



U. S. Department of Housing and Urban Development
Washington, D.C. 20410-4500
Office of the Inspector General for Audit
Northwest/Alaska
909 First Avenue, Suite 125
Seattle, WA 98104-1000
Phone 206-220-5360
Fax 206-220-5159

Audit-Related Memorandum
98-SE-107-0804

February 23, 1998

To: Jacqueline Johnson, Deputy Assistant Secretary for Office of Native American Programs, PI

From: Robert H. Woodard, Acting District Inspector General for Audit, OAGA

Subject: Secretarial Request
Office of Native American Programs
Oversight of Indian Housing Authorities
Southern Plains Office of Native American Programs
Oklahoma City, Oklahoma

On November 29, 1996, OIG received a request from the Secretary of HUD to thoroughly review allegations of various improprieties in the use of HUD funds by tribal governments and/or Indian housing authorities (IHAs) and inadequate monitoring by HUD's Office of Native American Programs (ONAP). Program abuse at IHAs across the country was alleged in *The Seattle Times'* December 1996 series of articles entitled "From deregulation to disgrace" which identified 29 instances.

Audit Objective, Scope and Methodology

As part of our review to address the Secretary's request, we wanted to know if ONAP's field offices (excluding Alaska) provided effective oversight to ensure IHAs provided housing consistent with program intent and rules. Our review included two IHAs identified in *The Seattle Times* series which were in Southern Plains Office of Native American Programs (SPONAP) servicing area. To accomplish this, we:

- reviewed *The Seattle Times* series to identify issues and locations.
- contacted SPONAP's Administrator to obtain:

- the Administrator's perspective and position on the issues reported in *The Seattle Times* series for each IHA in the SPONAP servicing area,
 - a description of the program requirements applicable to each of the IHAs, and
 - the Administrator's description of actions taken by the office in relation to the issues reported in the series.
- obtained and reviewed applicable program requirements including statutes, regulations, handbooks, guidebooks, memorandums, and other directives.
 - interviewed appropriate staff, and reviewed available documentation related to oversight. The review included testing of the management information and control systems to obtain an understanding of how those systems functioned.
 - compared the oversight and actions taken by the office to the applicable requirements.

We performed our field work during May 1997, and extended our work as necessary to accomplish our objective.

Audit Results

Our review disclosed that SPONAP did not fulfill its oversight responsibilities to ensure that IHAs provided housing consistent with program intent and rules for one of the two IHAs in SPONAP's servicing area (see Attachment 1 for individual IHA summaries). SPONAP's Deputy Administrator who retired in December 1995, did not act to resolve known problems at the Housing Authority of the Otoe-Missouria Tribe.

In addition, SPONAP staff (including the Deputy Administrator) did not always document the basis for their decisions and actions to show their efforts to help IHAs administer their housing at either:

- Housing Authority of the Otoe-Missouria Tribe (page 5), or
- Absentee Shawnee Housing Authority (page 9).

As a result, SPONAP's ineffective oversight contributed to the abuse of Indian housing programs intended for low-income Native American families; and ONAP has been the subject of negative publicity which has eroded public confidence and

caused Congressional scrutiny of HUD's Indian housing programs. Ineffective oversight occurred, in part, because SPONAP's former Deputy Administrator failed to ensure the Housing Authority of the Otoe-Missouria Tribe complied with occupancy management requirements, and used his position to enrich himself by becoming the Housing Authority's Consultant.

Although SPONAP has oversight responsibility, it was IHA officials, not SPONAP officials, who had responsibility for housing authority operations including the abuse of Indian housing programs. For example:

- executive directors and board members, who are expected to promote economical and effective operations, abused their positions for personal gain, and
- contracting practices are so poor that scarce federal housing funds have been wasted and/or are unaccounted for.

Available evidence suggests that these conditions occurred because IHAs were either administratively unable or unwilling to follow program rules. IHAs were:

- administratively incapable of developing their housing programs because of difficulty in hiring, developing, and retaining a staff with the skills, abilities, and knowledge needed to adequately operate an Indian housing program in compliance with program rules.
- unwilling to follow the program rules because Executive Directors and/or Board members allowed Tribal politics or family relationships to unduly influence their decision-making which either directly benefited themselves, family members, relatives, or friends.

Auditee Comments

We provided our draft results to SPONAP's Administrator and staff for review and comment. SPONAP's Administrator and staff did not disagree with our results. SPONAP's written responses are included in Attachment 2. SPONAP's comments were considered in finalizing our results and were incorporated, as appropriate.

This memorandum does not contain specific recommendations. However, you may determine that specific personnel actions may be warranted. We

are including recommendations for programmatic issues in our national audit report on HUD's Native American Programs number 98-SE-107-0002.

Should you or your staff have any questions please contact me at 206-220-5360.

Summary of OIG Internal Review

Housing Authority of the Otoe-Missouria Tribe - Red Rock, Oklahoma

The Seattle Times: (December 1, 1996) The Housing Authority took advantage of a new loophole to give away 20 houses built with a \$1.3 million grant. People on the waiting list were bounced, and the houses went to housing-authority staff, board members and their families.

Prior to June 1996, the Southern Plains Office of Native American Programs (SPONAP) oversight of the Housing Authority of the Otoe-Missouria Tribe did not effectively address deficiencies in occupancy management and conflicts of interest.

SPONAP's Deputy Administrator personally provided all HUD onsite oversight for the Housing Authority from September 1, 1995 to his retirement on December 31, 1995; two days later, on January 2, 1996 he started a position with the Housing Authority as a Consultant. While SPONAP's Deputy Administrator made about two site visits a week to the Housing Authority, occupancy management deficiencies continued to occur. We were unable to determine what work was done during these site visits, other than the countersigning of checks.

Occupancy management deficiencies led to complaints from Tribal members in April and May of 1996. After receiving the complaints, SPONAP conducted an onsite review and confirmed occupancy management deficiencies and the appearance of conflicts of interest. As a result, SPONAP issued a Corrective Action Order that required the Housing Authority to correct the identified deficiencies. SPONAP also referred the Board Chairman and the Consultant (SPONAP's former Deputy Administrator) to the Southwest OIG for investigation, and have issued a Limited Denial of Participation to the Consultant.

Prior to June 1996, SPONAP's oversight of the Housing Authority did not effectively address deficiencies in occupancy management.

The Deputy Administrator personally provided all HUD onsite oversight for the Housing Authority from September 1, 1995 to his retirement on December 31, 1995. Two days later, on January 2, 1996, he started as the Housing Authority's Consultant under a two-year contract for \$101,376. As their Consultant, he informed the Housing Authority of regulatory loopholes that encouraged the Housing Authority to sell Mutual Help homes for the minimal contribution of \$1,500.

While the Deputy Administrator made about two site visits a week to the Housing Authority, occupancy management deficiencies continued to occur. We were unable to determine what work was done at the Housing Authority during these site visits other than the countersigning of checks. Both the 1994 and 1995 financial statement audits of the Housing Authority contained a finding on occupancy management.

Not only did the Housing Authority have deficiencies in occupancy management, but it also had little recent experience in selecting participants for a new development. The homes being developed were the first since a Mutual Help development project was awarded in the 1970s. Also, the Housing Authority was progressing slowly with their development, considering that SPONAP awarded the grant for the current projects around 1989.

Recognizing it had deficiencies in its waiting list, the Housing Authority contracted with an independent consultant in 1995 to develop a waiting list of eligible applicants for the program. The Board then selected participants from that list. However, the Board determined that the waiting list contained errors, and began to update the list on December 12, 1995. The errors included failure to give preference to enrolled Tribal members, inclusion of applicants that owed money to the Housing Authority, and inclusion of applicants that no longer wanted housing. Accordingly, the Board required correction of the waiting list and re-selected participants. This re-selection resulted in complaints when 13 of the original participants lost their homeownership opportunity.

After receiving the complaints, SPONAP conducted an onsite review and confirmed occupancy management deficiencies.

Tribal members complained to SPONAP in April and May of 1996. Based on the complaints SPONAP decided to perform an onsite review.

SPONAP's review determined that the Housing Authority revised the waiting list which resulted in the selection of different participants. Thirteen of the original participants selected were no longer included as participants. At least three participants had already completed Mutual Help and Occupancy Agreements which the Housing Authority terminated in violation of regulatory requirements at 24 CFR 950.442 (a).

An OIG review identified the appearance of conflicts of interest.

An OIG review identified the appearance of a conflict of interest for the Board Chairman and Executive Director when the revised waiting list also resulted in the selection of both as participants in the program. These are potential conflicts of

interest if the individuals participated in the decision making process that included their selections. Compounding this, the Board Chairman, acting in his capacity as the Housing Authority's Contracting Officer, approved at least seven change orders for his house and the Executive Director's house. He also participated in the Board's decision to set the sales price of houses at the \$1,500 Mutual Help minimum contribution required by HUD, which was identified by their consultant (SPONAP's former Deputy Administrator).

SPONAP issued a Corrective Action Order that required those at the Housing Authority to correct the identified deficiencies.

SPONAP issued a Corrective Action Order on June 18, 1996 to the Housing Authority Board, citing deficiencies concerning waiting list management, selection criteria, termination of Mutual Help Occupancy Agreements, change orders, and conflicts of interest. SPONAP also made the Housing Authority ineligible for future development funding. SPONAP amended this Corrective Action Order on December 4, 1996, after an onsite review in October 1996.

The Corrective Action Order required the Housing Authority management to:

- Review and revise waiting list management practices,
- Document need to house over-income families,
- Review and revise its procedures for terminating MHOAs,
- Bring all occupancy functions current,
- Review and revise collection policies,
- Provide justification for exceeding the available contingency amount,
- Disclose the Board Chairman's and Executive Director's interest,
- Provide procurement training to the Contracting Officer,
- Demonstrate administrative capability, and
- Become more cognizant of regulations and requirements.

SPONAP also referred the Board Chairman and the Consultant (former Deputy Administrator) to the Southwest OIG for investigation, and have issued a Limited Denial of Participation to the Consultant.

SPONAP Responsibility: SPONAP was responsible for ensuring that this Housing Authority was providing proper occupancy management, specifically over its waiting list management and participant selection practices. They were also responsible for following up timely and adequately on complaints in order to ensure that the Mutual Help Occupancy Agreements were not violated. SPONAP did not provide adequate oversight to ensure proper occupancy management and a program free from the appearance of conflicts of interest. However, SPONAP did respond promptly to the complaints received and issued a Corrective Action Order to the Housing Authority to resolve its deficiencies.

IHA Responsibility: The Housing Authority was responsible for reviewing and revising, and implementing its waiting list management practices and selection procedures to ensure that all Mutual Help Program participants were properly selected from the waiting list. The Housing Authority's revision of the waiting list resulted in the improper termination of a least three Mutual Help and Occupancy Agreements. This action lead to complaints. The revision also resulted in the Board Chairman and the Executive Director receiving Mutual Help Homes, giving the appearance of a conflict of interest.

Absentee Shawnee Housing Authority - Shawnee, Oklahoma

The Seattle Times: (December 1, 1996) A housing-authority official divided \$466,000 in HUD rehabilitation work into 27 small contracts, most of which went to four favored firms without advertised bidding.

The Southern Plains Office of Native American Programs (SPONAP) oversight efforts were effective at addressing improper contract awards at the Absentee Shawnee Housing Authority; however, the basis for their decisions and actions was not documented.

SPONAP did determine that modernization and repair contracts were improperly awarded, but no corrective action was necessary. SPONAP determined no action was appropriate on the improper contract awards because the procurement process had already been changed, available records would not provide a basis for estimating the effect on the improper contract awards, and review of available documents showed contracts were awarded to low bidders under small purchase procedures.

SPONAP oversight efforts were effective at addressing improper contract awards at the Absentee Shawnee Housing Authority; however, appropriate steps to document oversight were not taken.

In late 1994, SPONAP received a complaint alleging contract fraud at the Housing Authority, and a year later SPONAP conducted a review of contracting procedures. However, SPONAP officials did not document the basis for their determinations. The Acting Administrator of SPONAP requested information concerning these allegations from the Housing Authority's new Executive Director, and the Housing Authority sent a written response on January 31, 1995. The Executive Director responded to SPONAP that he found no indications of contract fraud.

In December, 1994, a former Housing Authority employee contacted an Assistant United States Attorney and alleged that a Housing Authority staff person had committed contract fraud on repair contracts during June 1994. The FBI conducted their own investigation and contacted SPONAP concerning their results in March 1995. The Director of Facilities, Planning and Development/Facilities Management (FPD/FM) stated that she received a phone call from an FBI Agent who informed her that they discovered no criminal activity, but requested that SPONAP verify and take administrative action if necessary. After receiving the information from the FBI and copies of contracts, the Director of FPD/FM performed an onsite review in late 1995 to specifically look into contracting activities.

The nine month delay between the FBI request and SPONAP review was due to the disruption of operations after the Oklahoma City bombing in April 1995. If any evaluation was made by SPONAP regarding the IHA's response, the Oklahoma bombing destroyed those records. However, records obtained from HUD Headquarters rated Administrative Capability Assessments of the Housing Authority's modernization program at 90 percent or higher from 1992 to 1994, well above the 70 percent problem indicator HUD uses.

Although there was no criminal activity, SPONAP did determine that modernization and repair contracts were improperly awarded, but no corrective action was necessary.

After conducting a review, the Director of FPD/FM agreed with the FBI's conclusion that there was no evidence of contract fraud or irregularities. However, the Executive Director had identified deficiencies consisting of dividing contracts into trades so that small Indian subcontractors could be used, and maintaining signed blank contracts on file. The Director of FPD/FM stated that the division of contracts by trades to facilitate use of small purchase procedures was not right. Separation of work to avoid procurement by sealed bid is a violation of the regulations at 24 CFR 85.36 (d) that state small purchase procedures are for securing services, supplies or other property that do not cost more than \$25,000 in the aggregate. This division allowed the IHA to use small Indian subcontractors for the smaller contracts, most of which went to four firms. However, the Executive Director of the Housing Authority, who came in after the deficiencies occurred, stated in his January 31, 1995 letter that he had already changed procurement procedures correcting these deficiencies, without SPONAP intervention. He did so because, after he took over in late 1994, he decided that these weaknesses needed correction.

The Director of FPD/FM Division of SPONAP stated she did not require corrective action or document these deficiencies because changes to correct the deficiencies had already been made by the Housing Authority and implemented for almost a year by the time of the review. She also stated that she did not review the possible effect these deficiencies may have had because the records available did not provide a basis for a reasonable estimate. Although the Director of FPD/FM's review showed that the splitting of bids for small contracts was inappropriate, small contract procedures were then followed. Bids were received from at least three different sub-contractors with the contract being awarded to the low bidder.

SPONAP Responsibility: SPONAP was responsible for ensuring the Housing Authority acted in accordance with regulations to maintain program integrity. Procurement is susceptible to waste, mismanagement, and abuse. SPONAP

acted to follow up on allegations to ensure that program funds were safeguarded, however did not properly document the process, and basis for their decisions and actions.

IHA Responsibility: The Housing Authority was responsible for obtaining bids and awarding contracts in accordance with procurement regulations. Proper procurement procedures were not followed, but the Housing Authority has subsequently revised its procedures to conform with regulations.

THIS PAGE INTENTIONALLY LEFT BLANK

DISTRIBUTION

Secretary's Representative, 6AS (2)
Office of Comptroller, 6AF
Area Administrator, Southern Plains Office of Native American Programs,
6IPI (2)
Director, Administrative Service Center, ASC2
4AA, Russell Federal Building, 75 Spring St., Atlanta, GA 30303-3388
Director, Field Accounting Division, 6AFF
Deputy Secretary, SD, Rm. 10100
Assistant Secretary for Public & Indian Housing, P, Rm. 4100
Assistant Secretary for Congressional & Intergovernmental Relations, J,
Rm. 10120
Deputy Assistant Secretary for Public Affairs, W, Rm. 10130
Chief of Staff, S, Rm. 10000
Counselor to the Secretary, S, Rm. 10000
Senior Advisor to the Secretary for Communication Policy, S, Rm. 10000
Acting General Counsel, C, Rm. 10214
Assistant to the Deputy Secretary for Field Management, SDF (Rm. 7106)
Audit Liaison Officer, PF, (Rm. 5156) (3)
Acquisitions Librarian, Library, AS, Rm. 8141
Chief Financial Officer, F, Rm. 10164 (2)
Deputy Chief Financial Officer for Finance, F, Rm. 10166 (2)
Deputy Assistant Secretary, Native American Programs, PI
Director, Office of Press Relations, WR, Rm. 10138
Assistant to the Secretary for Labor Relations (Acting), SL, Rm. 7118

Director, Housing & Community Dev. Issue Area
US GAO
441 G. Street NW, Rm. 2474
Washington, DC 20548
Attn: Judy England-Joseph

Honorable Pete Sessions
Government Reform and Oversight Committee
Congress of the United States
House of Representatives
Washington, DC 20515-4305

Honorable Fred Thompson, Chairman
Committee on Governmental Affairs
United States Senate
Washington, DC 20510-6250

Honorable John Glenn, Ranking Member
Committee on Governmental Affairs
United States Senate
Washington, DC 20510-6250

Honorable Dan Burton, Chairman
Committee on Government Reform and Oversight
House of Representatives
Washington, DC 20515-6143

Ms. Cindy Sprunger
Subcommittee on General Oversight & Investigations
O'Neill House Office Building, Rm. 212
Washington, DC 20515