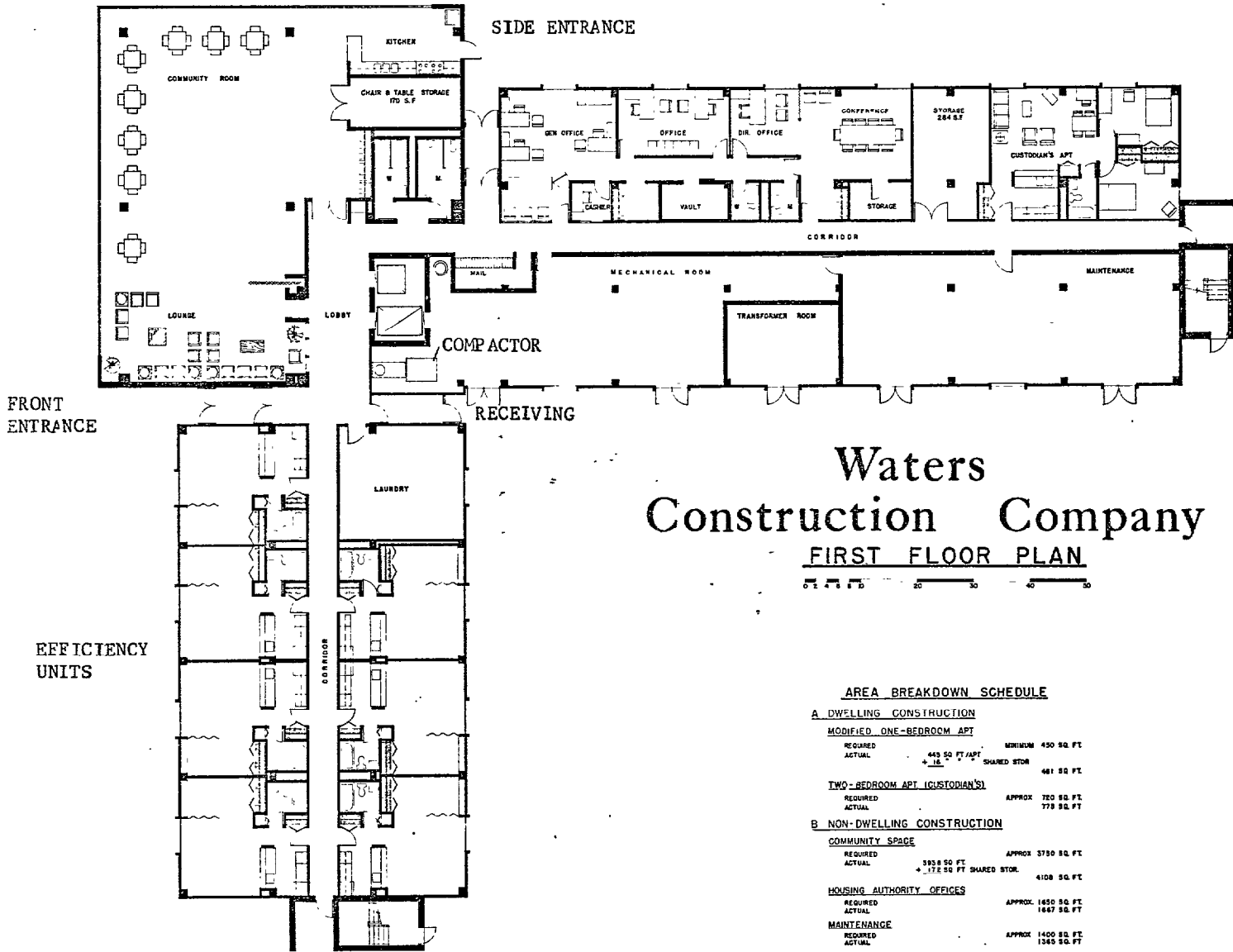
information in the report with them. As also agreed, we are furnishing a copy of the report to Congressman Michel. We do not plan to distribute this report further unless you agree or publicly announce its contents.

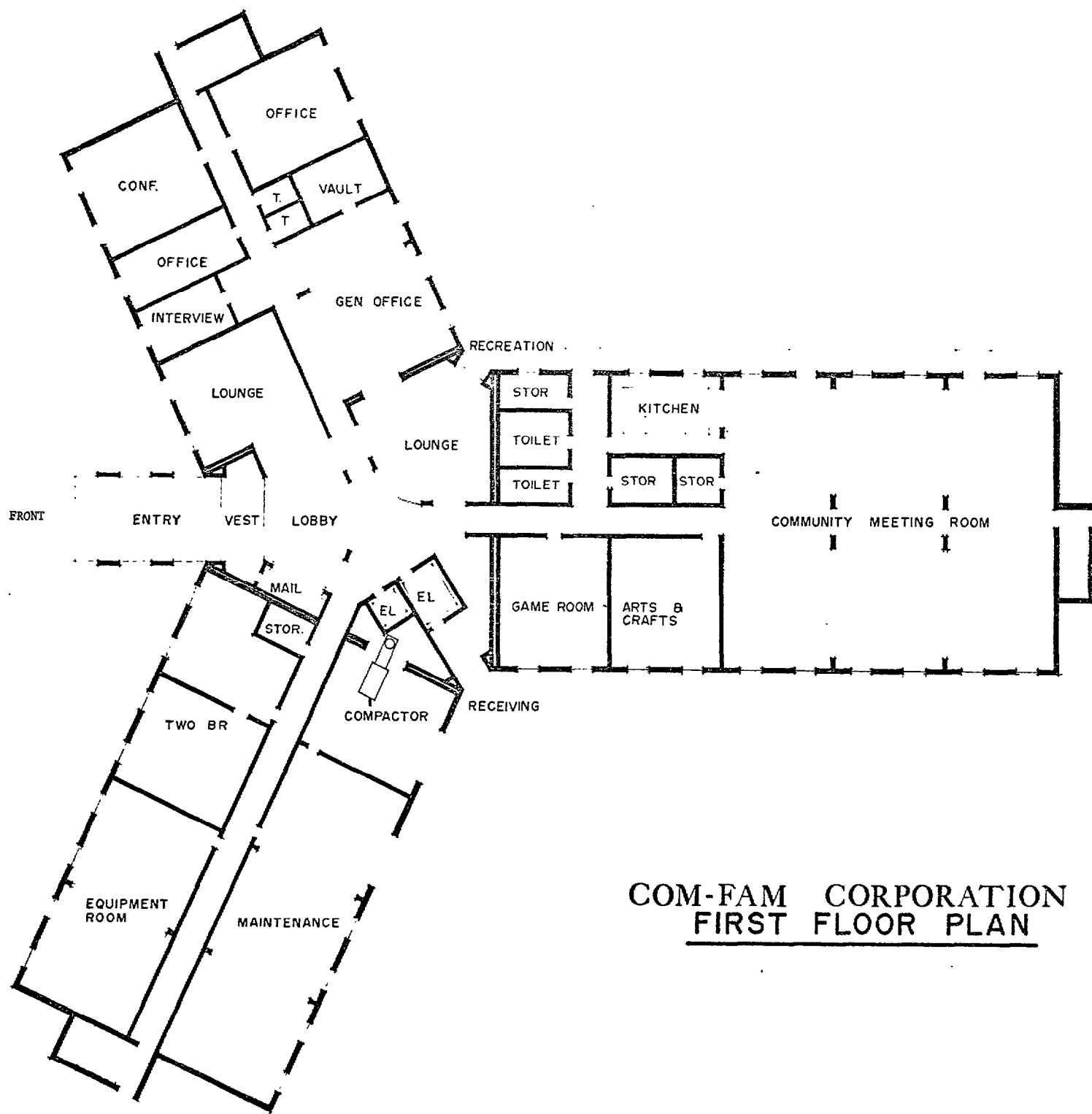
Sincerely yours,

A handwritten signature in cursive script, appearing to read "James B. Peck".

Comptroller General
of the United States

Enclosures





**COM-FAM CORPORATION
FIRST FLOOR PLAN**

COMMENTS ON QUESTIONS RAISED BY MAIWALD-BENSON
AND ASSOCIATES AND DISCUSSION OF HUD'S
REASONS FOR NOT SELECTING THE WATERS CONSTRUCTION
COMPANY AS THE PROJECT DEVELOPER

In a letter dated September 12, 1972, to the Rock Island Housing Authority (authority), the Department of Housing and Urban Development (HUD) listed its reasons for not selecting the Waters Construction Company (Waters) as developer of a housing project for the elderly in Rock Island, Illinois. In letters dated September 21 and November 8, 1972, to Congressman Thomas F. Railsback, Maiwald-Benson and Associates, architects for Waters, raised several questions concerning the propriety of HUD's decision. At the request of Congressman Railsback, we inquired into the questions. The information we found on each point follows.

QUESTIONS RAISED BY MR. CHRIS MAIWALD IN THE
SUPPLEMENTAL NEWS RELEASE
ACCOMPANYING HIS LETTER
DATED SEPTEMBER 21, 1972

Question 1

"Why has the Waters Construction Company been denied contact with H.U.D. when members of Com-Fam and another bidding firm have been observed with some H.U.D. officials?"

Mr. Maiwald told us that he did not attempt to contact HUD directly because authority personnel advised him that he would have to deal with HUD via the authority. According to the former chairman of the authority's board of commissioners, Maiwald-Benson and Associates contacted him and requested to discuss their proposal directly with HUD. He said he explained to them that they could go to HUD but that authority personnel would not arrange for or attend the meeting.

The HUD program manager for the Rock Island project told us that it was HUD's policy not to meet with developers or their representatives before final selection of the developer. She said that C. Iber and Sons, Inc. (Iber), was the only developer that contacted HUD regarding the project before HUD's recommendations for selection of the developer. Iber called HUD to protest the authority's initial selection of Waters and followed with a letter listing its complaints.

Mr. Maiwald told us that Com-Fam Corporation (Com-Fam) and Iber personnel had been observed with various HUD personnel. He said that he could not provide specifics because this information had been passed on to him by others. According to the HUD program manager, Com-Fam personnel might have visited HUD concerning other projects but not the Rock Island project.

Question 2

"Why does H.U.D. so prejudicially favor a firm that has four officers who were former H.U.D. officials?"

Com-Fam's proposal showed the following four executives as former HUD employees.

	Position at <u>Com-Fam</u>	Position at <u>HUD</u>
George F. Ross	Executive Vice-President	Production Coordinator, HUD regional office, Chicago
Ernest M. Hostetler, III	Secretary-Treasurer	Production Representative, HUD regional office, Chicago
Jack W. Travis	Vice-President of Project Development	Production Coordinator, HUD regional office, Chicago, and Multi-Family Housing Representative, Chicago
Thomas J. Sanhamel	Vice-President of Administration	Production Representative, HUD regional office, Chicago

Our examination did not disclose any evidence that indicated HUD gave preferential treatment to Com-Fam or others in its selection.

Question 3

"How come three of the above officials of a Michigan based firm have a Chicago address?"

Of the three Com-Fam employees, two, Mr. Ross and Mr. Hostetler, are partners in the Chicago-based firm of Ross-Hostetler and Associates. The third, Mr. Sanhamel, was formerly employed by Ross-Hostetler and Associates.

Question 4

"Why did an official at the H.U.D. office proposition the Rock Island Authority that if they would go along with Com-Fam, she would see that they would receive immediate approval of the project? Note: this occurred before the technical department of H.U.D. had even received the plans for review."

On July 12, 1972, several authority and HUD employees met at the HUD Chicago area office to discuss the selection of a developer. We discussed this matter with everyone at the meeting except one individual who was out of town during our visit to Rock Island. All but one of the authority's representatives we interviewed said that HUD did not exert any pressure on the authority to select Com-Fam. One individual said that he felt HUD was prejudiced toward Com-Fam but that he could not support his position.

The Special Assistant to the Director of Operations, HUD Chicago area office, told us that in the meeting she pointed out to the authority representatives that the Waters proposal contained at least two major items of noncompliance--electric heat in lieu of gas heat and efficiency units in lieu of modified one-bedroom units.

She pointed out that it appeared HUD would reject this proposal as inadequate and nonresponsive to design requirements and that she advised the representatives that HUD probably would recommend selecting Com-Fam because its proposal was the lowest proposal which adequately complied with all requirements in the authority's invitation. According to the Special Assistant, she informed the representatives that HUD's architecture and engineering section would make a technical review of the proposals and, on the basis of its recommendation, HUD would recommend a developer. She said that her remarks at the meeting were based on her experience and review of the authority's consulting architect's evaluation of the five lowest cost proposals.

Question 5

"The subject letter in this report was signed by a Mr. M. R. Rogan over the typed name of Mr. John L. Waner but was written by a Mr. Salit of the Department of Community Development. Does this indicate that the plans never were reviewed by the architectural and engineering staff of H.U.D.?"

Mr. Miro Sich of HUD's architectural and engineering section, chief reviewer of the proposals in the Chicago area office, prepared

a technical evaluation report on the proposals. On September 8, 1972, it was sent for review to Mr. Gary Salit, Production Representative. The September 12, 1972, letter was drafted by Mr. Salit and signed by Mr. Rogan, Deputy Area Director, in the absence of Mr. Waner, Area Director. We compared the letter with the evaluation report and observed that most of the data in the letter had been extracted verbatim from the evaluation report.

Question 6

"How could a proposal which completely omitted the plumbing, heating and electrical drawings even be considered a legitimate bid?"

The authority's invitation for proposals stated that proposals should include "Rough sketches of the site layout and building and unit plans." HUD Minimum Property Standards state that "Preliminary drawings need contain only sufficient indication, dimensions and notes to permit the preparation of a cost estimate and the determination of compliance with good engineering practice * * *."

Mr. Sich told us that rough sketches of the building and unit plans, as provided by Com-Fam, were adequate during the proposal stage.

QUESTIONS RAISED BY MR. CHRIS MAIWALD
IN HIS LETTER OF NOVEMBER 8, 1972

Question 1

"Would it not be proper to listen to the tape of the L.H.A. meeting?"

It is questionable whether the special meeting held by the authority's board of commissioners on September 14, 1972, was recorded on tape.

Mr. Maiwald and Mr. Loren Benson told us that they were at the meeting and that it was taped. Mr. Maiwald said that he instructed the authority's consulting attorney to keep the tape. In separate discussions, the attorney, the authority's executive director, and two of the commissioners told us, that the meeting was not taped. Two commissioners could not recall whether it was taped.

Question 2

"Would it not be proper to question the L.H.A. architect regarding the list of deficiencies presented by H.U.D.; and shouldn't it be of some interest as to why he was not aware of the list until two days after it was voted on?"

The authority's consulting architect told us that he generally agreed with the deficiencies listed in the HUD letter of September 12, 1972, but he believed that in some instances the word "deficiencies" was too strong and "variations" or "deviations" should have been used. He said that the deficiencies listed were adequate reasons for rejecting the Waters proposal.

He further advised us that he did not attend the special meeting on September 14, 1972, because he had not been requested to. He said his evaluation report did not recommend which contractor should get the contract and, therefore, he did not believe that his presence at the meeting was necessary.

Question 3

"Clifford Scheuerman * * * has refused to remain on the L.H.A. Board because of H.U.D.'s high handed methods regarding this program."

Mr. Scheuerman told us he resigned from the board because he could not spend sufficient time on it due to increasing business pressure where he worked. He said HUD did not exert any direct pressure on the authority when the authority was selecting the developer.

HUD REASONS FOR REJECTING THE WATERS PROPOSALReason 1

"LHA Architect indicates in his review that 2nd Avenue is presently not extended enough to properly serve the project."

The authority's consulting architect stated in his evaluation reports that both the Waters and the Com-Fam proposals relied upon the city of Rock Island to extend Second Avenue for access to the parking areas. He told us that before any contract award the following questions relating to extending Second Avenue should be answered: (1) May it be extended? (2) Who will extend it? (3) Who will absorb the cost?

Mr. Sich of HUD told us that he considered each of the five lowest cost proposals equally deficient on this item because they did not specify whether the contractor or the city would extend Second Avenue.

Reason 2

"Building has too many entrances for efficient traffic control and building function."

Mr. Sich said the Waters proposal provided for two main entrances--a vehicular traffic entrance and a side entrance adjacent to the general offices. According to Mr. Sich, the traffic entrance could not be observed from the general offices and traffic control would be poor. (See exhibit A.)

Reason 3

"Receiving, trash and Mechanical Rooms are combined. This is not acceptable."

HUD Minimum Property Standards provide that trash rooms be enclosed and separated from the rest of the building. The Waters proposal provided for a trash compactor in an unenclosed room which was not separated from the rest of the building. (See exhibit A.)

Reason 4

"Dwelling units are located on the first floor. This is direct non-compliance with the LHA advertisement."

The authority's invitation to bid stated that "One Hundred Ninety-nine (199) units shall be modified one-bedroom, minimum 450 square feet, located above the first floor." (Underscoring supplied.) Contrary to this requirement, the Waters proposal provided for seven efficiency units on the first floor.

Reason 5

"Toilets are undersized."

According to Mr. Sich, "undersized" refers to an inadequate number of toilets in the public washroom on the first floor. In his judgment, a minimum of two and as many as five toilets would be needed in each public washroom. He stated that the Waters proposal did not allow for sufficient area to add these facilities.

Reason 6

"Tenant Lounge is part of main community room. This is not acceptable."

According to Mr. Sich, the lounge and community room serve two different functions and, therefore, should be permanently separated. He explained that the lounge is used as a waiting area and the community room is used for group meetings and activities. The Waters proposal provided for the lounge and community room to be separated by a soundproof folding wall.

Reason 7

"Community room cannot be used for simultaneous activities."

Mr. Sich told us that, in his opinion, the community room outlined in the Waters proposal was not adaptable for division into separate rooms for simultaneous use. This proposal did not provide separate rooms in addition to the community room for activities as did some of the other proposals.

Reason 8

"Community kitchen is poorly located in relation to the community room to be able to provide efficient and uninterrupted service."

Mr. Sich said the most desirable location for a kitchen would be near the center of the community room rather than in a far corner, as outlined in the Waters proposal. He explained that in this proposal the entrance to the kitchen from inside the building could be reached only by passing through the community room. He believed that community room functions in process might be interrupted as a result of this traffic pattern.

Reason 9

"Typical Floor is acceptable except that large floor area, labeled storage, is wasted around elevator core. Such storage areas are undesirable (sic) for elderly projects."

Sufficient space existed around the elevator core outlined in Waters proposal to be used for storing residents' personal items. Mr. Sich told us that such storage presents a fire hazard and attracts

rodents. He said that HUD would not allow this space to be used for storage and that the area would need to be converted to some other use or remain wasted.

Reason 10

"Typical Dwelling Unit is not acceptable for the following:

"Unit is efficiency apartment which is direct non-compliance with LHA advertisement.

"Efficiency apartments for this type of project are not acceptable to HUD."

The authority's invitation for bids stated: "No efficiency units are permitted." According to Mr. Sich, the authority and HUD management had decided to prescribe modified one-bedroom dwelling units. He said that many years of experience had shown HUD that the elderly prefer one-bedroom apartments to efficiency units and that efficiency units, as provided for in the Water proposal, are not acceptable to HUD. He pointed out that the sleeping area of the efficiency units lacked both natural light and ventilation when screened off from the living room.

Reason 11

"Insulation does not have sufficient 'R' value."

Mr. Sich told us that the Waters proposal met the insulation requirements ('R' value) for gas heat, as specified in the invitation to bid, but did not meet HUD's insulation requirements for electrical heat. HUD requires insulation in electrically heated buildings to be approximately double that required for gas heat.

Waters submitted a revised proposal on September 5, 1972, that provided for gas heat and met the then-existing insulation requirements. According to Mr. Sich, HUD had increased the insulation requirements for both types of heat after the submittal of proposals.

Reason 12

"Roofing has to be 20 year bondable type and carry 10 year maintenance by Developer."

The "Additional Planning and Design Criteria" which accompanied the invitation to bid stated that built-up roofing should be the

20-year bondable type and carry a 10-year maintenance guaranty by the developer. The Waters proposal made no mention of the 20-year specification but provided that a subcontractor be responsible for 10-year warranty.

Reason 13

"Quality of aluminum windows is not specified."

The Waters proposal provided that aluminum windows would be installed but did not specify that they would meet the requirements cited in the invitation for bids.

Reason 14

"Advertisement calls for air-conditioning sleeves in dwelling units. The proposal indicates that windows will be used for this purpose, this is not acceptable."

The advertisement provided that a sleeve and removable panel for dwelling unit air-conditioners be located behind a fixed louvered screen in the living area. The Waters proposal provided that the air-conditioning sleeve be located in one of two sliding windows. Mr. Sich told us that this did not comply with the advertisement and was unacceptable to HUD because it eliminated the use of one of the two sliding windows.

Reason 15

"Qualiware coating as specified is not acceptable."

According to Mr. Sich, "Qualiware," a type of wall covering, is not acceptable for use in kitchens and bathrooms because it does not adequately resist grease and humidity. He said that he contacted the manufacturer of Qualiware, who informed him that Qualiware was not oil based and therefore was not recommended for use in kitchens or bathrooms.

Reason 16

"Floor covering indicates inconsistency, i.e., VAT [vinyl asbestos tile] is specified in two places in thicknesses of 1/8" and 3/32"."

The "Additional Planning and Design Criteria" require that vinyl asbestos floor tile be a minimum thickness of 3/32 inches. Mr. Sich

told us that the Waters proposal met the minimum standard but he believed that additional clarification was needed as to which of the two tiles (1/8 inch and 3/32 inch) Waters intended to provide.

Reason 17

"Shades are not provided."

The "Additional Planning and Design Criteria" state that shades or blinds are to be provided for all windows. The Waters proposal provided for drapes in lieu of shades. Mr. Sich told us that shades are needed for room darkening and thermal protection.

Reason 18

"Number of trash containers is not specified."

The "Additional Planning and Design Criteria" state that a compactor and a minimum of three metal refuse containers (hoppers) should be provided. The Waters proposal provides for "Compactor with loading chute and hopper." Mr. Sich said he thought Waters planned to furnish one hopper in lieu of the required three.