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Audit-Related Memorandum  
98-SE-107-0803

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  
Southwest Office of Native American Programs  
Phoenix, Arizona

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 six IHAs identified in *The Seattle Times* series which were in Southwest ONAP's (SWONAP) servicing area. To accomplish our objective, we:

- reviewed *The Seattle Times* series to identify the issues and locations.

- contacted the Southwest ONAP Administrator to obtain:
  - \* a perspective and position on the issues reported in the *Seattle Times* series for each IHA in the SWONAP servicing area,
  - \* a description of the program requirements applicable to each of the IHAs, and
  - \* a description of actions taken by the office in relation to the issues reported in the series.
- obtained and reviewed applicable program requirements identified by the Administrator, including statutes, regulations, handbooks, guidebooks, memorandums, and other directives.
- interviewed staff identified as knowledgeable by the Administrator, and reviewed available documentation on oversight and actions taken. 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 April and May 1997, and extended our work as necessary to accomplish our objective.

## **Audit Results**

Our review disclosed that SWONAP's oversight efforts were not effective in assisting IHAs to correct management problems and provide housing consistent with program intent and rules in three of six instances reported in *The Seattle Times*. (See Attachment 1 for individual IHA results.)

SWONAP's oversight efforts, primarily technical assistance, did not resolve the problems at the:

- \* Pascua Yaqui Housing Authority (page 7),
- \* Hopi Tribal Housing Authority (page 12), and
- \* All Indian Pueblos Housing Authority (page 19).

As a result, the IHAs did not achieve the minimal administrative capability to operate their housing program. Also, 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:

- the Department's initiative to develop partnerships with tribes/IHAs emphasized providing technical assistance rather than taking appropriate enforcement action and holding IHA officials accountable for poor performance.
- SWONAP over-relied on the Office of Inspector General to identify problems, their causes, and recommend appropriate enforcement actions.

Although ONAP has oversight responsibility, it was IHA officials, not SWONAP officials, who had responsibility for housing authority operations including the misuse of housing funds or the abuse of their housing programs. Specifically, mismanagement and/or waste of program funds are fostered by a lack of local accountability and self-policing of IHAs, and tribal influences over housing authorities.

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.
  - \* management information systems that lacked basic operational, financial, and compliance related information to make it possible to effectively manage and control a housing operation.
  - \* a lack of meaningful oversight of the Executive Director by the Board of Commissioners.
- 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 benefited themselves, family members, relatives, or friends.

## **Auditee Comments**

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

SWONAP's Administrator commented that the draft results present an unfair negative image of efforts to resolve performance problems at these IHAs. The OIG draft results indicate that SWONAP took appropriate actions for each of the six IHAs reported in the Seattle Times. Despite taking appropriate action, OIG concludes that SWONAP's efforts were ineffective for three IHAs since the administrative deficiencies were not resolved in a timely manner, as defined by OIG.

OIG's conclusion misrepresents the role of the field ONAP's in HUD's Native American housing programs. ONAP is one of several key partners in providing assisted housing to low-income Indian families. Several factors make the administration of housing programs more difficult than what is seen in non-Indian areas. Cultural and political factors limit the ONAP's ability to "ensure" that corrective actions are implemented according to specific time frames. To suggest that SWONAP was ineffective because it did not ensure that certain actions were taken is an unfair and inaccurate representation.

SWONAP commented that the draft results for All Indian Pueblo Housing Authority, Pasqua Yaqui Housing Authority, and Hopi Tribal Housing Authority indicate that SWONAP fulfilled its oversight responsibilities through monitoring and providing technical assistance, yet the conclusion is that SWONAP's efforts were not effective or were unsuccessful in resolving deficiencies.

## **OIG Evaluation of Auditee Comments**

SWONAP disagreed with the conclusions and clarified certain facts in our draft results. SWONAP acknowledged that the draft results indicated that SWONAP took appropriate actions for each of the six IHAs. SWONAP's main point of disagreement with the draft results is with our conclusion that SWONAP's efforts to resolve deficiencies at three of the IHAs were not effective.

Our review focused on how effective SWONAP's oversight efforts were in making a positive change in IHA performance. SWONAP's responsibilities are to ensure program objectives are met and IHAs are in compliance with laws and regulations.

We agree that SWONAP operates in a unique cultural and political environment and fulfilled its oversight responsibilities within the regulatory and administrative framework within which it operates. We also agree that SWONAP's efforts show a commitment to assist IHAs in improving administrative capability and performance. However, SWONAP must also ensure its limited resources are used effectively and its efforts effect positive change. For the All Indian Pueblos Housing Authority, Hopi Tribal Housing Authority, and Pascua Yaqui Housing Authority, the evidence shows that SWONAP committed extensive resources over a four or five year period (through its normal oversight activities as well as through ONAP's Partners In Progress (PIP) initiative), but there was little or no improvement in the three IHAs' performance or administrative capability.

Given the extensive technical assistance SWONAP has provided to the three IHAs, we concluded that SWONAP's efforts were not effective in assisting the IHAs to correct known management problems to become administratively capable. In our opinion, if an IHA's Board and management cannot or will not demonstrate a commitment to improve an IHA's administrative capability and performance, SWONAP should consider terminating technical assistance and taking appropriate action until a strong commitment to improve is demonstrated.

This memorandum does not contain specific recommendations. 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.

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## Summary of OIG Internal Review

### Pascua Yaqui Housing Authority - Tucson, Arizona

***The Seattle Times: (December 1, 1996) The housing authority was juggling \$15 million in development grants and \$6 million in rehabilitation money without the staff, policies or plans to ensure it is spent properly. As a result, federal auditors say, staff and board member's families received cash to pay for improvements on their HUD-financed homes that never took place; over-income relatives of staff received low-income homes, and repair money was used for everything from deluxe refrigerators to walled patios to home-phone bills.***

Southwest Office of Native American Programs' (SWONAP) oversight was not effective in addressing the Pascua Yaqui Housing Authority's (Housing Authority) lack of administrative capability which resulted in wasting federal funds and denying residents needed improvements to their units. SWONAP has been aware of the Housing Authority's management deficiencies since 1993 when staff performed an onsite review of the Housing Authority's Drug Elimination Program. During the review, SWONAP identified that the Housing Authority's financial record-keeping was inadequate and very fragmented. From October 1993 to August 1994, SWONAP provided extensive technical assistance to the Housing Authority which was not effective in improving the Housing Authority's administrative capability. In August 1995, SWONAP placed the Housing Authority in Operation Recovery which was designed to support those housing authorities having the greatest difficulties in maintaining minimal levels of performance.

SWONAP requested an OIG audit when the Housing Authority's Independent Public Accountant's (IPA) 1992 and 1993 audit reports did not include findings on problems SWONAP had previously identified. The February 13, 1996 Pacific/Hawaii OIG audit report identified serious management problems in the Housing Authority's operations which included spending over \$772,316 for ineligible or unsupported expenses. SWONAP's efforts prior to this audit were not effective because those efforts did not require that either the Board or Housing Authority management address known management deficiencies (which included ineffective leadership) or take appropriate action to change ineffective Housing Authority management. When SWONAP learned of the results of the OIG audit, they classified the Housing Authority High Risk and made the Housing Authority ineligible to apply for future funding.

As of March 1997, according to ONAP's information system, the Housing Authority had 80 units in development stages. The February 1996 OIG audit report identified over \$15 million in available development funds and \$6 million in modernization funding.

*SWONAP spent extensive staff time and resources monitoring and providing technical assistance which was not successful in improving the Housing Authority's administrative capability.*

According to SWONAP's technical assistance log, SWONAP provided onsite training and technical assistance to Housing Authority staff four times from October 1992 to June 1993. Development and occupancy were the specific areas that SWONAP addressed during the onsite visits.

In July and August 1993 SWONAP performed onsite monitoring of the Housing Authority's occupancy activities, relocation activities, and Drug Elimination Program. The reviews covered specific areas which included procurement and financial management. SWONAP identified deficiencies which included:

- ineligible expenditures, inadequate financial management, and improper procurement in the Drug Elimination Program,
- no annual reexaminations of income for many residents, and
- violations of the Uniform Relocation Act.

According to SWONAP, the deficiencies occurred because the Housing Authority's management did not ensure that its employees were knowledgeable in the area of financial record keeping for grants and regulatory procurement requirements, and that its employees were properly trained in HUD's recertifications requirements. SWONAP's concerns were reflected in its Administrative Capability Assessment (ACA) for Fiscal Year 1993 which was 55 percent, down from 93.9 percent for 1992. In September 1993, SWONAP issued a Notice of Deficiency to the Housing Authority due to the lack of annual recertifications. The Notice of Deficiency required that all program participants be recertified and reduced the Housing Authority's operating subsidy by \$106,193 in Fiscal Year 1994 due to an estimated loss of rental income from the lack of recertifications.

Again, in February 1994, SWONAP provided onsite technical assistance to the Housing Authority for its Drug Elimination Program and its Comprehensive Grant Program. SWONAP's technical assistance report states that: (1) SWONAP could not reconcile expenditures for the Drug Elimination Program due to missing records and identified approximately \$6,000 of ineligible expenditures, and (2)



SWONAP identified ineligible expenditures and a lack of documentation demonstrating full compliance in administering the Comprehensive Grant Program.

As a result, SWONAP issued a letter to the Housing Authority in March 1994 discussing the deficiencies. The letter stated that the Housing Authority's capability to administer its Comprehensive Grant Program was affected by the lack of qualified staff and program records lacked quality and completeness. SWONAP did not require any corrective actions or a response to the letter.

*SWONAP requested an in-depth OIG audit because IPA audit reports did not identify known deficiencies.*

In August 1994, SWONAP received IPA reports from the Housing Authority for Fiscal Years 1992 and 1993 that did not identify problems SWONAP identified during its onsite reviews. SWONAP then contacted the Pacific/Hawaii OIG with their concerns over the IPA and Housing Authority and recommended an in-depth audit. OIG began field work on an audit of the Housing Authority in March 1995.

In June 1995 SWONAP assigned the Housing Authority to the newly created Operation Recovery/Partners In Progress program which allocated additional HUD resources to provide further technical assistance to the Housing Authority including the use of outside consultants. This program was designed to assist IHAs having difficulties maintaining a minimum level of administrative performance. In October 1995, SWONAP discussed the lack of Board of Commissioner meetings with the Executive Director, and provided technical assistance to Housing Authority staff on establishing and maintaining waiting lists.

In October 1995, the Pacific/Hawaii OIG forwarded a copy of their draft audit report on the Housing Authority to SWONAP. After reviewing the draft report, SWONAP decided to declare the Housing Authority High Risk, with the Deputy Assistant Secretary for Native American Programs' concurrence. On January 19, 1996, SWONAP issued a letter to the Housing Authority stating that SWONAP had determined the Housing Authority to be High Risk. SWONAP's letter states that despite being selected as part of HUD's Operation Recovery and SWONAP's technical assistance efforts, improvements did not occur and the Housing Authority continued to lack administrative capability.

*OIG audit report identified serious management deficiencies in all aspects of the Housing Authority's operations.*

On February 13, 1996, the Pacific/Hawaii OIG issued their audit report that identified serious management problems in the Housing Authority's operations that adversely affected its ability to carry out its housing and grant programs and, ultimately, the welfare of its residents. Specific deficiencies included:

- inadequate maintenance and rehabilitation procedures resulting in shameful, dangerous, or unsanitary housing for residents,
- \$586,453 in ineligible expenses and \$185,863 in unsupported expenditures,
- inadequate accounting controls resulting in inaccurate records and failure to properly invest and control \$3,000,000 of excess funds, and
- mismanagement of homebuyer's Monthly Equity Payment Account (MEPA) funds including: using MEPA funds for routine maintenance on Mutual Help houses; purchasing, in OIG's opinion, luxury items which included building a patio wall; purchasing ineligible appliances, which is considered personal property; and paying homebuyers' telephone bills. These items were the items reported by *The Seattle Times*.

The audit report cited serious lack of staffing, frequent turnover in top management, and failure to develop appropriate policies and procedures and assign individual responsibility for carrying out duties, as causes for the Housing Authority's deficiencies.

*SWONAP's efforts to address known management deficiencies were not effective.*

SWONAP's efforts were not effective, in part, because those efforts did not require that either the Board or Housing Authority management address known management deficiencies (which included ineffective leadership) or take appropriate action to change ineffective Housing Authority management. After learning the results of the OIG audit, SWONAP classified the Housing Authority High Risk, made the Housing Authority ineligible to apply for future funding, and required the Housing Authority to correct all identified deficiencies. However, the SWONAP Administrator recognized that his office should have taken action sooner and not waited for the OIG audit results.

**SWONAP responsibility:** At this Housing Authority, SWONAP was responsible for determining that the Housing Authority was administratively capable and maintained the capability to administer its grant programs. SWONAP was also responsible for monitoring the Housing Authority to identify serious problems and take appropriate action to ensure that federal funds were properly used. Although SWONAP monitored Housing Authority operations and provided extensive technical assistance, these actions did not ensure that the Housing Authority ever achieved administrative capability.

**IHA responsibility:** The Housing Authority was responsible for properly administering all its grant programs (which include development, Comprehensive Grant, and Drug Elimination) and maintaining the administrative capability to ensure funds were properly used and participants properly served. However, the Housing Authority failed in this responsibility. As a result, funds were misspent and some residents experienced dangerous and unsanitary housing.

## **Hopi Tribal Housing Authority - Second Mesa, Arizona**

***The Seattle Times: (December 1, 1996) Charges of mismanagement and theft at the housing authority delayed housing projects and caused tribal strife for two years. HUD's Inspector General is now investigating, and the executive director was fired in September.***

The Southwest Office of Native American Programs' (SWONAP) efforts to remedy administrative and development problems at the Hopi Tribal Housing Authority (Housing Authority) were ineffective. However, SWONAP did prevent the Housing Authority from receiving program funds including new development funds after its 1992 determination that the Housing Authority was incapable in administering its housing programs. From December 1992 through November 1995, SWONAP provided extensive technical assistance which was not effective in helping the Housing Authority achieve a satisfactory level of performance. In December 1995, SWONAP declared the Housing Authority "High Risk" for development due to the Housing Authority's failure to start construction on time and regulatory violations in awarding construction contracts. In March 1996, allegations of a possible lapping of bank deposits were identified by the Housing Authority's Independent Public Accountant. In July 1996, SWONAP classified the Housing Authority as "High Risk" for the remainder of its programs because it was not achieving necessary improvements in administrative capability. SWONAP's efforts were ineffective because they did not take prompt action to convince the Board to address the Housing Authority's problems of continual staff turnover and the Board's long standing conflicts with the Tribe.

*SWONAP's efforts to remedy administrative and development problems at the Housing Authority were ineffective.*

In March 1992, SWONAP notified the Housing Authority that it lacked administrative capability. This was based on SWONAP's ongoing monitoring of the Housing Authority through management reviews, review of annual audit reports, review of financial statements, review of occupancy reports, and annual Administrative Capability Assessments (ACA). Specifically, the Housing Authority failed to address nine of ten deficiencies cited in SWONAP's management review which had been issued a year and a half earlier (July 1990). As a result, SWONAP restricted the Housing Authority from receiving new development funds, Comprehensive Improvement Assistance Program (CIAP) funds, and Resident Initiative grant funds until it achieved a satisfactory level of performance.

From December 1992 through November 1994, SWONAP provided technical assistance to the Housing Authority through consultations, onsite visits, and training to develop the Housing Authority staff's skills and abilities. Based on SWONAP's technical assistance reports, SWONAP's efforts were not successful in improving the Housing Authority's administrative capability. For example,

- September 1993: SWONAP's technical assistance report states there is great dissension between Housing Authority management and staff who claim they are unable to perform their jobs and conduct the program in compliance with Housing Authority policies and federal regulations.
- October 21, 1994: SWONAP's technical assistance report states that there is a lack of financial records and a serious communication problem between the Housing Authority, the Tribe, and the residents. No one is willing to take responsibility for management of the program.

*SWONAP spent a great deal of staff time and resources providing technical assistance.*

In August 1995, SWONAP placed the Housing Authority in the newly created Operation Recovery/Partners In Progress program which allocated additional HUD resources to provide further technical assistance to the Housing Authority, including the use of outside consultants. This program was designed to assist those tribes having difficulties in maintaining a minimum level of administrative performance from their IHAs. SWONAP's efforts under the PIP program were also not successful in improving the Housing Authority's administrative capability. On December 12, 1995, SWONAP notified the Housing Authority that it was designated as "High Risk" in its development functions and a Corrective Action Order was issued to correct deficiencies which included the following: (1) the Housing Authority failed to start construction on 2 projects within 24 months of the initial approval, and (2) the Housing Authority awarded a construction contract for a project without sufficient funds and without SWONAP approval.

In March 1996, the Housing Authority's Independent Public Accountant reported to SWONAP and to the Pacific/Hawaii OIG evidence of possible lapping of bank deposits at the Housing Authority. The Pacific/Hawaii OIG reviewed bank statements, checks, and rental receipts and confirmed that the Housing Authority had serious management problems and about \$20,000 to \$25,000 was missing due to a serious breakdown in internal controls and a lack of accountability. The IPA indicated that the lapping started around 1994.

Again, on July 8, 1996, SWONAP declared the Housing Authority "High Risk" for the remainder of the programs because it was not achieving necessary

improvements in administrative capability. The deficiencies cited by SWONAP included inadequate management systems and lack of properly trained and competent personnel. SWONAP applied sanctions including the following: (1) the Housing Authority was ineligible for development and Comprehensive Grant funding without prior HUD approval, and (2) all draw downs of funds for the traditional Indian Housing Program and the Comprehensive Grant Program, including supporting documents, must be submitted to HUD for review and approval.

*SWONAP's efforts were ineffective because they did not take prompt action to convince the Board to correct the causes for these problems.*

SWONAP first determined that the Housing Authority lacked administrative capability to operate its programs in 1992. Monitoring and technical assistance provided by SWONAP to the Housing Authority since 1992 has been ineffective because the Housing Authority Board has not addressed and eliminated its long standing problems of continual staff turnover and conflicts with the Tribe. After SWONAP expressed their concerns to the Housing Authority Board about the former Executive Director's abilities and actions, the Board terminated the former Executive Director in September 1996. Despite SWONAP's efforts to remedy the Housing Authority's development and administrative problems, the Housing Authority's administrative capability did not improve.

Since 1992, SWONAP's actions protected HUD from putting new development, CIAP, and Resident Initiative grant funds at risk. However, existing grant funds and new comprehensive grant and operating subsidy funds remained at risk until access to funds was restricted in August 1996.

The Pacific/Hawaii OIG is currently investigating the Housing Authority to determine if any funds were misappropriated and plans to perform an audit once the investigation is completed.

**SWONAP responsibility:** At this Housing Authority, SWONAP was responsible for determining at least annually whether the Housing Authority was administratively capable and maintained the capability to develop and manage its housing programs. SWONAP was also responsible for monitoring the Housing Authority to identify serious problems and take appropriate action to ensure that federal funds were used properly and cash assets were safeguarded. Although SWONAP provided oversight through its monitoring, and provided extensive technical assistance, the Housing Authority did not achieve administrative capability.

**IHA responsibility:** The Housing Authority was responsible for properly implementing its development programs in a timely manner and for properly safeguarding its cash assets from possible embezzlement or theft. The Housing Authority's Board and management did not meet their responsibilities when administering the Housing Authority's development programs and safeguarding the Housing Authority's cash assets.

## **Northern Pueblos Housing Authority - Santa Fe, New Mexico**

***The Seattle Times: (December 1 and 3, 1996) Money intended for rehabilitation of low-income homes in disrepair went to the home of the housing-board chairman, whose salary is twice the state average. Remodeling contracts went to friends of both the board chairman and the housing authority's director.***

Although the Southwest Office of Native American Programs (SWONAP) had identified procurement problems in 1992 at the Northern Pueblos Housing Authority (Housing Authority), subsequent monitoring did not identify the procurement problems. SWONAP's monitoring did not identify the procurement problems because SWONAP rated the Housing Authority satisfactory, and based on its risk assessment and Headquarters instructions, did not go onsite to monitor Housing Authority operations, including procurement, from 1993 to 1996.

After receiving a complaint in January 1996, SWONAP made an onsite visit, identified significant deficiencies in the Housing Authority's procurement of services and awarding of contracts, and took appropriate action to address regulatory violations in the Housing Authority's procurement process in its Comprehensive Grant program. SWONAP issued a notice of deficiency to the Housing Authority to correct the deficiencies and comply with HUD requirements.

The January 1996 complaint also caused the Housing Authority's Board to make a written request to Pacific/Hawaii OIG to perform an audit based on allegations similar to those reported in the Seattle Times. The Pacific/Hawaii OIG is currently performing an audit and preliminary results indicate that rehabilitation work performed on the Housing Authority's Board Chairman's house were excessive, and the Housing Authority did not follow the procurement requirements in selecting certain contractors to do close to 100 percent of the comprehensive grant work.

*SWONAP received a January 1996 complaint regarding serious deficiencies in the Housing Authority's Comprehensive Grant program.*

In April 1992, SWONAP performed a financial management review and identified violations of procurement requirements. SWONAP performed this review before the Housing Authority received any Comprehensive Grant funds. SWONAP's records showed that by August 1, 1994, the Housing Authority had submitted documentation to SWONAP that showed the deficiencies had been corrected.



On numerous occasions during January 1996, a consultant voiced concerns to SWONAP alleging the Housing Authority was violating procurement regulations in its Comprehensive Grant Program. In response, SWONAP's Albuquerque office conducted an onsite monitoring review in February 1996 to determine if the Housing Authority was in compliance with the statutory, regulatory, and handbook requirements of the Comprehensive Grant Program. Their review identified deficiencies in the Housing Authority's procurement of services and awarding of contracts. The deficiencies included:

- little evidence of full and open competition when selecting contractors,
- up front payments to contractors prior to starting work,
- inadequate evidence of meeting Indian preference requirements in contracting,
- unexecuted contracts for comprehensive grant work, and
- incomplete documentation showing proper insurance and bonding for contractors.

On February 26, 1996, SWONAP issued a notice of deficiency requiring the Housing Authority to correct the deficiencies identified. In addition, SWONAP required the Housing Authority to modify its policies and procedures that had caused the deficiencies. SWONAP performed a follow-up review at the Housing Authority in October 1996 and confirmed that the Housing Authority had corrected the deficiencies and modified its policies and procedures.

*SWONAP did not do any onsite monitoring reviews of the Housing Authority.*

Prior to the complaint, SWONAP was not aware of the procurement problems in the Housing Authority's Comprehensive Grant Program. Although SWONAP had identified procurement problems in 1992, SWONAP's subsequent monitoring did not identify the procurement problems included in the complaint. The Housing Authority had received satisfactory ratings under SWONAP's annual administrative capability assessments and risk assessments in 1992, and 1995 through 1997. In 1993 and 1994 the Housing Authority's scores were not satisfactory, scoring 67.2 percent and 67.3 percent respectively.

Onsite monitoring at satisfactory performing housing authorities was a low priority for SWONAP, consistent with Public and Indian Housing Headquarters' instructions in November 1993. Therefore, there were no onsite monitoring reviews from 1993 until the February 1996 visit (which was in response to the complaint). However,

SWONAP did perform eight onsite technical assistance visits in 1993 and nine in 1994.

*An OIG audit was requested by the Housing Authority's Commissioners.*

In November 1996, four of the six Housing Authority Commissioners forwarded a request to the Pacific/Hawaii OIG asking for a full scale review of the Housing Authority. The Commissioners requested the review in response to the February 1996 review by SWONAP. The OIG started an audit of the Housing Authority in March 1997. The audit's preliminary results indicate that rehabilitation work performed on the Housing Authority Board Chairman's house was excessive, and the Housing Authority did not follow the procurement requirements in selecting certain contractors to do close to 100 percent of the Comprehensive Grant work.

**SWONAP responsibility:** At this Housing Authority, SWONAP was responsible for determining that the Housing Authority was administratively capable to administer the Indian housing programs. SWONAP was also responsible for oversight and timely addressing complaints and deficiencies which had a significantly adverse affect on any Indian housing program operated and managed by the Housing Authority. SWONAP performed annual assessments of the Housing Authority's administrative capability and risk, as well as onsite monitoring and technical assistance reviews, but did not identify procurement problems in the Housing Authority's Comprehensive Grant program.

**IHA responsibility:** The Housing Authority was responsible for maintaining administrative capability to ensure funds were used properly as required by statutes, regulations and handbooks. The Housing Authority had significant deficiencies in their procurement of services and award of contracts in their Comprehensive Grant program. The Housing Authority's performance failed to meet its agreed-to obligations.

## **All Indian Pueblos Housing Authority - Albuquerque, New Mexico**

**The Seattle Times: (December 1 and 3, 1996) An umbrella housing authority representing 10 tribes has deteriorated to a point where employees and member tribes are leaving. While the housing authority's director feuded with HUD officials, projects went on hold in a state that has some of the worst Indian housing in the nation.**

The Southwest Office of Native American Programs' (SWONAP) efforts were not effective in correcting administrative and development deficiencies at the All Indian Pueblos Housing Authority. As early as 1991, SWONAP officials were aware of serious administrative deficiencies related to accounting, collections, maintenance of dwellings, and travel. In response, SWONAP performed at least 50 technical assistance visits in the next 3 years to resolve the deficiencies. During this period the Housing Authority's Administrative Capability Assessment ratings averaged 60 percent with a high of 69.7 percent. These ratings are all classified as unsatisfactory ratings (below 70 percent). In 1995 the Risk Analysis to Determine Allocation of Resources (RADAR) was introduced and the Housing Authority was rated as a substantial risk for housing management and moderate risk for development.

In response to a complaint, the OIG performed an audit of the Housing Authority's 1995 operations and identified significant deficiencies in the Comprehensive Grant program and housing management. SWONAP, in consultation with the Deputy Assistant Secretary for Native American Programs, chose to withhold corrective actions addressing the deficiencies in the audit pending the dissolution of the Housing Authority projected to occur within three months (it actually took about six months). SWONAP's efforts were ineffective, in part, because the Executive Director and Board were unwilling to take action to address the Housing Authority's administrative deficiencies.

*SWONAP efforts were not effective at correcting administrative and development deficiencies at the All Indian Pueblos Housing Authority.*

As early as 1991, SWONAP officials identified serious management deficiencies related to accounting, collections, maintenance of dwellings, and travel. These management deficiencies were disclosed by an OIG audit report issued in 1991 that included 30 recommendations. On November 17, 1992 the SWONAP issued a Corrective Action Order to the Housing Authority which required action on the 21 audit recommendations that had not yet been resolved. The recommendations included:

- reimbursement of the operating account for \$54,883 and any additional funds the participants owed for unit repairs,
- enforcement of the payment collection and eviction policy (\$544,216 due from participants),
- establishment and implementation of a system to ensure all units were inspected annually and that repairs were made, and
- reimbursement of \$3,225 in excessive and inappropriate travel costs from appropriate officials.

The Housing Authority appealed the corrective action order to the Regional Administrator who rescinded it. In response, SWONAP performed at least 50 technical assistance visits in the next 3 years to resolve the deficiencies. (Note that the Housing Authority office is a few blocks away from the SWONAP Albuquerque office.) During this period SWONAP Administrative Capability Assessment review ratings were:

58.6 percent in 1991,  
69.7 percent in 1992,  
53.9 percent in 1993, and  
59.0 percent in 1994.

The ratings averaged 60 percent and all are classified as unsatisfactory ratings (below 70 percent). In 1995, RADAR was introduced and the Housing Authority was rated as a substantial risk for housing management and moderate risk for development. These scores and ratings show a continuing problem with administrative capability at the Housing Authority.

*In response to a complaint, OIG performed another audit of the Housing Authority's 1995 operations and identified significant deficiencies in the Comprehensive Grant program and housing management.*

In response to a complaint, the OIG performed an audit of Housing Authority operations during the period November 1995 through June 1996 and issued a report dated July 8, 1996. The report identified:

- serious problems with the Comprehensive Grant programs procurement and contract administration,
- poor planning and execution of the Comprehensive Grant program,

- a spending rate for administration that was twice that of the overall program,
- ineffective management of procurement and contracting,
- increasing tenant accounts receivable, and
- an uncertain future for the Housing Authority.

*SWONAP, in consultation with the Deputy Assistant Secretary for Native American Programs, chose to withhold corrective actions.*

In June of 1996, a SWONAP Facilities Planning & Development Specialist drafted a High Risk designation and a Corrective Action Order to address the deficiencies in the draft OIG audit findings. This Corrective Action Order included the following four general areas:

- The Housing Authority did not have a viable procurement and contract administrations system, and had ignored HUD procurement regulations.
- The Housing Authority did not conform to the terms and conditions of previous awards, including the traditional Indian Housing Development program, the Comprehensive Grant Program, and use of operating funds.
- The Housing Authority lacked properly trained and competent personnel at key management positions.
- The Housing Authority was in violation of the terms or applicable regulations and annual contributions contracts.

However, at a meeting with the Tribal governors (of the Tribes forming the Housing Authority), SWONAP followed the direction of the Deputy Assistant Secretary for Native American Programs and did not designate the Housing Authority High Risk or issue the Corrective Action Order. The Deputy Assistant Secretary indicated he made this decision because a designation of High Risk for the Housing Authority was not warranted. He stated it was a waste of resources to enforce action on a Housing Authority when all parties had agreed to dissolve the Housing Authority. We agree that it would not have been an effective use of resources. However, such decisions and their basis should be documented.

The closing of the Housing Authority in December 1996 led SWONAP to take over operations of the Housing Authority. SWONAP did this to help facilitate a smooth

transition for the new IHAs formed by the Tribes. To assist these new IHAs, SWONAP has placed all of them in the Partners In Progress program.

*SWONAP's efforts were ineffective, in part, because of a non-responsive relationship with the Executive Director and Board who did not take action to address the Housing Authority's administrative deficiencies.*

SWONAP officials told us that they had difficulties working with the Executive Director and attempted to work around him to resolve the deficiencies. Also, SWONAP officials told us they approached the Board from time to time to discuss the difficulties of working with the Executive Director. However, the Board was not responsive and suggested that HUD find a way to work with the Executive Director. As shown by the administrative capability assessments, RADAR, and subsequent OIG audit, this strategy was not effective. In June 1996, SWONAP considered designating the Housing Authority high risk and issuing a Corrective Action Order, but, as noted above, did not.

**SWONAP responsibility:** SWONAP was responsible for determining at least annually that the Housing Authority had and maintained the administrative capability to carry out its HUD assisted programs in accordance with the Annual Contributions Contract and federal regulations. If the Housing Authority lacked the needed administrative capability, SWONAP was responsible for identifying this and ensuring that prompt action was taken to restore it. SWONAP's ongoing assessments of, and technical assistance to, the Housing Authority did not eliminate the Housing Authority's administrative deficiencies. Also, instead of resolving the 1996 deficiencies, SWONAP waited for the Housing Authority to dissolve and then took over operations.

**IHA responsibility:** The Housing Authority was responsible for maintaining administrative capability and for ensuring funds were obligated and spent in accordance with the Annual Contributions Contract and federal regulations.

The 1991 and 1996 OIG audits as well as the SWONAP administrative capability assessments and RADAR, show that the Housing Authority failed to fulfill its responsibilities.

## **Fort McDowell Mohave Apache Housing Authority - Fountain Hills, Arizona**

***The Seattle Times: (December 1 and 4, 1996) Their casino is so successful that tribal members, who get an average \$3,000 a month in profit-sharing, no longer need their housing authority. So the agency is phasing itself out by selling 64 low-income houses for \$1 each - forgiving roughly \$1.1 million owed in monthly payments and back rent.***

The Southwest Office of Native American Programs (SWONAP), with Headquarters ONAP input, is assisting the Fort McDowell Mohave Apache Tribe (Tribe) in dissolving the Fort McDowell Housing Authority (Housing Authority). The Housing Authority is being dissolved because the Tribe's casino has become financially successful and, with per capita payments, Tribal members no longer qualify for HUD assistance. Also, the Tribe offered to pay HUD for the 15 Low Rent units, but HUD could not accept the offer because they were not HUD 's to sell. However, the Housing Authority could convert the units to Mutual Help and sell the units to the participants for any amount. The Tribe notified SWONAP of its intention to phase out HUD-subsidized homes, which was followed with a request to waive the prohibition against disposition of rental units. Headquarters ONAP approved the applicable regulatory waivers in July 1996, subject to three conditions, including an agreement that existing and future HUD contractual obligations would be extinguished. As of June 2, 1997, the Housing Authority had not provided a completed plan to HUD to show how the dissolution would occur.

*SWONAP is assisting the Tribe in dissolving the Housing Authority.*

According to SWONAP's Senior Advisor and staff, in 1993 the Tribe discussed a plan with SWONAP officials to eliminate housing. SWONAP began assisting the Tribe, with input from Headquarters ONAP. The Tribe had told SWONAP officials that it wanted to dissolve the Housing Authority because their casino had become financially successful and the majority of participants no longer qualified for Low Rent and Mutual Help assistance from HUD.

In January 1997, the Housing Authority's Executive Director stated that Tribal members received per capita payments from gaming revenues. The per capita payments made the majority of Tribal members in the low rent housing assistance program ineligible.

During the 1993 discussions with SWONAP officials, the Tribe offered to pay HUD \$4 million to \$6 million for the units. However, the SWONAP Administrator, in consultation with Headquarters and HUD legal staff, determined that HUD could not sell them because they were assets of the Housing Authority, not HUD. In



addition, the Housing Authority, until recently, would still be required to replace the purchased units with additional low-income units. Part of the difficulty with closing a Housing Authority is that regulations do not envision what should occur when a Tribe no longer has low-income members. SWONAP staff told us they informed the Housing Authority of this after consulting with Headquarters ONAP. However, program rules did allow the Housing Authority to sell the units (once converted from Low Rent to Mutual Help) to participants for any amount. This was allowed by HUD regulations at 24 CFR 950.440, effective May 10, 1995, which gave IHAs the ability to establish the purchase price for Mutual Help homes.

The Tribe provided notification to SWONAP of its intention to phase out HUD-subsidized housing programs on December 19, 1995. The Tribe stated they would accept the burden of the Housing Authority's obligations to Mutual Help participants relating to their equity account. On January 4, 1996, the Housing Authority requested a waiver of the regulatory prohibition against disposition of rental units within ten years of operating subsidy payments.

On July 29, 1996, Headquarters ONAP approved the applicable regulatory waivers that would allow the Housing Authority to convert their Low Rent units to Mutual Help, sell the units to participants, and dissolve the Housing Authority. On August 29, 1996, SWONAP informed the Housing Authority of the approval of their waiver request. ONAP Headquarters approved the waivers subject to three conditions: 1) all existing and future HUD contractual obligations would be extinguished, 2) the homebuyer must purchase the unit "as is", and 3) documents would be executed conveying the homes to homebuyers.

As required by ONAP Headquarters, SWONAP entered into a Memorandum of Agreement in May 1997 with the Tribe and Housing Authority to terminate the relationship. This agreement allowed the:

- conversion of 15 Low Rent units to Mutual Help, and sale of the units to eligible Tribal members for the Housing Authority established price of one dollar;
- sale of all 41 existing Mutual Help units to eligible Tribal members for the Housing Authority established price of one dollar;
- dissolution of the Housing Authority; and
- termination of all assistance by HUD.

As of June 2, 1997, the Housing Authority had not provided a completed plan to HUD describing when the Low Rent units would be converted, the eligibility of the

occupants to participate in the program at the time of conversion, and, how all other Mutual Help occupancy requirements would be met or waivers obtained.

**SWONAP responsibility:** At this Housing Authority, SWONAP was responsible for providing effective oversight and taking action to limit HUD's liability under the Memorandum of Agreement. They were also responsible for issuing timely responses to the Housing Authority's requests and approving them as permitted by rules and regulations. SWONAP effectively worked with the Tribe and the Housing Authority and responded to requests for waivers which were approved with stipulated conditions, terminating any future relationship between HUD and the Housing Authority.

**IHA responsibility:** The Housing Authority was responsible for following HUD requirements in carrying out its approved plan to convert the Low Rent units to Mutual Help homes to participants by following all stipulated conditions and agreement. However, as of June 1997, the Housing Authority had not provided HUD a completed plan describing how the dissolution would occur.

## Owens Valley Housing Authority - Big Pine, California

***The Seattle Times: (December 1, 1996) The housing authority gave 78 low-income homebuyers their deeds 10 years early, refunded \$350,000 in payments they'd already made and allotted \$20,000 per house in HUD money for improvements. The lucky group included three housing commissioners.***

The Southwest Office of Native American Programs (SWONAP) fulfilled its oversight responsibilities for the Owens Valley Indian Housing Authority's (Housing Authority) plan to convey units to home buyers. In July 1995, the Housing Authority informed SWONAP of its intent to restructure payment terms for 78 Mutual Help units and convey ownership to program participants, and refund any excess equity and administration fees resulting from restructure. The Housing Authority decided to do this after learning that it was allowable to restructure payment terms to give homes to homebuyers early. The Housing Authority and its Board took full advantage of the regulations allowing this, with SWONAP's guidance. HUD's statutory, regulatory and policy requirements have evolved to a point where the Housing Authority's plans did not violate any program requirements.

As a result of complying with program requirements, the Housing Authority conveyed 78 Mutual Help units to homebuyers, refunded to homebuyers \$352,338 in excess equity payments resulting from the restructure, and modernized and repaired the units that were conveyed to program participants. However, the public perception has been that houses are being given away to participants, who are also receiving money and getting the houses modernized at taxpayer expense.

*SWONAP fulfilled its oversight responsibilities for the Housing Authority's plan to convey units to homebuyers.*

SWONAP promptly reviewed the Housing Authority's plan to convey units to homebuyers. Through its review, SWONAP found that the Housing Authority would not violate the program regulations. However, SWONAP's Financial Analyst did have a concern with the refund of excess administrative fees which would cause a financial impact on the Housing Authority. She recommended against this, but the Housing Authority decided to refund the administrative fees as originally planned.

The Housing Authority's restructuring of payment terms for these 78 participants was one of the first changes of this type for this Housing Authority. However, it was not a unique change because, according to SWONAP staff, about one-third

to one-half of the Housing Authorities in SWONAP's jurisdiction have restructured payment terms for Mutual Help participants. Most have not notified SWONAP of their actions, since they are not required to do so.

*The Housing Authority decided to do this after learning that it was allowable to restructure payment terms to give homes to homebuyers early.*

The Housing Authority Board learned of the potential for debt forgiveness and restructure of payment life for Mutual Help units through the advice of an interim Executive Director. In a July 15, 1995 meeting, the Board approved debt forgiveness and restructured the payment terms for 80 units in a 20-year old Mutual Help project. That same month, the Housing Authority informed SWONAP of its intent to recompute the Mutual Help amortization schedules using a 15 year period (instead of 25) and a zero interest rate starting at the time of occupancy of the current residents. Further, the Housing Authority also informed SWONAP of its intent to refund any excess equity and administration fees that would result from the recalculation of the amortization schedules. The Housing Authority continued to complete modernization work on the homes since they were included in the Housing Authority's 1992 Comprehensive Grant Plan and the funding had already been awarded.

The Housing Authority and its Board took full advantage of the regulation allowing this, with SWONAP's guidance. The Executive Director stated they decided on this course of action due to a sincere effort on the part of Tribal leaders to provide homeownership opportunities to Mutual Help residents.

*HUD's regulatory and policy guidance have evolved to a point where the Housing Authority's plans did not violate any program requirements.*

The planned actions of the Housing Authority were in accordance with HUD's regulatory and policy guidance. From June 1991 to April 1995, HUD changed program requirements at least three times. HUD's Notice of June 18, 1991, gave IHAs the option to use a zero rate of interest for computing the purchase price balance of old Mutual Help Homes and for amortizing purchase prices of new Mutual Help Homes. In June 1992, HUD published regulations that allowed the amortization of a new Mutual Help home over a period not less than 15 years or more than 25 years. Finally, HUD's April 1995 regulations, as interpreted by the Office of General Counsel, allowed units to be included in a Housing Authority's Comprehensive Grant Program even if they were to be removed from the Mutual Help program. These changes allowed the Housing Authority to pursue its intended plan. The Housing Authority's planned actions were taken after full consultation with HUD and were in compliance with program regulations.

Therefore, SWONAP allowed the Housing Authority to restructure payment terms and continue with the modernization and repairs as planned. SWONAP also guided them in setting up new amortization schedules.

*As a result of complying with program requirements, the Housing Authority achieved its original plans.*

The Housing Authority conveyed 78 Mutual Help units, refunded \$352,338 in excess equity payments from the restructuring of payment terms from 25 to 15 years for home ownership, restructured the debt and made appropriate refunds to 3 board members, and modernized and repaired the homes that were conveyed to the program participants. The excess equity payments were determined by calculating new amortization schedules at a new rate of interest and term, then comparing the results with the equity account balance.

The Housing Authority's plan followed applicable program requirements. However, the effect of these requirements has been negative public perceptions. The public perception has been that houses are being given away to participants who are also receiving money and getting the houses modernized at taxpayer expense.

**SWONAP responsibility:** At this Housing Authority, SWONAP was responsible for evaluating known information on what the Housing Authority was intending in order to give necessary guidance. SWONAP did evaluate the Housing Authority's plan and provided recommendations. However, they were not responsible for approving the plan, since it was allowable under existing rules.

**IHA responsibility:** The Housing Authority was responsible for the proper administration of its funded programs and following requirements when changing repayment terms. The Housing Authority properly administered its funded programs and, with SWONAP's guidance, developed a plan for changing repayment terms that complied with requirements.













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