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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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HUMAN RESOURCES DIVISION

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The Honorable Edward Aguirre
Commissioner of Education
Office of Education
Department of Health, Education, and Welfare

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Dear Dr. Aguirre:

We have completed our survey of assistance provided to institutions of higher education for academic facilities construction under title VII of the Higher Education Act, as amended (20 U.S.C. 1132a), the Public Health Service Act, as amended (42 U.S.C. 292), and title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749). Programs authorized by the first two acts are administered by the Office of Education and the Public Health Service, Department of Health, Education, and Welfare (HEW), respectively.

The Higher Education Act authorizes assistance in the form of grants, loans, and annual interest grants for the construction of higher education academic facilities. The Public Health Service Act authorizes assistance in the form of grants, loan guarantees, and interest subsidies for construction which includes medical libraries; health research facilities; teaching facilities for physicians, dentists, pharmacists, optometrists, podiatrists, and veterinarians; and schools of nursing.

Programs authorized by the Housing Act of 1950 are administered by the Department of Housing and Urban Development (HUD). This act authorizes loans and annual interest grants for the construction or purchase of housing or other educational facilities such as dining halls, student unions, and infirmaries.

Recent studies indicate that colleges and universities in the United States are experiencing a variety of problems which threaten their programs and, in some cases, their very existence. Study conclusions indicate that institutions are faced with (1) a challenge to their programs which is heightened by the condition of the national economy and changing employment prospects, and (2) financial problems stemming from inflation, declining enrollments, and shrinking nontuition income.

In view of the reported economic hardships being experienced in the higher education community, we wanted to learn what HEW and HUD were doing to protect the Federal investment in these facilities. We visited 24 geographically dispersed institutions in Pennsylvania and 1 in West Virginia and discussed the programs with institution officials and officials in HEW and HUD headquarters and regional offices. A list of the institutions visited is included as an enclosure.

## FEDERAL PARTICIPATION IN THE CONSTRUCTION OF ACADEMIC AND HOUSING FACILITIES

Financial statements were examined for 21 of the 25 schools visited. The other schools either did not respond to our request for information or did not provide sufficiently detailed information for purposes of our analyses. The statements showed assets (land, building, and equipment) of about $869.6 million as of June 30, 1974. The Federal Government provided grants and direct loans totaling about $109.3 million to the schools to acquire these assets. In addition, the Government has commitments to pay yearly interest subsidies of almost $980,000 to these schools in support of private construction loans of $33.8 million.

The following table shows HEW and HUD assistance to the 25 institutions as of December 31, 1974. Some institutions were receiving more than one type of assistance.

| | Number of institutions | Number of grants and loans | Amount |
|---|---|---|---|
| | | | (millions) |
| HEW | | | |
| Office of Education | | | |
| Grants | 22 | 49 | $ 22.7 |
| Loans | 9 | 10 | 9.0 |
| Interest grants | 6 | 7 | .4 |
| Subtotal | | | $ 32.1 |

| | Number of institutions | Number of grants and loans | Amount |
|---|---|---|---|
| | | | (million) |
| Public Health Service | | | |
| Grants | 4 | 22 | $ 14.2 |
| HUD | | | |
| Loans | 22 | 71 | $ 79.4 |
| Interest grants | 7 | 8 | .2 |
| Subtotal | | | $ 79.6 |
| Total | | | $125.9 |

At the time we initiated our fieldwork in January 1975, the Office of Education had no reporting procedures regarding the uses being made of the facilities constructed through the use of grant funds. Because of this and the need for HUD to strengthen administration of its loans, there was no assurance that Federal interests were being protected.

Grants

The Office of Education made 49 grants totaling about $22.7 million to 22 of the institutions in our survey. The Higher Education Act provided that the public benefit accruing to the United States from the use of a facility constructed with grant funds would equal the amount of grant funds so long as the facility was used for academic purposes for 20 years following the completion of construction. This period of 20 years was to be the period of Federal interest in the facility. During this period, if the institution ceased to be a public or nonprofit institution; or the facility constructed with grant funds ceased to be used for academic purposes, the Federal Government would be entitled to recover a certain amount of the grant funds based on the relationship between acquisition cost and current market values.

Our tests showed that the Office of Education was making limited on-site visits to the institutions and was not requesting written confirmations from institutions as to the uses being made of facilities constructed with grant funds. However, in June 1975 an Office of Education official told us that the Office had drafted procedures that would require reviews at the institutions receiving grants. The reviews were to determine whether facilities constructed with grant funds were being used in accordance with the purposes for which they were constructed. Included in the draft as an alternative review method were procedures for obtaining written confirmations from the institutions as to their uses of the facilities.

Subsequent to our fieldwork, the Office of Education advised us that the procedures became a part of guidance provided to Office field staff, and field staffs were making use of written confirmations from institutions.

The Public Health Service has always required annual written confirmation from institutions to which it makes grants. Institutions are required to certify that the facilities constructed will be used for the purpose for which the grants were originally made.

Loans

HEW and HUD made 81 loans totaling about $88.4 million to 22 institutions included in our survey. In order to obtain loans, institutions issue bonds which are offered for sale at specified rates of interest. HEW or HUD agrees to bid on the bonds and purchase those for which there is no equal or more favorable bid by other investors. Before purchase by HEW or HUD, a trust indenture is prepared for each loan designating a banking institution as trustee. The trustees are responsible for enforcement of the covenants and conditions of the indenture. As part of this responsibility, the trustee has a right to inspect any mortgaged property, and books and contracts of the borrowing institutions. Officials of both HEW and HUD told us that they rely upon trustees to monitor loans through maturity.

Administration of indentures

Certain trustees for institutions with HUD loans were not enforcing the terms of the indentures. Generally, the indentures require that the trustee maintain certain separate accounts such as an interest and bond account and collateral account, which are to assure the availability of pledged revenues for loan repayment.

--For five institutions, deposits to the interest account were late. Generally, indentures require that deposits to this account be made on or before the 15th day of the month preceding the month in which interest was due. The deposits then were to be used by the trustees to make the interest payments that were due on the bonds. Although the deposits were late, we did not note instances where payments to the Federal Government were not made as required by the indentures. However, if such behavior persists, the Federal Government cannot be assured that its investment will be protected if an institution incurs an unusual expense which would require the use of its current assets.

--Indentures require that institutions deposit, semi-annually, with the trustee, one-half of the annual principal amount due. These deposits were not being made by two of the institutions, and the trustees were not aware of the deficiencies. In the event of an unusual expense, this also might not assure the Federal Government that its investments were being protected to the maximum.

--For two institutions, trustees did not know the amount that was required as collateral. Securities were deposited by the institutions with the trustees and held as collateral. The indentures required a certain minimum for collateral. In one instance, the trustee thought the required minimum was $330,000; however, according to HUD, the correct minimum should have been $375,000. As of June 1974, the market value of the colateral was shown as $348,565 on the trustee's books and $372,000 on the school's books. In another instance, the trustee stated that as of June 1974 the minimum was $56,576; however, according to HUD, the correct minimum should have been $59,000. As of June 1974, the actual collateral held was valued at $55,025. Again, we do not believe that under such circumstances the Federal Government's interests are being maximally protected.

To assist the trustees in carrying out their responsibilities the HUD indentures require that the institutions furnish the trustees with audit reports, prepared by independent public accountants. These reports are to present in reasonable detail

"* * * the financial condition and record of operation of the Borrower, the Project, other pledged facilities, and other pledged revenue sources, including part cularly the Borrower's enrollment, the occupan y and degree of use of and rates charged fc the use of, and the insurance on the Project * * *."

Our review of audit reports that were prepared for the 22 institutions with HUD loans showed the following.

--9 instances where neither project enrollment nor occupancy data was reported.

--3 instances where reports contained no data on rates charged by the institutions for the project facilities.

--10 instances where no data on the insurance of the project facilities was maintained.

Conversion of facilities

HUD indentures generally require that the institution will not sell, transfer title, or lease the facilities constructed with HUD loans. In addition, institutions must agree to establish and maintain rules, rental rates, and charges to assure maximum occupancy and use of the facilities to provide the funds required by the indenture. Also, HUD officials told us that trust indentures for the college housing program require that institutions desiring to convert facilities to other uses are required to demonstrate need and request a waiver from HUD before the conversions take place.

Despite this requirement, 4 of the 25 institutions included in this survey converted facilities constructed with HUD loans to other uses without prior approval from HUD. Therefore, there is no assurance that occupancy and use of the facilities would be at a level that would provide the funds required by the indentures.

--The University of Pennsylvania received a $730,000 loan from HUD to remodel 3 dormitories for about 200 students. These buildings were initially occupied in September 1963, and in 1970 ~~the~~ university converted a portion to administrative space, reducing the capacity for housing to 128. In 1973, a portion of the administrative space was converted to housing, increasing the capacity to 164. In 1974, 4 housing spaces were eliminated, reducing the capacity to 160. HUD was not informed by the university of any of the conversions and therefore could not be sure that rental and occupancy rates would be sufficient to provide necessary funds as required by the indentures.

--Wheeling College received 2 loans from HUD totaling $720,000 to construct a dormitory for 154 students. In the fall of 1972 the college closed this dormitory even though HUD had notified the college in March 1972 that closing of the dormitory would be a violation of the trust indenture. In a March 1973 meeting between officials of the college and the HUD Pittsburgh area office, college officials indicated their intention to reopen the dormitory in the fall of 1973. However, the dormitory was not reopened and in the fall of 1974, a portion of it was converted into studios and office space. A college official told us that the college was considering leasing a portion of the remaining space to a private organization.

After our visit to Wheeling College in April 1975, we discussed the conversions with officials of the HUD area office. The officials indicated that they were unaware of the conversions and that no contact had been made with the college since the March 1973 meeting.

Due to perceived cash flow problems, Wheeling College requested a deferral of the semi-annual interest and principal payments starting in May 1973. HUD granted these deferrals which continued until April 1975 when HUD concluded

> "* * * it is no longer prudent on the part of the Government to grant additional deferments to the College while the facilities continue to generate sufficient income to meet debt service payments and while the Collateral Account of $195,000 remains available."

In June 1976 a HUD official told us that the college had made the May and November 1975 payments.

--Temple University received a $2 million HUD loan for a dormitory to house 456 students. This project was completed in 1963 and until about 1970, the dormitory was used for housing students. In 1970, Temple allocated a part of the dormitory that would house about 150 students for administrative use. In 1971, the capacity was reduced by another 52 dormitory spaces. Temple's November 1974 report to HUD indicated that the average number of students housed at the dormitory was 194.

--Point Park College obtained 2 loans from HUD totaling about $2 million to provide, among other things, dining facilities for about 330 persons. We observed that the dining facilities had been moved to another campus building and an official stated that this area was converted for student recreation. Another college official stated that HUD had not been advised of this change.

HUD has under consideration proposed regulations which clarify the responsibilities of parties involved in the administration of college housing loans. The proposed regulations establish criteria for granting relief to institutions and for allowing the conversion of HUD-assisted facilities in a uniform manner for similarly situated borrowers.

HUD officials also advised us of a new college housing management handbook for use of HUD field staff in monitoring the loan program. The handbook established policies, procedures, and requirements to assure compliance with loan requirements.

The proposed regulations and the new handbook, if properly implemented, should do much to enhance the protection of the Federal Government's interest under these loans.

## Annual interest grants

The Office of Education administers a program of annual interest grants to institutions of higher education to reduce their costs of borrowing funds for academic facilities construction. HUD has a similar program authorized under the Housing Act to assist in the construction or purchase of housing or other educational facilities. We noted that the two agencies have different requirements for releasing funds under the grant agreements.

Institutions receiving HUD interest grants are required to pledge the grant to pay the interest on the private loan. Each year, the institution must submit a requisition to HUD and certify the outstanding amount due on the loan.

In contrast, the Office of Education pays each institution automatically each year as long as it believes the institution is fulfilling its grant obligations. The institution is not required to submit a requisition. The grant agreements do not require that grant funds be used by institutions to reduce interest payments.

We noted an example in Pennsylvania of what can happen under Office of Education procedures. In June 1971, the Office of Education provided Point Park College an interest grant in support of a $376,000 loan from the Pennsylvania Higher Education Facilities Authority. In May 1975, an official of the Authority told us that the college had made no payments of principal or interest which were due on this loan because the Authority had granted the college a moratorium on such payments until November 1976. Nevertheless, the Office of Education made interest grant payments to the college in December 1973 and 1974 totaling $22,175.

An Office of Education official told us that they have not discontinued grant payments because under its grant agreements, the only way such payments can be terminated is if the institution goes out of business, declares bankruptcy, sells the property, repays the loan early or has the loan forgiven.

## CONCLUSIONS AND RECOMMENDATIONS

At the time we initiated our survey of assistance provided to institutions of higher education for academic facilities construction, procedures were needed for assuring that the Federal Government's interest in such facilities was adequately protected. There was also a need for more monitoring of the manner in which institutions were adhering to loan agreements and trustees were managing trust indentures.

We believe that the procedures developed to monitor facilities constructed through the use of HEW grant and loan funds, if properly implemented, will provide for greater protection of the Federal Government's interest in these facilities.

We recommend that you assure that these procedures are being followed and also that you request HEW's General Counsel to clarify how annual interest grants are to be used by recipient institutions.

We are bringing the matters discussed in this letter to the attention of the Assistant Secretary for Housing, Department of Housing and Urban Development.

We are recommending that HUD headquarters and field staffs give special consideration to its revised regulations and operating procedures during their initial implementation in order to avoid the following problems noted during our survey--use of facilities for purposes other than stipulated in loan agreements, and lack of adherence to terms of trust indentures.

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We wish to thank you for the cooperation your staff has given us during our work. We would appreciate being advised of any action taken on the matters discussed in this report.

Sincerely yours,

Roger L. Sperry

Roger L. Sperry
Assistant Director

Enclosure

## Institutions

### Pennsylvania

Albright College
Allegheny County Community College
Beaver College
Beaver County Community College
Cedar Crest College
Dickinson College
Drexel University
Eastern College
Elizabethtown College
Gettysburg College
Lafayette College
Lebanon Valley College
Lehigh University
Mercyhurst College
University of Pennsylvania
University of Pittsburgh at Johnstown
Point Park College
St. Francis College
Seton Hill College
Temple University
Thomas Jefferson University
Villanova College
Washington and Jefferson College
York Hospital School of Nursing

### West Virginia

Wheeling College