



U.S. Department of Housing and Urban Development
Office of Inspector General for Audit, Region V
Ralph H. Metcalfe Federal Building
77 West Jackson Boulevard, Suite 2646
Chicago, Illinois 60604-3507

Phone (312) 353-7832 Fax (312) 353-8866
Internet <http://www.hud.gov/offices/oig/>

**MEMORANDUM NO:
2003-CH-1801**

April 3, 2003

MEMORANDUM FOR: Kevin Fitzgibbons, Administrator of Eastern Woodlands Office
for Native American Programs, Chicago Regional Office


FROM: Heath Wolfe, Regional Inspector General for Audit, Region V

SUBJECT: Citizens' Complaint
Oneida Indian Nation
Oneida, New York

INTRODUCTION

We completed a review of the Oneida Indian Nation's HUD-funded housing programs. Our review resulted from citizens' complaint to Senator Daniel Inouye. The objectives of our review were to determine whether the complainants' allegations were substantiated and whether HUD's rules and regulations were properly followed.

The following items were the complainants' specific allegations against the Nation: (1) did not use HUD development funds for the Nation; (2) informed housing applicants that they would own new homes but later informed them that they were rentals; (3) denied housing to applicants whose political views differed from those of the Oneida Nation Representative; (4) did not address an Oneida Council Member's theft of building materials from the White Pines construction site; (5) refused to pay one of the construction contractors for services rendered for the White Pines project; (6) conducted police background checks on housing applicants; (7) selectively approved applicants for housing; (8) paid its Representative a percentage of rental payments as personal salary; and (9) used HUD funds for expenses other than housing.

The Oneida Indian Nation Tribal Leader is Raymond Halbritter. Oneida Housing Corporation, the Nation's tribal designated housing entity, was incorporated in the State of

New York. A five-member Board of Directors is responsible for the Corporation's day-to-day operations. Mike Cook is the Corporation's Executive Director.

METHODOLOGY AND SCOPE

To determine whether the complainants' allegations were valid and whether HUD rules and regulations were properly followed, we reviewed the following items: the complaint along with accompanying documentation and video tapes; HUD's Annual Reports and On-Site Monitoring Reports for 1997 and 2003; reports from HUD's Line of Credit Control System; Independent Auditor's report of the Oneida Indian Nation for the fiscal year ending September 30, 2000; Oneida Nation's 2001 Indian Housing Plan; Oneida Housing Corporation's Admissions and Occupancy Policy; application and Annual Contributions Contract for the White Pines Development; and newspaper articles. We interviewed HUD's staff, a Special Agent with the United States Department of Interior's Office of Inspector General, and the President of two construction companies in Canastota, New York. The Nation contracted with the two construction companies to construct homes for the White Pines Project. The scope of our review covered grants that the Oneida Indian Nation and the Oneida Housing Corporation received from HUD between May 1991 and October 2002.

BACKGROUND

Prior to 1996, the Housing Act of 1937 governed Indian housing. Congress passed the Native American Housing and Self-Determination Act of 1996 to provide Indian tribes more autonomy in the administration of their housing affairs.

The Oneida Indian Nation received three different types of grants from HUD: The three grants were: Indian Housing Block Grant; Indian Community Development Block Grant; and a Development Grant.

In April 1992, HUD approved a Development Grant for the construction of 30 low-income housing units to the Nation. The Nation received its most recent Indian Community Development Block Grant in 1997. The Indian Community Development Block Grant was a competitive grant and was administered by the Nation. The Nation used the Development Block Grant to build a community cookhouse. The cookhouse serves as a community gathering facility for the Oneida Nation members. The Nation also received an Indian Housing Block Grant annually. The Oneida Housing Corporation, the Nation's tribal designated housing entity, administered the Block Grant. The Nation used the Indian Housing Block Grant to maintain its 30 low-income housing units.

RESULTS OF REVIEW

The following are the nine HUD housing-related allegations in the complaint and the results of our review for each allegation.

1. HUD development funds were not used for the Nation.

The Oneida Indian Nation used the HUD Development Grant funds to construct 30 low-income housing units. The units, known as White Pines, are located on land owned by the Nation. The Nation's Admissions and Occupancy Policy for its Low Rent Housing Program provided Oneida Nation members preference for the housing units.

2. The Nation informed applicants that they would own new homes, but later informed them that they were rentals.

The Oneida Indian Nation conducted a survey to determine its members' housing needs. Oneida Nation members were asked whether they preferred apartment rental or homeownership. However, the Nation did not use any HUD funds for homeownership. HUD approved two development projects for homeownership in July 1995 and December 1997. HUD and the Nation subsequently cancelled both projects in September 1995 and March 2000, respectively.

3. The Nation denied housing to applicants whose political views differed from those of the Oneida Nation Representative.

A Special Agent from the United States Department of Interior's Office of Inspector General interviewed the complainants and members of the Oneida Indian Nation in October 2002. The complainants and the members said they opposed the current leadership of the Oneida Indian Nation. The complainants and the members said the Nation did not deny them housing. Their preference was to reside on the original 32-acre Oneida Indian Nation site. The Nation's HUD assisted housing is not located on the original 32-acre site.

4. An Oneida Council Member committed theft of building materials from the White Pines construction site.

The construction of the White Pines development occurred between 1992 and 1995. Title 18, Section 3282, of the United States Code states the statute of limitations for theft is five years from the date of occurrence. Since the construction of the development was completed in 1995, the statute of limitations ended in 2000. If the theft did occur as alleged, the statute of limitations has already expired.

5. The Oneida Indian Nation refused to pay one of the construction contractors for services rendered for the White Pines project.

We interviewed the President of the two construction companies that filed complaints with HUD regarding the Oneida Indian Nation's refusal to pay for

construction work to the White Pines project. The President said the dispute with the Oneida Indian Nation was settled between 1995 and 1996.

6. The Nation conducted police background checks on housing applicants.

The Oneida Housing Corporation's practice of conducting background checks for housing applicants meets HUD's regulations. Specifically, 24 CFR Part 1000.150 requires law enforcement agencies to provide criminal conviction information to Indian housing agencies. 24 CFR Part 1000.152 permits Indian housing agencies to use criminal conviction information to screen housing applicants or to pursue eviction.

7. The Nation selectively approved applicants for housing.

In March 2003, HUD's Eastern Woodlands Office for Native American Programs in Chicago, Illinois issued a report that included a review of the Oneida Housing Corporation's Admission and Occupancy Policy. HUD determined that some areas of the Policy were vague and not in compliance with the Native American Housing and Self Determination Act. For example, the Corporation's Policy does not clearly define the difference between requirements and preferences for the purpose of determining eligibility. Also, the Policy does not clearly define its method of point ranking for an applicant's placement on the waiting list.

HUD reviewed 30 tenant files maintained by the Oneida Housing Corporation. Of the 30 tenant files, four tenants applied for housing since the enactment of the Native American Housing and Self-Determination Act of 1996. Based upon HUD's review of the files, the Corporation consistently assigned the four applicants' preferences and ranking points. HUD determined that the language problems in the Admission and Occupancy Policy cited in the report did not affect the Corporation's waiting list or its tenant selection process.

8. The Nation paid its Representative a percentage of rental payments as personal salary.

HUD's Eastern Woodlands Office for Native American Programs in Chicago, Illinois reviewed disbursements of Indian Housing Block Grant funds for the Fiscal Year ending September 30, 2001. HUD determined that the Oneida Housing Corporation did not pay the Nation's Representative any HUD housing funds. Tenants' rental payments from HUD subsidized units are considered HUD housing funds.

9. The Nation used HUD funds for expenses other than housing.

In March 2003, HUD's Eastern Woodlands Office for Native American Programs in Chicago, Illinois issued a report of its review of the Oneida Housing

Corporation. HUD determined that the Corporation complied with HUD's regulations regarding financial and fiscal management. Specifically, 24 CFR Part 1000.6 requires Indian Housing Block Grant funds to be used for Indian housing activities. The Oneida Housing Corporation used the Grant funds to maintain its 30 low-income housing units. HUD did not identify that Grant funds were used for expenses other than housing.

Based upon the results of our review of the complainants' allegations, the allegations were not substantiated and the Oneida Indian Nation substantially complied with HUD's requirements.

Should you or your staff have any questions, please contact me at (312) 353-7832.