

MEMORANDUM FOR: EMILY STOVER DeROCCO
 Assistant Secretary
 for Employment and Training

FROM: JOHN J. GETEK
 Assistant Inspector General
 for Audit

SUBJECT: American Indian Community House, Inc.
 Final Audit Report No. 02-02-204-03-355

The attached final report is submitted for your resolution action. We request a response to this report within 60 days. It is your office's responsibility to transmit a copy of this report to American Indian Community House, Inc., officials. However, we are providing a courtesy copy directly to them. If you have any questions concerning this report, please contact Richard H. Brooks, Regional Inspector General for Audit, at (212) 337-2566.

Attachment

cc: Rosemary Richmond, American Indian Community House, Inc.

**AUDIT OF
THE AMERICAN INDIAN
COMMUNITY HOUSE, INC.**

**GRANT NO. B-5247-5-00-81-55
JULY 1, 1997 THROUGH JUNE 30, 1998**

U. S. DEPARTMENT OF LABOR
OFFICE OF INSPECTOR GENERAL

REPORT NUMBER: 02-02-204-03-355
DATE: January 24, 2002

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ACRONYMS

AICH	American Indian Community House
ASR	Annual Status report
CAP	Cost Allocation Plan
CFR	Code of Federal Regulations
DINAP	Division of Indian and Native American Programs
DOL	U. S. Department of Labor
ETA	Employment and Training Administration
FSR	Financial Status Report
FY	Fiscal Year
HHS	U. S. Department of Health and Human Services
JTPA	Job Training Partnership Act
OIG	Office of Inspector General
OMB	Office of Management and Budget

EXECUTIVE SUMMARY

The U.S. Department of Labor (DOL), Office of Inspector General (OIG), conducted an audit of costs claimed by The American Indian Community House, Inc. (AICH), under DOL Grant Number B-5247-5-00-81-55, for the period July 1, 1997 through June 30, 1998. The audit objective was to determine if costs claimed were reasonable, allowable and allocable in accordance with applicable Federal regulations and cost principles.

The Employment and Training Administration (ETA) awarded AICH a grant under Title IV-A of the Job Training Partnership Act (JTPA) to provide training and other services to Native Americans who are facing serious barriers to employment. The purpose of Title IV-A was to assist eligible economically disadvantaged, unemployed or underemployed Native Americans to improve their economic status. AICH was responsible for designing training, employment, and other program activities essential to reduce economic disadvantages among members, and to advance economic and social development within its communities.

AICH also operated programs for substance abuse, health education, HIV/AIDS and Native American awareness using primarily grants from U.S. Department of Health and Human Services (HHS), New York State and city governments, and nonprofit organizations. AICH's other financial resources included donations, and revenues from art gallery and gift shop sales. JTPA grant funds represented 27 percent of AICH's total financial resources during the audit period.

Audit Results

In our opinion, the JTPA Annual Status Report (ASR) for the audit period did not present fairly, in all material respects, the results of AICH's operations in accordance with applicable Federal regulations and cost principles. AICH did not maintain a system to adequately support costs and properly allocate costs to final cost objectives. For the audit period, AICH claimed costs of \$550,235 of which we question \$293,419 or 53 percent.

- C Art and communication costs of \$198,245 were allocated to the JTPA grant even though their primary functions were not JTPA-related or allowable. These charges related to three areas: Native American Art Gallery, Performing Arts Department and Information/Communications Department. The primary purposes of these departments were to promote Native American artists and performing artists, and to disseminate information about AICH and Native Americans.
- C JTPA was directly charged \$47,581 for telephone operators, accounting/auditing and other costs which should have been allocated among all of AICH's programs.
- C We question \$47,593 of applicable indirect costs related to the above questioned costs.

Recommendations

We recommend that the Assistant Secretary for Employment and Training:

1. Recover questioned costs of \$293,419, which includes applicable indirect costs of \$47,593.
2. Require AICH to adequately support charges made to JTPA grants and allocate costs based on benefits received under the grant.

AICH Response

The Executive Director responded to our draft report on August 21, 2001. She disagreed with the findings and recommended recovery of \$293,419 as presented in the draft report. Generally, AICH stated the questioned costs represent direct program costs and were distributed based on benefits received using methodologies that have been in place for years and accepted by the cognizant agency.

AICH's response to the draft report has been incorporated in the report with our comments. It is also included in its entirety as an Appendix.

INTRODUCTION

Background

ETA awarded grants to Native American Tribes and nonprofit agencies to operate employment and training programs under Title IV-A, Section 401 of JTPA. The purpose of JTPA Title IV-A is to assist eligible economically disadvantaged, unemployed or underemployed Native Americans to improve their economic status. AICH was awarded Grant Number B-5247-5-00-81-55 to design training, employment and other program activities essential to reduce economic disadvantages among its members, and to advance economic and social development in the community.

AICH was organized in 1969 under New York State Law as a membership corporation and is tax exempt under 501(c)(3) of the Internal Revenue Service Code. AICH established an Urban Indian Center (Center) to serve the health, social service and cultural needs of 31,000 Native Americans living in New York City, the counties of Nassau, Suffolk, Putnam, Rockland, and Westchester, and the Shinnecock and Poospatuck Reservations. Through the Center, AICH provided job training and placement services, health services and HIV/AIDS referral, case management, and alcoholism/substance abuse counseling. Also, the Center operated a Native American art gallery with a gift shop and a performing arts theater.

AICH financed its programs primarily through grants from HHS, DOL, the New York State Department of Health, and the Medical Research Association of New York City. Other financing sources included grants from nonprofit organizations, donations and revenues from the art gallery and gift shop sales. DOL represented 27 percent of AICH's total financial resources during the audit period.

Audit Objective

The audit objective was to determine if costs claimed for FY 1998 were reasonable, allowable and allocable in accordance with the Code of Federal Regulations (CFR), Chapter 20, Part 632, "Indian and Native American Employment and Training Programs" and Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations."

Scope and Methodology

We audited \$550,235 of JTPA Title IV-A program costs claimed by AICH for the Fiscal Year July 1, 1997 through June 30, 1998.

We obtained an understanding of internal controls through inquiries with appropriate personnel and the independent auditor, inspection of relevant documentation, and observation of AICH's operation. The nature and extent of our testing were based on a risk assessment of these controls.

We examined the ASR, AICH's books and records, and other documentation to support grant expenditures. We reviewed minutes from AICH's Board of Directors meetings, policies and procedures, and the DOL grant agreement and modifications. We tested transactions on a judgmental basis, and examined supporting documents such as canceled checks, vouchers, invoices, and independent auditor working papers. We did not audit performance measurements of AICH.

We did not audit the indirect cost pool since HHS, the cognizant agency, negotiated a final indirect cost rate of 27 percent with AICH on January 6, 1999. Indirect costs were allocated to the final cost centers based on direct costs, and were classified as Administrative Costs under the grant.

We conducted our audit in accordance with generally accepted auditing standards and those applicable to financial statement audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Ms. Emily Stover DeRocco
Assistant Secretary for Employment and Training
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

ASSISTANT INSPECTOR GENERAL'S REPORT

We audited the *Annual Status Report* (Exhibit A) of the American Indian Community House, Inc. (AICH), for the Fiscal Year July 1, 1997 through June 30, 1998, under U.S. Department of Labor Grant Number B-5247-5-00-81-55. The costs claimed are the responsibility of AICH management. Our responsibility is to express an opinion on the reported costs based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards* issued by the Comptroller General of the United States. These standards require that we plan and perform the audit to obtain reasonable assurance about whether reported costs are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the claimed costs. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the reported costs. We believe our audit provides a reasonable basis for our opinion.

The *Annual Status Report* (Exhibit A) was prepared in conformity with accounting practices prescribed by 20 CFR Part 632, "Indian and Native American Employment and Training Programs" which is a comprehensive basis of accounting other than generally accepted accounting principles. Allowable costs are established by OMB Circular A-122.

Opinion on Financial Statement

As discussed in the *Findings and Recommendations* section of this report, AICH's weaknesses in its financial system resulted in questioned costs of \$293,419. The Employment and Training Administration (ETA) is responsible for resolving the questioned costs. The total effect of ETA's determination cannot be estimated at this time.

In our opinion, because of the matters discussed in the preceding paragraph, the *Financial Status Report* did not present fairly, in all material respects, the costs of AICH's grant in accordance with CFR, Chapter 20, Part 632, "Indian and Native American Employment and Training Programs" and OMB Circular A-122, "Cost Principles for Non-Profit Organizations." for the Fiscal Year July 1, 1997 through June 30, 1998.

Report on Internal Control

In planning and performing our audit, we considered AICH's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the *Annual Status Report* and not to provide assurances on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we considered to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect AICH's ability to record, process, summarize, and report financial data consistent with the assertions of management in the Annual Status Report. Reportable conditions are described in the *Findings and Recommendations* section of this report.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level of risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses.

We consider the reportable conditions described in the *Findings and Recommendations* section of this report to be material weaknesses.

Report on Compliance With Laws and Regulations

Compliance with laws, regulations and grant agreement provisions are the responsibility of AICH. As part of obtaining reasonable assurance about whether reported costs are free of material misstatement, we performed tests of AICH's compliance with certain provisions of laws, regulations, and the grant agreement. However, our objective was not to provide an opinion on overall compliance with such provisions. Accordingly, we do not express such an opinion. Our tests disclosed instances of noncompliance that are required to be reported under *Government Auditing Standards* and are described in the *Findings and Recommendations* section of this report.

This report is intended solely for the information and use of AICH and ETA, and is not intended to be and should not be used by anyone other than these specified parties.

John J. Getek
Assistant Inspector General
for Audit

March 16, 2001

FINDINGS AND RECOMMENDATIONS

I. NON JTPA-RELATED ART AND COMMUNICATION COSTS - \$198,245

OMB Circular A-122, Attachment A, Section A, items 2g and 4a state:

To be allowable under an award, costs must . . . be adequately documented.

A cost is allocable to a particular cost objective such as a grant, contract, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Federal award if it . . . (2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received. . . .

Space and staff costs of \$198,245 for three departments were allocated to the JTPA grant even though their primary functions were not JTPA-related or allowable: Native American Art Gallery and Museum (Gallery), Performing Arts Department and Communications/Information Department. The primary purposes of these departments were to promote Native American artists and performing artists, and to disseminate information about AICH and Native Americans.

JTPA was charged for space costs of \$109,620 for the three departments even though the costs were neither related to JTPA nor allowable. Furthermore, salaries and fringe benefits of \$88,625 for four staff members were also allocated directly to the JTPA grant when the functions of the staff were not JTPA related and benefitted more than one cost objective. These conditions occurred because AICH did not allocate costs to AICH's programs and activities based on benefits received. As a result, we question \$198,245, as detailed below:

<u>Department</u>	<u>Space</u>	<u>Staff</u>	<u>Total</u>
Gallery	\$75,084	\$27,611	\$102,695
Performing Arts Department	27,455	40,270	67,725
Communications and Information Department	<u>7,081</u>	<u>20,744</u>	<u>27,825</u>
Total	<u>\$109,620</u>	<u>\$88,625</u>	<u>\$198,245</u>

**Native American Art
Gallery and Museum**

AICH allocated \$102,695 to the JTPA grant for Gallery costs. The purpose of the Gallery, as stated in an AICH brochure, was to:

- C *Exhibit and promote the best of contemporary art, in every media, by Native American artists throughout the country.*

C Increase education and awareness of Native Art and of the living culture.

Advertising and public relations costs associated with the Gallery were not allowable or allocable to the JTPA grant. Gallery costs should have been assigned to other cost objectives based on benefits received. As a result, we question \$102,695, consisting of \$75,084 for space costs and \$27,611 for the director of exhibits and curator's compensation. OMB Circular A-122, Attachment B, Paragraphs 1d, 1f and 48 state:

The only allowable public relations costs are: (1) Costs specifically required by sponsored awards; (2) Costs of communicating with the public and the press pertaining to specific activities or accomplishments which result from performance of sponsored awards (these costs are considered necessary as part of the outreach effort for the sponsored awards). . . .

Unallowable advertising and public relations costs include the following: . . . Costs of displays, demonstrations, and exhibits; . . . Salaries and wages of employees or cost of services engaged in setting up and displaying exhibits. . . .

Costs of selling and marketing any products or services of the organization . . . are unallowable. These costs, however, are allowable as direct costs, with prior approval by awarding agencies, when they are necessary for the performance of Federal programs.

Public relations is defined in OMB Circular A-122, Attachment B, Paragraph 1b., as follows:

The term public relations includes community relations and means those activities dedicated to maintaining the image of the organization or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

The Gallery encompassed 3,022 square feet which included exhibition space, offices and a gift shop to sell Native American crafts. The JTPA program was directly charged for all of the space costs of \$75,084 associated with the Gallery even though these costs have no direct relationship to JTPA. During FY 1998, Gallery staff consisted of one individual, the director of exhibits and curator whose principal duties were to mount exhibitions and participate in symposia designed to educate the general public about American Indians and their art. The curator's position description did not identify any JTPA related responsibilities nor could AICH document that the curator provided any training or training assistance activities to JTPA participants.

The exhibits and gift shop were not required by the JTPA grant. Therefore, the costs associated with mounting exhibits, art sales, and gift shop were unallowable costs and were not allocable to the grant. Furthermore, AICH received funding to support Gallery activities from New York State, corporations, foundations and private contributions. AICH also received commissions for

artwork sold in the Gallery, donations from visitors, sales from the gift shop and other contributions.

According to AICH officials, the Gallery was used by JTPA participants to develop self-esteem, explore careers in the arts, and learn about sales and management which would be allowable under JTPA as training or training related services. However, AICH could not document participants, or the training or related services received in the Gallery.

Performing Arts Department

AICH allocated \$67,725 to the JTPA grant for Performing Arts Department costs. The benefit received by JTPA from this department was not documented. As a result, we question \$67,725, consisting of \$27,455 for space costs and \$40,270 for staff salaries and related fringe benefits.

The purpose of the Performing Arts Department, as stated in an AICH brochure, was to:

Promote Native American performing artists and provide a performance space and audience for music, dance and drama, written, directed and produced, or performed by Native American artists. It is also the goal of this department to educate the public, not only through expert speakers, on a variety of current and historical issues.

The Performing Arts Department encompassed 2,299 square feet which included: a theater (1,592 square feet), director's office (240 square feet) and two storage rooms (467 square feet). JTPA was charged space costs of \$27,455 for 1,105 square feet (25 percent of the theater, plus 100 percent of the director's office and storage rooms).

Staff included the department director and his assistant. The director's stated functions were to: organize performance and cultural events, readings, speeches, and storytelling; hold workshops and symposia on various aspects of professional theater; collaborate with various theaters; function as a booking agent for Native American performers; and review theater scripts. The assistant's functions included technical duties for performing art events such as lighting, booking jobs, informing the public on activities and looking for Native American talent. The salaries and fringes of \$40,270 for the director and his assistant were fully charged to JTPA.

Communications and Information Department

AICH allocated the entire Communications and Information Department's space and staff costs to the JTPA grant. These costs were not specific to JTPA, but benefitted AICH as a whole. The costs included both allowable and unallowable activities, such as fund raising. As a result, we question \$27,825 consisting of \$7,081 for space costs and \$20,744 for the communications/information officer's compensation. OMB Circular A-122, Attachment B, Subparagraphs 1f and 23b state:

Unallowable advertising and public relations costs include the following. . . . Costs of meetings or other events related to fund raising or other organizational activities. . . .

Costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable.

The purpose of the Communications and Information Department, as stated in an AICH brochure, was:

To disseminate information about AICH and Native Americans, and to correct the constant flow of misinformation about Native cultures and peoples.

The Communications and Information Department encompassed 285 square feet, including a periodical/video library and office. AICH allocated 100 percent of the space costs of \$7,081 to the JTPA grant. During FY 1998, the staff consisted of only the communications/information officer. The applicable position description lists her responsibilities as:

- C maintain information on AICH, the community and Native Americans;
- C update information files from area press clippings;
- C produce AICH's quarterly newsletter;
- C assist in research projects;
- C develop materials for information packets; and
- C answer telephone and mail inquiries for information.

The duties were not specific to JTPA, but benefitted AICH as a whole; and included both allowable and unallowable activities. For example, the quarterly newsletter provided program information for the Gallery, Performing Arts Department, Women's Wellness program, legal services, JTPA, Health Division, substance abuse and HIV/AIDS. However, this quarterly newsletter was also used for fund raising, soliciting donations for specific activities and to support AICH activities in general. Costs associated with fund raising, including the appropriate share of indirect costs, are expressly unallowable and should not be charged to JTPA or any other Federal grant.

AICH Response

These costs represent direct program costs that were distributed to the programs benefitted, using methodologies that have been in place for years and accepted by DHHS, the cognizant agency, and previous OIG auditors as indirect Central Administrative costs

There is a significant mention of “public relations”, “fund raising”, “exhibition costs” related to this audit. . . . None of these costs were or are charged to JTPA. . . . Space costs and salaries/fringe for the staff who are charged with training and supervision of JTPA participants assigned to this site are charged to the program as direct costs as approved by DINAP in our CAP. . . . JTPA was charged a fair share of rent, utilities, other overhead costs and salaries/fringe related to curators, directors and other training staff-all of which are program related.

OIG Comment

The statement that costs were distributed to programs benefitted using methodologies in place for years, and were assigned to programs as approved by DINAP in the cost allocation plan (CAP), does not justify directly charging these costs without adequate documentation. AICH was unable to provide documentation to demonstrate how these costs benefitted, either solely or partially, the JTPA program. For example, the JTPA program was directly charged for all of the space costs of \$75,084 associated with the Gallery even though these costs have no direct relationship to JTPA.

II. OTHER COST ALLOCATIONS - \$47,581

AICH did not properly allocate other costs to final cost objectives. AICH directly charged \$47,581 to the JTPA program, as shown below, which should have been allocated among all AICH’s programs and activities.

<u>Cost Items</u>	<u>Training Assistance</u>	<u>Community Service</u>	<u>Work Experience</u>	<u>Total</u>
Phone Operators	\$22,573	\$0	\$0	\$22,573
Accounting & Auditing	18,000	0	0	18,000
Health Insurance	0	1,648	2,692	4,340
Board of Directors & Equipment	<u>2,668</u>	<u>0</u>	<u>0</u>	<u>2,668</u>
Questioned Costs	<u>\$43,241</u>	<u>\$1,648</u>	<u>\$2,692</u>	<u>\$47,581</u>

Phone Operators Salaries and fringe benefits for maintenance/phone operator and receptionist/phone operator were improperly charged directly to the JTPA grant. The responsibilities of these positions relate to the general operation of AICH and should have been accumulated in the indirect cost pool and properly allocated to all programs. As a result, we question \$22,573, consisting of \$12,572 for maintenance/phone operator and \$10,001 for receptionist/phone operator.

Accounting and Auditing Fees AICH allocated to the JTPA grant \$18,000 for accounting and auditing fees. The JTPA grant was charged more than its fair share for accounting and auditing services because costs were directly charged to the JTPA grant, and also accumulated in the

administrative cost pool and allocated through the indirect cost rate. As a result, we question \$18,000 for accounting (\$15,000) and auditing (\$3,000) costs that were charged directly to the JTPA grant. OMB Circular No. A-122, Attachment A, Part B, Item 1, states:

. . . a cost may not be assigned to an award as a direct cost if any other cost incurred for the same purpose, in like circumstances, has been allocated to an award as an indirect cost.

Based on a review of invoices, there were no specific references to the types of services performed or any indications that there were specific services provided for the JTPA program or other programs which were charged directly. JTPA was charged \$18,000 for accounting and auditing services which should have been included in the administrative cost pool and allocated to all AICH's programs and activities.

Health Insurance

Health insurance premium costs of \$4,340 were charged to JTPA Community Service Employment (\$1,648) and Work Experience (\$2,692) based on gross salaries of staff and program participants even though the participants did not receive health insurance benefits. As a result, the JTPA grant was overcharged for health insurance. OMB Circular A-122, Attachment B, Paragraph 7, Subparagraph f(2) states that fringe benefits such as insurance:

. . . shall be distributed to particular awards and other activities in a manner consistent with the pattern of benefits accruing to the individuals . . . whose salaries and wages are chargeable to such awards and other activities.

Board of Directors and Equipment

AICH arbitrarily assigned miscellaneous purchases of the Board of Directors and a laser printer to the JTPA grant. These are indirect costs and should have been allocated to the JTPA and other grants through the indirect cost rate. As a result, we question \$2,668 consisting of \$1,659 for miscellaneous Board of Director purchases and \$1,009 for a laser printer. OMB Circular A-122, Attachment A, Part C, Paragraph 1 states:

. . . . Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective.

JTPA was directly charged \$2,668 for general costs which should have been allocated among AICH's programs and activities.

- C Costs of \$1,659 were for miscellaneous purchases made by the Executive Director. The purchases were relatively minor in amount and were for office supplies, food, beverages, telephone charges and flowers. Neither the Board minutes nor AICH provided justification for the purchases as direct charges to JTPA or any other

program or activity. Since the Board meets to discuss all AICH programs and activities, the charges, if allowable should have been allocated among programs based on benefits received.

- C AICH purchased a laser printer for \$1,009 for the Communications and Information Department and recorded the purchase as consultant cost under JTPA Training Assistance. The entire Communications and Information Department benefits AICH as a whole, and its costs should be allocated among programs based on benefits received.

AICH Response

Regarding the \$22,573.00 cost for phone operator/receptionist and maintenance and related health insurance of \$4,340.00, at the time that these costs were charged to JTPA both were training sites for JTPA participants. Therefore, we feel the charges are justified and should not be disallowed. . . .

Regarding accounting and audit fees of \$18,000, these are direct costs to the program and were not charged as both direct and indirect costs to JTPA. The accounting services provided to AICH were specifically for the JTPA program and were not incurred for the same purpose as accounting services that were charged to the central administrative cost pool by other programs. . . .

Regarding the Board of Directors expenses of \$2,668.00, these costs relate to expenses for Board Members attending Board and Board Committee meetings, the expense for hiring a JTPA participant to take and transcribe the minutes of said meetings, the cost of a printer for C&I and several miscellaneous expenses. While it appears that the costs are being borne solely by JTPA that is not actually the case. In any event, JTPA funds are consistently less than the expenses. These additional expenses are covered by donations, earned income, etc. If you wish to continue to question these costs, they can be replaced by other more acceptable JTPA expenses. . . .

OIG Comment

The phone operator and receptionist were not on the JTPA participant list provided by AICH, for the period July 1, 1997 through June 30, 1998. Therefore, the argument that these positions were JTPA training sites does not agree with the list of participants provided by AICH. Further, since these employees' salaries should not be assigned to the JTPA grant, the corresponding health insurance costs should not be assigned to the JTPA grant.

Accounting and auditing services by nature benefit the entire company. Invoices for these services did not identify that the CPA firm was engaged to provide a service specifically for the JTPA program. The invoices stated; *accounting services provided for the period.* Further,

AICH was unable to detail which invoices were assigned directly to the JTPA program, because the general ledger had a year end adjusting entry to the account.

AICH has not provided us with any documentation to explain how the Board of Directors' expenses or a laser printer directly benefitted the JTPA program.

Recommendations

We recommend that the Assistant Secretary for Employment and Training:

1. Recover questioned costs of \$293,419, which include applicable indirect costs of \$47,593.
2. Require AICH to adequately support charges made to JTPA grants and allocate costs based on benefits received under the grant.

EXHIBIT A

**American Indian Community House
Grant Number B-5247-5-00-81-55
JTPA Annual Status Report and Questioned Costs
For the Period July 1, 1997 through June 30, 1998**

<u>Program Cost</u>	<u>Claimed Amount</u>	<u>Questioned Costs</u>	<u>Per Audit</u>
Classroom Training	\$7,055	\$0	\$7,055
Training Assistance	349,448	241,486	107,962
Work Experience	56,080	2,692	53,388
Community Service Employment	22,233	1,648	20,585
Supportive Services	5,372	0	5,372
Administrative	<u>110,047</u>	<u>47,593</u>	<u>62,454</u>
Total	<u>\$550,235</u>	<u>\$293,419</u>	<u>\$256,816</u>

See Exhibit B for details of questioned costs of \$293,419.

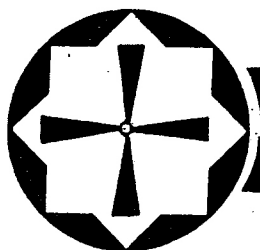
EXHIBIT B

**American Indian Community House
Grant Number B-5247-5-00-81-55
Schedule of Questioned Costs
For the Period July 1, 1997 through June 30, 1998**

<u>Program Cost</u>	<u>Finding/Reference</u>	<u>Questioned Costs</u>	
Training Assistance	I / Art & Communication	\$198,245	
	II/ Phone Operators	22,573	
	II/ Accounting & Auditing	18,000	
	II/ Board of Directors & Equipment	<u>2,668</u>	
	Subtotal	\$241,486	
Work Experience	II/ Health Insurance	2,692	
Community Service			
Employment	II/ Health Insurance	1,648	
Administrative (See Below)		<u>47,593</u>	
Total		<u>\$293,419</u>	
 <u>Questioned Administrative Costs</u>			
Claimed Administrative Costs			\$110,047
Less: Administrative Costs Per Audit			
Indirect Costs (27 Percent of Direct Costs of \$202,217 ¹)		\$54,599	
Direct Administrative Costs		<u>7,855</u>	
Administrative Costs Per Audit			<u>62,454</u>
Questioned Costs			<u>\$47,593</u>

¹ Total direct costs per audit were computed as follows:

Total Costs Per Audit (Exhibit A)	\$256,816
Less: Total Administrative Costs	(62,454)
Add: Direct Administrative Costs	<u>7,855</u>
Total Direct Costs	<u>\$202,217</u>

AICHTEL: (212) 598-0100
FAX: (212) 598-4909**AMERICAN INDIAN COMMUNITY HOUSE, INC.**ADMINISTRATIVE/PROGRAM OFFICES
404 LAFAYETTE ST. • NY, NY 10003GALLERY ENTRANCE
708 BROADWAY

August 21, 2001

Mr. Richard H. Brooks
Regional Inspector General for Audit
New York Regional Audit Office
Office of the Inspector General
201 Varick Street
New York, NY 10014

RE: Audit JTPA, Title IV-A
Grant Number B-5247-5-00-81-55

Dear Mr. Brooks:

We apologize for the delay in responding to your draft audit report for the period July 1, 1997 - June 30, 1998, which we received on July 9 - having been closed for summer holiday between July 3 - 9, 2001. Upon initial review of the draft, we requested back-up material for the questioned expenses which was received on July 13.

Before getting into our response to the draft, it should be noted that it is our opinion that the OIG auditor assigned to this task had no knowledge, understanding or experience working with "Indian" JTPA programs. A fact he so stated on one or two occasions. We believe this is relevant to the overall "opinion" of the auditor with regard to the innovative training methods used by American Indian Community House (AICH) and approved by the U. S. Department of Labor's Division of Indian and Native American Programs (DINAP) for approximately 15 years.

In fairness to the auditor, we believe his opinions and recommendations to be more in line with non-Indian programs. If that standard of judgement were appropriate, there would be no need for "special targeted" programs such as DINAP. As is our responsibility, AICH's employment and training programs are uniquely designed to meet the needs of our community.

For example, the OIG auditor chose to use our "cultural" brochure as evidence supporting his findings over documented statistics to support recommendations for disallowed costs. These

brochures were designed to target a specific segment of the population - both Indian and non-Indian, were not meant to promote the employment and training program, per se and were not paid for with DOL funds.

The following bolded headings are taken directly from our Comprehensive Annual Plan (CAP). The information following each heading was verbally discussed/explained during meetings with the OIG auditor in attempts to help him understand how our program works and how it is different from other programs he may have audited.

Instill pride in past heritage as well as pride in current accomplishments.

The AICH Gallery/Museum (G/M) and Communications & Information (C&I) have been especially instrumental in providing historical information on Indian culture and accomplishments. Participants placed in these work areas have gained considerably more than marketable skills; they've learned about the richness, importance and value of their own personal cultures.

This method of training has no monetary value because it addresses the very core of confidence, self esteem, self image, self growth and multiple barriers to life success. These are life lessons that cannot be taught or learned in a classroom, nor can they be adequately taught or learned at a typical day job. However, these are the very things that AICH intentionally provides through its innovative approach to employability enhancements.

AICH training programs are designed to meet the needs of those participants with multiple barriers to life successes. The Native American Indians need the alternatives that AICH can provide. We act as the support group to help Native American survive in urban areas...including classes to develop creative talent to work in various business and artistic fields...develop hands-on, technical, artistic, administrative and production experience; public speaking, press conferences; press releases; handling theatrical equipment; working with costumes, sets and props; casting, directing and producing; acting in television, commercials and live theater. All of the above will develop discipline and responsibility, time management and team work...This will develop positive work ethics for life skills and future careers.

The curators/directors and supervisory staff in the G/M, C&I and Performing Arts are all charged with the responsibility of providing work environments to accomplish these training goals. The JTPA director and staff monitor the training that program participants receive in these work areas; however, it is the directors curators and supervisory staff that do the day to day training/supervision and they are closely involved in job referrals, career counseling, coaching for auditions, updated resumes, vitae, etc. (It should also be noted that JTPA provides more "traditional" training

for artists so that they have other marketable skills to support themselves as they pursue an artistic career.)

Provide services to enhance participants' life skills and help them to overcome such barriers to employment as...non-positive attitudes; poor work ethics; sketchy background; a lack of education; a lack of work experience, a lack of motivation; poor communication skills; etc.

If the auditor is to be consistent with the determination of disallowed costs, then funds spent on numerous CRTs pursuing degrees in communications, public relations, visual and performing arts must also be disallowed. Having a degree is useless for maintaining long-term employment if there is no experience to support one's knowledge. By placing individuals in these positions, they have a legitimate listing for their resumes. While in these positions, the participant's needs that are lacking (as noted in the heading) are addressed and corrected. We strive to provide a safe environment for our clients to learn basic skills so that they don't continue the cycle of rejection and failure in the unsubsidized job market.

Determine whether the program can or cannot benefit the participant.

The responsibility for this determination is delegated to the grantee and DINAP then approves or disapproves the plan submitted. This is one of the objectives outlined in our CAP. The auditor ignored the 26+ visual/performing artists that received benefit (including employment) through AICH/JTPA and instead chose to focus on the previously mentioned brochure. By disallowing the cost for training, the auditor determined that the 18+ participants that received employment (and the participant that later went on to receive the "Outstanding Participant Award) from DINAP did not benefit from our program.

Determine client aptitude, interests, weaknesses and deficiencies and then work with client to develop a plan to overcome these deficiencies and move toward specific educational and/or employment goals.

It is the grantee's responsibility to "work with client to develop a plan..." The AICH/JTPA program has been doing this for over 20 years and the training methods that we have in place have been successful. How can the auditor determine that the grantee's plan to assist participants overcome barriers and obtain employment is questionable when that plan has already been approved by DINAP and the participants assigned to C&I, G/M and Performing Arts are eliminating barriers and obtaining employment as a result of that plan and method(s) of training?

Offer experience and skill training to make a more marketable client...Each Work Experience job is related to actual job situations in the private sector. Each participant is assessed and a tailor made plan (employability development plan) is outlined based on individual needs, goals, preference and experience...These clients need to be motivated to overcome traditional fears, lack of confidence, lack of employable skills, lack of job stability and inability to function in the work environment. We will be conducting a hands on training program teaching life skills, basic work skills, work habits and appropriate attitudes and behavior in the work place.

Again, this is the grantee's responsibility and is one of the objectives outlined in our approved CAP. Our CAP states that participants are placed in "*actual job situations*". This does not mean that participants placed in the G/M must then get unsubsidized employment only in another art gallery (as was the auditor's suggestion at one of our meetings). Participants gain highly marketable skills (i.e.: telephone etiquette, office equipment, verbal and written communication skills following directives, getting along with others/teamwork, meeting deadlines, getting to work on time, dressing appropriately, completing assignments, conflict resolution, appropriate attitudes/behaviors, etc.) Wherever they are placed in-house to work/train.

Some clients are unemployable due not only to a lack of formal training, but a lack of motivation to pursue long-term jobs or careers.

It is very difficult and takes a long time for many of our clients to reach the point of being able to maintain long-term employment. Many of our clients have a history of alcohol/substance abuse and we must take mini steps in order to get them to the ultimate goal of long-term, meaningful employment. Newsletter production is one of the methods we have chosen to help clients who are unemployable achieve a work related success. The production of the newsletter is closely monitored from start to finish by the C& I director. Workers are given specific tasks and a time frame in which to complete them. In addition to showing up on time and following directives, participants are required to work in cooperation with one another as well as other in-house staff. In addition to supervising this project, the C&I director is often required to do counseling, problem solving, motivating, etc., before determining whether or not the participant is ready to move on to handle more responsibility and longer job placements. When the participant is stable enough, we move them to the next level and place them in-house to work/train before moving them on to unsubsidized employment. When participants are consistently unable to complete short-term, temporary work/training assignments, we work with them to eliminate the barriers that are preventing them from achieving success.

All of this work with participants is done in-house at AICH (because it is a safe yet productive work environment). And, it occurs with the curator, directors and staff in all of the work areas that the auditor determined should be disallowed because they are not JTPA related.

The preceding are things that were discussed with the auditor and the information was supported and approved by DINAP in our Comprehensive Annual Plan. We fail to understand why the information and documentation that we provided to the auditor:

- The approved CAP outlining goals and training methods
- A chart showing that 26 visual/performing artists were eligible/enrolled in the program and that of the 19 on which training dollars were spent, 18 obtained employment
- A master list of performing artists that were eligible for services but could not receive program funds

seems to have been ignored in favor of the superficial information provided by the brochures and job descriptions. And, why, after reviewing only 8 client files, would the auditor determine that our performing arts department primarily served non-JTPA clients and that the objectives of the Gallery, C&I and Performing Arts were not JTPA related.

With regard to the questioned costs, I will address them separately in the following paragraphs. However, they are related to the preceding paragraphs/pages and have been addressed without specific mention of dollar amounts.

\$195,245.00...allocated to JTPA grant...primary functions not JTPA related.

These costs represent direct program costs that were distributed to the programs benefitted, using methodologies that have been in place for years and accepted by DHHS, the cognizant agency, and previous OIG auditors as indirect Central Administrative costs. It seems that the disallowance of costs for the three departments is based on something other than actual fact.

There is a significant mention of "public relations", "fund raising", "exhibition costs", etc. related to this audit. We disagree with these assumptions/charges. None of these costs were or are charged to JTPA. The NYSCA and DCA grants, donations and earned income cover all costs that might be categorized under these headings. Space costs and salaries/fringe for the staff who are charged with training and supervision of JTPA participants assigned to this site are charged to the program as direct costs as approved by DINAP in our CAP. The cost of the labor for labeling and mailing the newsletter are a JTPA related cost and should not be disallowed. The brochure has already been addressed and no expenses related to its creation were charged to JTPA even though it promotes JTPA programs/activities.

No exhibition costs were ever paid by JTPA. Artists fees, printing costs, honorariums, postage, shipping of artwork, etc. have always been covered by earned income from Gallery/Gift Shop

sales and grants from New York State Council on the Arts and New York City Department of Cultural Affairs. The same holds true of performers fees and equipment rentals, etc. for actual performances and readings, etc. JTPA was charged a share of rent, utilities, other overhead costs and salaries/fringe related to curators, directors and other training staff - all of which are program related.

Other Cost Allocations - \$47,581

Regarding the \$22,573.00 cost for phone operator/receptionist and maintenance and related health insurance of \$4,340.00, at the time that these costs were charged to JTPA both were training sites for JTPA participants. Therefore, we feel the charges are justified and should not be disallowed. These two positions have long been charged with the task of providing temporary short and long term employment for clients who were unemployable elsewhere. Much of their time was spent removing the barriers to their being placed in unsubsidized employment. The distribution of employee benefits are based on gross salaries of staff by appropriate groups of employees which is acceptable under OMB Circular A-122 as follows:

Fringe benefits in the form of employer contributions or expense for...employee insurance...
Such benefits...shall be distributed to particular awards or other activities in a manner
consistent with the pattern of benefits accruing to the individuals or group of employees
whose salaries, etc.

Further, this is the system that has been used and audited in the past by OIG.

Regarding accounting and auditing fees of \$18,000.00, these are direct costs to the program and were not charged as both direct and indirect costs to JTPA. The accounting services provided to AICH were specifically for the JTPA program and were not incurred for the same purpose as accounting services that were charged to the central administrative cost pool by other programs. The \$3,000.00 audit fee was JTPA's (unfair) share of the total cost of the audit (that was in the neighborhood of \$19,000.00) the \$15,000.00 balance was for the aforementioned accounting services. Because of our inability to pay competitive salaries we have been unable to hire the cream of the crop in many areas of the agency. This was the case in our accounting department at that time. The accounting services cost was incurred when we had to replace the two of the three employees in that department due to incompetence which required Mr. Scarano services to train the replacement(s) and to review their work to ensure that everyone was functioning with the same understanding of the policies and procedures of that department. The \$15,000.00 was JTPA's share of the total cost.

Regarding the Board of Directors expense of \$2,668.00, these costs relate to expenses for Board Members attending Board and Board Committee meetings, the expense for hiring a JTPA participant to take and transcribe the minutes of said meetings, the cost of a printer for C&I and several miscellaneous expenses. While it appears that the costs are being borne solely by JTPA that is not actually the case. In any event, JTPA funds are consistently less than the expenses.

These additional expenses are covered by donations, earned income, etc. If you wish to continue to question these costs, they can be replaced by other more acceptable JTPA expenses. In fact, the JTPA program doesn't pay its' fair share of common costs for Central Administrative expenses. The approved administrative rate for AICH was, at that time, 27% (it is now 28.2%). The JTPA program only allows for 20% of administrative costs. Further, your draft indicates that \$1,659.00 of these particular expenses were disallowed due to the fact that they were not discussed by the Board of Directors at a board meeting. These kinds of expenses have never been discussed at a Board meeting and most likely won't ever be discussed. The Board has delegated the authority to incur expenses and enter into contracts on their behalf and anything else necessary to conduct the day to day business of the organization. I have never abused this authority in the 14 years I have held this position. As to not providing justification for the purchases, original receipts were provided and the reason for the purchase was so indicated at the time the reimbursement request was made. What else is required for this \$650.00 in charges?

As a point of information, I consistently use my own personal funds to purchase supplies and other items that are needed immediately and cannot wait for the ordering process. Sometimes these costs are reimbursed to me and sometimes they are not. If they are not, for whatever reason, I consider them a donation to the agency. Whether this is good practice or not, it is unlikely to change until such time as AICH has more than enough funds to operate or I am no longer with the agency. I don't believe there is a law against this.

Low Percentage of Funds Spent on Participants

This is a major point of disagreement. The OIG auditors comments regarding this issue are misleading and, we believe, incorrect. The calculation of 16% direct and 31% indirect expenses for the program are based on the remainder after the \$293,419.00 questioned costs are removed from the total expenses of \$550, 235.00.

The evaluation of program costs for programs is usually based on the percent of direct and indirect costs to total costs. In OIG's allowable costs on page 13 of the draft audit report, direct costs were 75.7% and administrative costs were 24.3%. AICH reported spending a total of \$550, 235.00 for the year ending June 30, 1998 for JTPA which included \$110,047. for administrative expenses. Only \$102, 191. of the administrative expense was allocated from the Central Administrative pool or 18.6% of total JTPA costs. Why are you disallowing 22.81% in indirect costs? Direct program costs for this program year were 81.4% of the total costs.

To this point, the preceding was prepared with input and responses by LaTanya Hutchins, the firm of Frank Scarano and myself. The following are questions/statements regarding the draft audit report directly from the firm of Frank Scarano which I feel are reasonable and I would be interested in hearing your response to them.

RE: Auditor's Working Paper, A1 and A2

1. The draft questioned the footage assigned to the Circle for the JTPA program because we couldn't support the use of the Circle. The auditor has determined that the Circle is part of the Performing Arts department as opposed to considering it as a common area and has, therefore, disallowed 100% of that space, determining that the JTPA program doesn't use the Circle at all.
2. In a note in the draft, it is stated that "AICH improperly allocated costs of its Gallery and Performing Arts department to the JTPA program. It also improperly Allocated its C&I department costs of \$35,412. to the JTPA pool instead of allocating the department's direct costs to the Indirect Cost Pool."

This note/statement assumes that the Circle area is part of the Performing Arts department, contrary to our response dated December 1999, wherein we advise that the Circle should be considered a common area. If the Circle were to be considered a common area the JTPA portion of the rent expense would increase as we noted in the schedule we provided to the auditor with the December 1999 response.

The C&I department is not part of the Central Administrative costs as stated in the above mentioned note. All costs of printing and postage for the newsletter was charged to other programs. The space costs and staff salaries are JTPA's portion of these costs.

The draft states the auditor did not audit the Indirect cost pool, since DHHS is the cognizant agency and negotiated a final indirect cost rate of 27%. The report also states that "Indirect costs were allocated to the final cost centers on direct costs and were classified as Administrative costs under the grant. This is incorrect. Indirect costs were distributed to the various cost centers in several ways. Some were distributed as line items in the grant. AICH's methodology does not distribute each item in the indirect cost pool at the rate of 27%. The total distributed equals 27%. The C&I costs are considered to be direct program costs, not indirect costs as stated.

RE: Working Paper B1

- A. This schedule has classified Carrese Gullo's salary as an Indirect cost. The classification of her salary as Indirect, in effect, says that the JTPA program will not pay for their fair share of the C&I costs. The newsletter is a direct program expense that must be distributed to the programs benefitted. It is not a Central Administrative cost. Further, it seems that Carrese's role in training, etc. of JTPA participants (as referred to early on in this document) has been completely overlooked. The draft audit report states that the Indirect cost pool wasn't audited, yet direct costs for the JTPA program are being disallowed and classified as indirect costs.

B. Gallery space costs were disallowed because the auditor determined that the Gallery space costs were charged to JTPA "even though these costs have no direct relationship to JTPA. This disallowance is based on the purpose of the Gallery as stated in the brochure, all of which was discussed earlier in this document and, hopefully, clarified to OIG's satisfaction.

RE: Working Paper E1 and E2

A. The schedule shows an "unexplained rent expense difference of \$8,089. The auditor advised us that he had traced each payment made to the NYC office landlord and there was this difference. We provided the general ledger detail for 100% of the rent paid and asked him to provide us with the details - which we never received.

B. We provided the auditor with the details of the space costs totaling \$368,427. and adjustments thereto. However, it appears that the items making up the total were changed. We also provided the names of the maintenance staff that were included with Central Administrative costs, which wasn't accepted by the auditor because we didn't provide documentation to support the change (charge). We were not aware that we didn't provide the documentation needed. A review of the personnel files of the named individuals would have substantiated the expense.

C. We don't understand the note "its claimed expenses were under calculated by \$3,412. (8,193 @ 41.64%). However, our audit disclosed that only 6.81% of the total AICH useable office space is JTPA program allowable. Therefore, AICH is only entitled to an additional \$558. (862/12661 X 8.193%) in allowable expenses."

After careful review of the draft audit and in consultation with Ms. Hutchins and Mr. Scarano and also with my own knowledge and experience, it appears that the disallowance is based on the auditor's opinion rather than the purpose and DOL/DINAP's approved CAP of the JTPA contract in question.

We did not institute these cost allocations in the program year in question. These allocations and methodology have been in place since 1986 or 1987 and we have been audited by OIG since they were instituted.

We verbally responded to the auditors questions about these issues on numerous occasions. We thought that sufficient documentation had been provided. It is difficult to totally recall every conversation after more than a year. But, we can pull our notes and memos to file, if that is necessary.

Obviously, we disagree with the vast majority of the auditors finding's and recommendation. I expect we will talk once you have had an opportunity to review our response.

We are enclosing several attachments that speak to the issues for your reference.

Sincerely,

A handwritten signature in cursive script that reads "Rosemary Richmond". The signature is written in black ink and is positioned above the typed name.

Rosemary Richmond
Executive Director

Attachments

cc: LaTanya Hutchins, Director of Employment/Training
Frank Scarano, CPA