
AUDIT REPORT



HOUSING AUTHORITY OF THE
CITY OF SAN ANTONIO

PROCUREMENT ACTIVITIES

SAN ANTONIO, TEXAS

00-FW-201-1004

AUGUST 9, 2000

OFFICE OF AUDIT, SOUTHWEST DISTRICT
FORT WORTH, TEXAS



Issue Date	August 9, 2000
Audit Case Number	00-FW-201-1004

TO: Diana Armstrong
Director
Office of Public Housing, 6JPH

FROM: D. Michael Beard
District Inspector General for Audit, 6AGA

SUBJECT: Procurement Activities
Housing Authority of the City of San Antonio
San Antonio, Texas

As requested by your office, we conducted an audit of certain procurement activities of the San Antonio Housing Authority. We received indications of the need for an audit from City officials and newspaper articles. Also, our audit of the Authority's HOPE VI Program, report number 99-FW-201-1003, dated January 29, 1999, identified weaknesses requiring some additional audit coverage in the procurement area. During this audit of procurement activities we focused on concerns expressed and weaknesses previously identified. This audit contains one finding.

Within 60 days please give us, for each recommendation in this report, a status report on: (1) the corrective action taken; (2) the proposed corrective action and the date to be completed; or (3) why action is considered unnecessary. Also, please furnish us copies of any correspondence or directives issued because of the audit.

If you have any questions, please contact Jerry Thompson, Assistant District Inspector General for Audit, at (817) 978-9309.



Executive Summary

We conducted an audit of the San Antonio Housing Authority to find the extent of procurement irregularities affecting HUD programs involving: (1) purchases from the Authority’s affiliated nonprofit corporations; (2) child-care services purchased from a former resident commissioner; (3) furniture purchased from a local nonprofit corporation; and (4) the Economic Development Program. We found the Authority violated federal conflict of interest, procurement, and cost requirements and used HUD program funds to pay about \$865,409 in questionable costs.

Noncompetitive procurement arrangement with affiliate.

Managers entered into a noncompetitive arrangement with their affiliate, the San Antonio Housing Assistance Corporation (SAHAC) resulting in HUD programs paying questioned costs of about \$822,508 for 3 fiscal years ending June 30, 1999. HUD programs paid: excessive disposal service fees of about \$336,865; the affiliate’s disposal service operating costs of about \$461,028; and about \$24,615 for debris removal at non-HUD properties. Authority managers also permitted the affiliate to use HUD equipment and facilities without paying rental or utility costs.

Excessive fees to a former commissioner for child-care services.

The Authority paid excessive fees to a former commissioner for child-care services provided to residents of Springview Apartments, a HUD property. The former commissioner over-billed for the services by about \$31,352. Authority managers paid the excessive billings using HUD funds and although they were aware of the over-billings as early as 1997, they have not yet reimbursed HUD programs from non-federal funds.

Excessive costs of furniture purchased from a nonprofit organization.

Due to a conflict of interest, the Authority paid \$25,000 to a local nonprofit organization for furniture appraised at only \$12,175. The Authority’s former Board Chairperson negotiated the purchase while occupying positions on both the nonprofit and Authority boards. The former President/CEO approved the payment, apparently knowing the appraised value of the furniture. Authority managers allocated costs of about \$11,549 in excess of the appraised value to the HUD Low Rent, Drug Elimination, Comprehensive Grant, Hope VI, and Section 8 Programs.

Authority officials did not follow their procurement policy and requirements.

Our HOPE VI audit¹ recommended HUD require the Authority to implement policies and procedures to ensure compliance with federal procurement requirements. Managers developed adequate policies and procedures but did not follow them. We are recommending actions to correct the problem, the repayment of ineligible costs of about \$810,692, and the Authority provide support for, or repay, salaries and benefits expenses of about \$54,717. We are also recommending HUD to consider taking administrative sanctions against those Authority officials and Commissioners involved in the conflict-of-interest decisions.

No outstanding issues remain regarding the Economic Development Program.

Our audit also included an examination of the Authority's Economic Development Program. The former Economic Development Program Director did not follow procurement guidelines, properly monitor a consultant, and opened unauthorized bank accounts. Authority management conducted a review and took appropriate actions. Although the program had problems, no outstanding issues existed at the completion of our audit.

Finding discussed with Authority officials.

We provided a draft report to the Authority officials on June 20, 2000, and they issued their response on July 14, 2000. We had an exit conference on July 20, 2000. Authority managers disagreed that they violated federal conflict of interest, procurement, and cost requirements regarding the noncompetitive procurement arrangement with its affiliate, the San Antonio Housing Assistance Corporation. They said the disposal service fees were not excessive. They said HUD had approved the arrangement. However, they agreed to reimburse HUD programs for over \$480,000 for costs attributable to the disposal service operations and debris removal from non-HUD properties. They generally agreed that the Authority had overpaid for child care services and furniture and that HUD programs should be reimbursed. We summarized their response in the findings and included a copy of the response, without attachments, as Appendix B.

¹ Report No. 99-FW-201-1003, dated January 29, 1999.

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Abbreviations

ACC	Annual Contributions Contract
CFR	Code of Federal Regulations
HUD	U.S. Department of Housing and Urban Development
OIG	Office of Inspector General
OMB	Office of Management and Budget
SAHAC	San Antonio Housing Assistance Corporation

Introduction

Background

Texas statute established the Housing Authority of the City of San Antonio in 1937. During our review period, a five-member Board of Housing Commissioners provided general oversight of Authority activities. Currently, the authorized number of board members is 11, including the Chairperson. Mr. Melvin Braziel, President and Chief Executive Officer, and Richard Martinez, Chief Operating Officer, are in charge of day-to-day operations. The Authority's administrative offices and records are located at 818 S. Flores in San Antonio, Texas.

The Authority administers over 8,000 public housing units and provides rental assistance to about 10,000 families in privately-owned residences. During fiscal year 2000, HUD provided over \$94,000,000 in assistance for the Authority's Low Rent, Section 8, Comprehensive Grant, Public Housing Drug Elimination Grant, and HOPE VI Programs.

In 1981 the Authority created a nonprofit affiliate, the San Antonio Housing Assistance Corporation (SAHAC), to dispose of solid waste at Authority-managed properties. All of the Authority's commissioners also serve on the affiliate's board.

We issued an audit report on January 29, 1999, on the Authority's HOPE VI Program that disclosed the Authority did not comply with HUD procurement regulations and requirements. The report included recommendations for HUD to require the Authority to: (1) develop a comprehensive procurement policy and (2) take steps to ensure full and open competition and purchases are only for eligible expenditures. This audit addresses some of the same issues and concerns related to procurement.

Audit Objective, Scope and Methodology

The Audit objective was to find the extent of irregularities involving the Authority's procurement of goods and services from: (1) affiliated, nonprofit corporations; (2) a former resident commissioner; (3) a local nonprofit corporation; and (4) participants in the Authority's Economic Development Program.

To accomplish the objective, we:

- Interviewed U.S. Department of Housing and Urban Development (HUD) and Authority employees, former

Housing Commissioners, former employees and directors of the local nonprofit corporation, and other individuals as necessary;

- Analyzed and compared disposal service fees the Authority paid to their affiliate, the San Antonio Housing Assistance Corporation, to fees the Authority paid local commercial disposal companies for disposal services;
- Obtained information from the Authority's Internal Audit Department detailing excessive child-care payments to the former commissioner totaling about \$31,352. We relied on the Department for this information and limited our work to a review of the relevant agreement, certain accounting documents, and interviews. We did not review all of the documentation to verify the accuracy of the amount overcharged;
- Obtained and reviewed the HUD Procurement Handbook,² federal regulations, State law, the Authority's procurement policy, the Annual Contributions Contract, contract files, financial records, correspondence, ownership documents, and Tampico warehouse acquisition and development costs records;
- Obtained and analyzed annual audited financial statement information; and
- Issued subpoenas to financial institutions to obtain financial records relating to the Authority's Economic Development Program.

Audit Period

We substantially performed field work at the Authority from February 1998 through November 1999. Our work was periodically interrupted due to other higher priority assignments or other personnel conflicts. The audit generally covered 3 fiscal years ending June 30, 1999, although we extended the review period when appropriate. We conducted the audit in accordance with generally accepted government auditing standards.

² Procurement Handbook for Public and Indian Housing Authorities, Directive Number 7460.8, effective January 14, 1993.

The Authority's Conflict-of-Interest Arrangements Caused HUD Programs to Pay Questionable Costs of About \$865,409

The Authority entered into excessive, noncompetitive, and conflict-of-interest procurement arrangements involving: an affiliate, the San Antonio Housing Assistance Corporation (SAHAC); a children's day care operation, Dora's Sure Care; and a nonprofit agency, the Partnership for Hope. Authority managers and Board members had conflicts of interest in the arrangements. As a result, managers used HUD program funds to pay questionable costs of about \$865,409. Specifically, this amount includes \$336,865 in excessive disposal service fees, \$461,028 in the affiliate's disposal service operating costs, about \$24,615 charged to the Low Rent Program to remove debris from non-HUD housing projects, \$31,352 in excessive tenant child-care fees, and \$11,549 in excessive furniture costs. Managers also allowed the affiliate to use Low Rent Program facilities and equipment without paying rent or utility costs. Also, the conflict-of-interest arrangements resulted in: an increase in the affiliate's retained earnings of about \$335,000 for the period July 1, 1996, through June 30, 1999, apparent additional income to a former resident Board member, and the discharge of a possible debt of a Board chairperson. All occurred at the expense of HUD programs.

Requirements

The Annual Contribution Contract (ACC) between HUD and the Authority incorporates by reference the regulations for Public and Indian Housing Authorities contained in Title 24 of the Code of Federal Regulations (CFR). Title 24 of the CFR, part 85, establishes the uniform administrative rules for Federal Grants and cooperative agreements and sub-awards to State, local and Indian tribal governments. This part also establishes OMB Circular A-87 as the cost principles for housing authorities to follow when determining allowable costs to federal programs.

Regarding conflicts of interest, the ACC, Part A, Section 19, Subsection (A)(1), provides that neither the Housing Authority nor any of its contractors or their subcontractors may enter into any contract, subcontract, or arrangement in connection with a project under this ACC in which any of the following classes of people has an interest, direct or indirect, during his or her tenure or for one year thereafter:

- (i) Any present or former member or officer of the governing body of the Housing Authority, or any member of the officer's immediate family...;
- (ii) Any employee of the Housing Authority who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner; or
- (iii) Any public official, member of the local governing body, or State or local legislator, or any member of such individual's immediate family, who exercises functions or responsibilities with respect to the project(s) or the Housing Authority.

The requirements of this Subsection (A)(1) may be waived by HUD for good cause, if permitted under State and local law. No person for whom a waiver is requested may exercise responsibilities or functions with respect to the contract to which the waiver pertains.

Applicable procurement regulations, Title 24 of the CFR, Section 85.36 (b)(3), prohibit an employee, officer, or agent of the Authority to participate in the selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent;
- (ii) Any member of his immediate family;
- (iii) His or her partner; or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The regulations³ require all procurement transactions be conducted in a manner providing full and open competition. Situations considered to be restrictive of competition include: (1) non-competitive pricing practices between firms or between affiliated companies and (2) any arbitrary action in the procurement process.

OMB Circular A-87, Cost Principles for State and Local Governments,⁴ requires costs to be necessary and reasonable for proper and efficient performance and administration of

³ Title 24 of the Code of Federal Regulations, Section 85.36(c).

⁴ OMB Circular A-87, Attachment A, Part C. Basic Guidelines.

federal awards. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness, considerations include:

- a. Whether the cost is of a type generally recognized as ordinary and necessary...;
- b. The restraints or requirements imposed by such factors as: sound business practices; arms length bargaining; Federal, State and other laws and regulations; and terms and conditions of the Federal award;
- c. Market prices for comparable goods or services;
- d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government; and
- e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the federal award's cost.

Also, OMB Circular A-87 provides that costs are allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance to the relative benefits received.

HUD programs paid excessive disposal service fees of about \$336,865.

Authority managers entered into a non-competitive arrangement with their affiliate, the SAHAC, causing HUD programs to pay excessive disposal service fees totaling about \$336,865 for fiscal years 1997, 1998, and 1999. Authority managers operate the affiliate and the Authority's governing board members also serve on the affiliate's Board creating a conflict-of-interest relationship as defined by HUD regulations.⁵ The Authority did not, however, request a conflict-of-interest waiver from HUD as required.

Managers did not require the affiliate to compete for disposal work and instead determined the affiliate's service fees during an annual budgeting process. The Authority's current President and Chief Executive Officer told us he prepared the initial proposal and implemented the affiliate's solid waste disposal

⁵ Title 24, Code of Federal Regulations, Section 85.36(b).

operations in 1981. He said he studied the situation and found the costs of operating their own disposal service (exclusive of start up costs) would be less than what the Authority paid for contract services. The affiliate provided disposal service at Authority developments until January 1997 when the Authority awarded a contract for disposal services at nonprofit and elderly developments. The Authority solicited bids for this contract in October 1996. Authority officials said they reviewed the affiliate's revenues and expenses annually but did not consider market commercial disposal service rates when setting the affiliate's disposal service fees. The affiliate receives all of its disposal service revenues from the Authority and other affiliates.

We noted the affiliate's Annual Financial Statements contained an evaluation of disposal service fees showing a cost saving to the Authority's properties. However, the evaluation included a comparison of the affiliate's fees to the City of San Antonio's per-unit disposal fees. The City's rates were based on a garbage can for each unit. However the actual method used for garbage disposal required the tenants to place trash into large garbage bins. Disposal service employees would then empty the bins into garbage trucks with lift equipment. The evaluation did not compare the affiliate's rates with local disposal companies' commercial rates for comparable services. We found no evidence to indicate the Authority had ever compared the affiliate's rates with other rates for comparable services. We also noted the affiliate's financial statements showed an increase in retained earnings of about \$335,000, from about \$671,000 to \$1,006,000, during the fiscal years 1997 through 1999.

We compared the affiliate's disposal service fees to commercial fees on a cost-per-yard basis; that is, total cost divided by the total volume of all disposal bins emptied during the period. Commercial disposal service fees remained generally consistent, on a per-yard basis, regardless of bin size and service frequency. For this reason, and because we believe cost-per-yard is an accurate measure of service provided for fee paid, we used cost-per-yard to compare the affiliate's disposal service fee with commercial fees. The affiliate's per-yard fee exceeded commercial fees by about \$336,865 for the 3-year period ending June 30, 1999, as shown in the table below.

Year	Commercial-cost-per-yard	Affiliate cost-per-yard	Excessive cost-per-yard	Annual Yards Collected ⁶	Excessive Annual fees ⁷
1997	\$ 1.95 ⁸	\$ 2.67	\$ 0.72	240,032	\$172,823
1998	2.47 ⁹	2.70	0.23	206,748	47,552
1999	1.89 ¹⁰	2.58	0.69	168,826	116,490
		Total fees paid in excess of commercial rates			<u>\$336,865</u>

The affiliate also provided less service when compared to commercial contracts. Commercial contracts in force during the review period required: emptying disposal bins up to three times per week; steam-cleaning bins every 30 days; removing excess debris from around disposal sites; and included landfill fees. In comparison, for its fee, the affiliate emptied bins only twice each week, did not steam clean bins, did not remove debris from dump sites, and did not pay landfill fees.

HUD programs paid affiliate's disposal service operating costs of about \$461,028.

Authority managers used HUD funds to pay the affiliate's disposal service operating costs of about \$461,028 including: landfill fees estimated to be about \$387,629; disposal service employees' salaries and benefits of about \$18,682; and other unsupported salaries and benefits expenses of about \$54,717.

Disposal operation's landfill fees of about \$387,629 charged to HUD programs.

HUD properties, already paying the affiliate's disposal service fee, also paid landfill fees of about \$387,629 that related to the affiliate's disposal service. Commercial service fees, which were comparatively lower, included landfill costs. The affiliate's disposal service fees, if competitive, should have included landfill fees as well. The Authority allocated landfill fees totaling about \$430,699 to HUD properties for the 3-year period ending June 30, 1999. However, we estimate about 90 percent of this amount, or \$387,629, relates to the affiliate's ongoing disposal operations. We estimated the remaining 10 percent applied to debris removal not covered by comparable disposal service.

Authority managers allocated landfill fees during the 3-year period to HUD property accounts entitled "dump fees." These

⁶ By the affiliate only.

⁷ Excessive fee-per-yard multiplied by annual yards collected.

⁸ January 1997 commercial contract.

⁹ September 1997 commercial contract.

¹⁰ Includes costs for roll-off fees and a September 1999 commercial disposal agreement.

“dump fees” consisted of landfill fees for the disposal of: (1) debris such as discarded furniture, appliances, and tree limbs removed from HUD properties and (2) refuse removed from all properties as part of the affiliate’s disposal operation.¹¹ Managers did not separately account for these “dump fees” by garbage disposal and debris removal and do not know how much relates to the various activities. We reviewed about 30 percent of these charges, or about \$128,000 of the costs, by examining landfill invoices during spring, summer, fall, and winter months. The supporting documentation identified the trucks delivering the waste material to the landfill. Therefore, we could estimate the costs of garbage and debris dumped. Based on our review, we concluded that about 90 percent of all invoiced amounts related to the affiliate’s disposal operation. Therefore, we estimated about \$387,629 of the costs should have been charged to the affiliate’s disposal operation.

Authority managers said they reallocated dump fees of about \$147,885 from Low Rent accounts to the affiliate via journal voucher # 0081, dated October 18, 1999. The voucher established a payable by the affiliate to the Low Rent Program. Authority managers, however, did not provide the requested additional documentation verifying the repayment of “dump fees” to HUD Low Rent Program accounts. Therefore, our estimate of landfill costs related to the affiliate’s disposal operation include these reallocated dump fees.

Questionable salary and benefit costs for disposal service employees amount to \$73,399.

The Low Rent Program paid \$18,682 in salary and benefits for an affiliate disposal service crew member and about \$54,717 in salary and benefits for a general maintenance helper who worked with the disposal service crew and sometimes with the debris crew. The disposal service crew operates the affiliate’s disposal equipment and performs other duties related to the affiliate’s ongoing disposal operations. The debris crew cleans around disposal bins and picks up tree limbs, discarded furniture, and other items at HUD and non-HUD properties. No one kept track of the time the maintenance helper spent on each activity. Since the HUD properties are already paying the affiliate’s disposal service fees, we considered the salary and benefits of the disposal worker, \$18,682, to be ineligible costs

¹¹ The Authority allocates these costs using the Authority’s “80-” allocation method where costs are only allocated to Low Rent properties.

to the HUD programs. Also, since part of the salary and benefits of the general maintenance helper should be allocated to the affiliate for disposal work and to non-HUD properties for the time spent on the debris crew at those properties, we consider these charges, \$54,717, to be unsupported.

The Authority failed to properly allocate costs of debris collection activities.

Other than the salary and benefits of the general maintenance helper mentioned above, we estimated the Authority incorrectly charged HUD programs about \$24,615 in costs of debris collection that should have been charged to non-HUD programs during the 3 fiscal years 1997 through 1999. We estimated about \$21,662 in salary and benefits and \$2,953 in fuel and repair costs should have been charged to non-HUD activities.

Authority managers charged salary and benefit costs totaling about \$170,344 for five debris crew employees solely to HUD program accounts. A portion of these costs should have been allocated to non-HUD accounts because debris crew members spent part of their time at non-HUD properties. We had to estimate the salaries and benefits expenses related to non-HUD properties because Authority managers did not require crew members to maintain detailed time records.

We determined the relative number of disposal bins at each property was a reasonable basis for estimating salary and benefit costs related to debris work at non-HUD properties. We determined the percentages of disposal bins at HUD and non-HUD properties for each year and applied the percentage at non-HUD properties to the total to arrive at the costs that should have been charged to non-HUD properties. The total salary and benefits, the percentage of bins, and estimated salary and benefit costs related to work performed at non-HUD properties are shown in the following table:

Fiscal Year	Total Salary/ Benefits	Percentage ¹²	Estimated Ineligible
1999	\$105,520	15%	\$15,828
1998	10,770 ¹³	9%	969
1997	54,054	9%	4,865
Totals	\$170,344	----	\$21,662

Low Rent Program paid for repair and fuel costs for debris removal at non-HUD properties.

Managers used HUD funds of about \$2,953 to pay repair and fuel charges for debris removal from non-HUD properties. Authority managers charged all of the fuel and repair costs to HUD program accounts, although as indicated above, the debris crew works at HUD and non-HUD properties. Using the same methodology as mentioned above in estimating the debris activity salary costs, the relative percentage of disposal bins at non-HUD sites, we estimated fuel and repair costs that should have been charged to non-HUD properties. Our table is shown below:

Fiscal Year	Total fuel & repair costs	Applicable ¹² Percentage	Estimated Ineligible costs allocation
1999	\$14,007	15%	\$2,101
1998	16,841	9%	253 ¹⁴
1997	6,656	9%	599
Totals	\$37,504		\$2,953

Managers provided HUD program facilities to the affiliate free of rent and utility costs.

Authority managers allowed the affiliate to use two Authority-owned warehouses and an authority-owned truck without paying rent and utility costs. The affiliate worked out of the Brazos warehouse¹⁵ until December 1997 and then moved to the recently renovated Tampico warehouse in January 1998. The Authority used Low Rent and Comprehensive Grant funds of about \$32,878 and \$762,190,¹⁶ respectively, to purchase and renovate the Tampico warehouse. The Authority also used HUD Low Rent funds of \$10,760 to purchase a container-lift truck in March 1986 that the affiliate used exclusively in its disposal operations. The Authority transferred the truck to the affiliate and set up a payable to the Low Rent Program on

¹² The percentage of disposal bins at non-HUD properties.

¹³ Total salaries and benefits expenses for 2 months only.

¹⁴ Since the debris crew worked only 2 months at non-HUD properties this amount is calculated: \$16,841 X .09 X 2/12.

¹⁵ The Authority used Section 8 reserves to purchase the Brazos warehouse.

¹⁶ 1993 and 1994 Comprehensive Grant funds of about \$32,849 and \$729,341, respectively.

March 20, 2000. The Authority used additional HUD Low Rent funds of about \$40,098¹⁷ to pay utility costs at the Tampico and Brazos warehouses. The Authority should determine and require the affiliate to repay Low Rent accounts: (1) reasonable utility costs and rental fees for the use of Authority facilities and (2) lost interest revenue for the purchase price of the truck (\$10,760) for the 14-year period ending March 20, 2000.

Managers used HUD funds to pay \$31,352 in excessive child-care fees to a former commissioner.

Authority managers used Springview Property (Low Rent Program) funds to pay excessive child-care costs totaling about \$31,352. The former President/CEO entered into a contractual agreement in 1994 with Dora's Sure Care to provide child-care services at the Springview Apartments.¹⁸ The owner of the child-care service lived in the Springview Apartments when they made the agreement, and was a member of the Authority's Board of Commissioners during 1996 and 1997. Managers allowed the commissioner to use Springview facilities for the child-care business without paying rent or utilities expenses. The former commissioner agreed to provide day care, on a part-time basis (approximately 8 hours per week per child), for children of Springview residents attending G.E.D. classes, not to exceed the maximum capacity of 12 allowed at any one time. The rate per child was \$35 a week. The commissioner increased fees from \$35-per-child-per-week to \$81 per-child without formal approval, and requested fees for "spaces that could have been used." Springview Apartments closed in August 1997 and the commissioner "sub-contracted" child-care to HUD tenants. Authority managers realized they were making excessive payments to the former commissioner in September 1997 and brought the matter to the attention of the Internal Audit Department. In a February 16, 1998 letter, the Authority discontinued "direct child care service payments" but offered the former commissioner additional space to use as a child care facility. The Authority instituted a new payment procedure whereby residents could select a child care provider of their choice. The Authority managers have not yet required reimbursement to HUD programs for the excessive child care payments. The commissioner was generally non-cooperative

¹⁷ As of June 30, 1999.

¹⁸ Springview is a HUD property.

with Authority staff and would not provide verifiable billing information.

The Authority's Internal Audit Department interviewed HUD tenants and examined the commissioner's billing information. They determined that from March 1994 to March 1998 the Authority paid child-care fees to the commissioner totaling about \$56,988. However, based on their review, the commissioner should have been paid only about \$24,605. The difference in the amount paid and the amount that should have been paid consisted of amounts billed over \$35 per child per week, amounts billed for vacant slots, and errors or double billings.

Managers used HUD funds of about \$11,549 to discharge a Commissioner's personal liability.

During 1996, a local nonprofit organization, the Partnership for Hope, had to sell its furniture to meet outstanding obligations. The Authority's Board Chairperson at the time also held a position on the nonprofit's Board and was personally liable for a portion of the nonprofit's outstanding debt. The former Chairperson negotiated with Authority managers for the purchase of the nonprofit's furniture. Shortly thereafter, the former President/CEO agreed to pay the nonprofit \$25,000 for used office furniture appraised at only \$12,175. Although the Managers were aware of the appraised value, they made the \$25,000 payment, and allocated 90.05 percent of purchase price to the Low Rent, Drug Elimination, Comprehensive Grant, Hope VI, and Section 8 Housing Programs. The amount HUD programs paid in excess of appraised value equals about \$11,549 ($\$25,000 - \$12,175 \times .9005$).

Our HOPE VI audit¹⁹ recommended HUD require the Authority to implement a comprehensive procurement policy with procedures to ensure full and open competition, and purchases for eligible program expenditures. The Authority developed, but did not follow, a procurement policy for the purchase of disposal services from its affiliate. The Authority's policy requires compliance with federal regulations and requirements which: prohibit conflict-of-interest relationships; require full and open competition; and require costs be reasonable and necessary.

Based on our review of the San Antonio Housing Assistance Corporation's (SAHAC's) Audited Financial Statements for 1998 and the unaudited Financial Statements for 1999, we believe the conflict-

¹⁹ Report No. 99-FW-201-1003, dated January 29, 1999.

of-interest and noncompetitive garbage disposal arrangement resulted in the increase in SAHAC's retained earnings at the expense of HUD programs. According to the financial statements, the SAHAC had retained earnings of \$1,145,304 as of June 30, 1998. SAHAC's retained earnings amounted to \$1,006,163 in 1999 according to the unaudited financial statements. The 1996 audited financial statements show the amount of SAHAC's retained earnings was \$671,426. So, during fiscal years 1997 through 1999 the SAHAC has shown a net profit of \$334,737 without providing services comparable to services that could be obtained for less from commercial waste disposal companies. All of SAHAC's revenue comes from the Authority or its affiliates.

Authority Board members involved in excessive child-care and furniture payments are no longer on the Authority's Board. However, while they served on the Authority's Board, the conflict-of-interest relationships resulted in Authority managers approving payments to: (1) provide more income to the former resident Board member than authorized in the child-care contract and (2) relieve the former Board Chairperson of a possible personal debt in connection with the nonprofit.

Auditee Comments

The Authority officials did not agree that a conflict of interest existed in the waste disposal purchase arrangement between the Authority and its affiliate, the San Antonio Housing Assistance Corporation. They said HUD had reviewed and approved the arrangement. Also, they did not agree the waste disposal fees were excessive. However, they agreed to reimburse HUD programs for certain questioned costs.

They agreed that the Authority and the San Antonio Housing Assistance Corporation have the same management. The same management is responsible for setting the waste disposal fees and paying them from federal funds. However, they said, instead of a conflict of interest, the entities have a common interest. The Authority formed the San Antonio Housing Assistance Corporation to provide waste disposal services to residents who live in housing owned or managed by the Authority. They said HUD was aware of the arrangement. They said they had provided HUD a feasibility analysis to operate its own disposal service in 1981. HUD responded saying HUD had no disagreement with the basic concept. Authority officials said they did not violate applicable federal procurement regulations because they used noncompetitive negotiations in a situation when adequate competition was impossible.

They said the Authority did not pay excessive disposal fees as a result of the noncompetitive negotiations. They said the waste disposal fees charged by the San Antonio Housing Assistance Corporation were less than fees that would be charged if the services were provided by a commercial company. They stated the scope of work provided by the commercial companies under contract during the audit period was less than the scope of services provided by the San Antonio Housing Assistance Corporation. They criticized the auditor for discussing the scope of services with those who performed the services instead of only discussing the matter with management. They also provided a price quoted by one commercial company in July 2000 they believe shows the savings from using the San Antonio Housing Assistance Corporation instead of a commercial company. They maintained that competition to provide the services was still inadequate. The Authority says it requested price quotes from six companies in July 2000 and only received a quote from one. The Authority used the price quote to apply a deflation factor and show the commercial prices would have been higher than the fees of the San Antonio Housing Assistance Corporation during our audit period.

At or subsequent to the exit conference, Authority officials agreed to reimburse the HUD programs for costs of the Housing Assistance Corporation's disposal operations and the incorrectly allocated debris crew costs discussed in the findings as follows:

Salary and benefits of disposal crew member	\$ 18,682
Salary and benefits of debris crew at non-HUD properties	21,662
Repair and fuel costs	2,953
Landfill fees	387,629
Warehouse utility costs	6,751
Warehouse rent	34,439
Lost interest	<u>10,763</u>
Total	<u>\$482,879</u>

At the exit conference, they agreed that the San Antonio Housing Assistance Corporation had retained earnings, before considering the above reimbursements to HUD programs, of

over \$1,000,000 that had accumulated from the fees since entering into the arrangement in 1981.

Subsequent to the exit conference, Authority officials attempted to support the amount of salary and benefits of the General Maintenance Helper we questioned as unsupported. They provided copies of the employee's daily work schedule. They believed they supported all but \$6,107 and proposed to reimburse HUD programs for this amount.

They provided several compound journal entries and a copy of a San Antonio Housing Assistance Corporation bank account showing a wire transfer from the account to show they had repaid part of the costs to be reimbursed.

Authority officials agreed with the finding related to the conflicts of interest resulting in the excessive payments for child care and furniture. They blamed the problems on the former President/CEO or former chairperson. They stated current management took immediate action when they found out about the problems. In the child care matter, they said they obtained a legal opinion from the State Attorney General and terminated the contract in January 1998. They said they are currently working through their attorney to recover the excessive child care payments and have already reimbursed HUD programs for the excessive furniture costs.

OIG Evaluation of Comments

Our evaluation of the Authority's comments did not change our position. The Authority's purchase of waste disposal services for federal programs from its affiliated entity involves a conflict of interest because the Authority's management has conflicting responsibilities for operating both. On one hand the Authority is responsible for ensuring costs are necessary and reasonable for the efficient operation of the federal programs as required by federal cost principles. On the other hand, Authority management also sets the service fees charged by the Housing Assistance Corporation to the programs. As evidenced by the finding, the fees charged to the federal programs exceeded costs and market prices.

HUD did not approve the Authority to charge disposal fees established above its costs. The feasibility study the Authority says it provided HUD in 1981 indicates the Authority was considering operating its own waste disposal service. The study shows costs such as labor, vehicle maintenance, container maintenance, insurance, etc., and shows estimated savings based on estimated costs. There is no indication the Authority or the Housing Assistance Corporation would charge fees that would permit an accumulation of significant profits or retained earnings.

Regarding the scope of work, as stated in the finding, there was no formal written contract with the San Antonio Housing Assistance Corporation to show the scope of services it provided. However, we obtained the San Antonio Housing Assistance Corporation's service schedules and interviewed the people performing the service to determine the scope of services provided. We then compared the scope of services to that provided by commercial contractors under contract during the audit period. We believe our method of determining and comparing the actual scopes of services was effective. The commercial companies provided more service under contract than the Housing Assistance Corporation.

We do not agree with the Authority's conclusion that competition to provide waste disposal service is inadequate. Also, we do not agree with the Authority's method of attempting to show the cost savings of using San Antonio Housing Assistance disposal service over that of a commercial company. Although the Authority may have solicited price quotes in July 2000 from six companies and only obtained a quote from one company, we believe it was obvious the Authority did not intend to award a contract. The Authority did not publicly solicit bids. Therefore, we believe it is understandable why other disposal companies limited their responses. The scope of services proposed by the company that provided the price quote was not comparable to the services provided during our review period. The quote included providing debris pick-up services not provided by the Housing Assistance Corporation or commercial companies under contract during our review period. The Authority used its own debris crew for picking up debris and paid the crew with federal program funds. Our comparison of actual contract

prices in effect during our audit period provides a much better cost comparison than the price quote provided by the Authority in response to our finding. Our comparison shows the fees charged by the Housing Assistance Corporation, in a noncompetitive situation, were in excess of market prices.

The Authority appeared responsive to our recommendation to reimburse HUD programs. They agreed to make reimbursement for Salaries and benefits of the Disposal Crew member and the Debris Crew working at non-HUD Properties, for fuel and repair costs, and for landfill fees. However, our review of employee work schedules provided to support the salaries and benefits of the general maintenance helper did not convince us that we should lessen the amount of costs questioned for this employee. The employee's work schedules were not specific as to whether the employee was working on the disposal crew or the debris pick-up crew. Also, the work schedules provided did not account for the entire time period questioned. Therefore, we are still questioning \$54,717 as unsupported costs charged to the Low Rent Program.

We did a cursory examination of the compound journal entries and the copy of a San Antonio Housing Assistance Corporation bank account they provided to show they had repaid part of the costs to be reimbursed. However, from the information provided, we could not readily determine whether the HUD programs received the reimbursement.

The Authority calculated the amounts it should reimburse HUD programs for warehouse utility costs, warehouse rent, and lost interest. We did not review these calculations but believe it appropriate to recommend HUD to review them to determine whether the amounts are acceptable.

The Authority appeared responsive to our recommendations related to the conflicts of interest involved in the excessive payments for child care and the furniture purchase. Based on documentation provided, we agree the former CEO and former Board members may have had more knowledge of the transactions when they occurred than the current management. Therefore, we have made minor changes to our draft finding for additional clarification. However, the Authority did not provide

us evidence to show actual reimbursements to HUD programs. Therefore, HUD needs to ensure appropriate reimbursement.

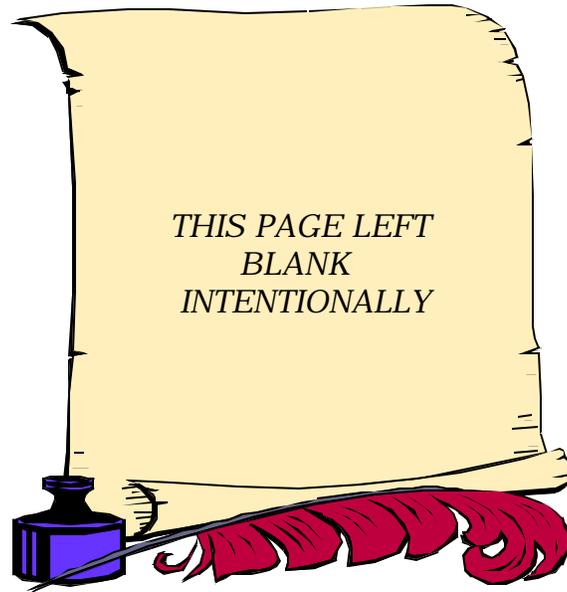
Recommendations

We recommend HUD require the Authority to:

- 1A. Implement control procedures to ensure the costs of affiliate-related activities are not charged to HUD programs and to avoid procurement transactions that may involve favoritism or a conflict of interest without appropriate waivers from HUD.
- 1B. Follow its own procurement policy in compliance with HUD regulations and require the affiliate to compete for all future disposal service work while ensuring that all competitors compete for the same and comparable scope of work.
- 1C. If the affiliate can provide comparable disposal services for fees competitive with commercial rates, obtain a written, conflict-of-interest waiver from HUD before continuing payments to the affiliate for disposal services.
- 1D. Repay HUD properties from non-federal funds for: (1) excessive disposal service fees of about \$336,865; (2) salaries and benefits expenses of a disposal service employee totaling \$18,682; (3) salaries and benefits expenses for debris crew employees working at non-HUD properties totaling \$21,662; (4) repair and fuel costs for debris crew work performed at non-HUD properties totaling \$2,953; and (5) landfill fees estimated to be about \$387,629, or determine and repay actual landfill fees allocated to HUD properties related to the affiliate's disposal service operation.
- 1E. Determine and repay HUD Low Rent accounts any excessive disposal service and landfill fees related to the affiliate's disposal service operation charged to the Low Rent Program since June 30, 1999.
- 1F. Either satisfactorily demonstrate and support the reasonableness of \$54,717 charged to HUD program

accounts for the costs of the general maintenance helper's salary and benefits or repay Low Rent accounts from non-federal funds.

- 1G. Determine and repay Low Rent accounts from non-federal funds the affiliate's share of utility costs at the Brazos and Tampico warehouses.
- 1H. Determine and repay Low Rent accounts from non-federal funds a reasonable rental rate for the Tampico warehouse space utilized by the affiliate for its disposal service activities since January 1998.
- 1I. Determine and repay Low Rent accounts from non-federal funds a reasonable amount for lost interest revenue on the purchase price (\$10,760) of the 1-ton container-lift truck for the 14-year period ending March 20, 2000.
- 1J. Repay \$31,352 in excessive child-care contract fees to Springview Apartments (a HUD property) using non-federal funds.
- 1K. Repay to HUD programs from non-federal funds \$11,549 in excessive costs related to the furniture purchase.
- 1L. We also recommend HUD consider taking administrative sanctions against those officers and Commissioners of the Authority involved in decisions where conflicts of interest existed.



Management Controls

In planning and performing our audit, we obtained an understanding of management controls relevant to the audit objectives. Management is responsible for establishing effective management controls, and in the broadest sense, these include a plan of organization, methods, and procedures to ensure management goals are met. Management controls include the process for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Significant Controls

We determined the following control categories were relevant to our audit objectives:

Procurement & Purchasing
Costs allocation & eligibility

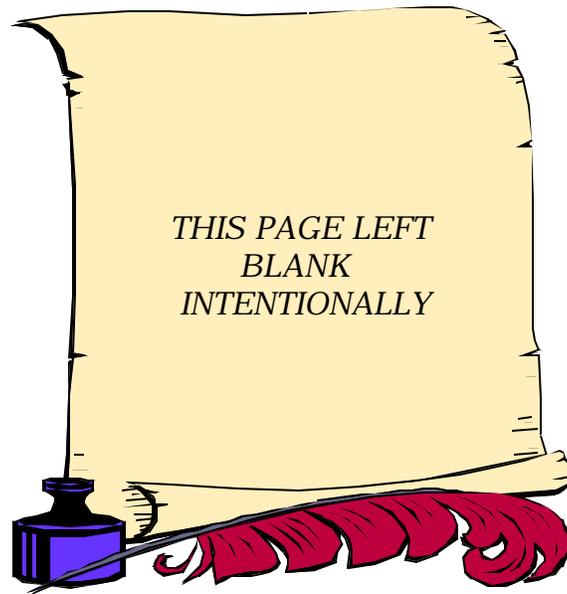
We assessed these relevant control categories to the extent they impacted our audit objectives.

Significant Weaknesses

A significant weakness exists if management controls do not give reasonable assurance that resource use is consistent with laws, regulations, and policies; that resources are safeguarded against waste, loss, and misuse; and that reliable data are obtained, maintained, and fairly disclosed in reports. Based our review, we believe the following items are significant weaknesses:

Authority managers did not follow established procurement policy and purchasing procedures (finding).

Managers charged ineligible and unsupported costs to HUD programs (finding).

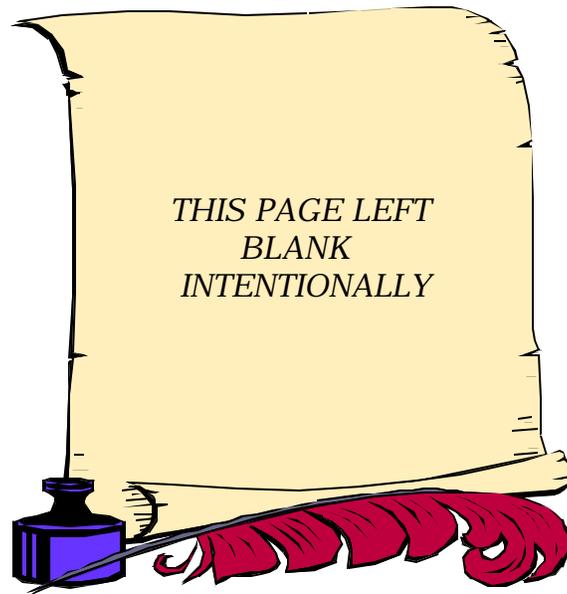


Follow Up on Prior Audits

An Office of Inspector General audit report (No. 99-FW-201-1003, dated January 29, 1999) on the Authority's HOPE VI grants included one finding with recommendations relevant to our audit objectives. Finding 1 of the report concluded the Authority did not comply with federal procurement regulations and operated without a comprehensive procurement policy and recommended the Authority:

- (1) develop a comprehensive procurement policy and contract administration system and
- (2) take steps to ensure: full and open competition; documentation supports procurement transactions; and purchases are only for eligible expenditures.

Authority managers partially addressed these recommendations by developing a procurement policy and purchasing procedures. However, as discussed more fully in the findings, Authority managers did not follow the procurement policy or purchasing procedures causing HUD programs to pay ineligible costs.

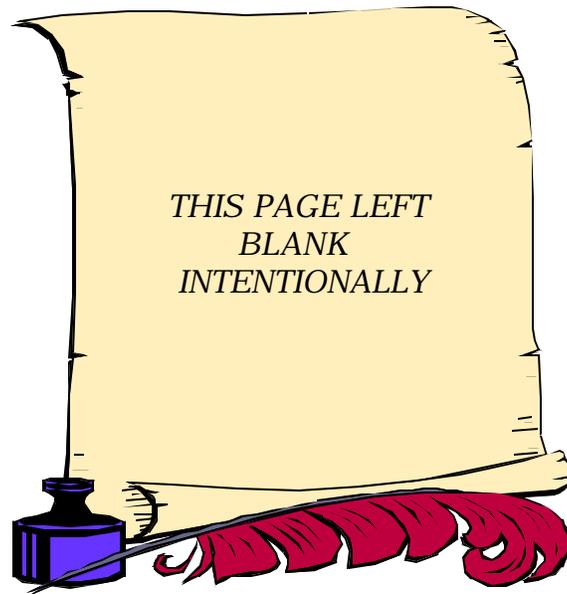


Schedule of Questioned Costs

<u>Issue</u>	<u>Type of Questioned Costs</u>	
	<u>Ineligible</u> ^{1/}	<u>Unsupported</u> ^{2/}
1D. (1) Excessive Disposal Fees	\$336,865	
Salaries and Benefits		
(2) disposal crew	18,682	
(3) debris crew	21,662	
(4) Repairs & fuel for the debris crew	2,953	
(5) Landfill Fees	387,629	
1F. Maintenance Helper's salaries and benefits		\$54,717
1J. Child-care contract, excessive fees	31,352	
1K. Furniture purchase	<u>11,549</u>	<u> </u>
Totals	<u>\$810,692</u>	<u>\$54,717</u>

¹ Ineligible costs are costs charged to a HUD-financed or insured program or activity that the auditor believes are not allowable by law, contract, or federal, state, or local policies or regulations.

² Unsupported costs are costs questioned by the auditor because the eligibility cannot be determined at the time of audit. The costs are not supported by adequate documentation or there is a need for a legal or administrative determination on the eligibility of the costs. Unsupported costs require a future decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of Departmental policies and procedures.



Auditee Comments

HOUSING AUTHORITY OF THE CITY OF SAN ANTONIO

LUPITA GUTIERREZ
Chair

EMILIO AMAYA
Vice-Chair

BOB BELTRAN
ROSS OMAR GARCIA
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Commissioners

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S A H A

MELVIN L. BRAZIEL
President and
Chief Executive Officer

July 14, 2000

Mr. D. Michael Beard
District Inspector General
Department of Housing & Urban Development
South District Office of Inspector General
819 Taylor Street, Room 13109
Fort Worth, Texas 76102

Dear Mr. Beard:

Attached is the response from the San Antonio Housing Authority to the Office of the Inspector General HUD Audit Report, No. 00-FW-201-100.

If any further information is required, please contact me at (210) 220-1881.

Sincerely,

Melvin L. Braziel
President and CEO

Encls.



Member - National Association of Housing and Redevelopment Officials



Member - Public Housing Authorities Directors Association

CLPHA

Member - Council of Large Public Housing Authorities

**SAN ANTONIO HOUSING AUTHORITY
818 SOUTH FLORES STREET
SAN ANTONIO, TEXAS 78295**

**RESPONSE TO HUD AUDIT REPORT
NO. 00-FW-201-100**

JULY 14, 2000

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SAHA Response to HUD OIG Report
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SAHA Response to HUD OIG Report**July 14, 2000****SUMMARY**

In February 1998, the HUD Office of Inspector General (OIG) initiated an audit of the San Antonio Housing Authority. The stated audit objective was, "to find the extent of irregularities involving the procurement of goods and services...".

Their audit focused primarily on three transactions:

- (D) The relationship of SAHA and its related non-profit "instrumentality" the San Antonio Housing Assistance Corporation (SAHAC), and manner in which it procured and allocated the cost of Waste Management and debris removal services;*
- (E) Payment for child-care services to the owner of a non-profit who also was serving as a SAHA Commissioner at the time.*
- (F) Furniture purchased by SAHA from an unrelated non-profit entity whose Chairperson was also SAHA's Board Chairperson at the time and;*

Approximately a year and a half, to two years after OIG initiated the audit, they provided SAHA with a draft of their audit report. The report contained only **one** finding. Stated below is the HUD OIG's finding. It is followed by SAHA's response.

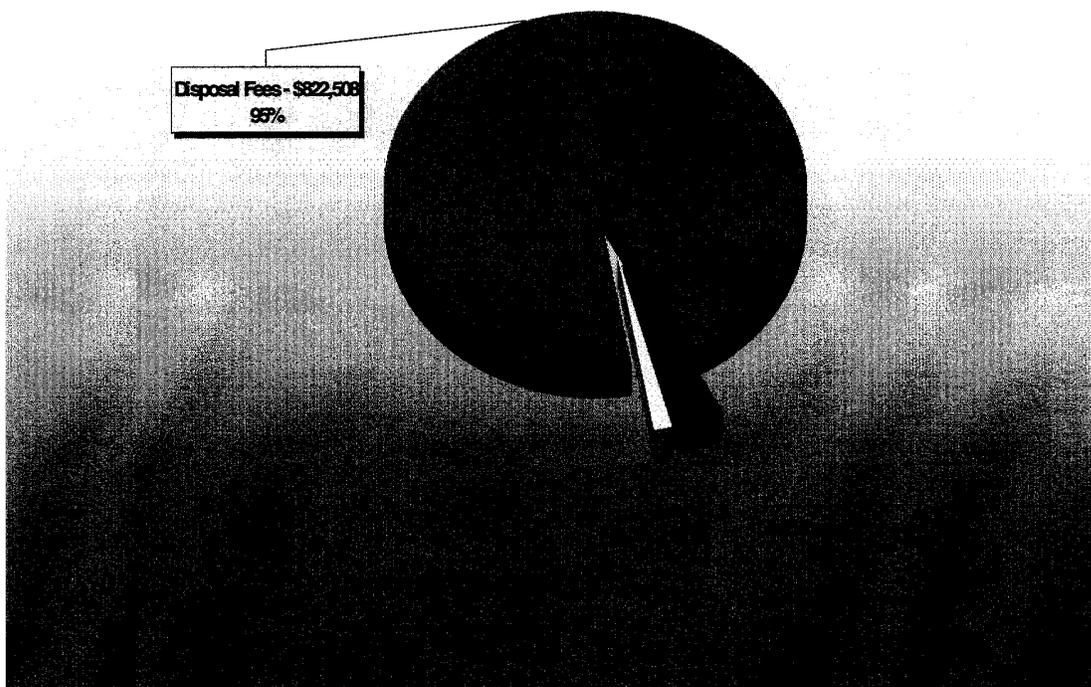
HUD FINDING

The Authority's conflict of interest arrangements caused HUD programs to pay questionable costs of about \$866,409.

The San Antonio Housing Authority entered into excessive, non-competitive, and conflict-of-interest procurement arrangements involving: an affiliate, the San Antonio Housing Assistance Corporation (SAHAC); a children's day care operation, Dora's Sure Care; and a non-profit agency, the Partnership for Hope. Authority managers and Board members had conflicts of interest in the arrangements. As a result, managers used HUD program funds to pay questionable costs of about \$865,409. Specifically, this amount includes \$336,865 in excessive disposal service fees, \$461,028 in the affiliate's disposal service operating costs, about \$24,615 charged to the Low Rent Program to remove debris from non-HUD housing projects, \$31,352 in excessive tenant child-care fees, and \$11,549 in excessive furniture costs. Managers also allowed the affiliate to use Low Rent Program facilities and equipment without paying rent or utility costs. Also, the conflict of interest arrangements resulted in: an increase in the affiliate's retained earnings of about \$335,000 for the period of July 1, 1996, through June 30, 1999, apparent additional income to a former resident Board member, and the discharge of a possible debt of a Board chairperson. All occurred at the expense of HUD programs.

SAHA Response to HUD OIG Report**July 14, 2000****PERSPECTIVE**

In its report, the HUD OIG identified \$866,409 in questionable costs. It is important to note that \$822,508 or 95% of the total questionable costs pertain exclusively to the San Antonio Housing Authority's (SAHA) procurement of waste management and debris removal services from the San Antonio Housing Assistance Corporation (SAHAC), a non-profit instrumentality of the San Antonio Housing Authority. For this reason, we will first respond to this particular allegation. The response is formatted so that we state HUD's concerns in the form of a question, and then present SAHA's answer.

Distribution of HUD OIG Questioned Costs

This format was selected so as to assist HUD OIG, HUD, and readers of this response to clearly understand that SAHA and SAHAC are not involved in a conflict of interest relationship, that SAHA obtained HUD review, concurrence, and approval in procurement of waste disposal services with SAHAC, and that no violation of HUD or federal regulation procurement policies occurred in that instance.

HUD OIG ISSUE #1

The San Antonio Housing Authority entered into excessive, non-competitive, and conflict-of-interest procurement arrangements involving: an affiliate, the San Antonio Housing Assistance Corporation (SAHAC); As a result, managers used HUD program funds to pay questionable costs of about \$865,409. Specifically, this amount includes \$336,865 in excessive disposal service fees, \$461,028 in the affiliate's disposal service operating costs, about \$24,615 charged to the Low Rent Program to remove debris from non-HUD housing projects, Managers also allowed the affiliate to use Low Rent Program facilities and equipment without paying rent or utility costs. Also, the conflict of interest arrangements resulted in: an increase in the affiliate's retained earnings of about \$335,000 for the period of July 1, 1996, through June 30, 1999,

Question: Did a conflict of interest exist between SAHA & SAHAC?

SAHA Response: *No. The interests of SAHA and SAHAC are common, not in conflict, as defined by the following:*

SAHAC Articles of Incorporation

SAHAC's Articles of Amendment to the Articles of Incorporation dictate in Article VI, entitled DIRECTORS that "Five directors who shall be incumbent members of the Board of Commissioners of the Housing Authority. This was done to maintain common interest and has been reviewed by HUD, and HUD OIG on numerous occasions over the past 12 years.

SAHAC's Articles of Amendment to the Articles of Incorporation dictate in Article VI, entitled DIRECTORS that "Five directors who shall be incumbent members of the Board of Commissioners of the Housing Authority."

This was done to maintain common interest and has been reviewed by HUD, and HUD OIG on numerous occasions over the past 12 years..

The SAHAC Articles of Incorporation, Article II, entitled Purposes states that, "the purposes for which the Corporation is formed are purely public and charitable within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1954..." quoting the Articles, which state:

(a) To promote and advance decent, safe and sanitary housing for persons of low income, and particularly elderly, handicapped, or disabled persons in the City of San Antonio, Texas (the "City"), and County of Bexar, Texas (the "County"), and to act as the instrumentality of the Housing Authority of the City of San Antonio, Texas (the "Housing Authority")...

(f) To conduct its business and affairs so as to vest in the Housing Authority or its lawful successor or successors, or failing such succession, in the City all right, title and interest of this Corporation or to all of its properties and assets free of all encumbrances (other than tenant leases) which have been created subsequent to the acquisition of such

SAHA Response to HUD OIG Report**July 14, 2000**

property by the Corporation, in order that the Housing Authority or the City may acquire such properties and assets (or interest therein) either without any consideration or upon such other basis as may be mutually agreed upon by this Corporation and the City, provided that whenever this Corporation shall have fully paid all of its indebtedness incurred.

SAHAC By-Laws

The by-laws of SAHAC specifically provide that the directors shall have "no right, title or interest in or to any property or assets of the corporation", and that the "directors shall receive no salary for their services" (nor shall any close relative of a director receive compensation for serving the corporation);

SAHAC's IRS Application

SAHAC's application Form 1024, Application for Recognition of Exemption under Section 051 (a) to the United States Internal Revenue Service (IRS) dated March 10, 1982, clearly states that a common interest is held solely with SAHA. In response to Part III, question #2, which asked:

a.: "Are you now, or do you plan to be connected in any way with any other organization?"

SAHAC's form responded "YES", and described the relationship with SAHA as follows:

- "A political subdivision of the State of Texas created by Article 1269K of the Vernon Annotated Texas Statutes. A public housing agency that provides housing to low income families."

In response to Part III, question #3 which asked :

b: "Describe in detail the specific purposes for which you were formed, the activities presently carried on, and those that will be carried on. If you are engaged in any business or fund raising activity, describe in detail the nature and the scope of the activity. Attach copies of any agreements with other parties related to conducting the business or fund raising activity. For each business activity engaged in, state how it contributes importantly to your exempt purpose."

SAHAC's response was as follows:

- This corporation was formed by the San Antonio Housing Authority for the purpose of providing waste

HUD's letter dated February 6, 1981 confirms their understanding of a common interest between SAHA and the to be developed waste disposal entity.

disposal services to residents who live in housing owned or managed by the Housing Authority.

- The funds to operate these services and to pay the note will be provided by an annual grant to the Corporation by the Housing Authority of the City of San Antonio. Services will be provided at no cost to the residents. All excess funds will be transferred to a reserve account to be set up for maintenance and replacement of existing equipment.
- There is a possibility that in the future, the Corporation may acquire housing for low-income families, and any funds in excess of total operating expenses will be placed in a reserve account for maintenance.

Further evidence of no conflict of interest is found in HUD's letter dated February 6, 1981¹, confirming their understanding of common interest by stating:

"We have reviewed your letter dated January 23, 1981, regarding the proposal for the Housing Authority to develop its own garbage disposal operation. On the basis of the information you have put together, we agree that the potential appears quite promising, and we do not see any objection to the basic concept... We assume that you intend to include this in the budget for FY beginning July 1, 1981."

Therefore, SAHA believes it cannot accurately be stated, or alleged, that SAHAC is unrelated to SAHA. SAHAC is an entity with interests and purpose solely for the benefit of SAHA.

¹ A copy of HUD's letter is contained in the appendix.

SAHA Response to HUD OIG Report**July 14, 2000**

Question: Did SAHA violate HUD procurement policy in procuring waste management services from SAHAC?

SAHA Response: *No. SAHA complied with applicable federal procurement regulations contained in 24 CFR 85.36, using the fourth method of procurement permitted in the regulations, which authorizes the HA to use non-competitive proposals (i.e. procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined to be inadequate). The OIG bases their finding of a violation on the belief that SAHA be limited to using the second method in the regulations as the sole method for procurement compliance. The following excerpt from the Code of Federal Regulations clearly shows that non-competitive procurements are permissible under as stated.*

THE FEDERAL REGULATIONS CONTAINED AT 24 CFR 85.36 STATE, IN PART:

- (4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.
- (i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchases procedures, sealed bids or competitive proposals and one of the following circumstances applies:
- (A) The item is available only from a single source;
 - (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (C) The awarding agency authorizes noncompetitive proposals; or
 - (D) After solicitation of a number of sources, competition is determined inadequate.
- (ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
- (iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.
- (g) Awarding agency review. (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

SAHA Response to HUD OIG Report

July 14, 2000

HUD's letter dated February 6, 1981, acknowledges the lack of adequate competition, SAHA's Waste Disposal Costs Analysis, and agrees with SAHA starting their own Waste Disposal Entity.

In compliance with the federal regulation, SAHA determined, after solicitation of a number of sources, that competition was inadequate. In compliance with paragraph (i) of subsection (4), since the procurement was larger than \$100,000 it could not be considered under small purchase procedures, and according to the solicitation responses SAHA demonstrated that procurement was feasible under sealed bids or competitive proposals since no true competition existed. SAHA documented that competition was inadequate by soliciting a number of sources and preparing a cost analysis in January 1981, thereby complying with 24 CFR 85.36 Section (4)(i)(D), including subsection (ii) and (iii). The sole responding commercial bid increased waste disposal fees to SAHA by more than 111%. SAHA completed the entire cost analysis verifying the proposed cost data, projections of the data, and the evaluation of the specific elements of costs and profits, as required.

The OIG also confirmed in its own report that SAHA did obtain competitive information by referencing the January 1997, September 1997, and September 1999 commercial disposal contracts.

SAHA's letter dated January 23, 1981, transmitted to HUD the feasibility analysis requesting HUD pre-award review in accordance with paragraph (iii) and subsection (g) of the same section. On February 12, 1981, SAHA received HUD's letter dated February 6, 1981, acknowledging review of SAHA's analysis, as required under procurement regulations, and agreeing, to SAHA's intent to develop and establish its own garbage disposal operation. **HUD's letter acknowledges and documents official confirmation, and concurrence with:**

- *The lack of adequate competition;*
- *SAHA's 5 year cost analysis for FY's 1982 – 1985².*
- *Agreement with SAHA establishing its own related instrumentality to provide exclusive waste disposal and debris removal at housing developments.*

In addition, as late as July 2000, SAHA re-confirmed that competition in waste disposal services continues to be inadequate to obtain cost competitive proposals from the commercial market. SAHA research clearly shows that **one firm, Waste Management, Inc.:**

- Is the sole provider of waste disposal services for the Housing Authority's in Dallas, Austin, Ft. Worth, and Houston;

² (an additional cost analysis was completed at the end of FY 1983, and FY 1989 confirming SAHAC's as being more cost effective than the commercial sector)

SAHA Response to HUD OIG Report**July 14, 2000**

- Was the only provider able to respond to SAHA's IFB for waste management services completed in July of 2000 with a scope equivalent to SAHAC;
- Owns one, of the two waste landfill sites in San Antonio;
- Is one of only two firms, out of the six to whom proposals were submitted, that owns the same specialized dumpster side-loading equipment, similar to SAHAC, that is capable of servicing SAHA Low-Income Public Housing sites.

The OIG based their finding of excessive fees incurred by SAHA on erroneous and understated scopes of work performance and associated fees.

The OIG also confirmed in its own report that SAHA did obtain competitive information by referencing the January 1997, September 1997, and September 1999 commercial disposal contracts. The scope of services provided by the two commercial carriers were significantly less than those provided by SAHAC, and are not, therefore, valid measures of the competitiveness or excessiveness of rates in comparison with SAHAC. Based on the cost analysis obtained when HUD first approved the SAHAC concept, and the bids obtained in July 2000, SAHAC provides its services at substantially less cost to SAHA, with services that address the full scope of services required by SAHA to address the waste disposal and debris removal demands required of SAHA's developments. Furthermore, the services are being provided by SAHAC at a projected savings of more than \$100,000 for FY 2001, when compared with the only provider who responded to the request for information (RFI).

Question: Did SAHA pay excessive funds to SAHAC as a result of a non-competitive bid process?

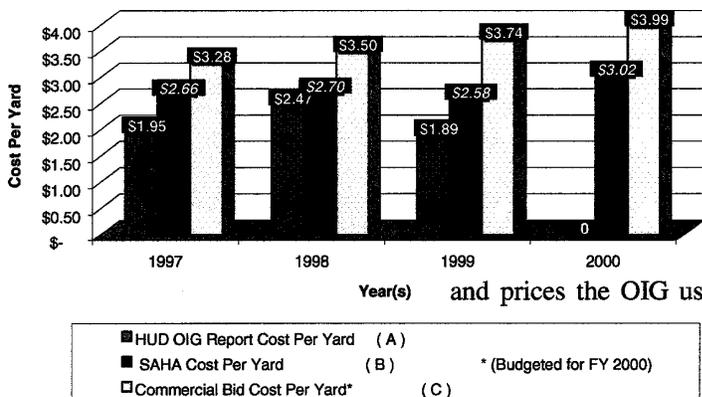
SAHA Response: *No. SAHA's analysis of the cost of fees paid to SAHAC by the HUD funded program, as compared to what would have been paid to the commercial sector, saved more than \$420,000 over the three year period of FY 1997 and FY 1999, and the potential of saving \$166,000 for FY 2001.* The OIG based their finding of excessive fees incurred by SAHA on erroneous and understated scopes of work and associated fees. SAHA's detailed analysis comparing similar scopes of work with SAHAC clearly demonstrate that, rather than excessive, SAHA's costs are approximately 25% less per square yard than using the commercial waste disposal firm. It should also be noted that better communication by OIG with SAHA

SAHA Response to HUD OIG Report

July 14, 2000

management in a number of instances might have eliminated this confusion.

4 Year Comparison of HUD Limited Scope vs. SAHA & Commercial Comprehensive Scope of Waste Disposal Costs



period for comparable services, using SAHAC, SAHA pays **less** for waste disposal services from SAHAC than those charged by available commercial waste disposal providers. In all cases, SAHAC's costs have proven to be less than those charged in the commercial sector, and include a more comprehensive scope of work. Analysis of the contract and prices the OIG used to make a finding that SAHA had paid "excess fees", to SAHAC, clearly shows that the prices are lower because the

scope of work completed by SAHAC is more comprehensive in meeting the needs of SAHA waste disposal needs. The charts below clearly demonstrate SAHAC's significantly lower when compared to commercial waste disposal bids.

Table 1, outlines the differences between SAHAC and Commercial Contracts Used by HUD OIG above, outlines some of the specific

Table 1. SAHA Waste Disposal Needs	January 1997 Contract	September 1997 Contract	September 1999 Contract	SAHAC Scope
Dispose of Dumpster Debris 2x (or in some cases 3x) per week	Included	Included	Included	Included
Disinfect/Sanitize each container at each disposal incident	Included	Included	Included	Included
Remove trash from around each dumpster at disposal	Included	Included	Included	Included
If dumpster blocked, contact management and pick up later same day	<i>Not included</i>	<i>Not included</i>	<i>Not included</i>	Included
Maintain all Dumpsters in proper condition	Included	Included	Included	Included
Provide majority of side load dumpster capability	<i>Not included</i>	<i>Not included</i>	<i>Not included</i>	Included
Remove all large debris, branches, brush, once per week	<i>Not included</i>	<i>Not performed</i>	<i>Not included</i>	Included

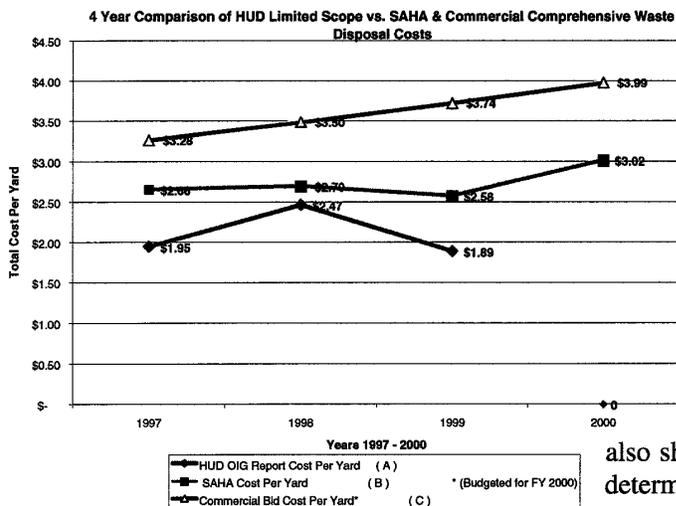
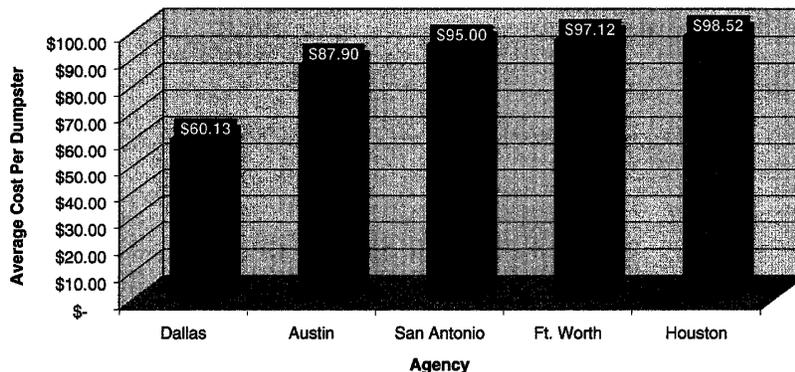
SAHA Response to HUD OIG Report

July 14, 2000

differences between the SAHAC scope of work and those performed by the waste disposal contractors used by the HUD OIG to indicate that SAHA paid more for services than they should have.

Table 1 clearly shows that SAHAC's scope is more comprehensive in the high labor areas that cannot always be performed simply by driving and lifting a loaded dumpster, or that require special equipment that 4 out of six commercial waste disposal firms in the San Antonio area do not even have in inventory. In the HUD OIG's report, all of the contracts that are listed as costing less per yard than SAHAC are not equivalent in either scope of work, labor requirement(s), or equipment needs. Notwithstanding, SAHAC's cost per yard is more than competitive when compared to the other Texas Housing Authorities.

Survey of Average Dumpster Cost for Texas Housing Authorities
(Cost for Large Debris Removal is only included in the San Antonio Costs)



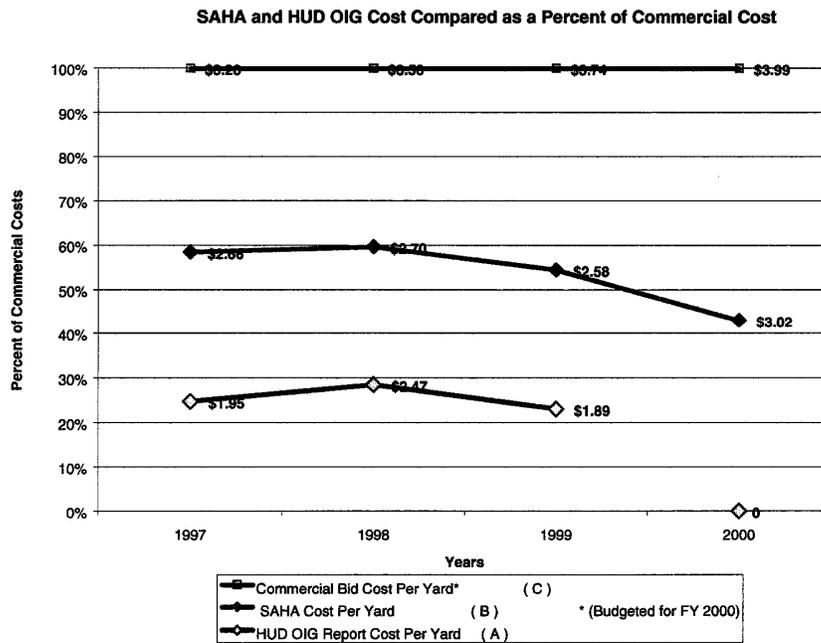
Based on proposals obtained from the commercial waste disposal field, SAHAC is consistently lower than the estimated cost for using comparable services from the commercial waste disposal marketplace.

The charts shown on the left and below illustrate the difference in costs for performing the SAHAC scope of work between the private sector and SAHAC. The chart also shows that the cost used by the OIG to determine that SAHA paid "excess fees", is understated. The commercial costs are

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based on proposals and quotes obtained by SAHA during analysis of the SAHAC.



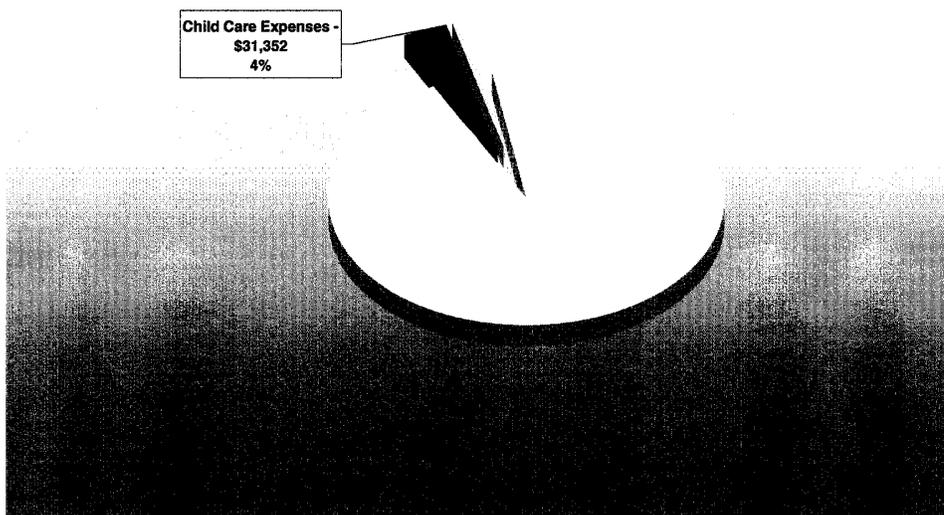
The two charts above objectively demonstrate that, based on current commercial cost proposals on SAHAC equivalent waste disposal scope of work, SAHAC's cost are consistently less than 60% the cost for commercial waste disposal services.

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HUD OIG ISSUE #2

The San Antonio Housing Authority entered into a conflict-of-interest procurement arrangements involving a children's day care operation, Dora's Sure Care; and a non-profit agency, the Partnership for Hope. Authority managers and Board members had conflicts of interest in the arrangements. \$31,352 in excessive tenant child-care fees, and \$11,549 in excessive furniture costs.



The allegations regarding conflict-of-interest and payment of excessive funds to Dora's Sure Care are responded to as follows:

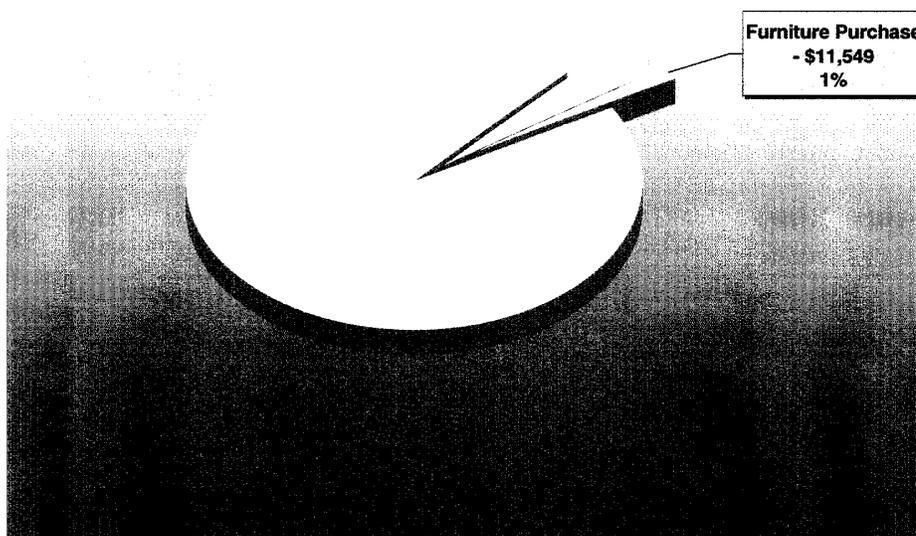
- Question:** *Did a conflict exist between SAHA and Dora's Sure Care, an unrelated nonprofit childcare agency?*
- SAHA Response:** *Apparently, Yes.* It also appears that the only parties engaged in this conflict-of-interest with knowledge were SAHA's former President/CEO and the owner of the childcare agency.
- Question:** *Did SAHA pay excessive funds to Dora's Sure Care for childcare services?*
- SAHA Response:** *Yes.* While we agree with the auditor on this matter that the fees were excessive, we disagree that appropriate actions were not taken after being notified about the over-billings by SAHA's Internal

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Audit Department. Quite the contrary, action was taken immediately. The contract was terminated. SAHA then obtained an opinion from the Texas Attorney General and, immediately upon the Attorney General's determination of a conflict, asked the Commissioner to resign. SAHA is working through its attorney to recover these funds.

HUD OIG ISSUE #3

The San Antonio Housing Authority entered into a conflict-of-interest procurement arrangement involving the Partnership for Hope. Authority managers and Board members had conflicts of interest in the arrangements. \$31,352 in excessive tenant child-care fees, and \$11,549 in excessive furniture costs.



The final component of HUD's finding involves allegations concerning SAHA's purchase of furniture from Partnership for Hope, an unrelated non-profit agency.

Question: *Did a conflict of interest exist between SAHA and Partnership for Hope an unrelated non-profit agency?*

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SAHA Response: *Apparently, yes.* It also appears that the only participants engaged in this conflict of interest with knowledge were SAHA's former President/CEO and its former Chairperson.

Question: *Did SAHA pay excessive funds to Partnership for Hope when it purchased their furniture?*

SAHA Response: *Yes.* The excess funds were paid over the strenuous objections of SAHA staff who advised the former President/CEO that the purchase price exceeded fair market value. In spite of staff protests, the former President/CEO signed off on the invoice and issued a directive that it be paid. Since then, excessive funds have been reimbursed using non-Federal funds.

CONCLUSION

In conclusion, SAHA strongly believes that 95%, or \$822,508 of the total questionable costs alleged by HUD OIG should be deleted from the finding because no conflict-of-interest, procurement violation, or excessive charges were involved in the provision of waste management services to SAHA owned housing developments. Additionally, the methodology used by HUD OIG to arrive at the questionable costs of \$822,508 is flawed, erroneous, and misleading. Further, a review of the supportive documentation included in this response clearly demonstrates that the San Antonio Housing Assistance Corporation (SAHAC) is in fact a public,

fully disclosed, HUD approved non-stock, non-profit corporation acting as an instrumentality of SAHA.

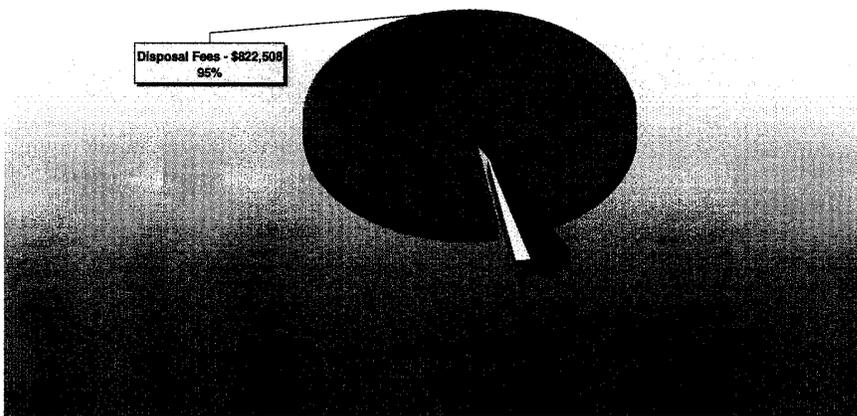
Documentation shows that SAHAC was created for one exclusive purpose: to provide garbage and debris removal services for SAHA, and to

solely deliver on SAHA's commitment to provide safe, decent, and sanitary housing to its residents.

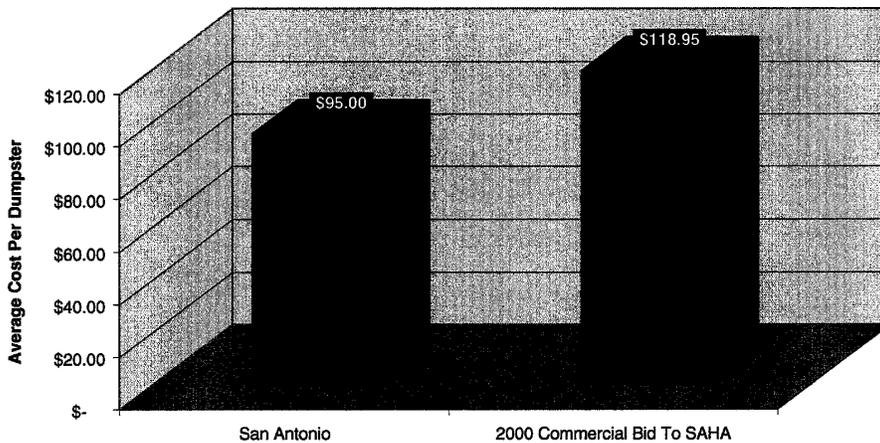
Moreover, SAHA is including as part of its response, analytical data that demonstrates that no

other organization in the marketplace has proven to be able to handle the unique and peculiar demands of SAHA's housing developme

Distribution of HUD OIG Questioned Costs



Comparison of SAHAC Cost with Commercial Waste Disposal Firm FY 2000

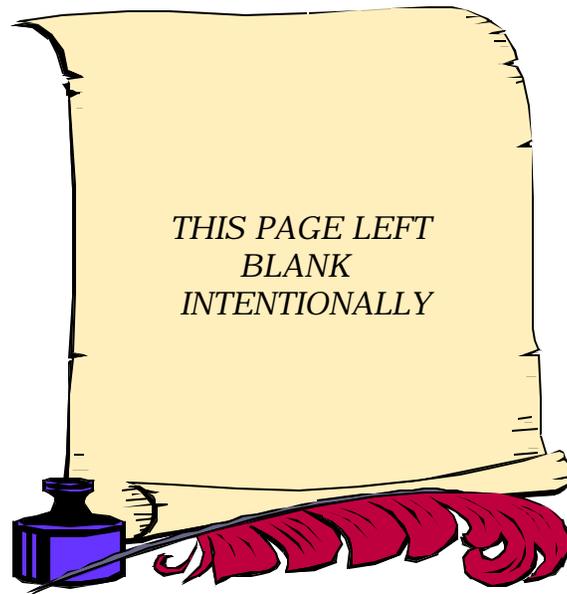


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nts, at least at a competitive cost as compared with SAHAC. In SAHAC's case, the cost of waste management and debris removal services costs is actually less than what the market place charges, or would charge for comparable services.

With respect to the OIG allegations regarding waste management services, it is SAHA's strong contention that no conflict-of-interest, procurement violations, or payment of excessive funds occurred. Therefore, all reference to such should be eliminated as a finding.

SAHA's creation and use of SAHAC was and continues to be for one purpose: To maximize service to residents with the least cost. To deny SAHA the ability to use SAHAC and save hundreds of thousands, and eventually millions of dollars, is counter-intuitive as is the idea that SAHAC is unrelated to SAHA.



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