



Issue Date	January 16, 2004
Audit Case Number	2004-DE-1001

TO: Marcie LaPorte, Director, Denver Multifamily Hub, Office of Housing, 8AHMM

FROM: Robert C. Gwin, Regional Inspector General for Audit, 8AGA

SUBJECT: HUD Section 8 Project Based Multifamily Housing  
Last Star Homes, Section 8 Contract Number MT99-E000-002  
Browning, Montana

### INTRODUCTION

We completed an audit of Last Star Homes, a fifty-unit Multifamily Housing project, and the compliance with its Section 8 Housing Assistance Payments Contract requirements. The objective of the audit was to determine if current conditions of Last Star Homes units' maintenance, occupancy functions, and project management differ from the conditions identified in the August 2001 Management and Occupancy Review Report (Review Report) prepared by HUD's Contract Administrator. The Review Report identified significant problems and weaknesses with the occupancy, management and operations of the project. The Blackfeet Tribe (owner of the project) transferred the project's management responsibilities to Blackfeet Housing in September 1997. The Blackfeet Housing staff prepares and maintains the occupancy and financial records for the project at their office in Browning, Montana.

Our review concluded that the significant problems and weaknesses identified in the August 2001 Review Report still exist, even though Blackfeet Housing promised to correct the majority of deficiencies in their January 2003 response to the Review Report. Specifically, Last Star Homes is not being operated as a Multifamily Housing project. Neither the current management nor the Blackfeet Tribal officials, as owner, were aware of or familiar with the project's Use Agreement, Section 8 Housing Assistance Payments Contract, and other program requirements. Therefore, they were not ensuring that these requirements were being met. In addition, they had not requested a Housing Assistance Payment since June 2001. Consequently, adequate funding was not available to fully maintain the property. We also identified at least \$9,581.09 of ineligible and questioned

training costs charged to the project accounts. Moreover, the remaining Section 8 Housing Assistance Payments reserve of \$2,874,826 is not being utilized as intended.

We accomplished our objective by determining applicable criteria; reviewing the current project contracts; reviewing problems and weaknesses identified in the August 2001 Review Report; reviewing project records maintained by HUD and Blackfeet Housing; reviewing the project's accounting records and tenant occupancy files maintained by Blackfeet Housing; and interviewing responsible HUD, Contract Administrator, Blackfeet Tribal officials, and Blackfeet Housing staff. We also obtained pertinent project information from HUD's Real Estate Management System and Line of Credit Control System.

We used a non-statistical sample to select five Last Star project units (ten percent) for physical inspection and performed a physical site inspection of the project. The sample units provided a representation of the different bedroom compositions of one to four bedroom units. We performed a walk-through of these units to obtain an understanding of the general conditions. We did not perform detailed Housing Quality Standards inspections.

We reviewed all 50 tenant occupancy files. We obtained a schedule of the tenant accounts receivables and obtained an understanding of the tenant accounts receivables procedures. We reviewed documentation to verify the procedures, but did not perform a comprehensive review of the tenant accounts receivables. In addition, due to the limited financial activity of the project, we performed a comprehensive review of the project accounts payable records, for our audit period.

The audit covered the period from May 1, 2001 through July 31, 2003. We expanded the scope as needed to verify information reviewed during the audit period and to establish background information. We performed our review work from July through October 2003. We performed the fieldwork at the Blackfeet Housing office located on the Blackfeet Reservation in Browning, Montana. We conducted the audit in accordance with generally accepted government auditing standards. We held an exit conference with Blackfeet Tribal officials on September 18, 2003 and with HUD officials on January 7, 2003.

In accordance with HUD Handbook 2000.06 REV-3, within 60 days please provide us, for each recommendation without a management decision, 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. Additional status reports are required at 90 days and 120 days after report issuance for any recommendation without a management decision. Also, please furnish us copies of any correspondence or directives issued because of the audit.

We appreciate the courtesies and assistance extended by the personnel of the Blackfeet Tribe and Blackfeet Housing, Denver Multifamily Hub, the Denver Office of Counsel, the Los Angeles Departmental Enforcement Center, and the Montana Project Based Contract

Administrator. Should you or your staff have any questions, please contact Frank Rokosz, Assistant Regional Inspector General for Audit, at (303) 672-5452.

## SUMMARY

In June 2001, HUD's Contract Administrator conducted a Management and Occupancy Review of Last Star Homes. The Contract Administrator rated the project overall unsatisfactory. Moreover, the Review Report contained 28 findings with required corrective actions and 4 observations with recommendations. Since, neither the Blackfeet Tribe nor the Blackfeet Housing responded to the report, the Contract Administrator requested that HUD take over servicing the project. HUD's Denver Multifamily Hub subsequently referred the project to HUD's Departmental Enforcement Center. In January 2003, the Blackfeet Housing attorney provided the HUD Enforcement Center a response to the August 2001 Review Report. The response promised corrective action for the majority of the cited deficiencies. However, as of September 2003, the promised actions had not been performed.

The Project's Use Agreement required compliance with the Section 8 Housing Assistance Payments Contract. The Housing Assistance Payments Contract required that the Owner maintain the project in compliance with the applicable Section 8 requirements. During our review, it became apparent that neither the Blackfeet Tribal nor Blackfeet Housing officials were aware of or familiar with the Use Agreement, the Section 8 Housing Assistance Payments Contract, and other specific program requirements for the project. Therefore, the Blackfeet Tribe and the Blackfeet Housing officials were not ensuring that the project complied with HUD's program requirements. Neither the Blackfeet Tribe nor the Blackfeet Housing officials had submitted requests for Housing Assistance Payments since June 2001. Consequently, adequate funding was not available to fully maintain the property. In addition, we identified at least \$9,581.09 of ineligible and questioned training costs. Moreover, the remaining Section 8 Housing Assistance Payments reserve of \$2,874,826 was not being utilized as intended.

The Blackfeet Housing agreed with the primary recommendation, that the Denver Office of Multifamily Housing work with the Denver Office of Counsel and Los Angeles Departmental Enforcement Center and refer the question of whether the Use Agreement can be rescinded to the Office of General Counsel. Appendix C contains a copy of the Auditee's written comments on the report.

The Blackfeet Housing did express concerns that the audit report did not give the Blackfeet Tribe or Blackfeet Housing adequate credit for actions taken to resolve the issues identified in the August Review Report.

OIG believes that the audit report appropriately reflects the Blackfeet Tribe and/or Blackfeet Housing efforts to resolve the issues identified in the Review Report.

In addition, the auditee commented that the Blackfeet Housing is stretched to the limit in its ability to provide services to its clients and without a substantial commitment of time,

staff, energy and material from Housing, there would be little chance to address any problems at Last Star.

OIG disagrees with the Blackfeet Housing statement. As detailed in the background, HUD performed a substantial rehabilitation of all fifty Last Star units prior to turning the project over to the Tribe. In addition, the project did not have a mortgage and HUD provided a fifteen year Housing Assistance Payments Contract for all fifty units. As identified in the Review Report, the Blackfeet Tribe and/or Blackfeet Housing failed to comply with the HUD requirements placed on the project. More importantly, after the Management and Occupancy Review, the Blackfeet Tribe and/or Blackfeet Housing stopped submitting Housing Assistance Payments requests. This action stopped HUD's financial assistance to the project. In addition, the Tribe and/or Housing failed to appropriately certify current tenants and failed to collect rents due from tenants. As of our review, the tenant accounts receivables balance was over \$132,000. OIG believes that the Review Report and this audit report appropriately identify actions taken by the Blackfeet Tribe and/or Blackfeet Housing. These actions clearly indicate that the management of the Last Star project continues to be operated in a manner inconsistent with HUD requirements.

### **BACKGROUND**

In April 1970, the Last Star Corporation negotiated a mortgage, insured under HUD's Section 236 Program (Section 236 of the National Housing Act), for Last Star Homes, a 50-unit project. (Appendix B contains a timeline of the significant project occurrences and dates.) The Blackfeet Tribe owned Last Star Corporation. Twelve years later, the mortgage was assigned to HUD. Seven years later, HUD foreclosed on the project. At the foreclosure sale, HUD submitted the highest bid in the amount of \$869,816. As shown by the following picture, the project was not in good repair at this time.



After foreclosing on the project, HUD paid about \$2 million in rehabilitation costs to bring the project up to Housing Quality Standards. As shown by the following photograph, the rehabilitation significantly improved the condition of the project.



After the rehabilitation in 1993, HUD transferred the project back to the Blackfoot Tribe for \$6,900 and other considerations. HUD required that the Blackfoot Tribe execute a Use Agreement and a Section 8 Housing Assistance Payments Contract. The Use Agreement required, among other restrictions, that the Blackfoot Tribe maintain the property as rental or cooperative housing for 20 years and comply with the terms and conditions of the Housing Assistance Payments Contract. The Housing Assistance Payments Contract provided rental assistance funding for 15 years for all 50 units. The Blackfoot Tribe stopped requesting Housing Assistance Payments in June 2001, which coincides with the Contract Administrator's Management and Occupancy Review.

We visited the property in September 2003 to observe the general condition. Overall, the condition was similar to that documented in the rehabilitation photographs. The following picture provides an example of the current condition of the project.



HUD issued a letter to all the project residents in 1992 stating that HUD had made progress toward making this a home ownership project and providing purchase prices for the various units in the project. During our site review, a resident told us that they were later verbally informed that home ownership would not be possible. Project management stated that some residents do consider the units to be home ownership. As shown by the following picture, some residents appear to be treating their units like home ownership by adding items such as fencing and landscaping and performing other upgrades to the units.



HUD contracted with the Project Based Section 8 Housing Office, Department of Commerce, State of Montana, to provide the Contract Administrator functions for Montana. Blackfeet Housing and the Blackfeet Tribe signed a certification for the Contract Administrator certifying that the Blackfeet Housing employees who signed the certification were qualified to execute all documents relating to the project.

In June 2001, the Contract Administrator conducted a Management and Occupancy Review and issued a report to the Director of Blackfeet Housing in August 2001. After unsuccessful attempts to obtain a response, the Contract Administrator requested that HUD take back servicing of the project in November 2001. In March 2002, HUD took back the servicing of the Project. HUD requested a response and the Blackfeet Tribe in turn requested that HUD terminate the Section 8 Contract. HUD denied this request and again issued requests for the Tribe's response to the Review Report. Again, the Tribe did not respond to HUD's requests. Therefore in September 2002, the Denver Multifamily Hub referred Last Star Homes to HUD's Departmental Enforcement Center.

The Enforcement Center issued requests for response to the Review Report. Blackfeet Housing's attorney finally submitted a response 18 months after issuance of the Review Report. The response promised corrective action for most of the deficiencies cited in the August 2001 Review Report. Even though the response included time frames for corrective actions, the response did not identify a promised start or completion date.

Both the Enforcement Center and the Denver Office of General Counsel started to research possible ways to rescind the Project's Use Agreement, since the Blackfeet Tribe proposed converting the rental units to home ownership units. The HUD Enforcement Center attorney requested legal advice from the Blackfeet Housing's attorney. The Blackfeet Housing's attorney legal memorandum was received in May 2003. The Enforcement Center attorney advised that she conferred with the Office of General Counsel attorneys in two different offices and regularly reported to the Washington, DC Office on matters relative to Last Star Homes. However, the Enforcement Center attorney neither stated that she requested nor provided documentation of a request to General Counsel to provide a legal opinion on rescinding the Last Star Homes Use Agreement.

## **FINDING**

### **DEFICIENCIES IDENTIFIED IN THE 2001 MANAGEMENT AND OCCUPANCY REVIEW REPORT HAD NOT BEEN CORRECTED**

In June 2001, HUD's Contract Administrator conducted a Management and Occupancy Review of Last Star Homes. The Contract Administrator rated the project overall unsatisfactory. Moreover, the Review Report contained 28 findings with required corrective actions and 4 observations with recommendations. Since, neither the Blackfeet Tribe nor the Blackfeet Housing responded to the Review Report, the Contract Administrator requested that HUD take over servicing the project. HUD's Denver Multifamily Hub subsequently referred the project to HUD's Enforcement Center. In January 2003, the Blackfeet Housing attorney provided the HUD Enforcement Center a response to the August 2001 Review Report. The Blackfeet Tribe promised corrective action for the majority of the cited deficiencies. However, as of September 2003, the promised actions had not been performed.

The Use Agreement required compliance with the Section 8 Housing Assistance Payments Contract (Contract). The Contract required that the Owner maintain the project in compliance with the applicable Section 8 requirements. During our review, it became apparent that neither the Blackfeet Tribal nor Blackfeet Housing officials were aware of or familiar with the Use Agreement, the Section 8 Housing Assistance Payments Contract, and other specific program requirements for the project. Therefore, the Blackfeet Tribe and the Blackfeet Housing officials were not ensuring that the project complied with HUD's program requirements. Neither the Blackfeet Tribe nor the Blackfeet Housing officials had submitted requests for Housing Assistance Payments since June 2001. Consequently, adequate funding was not available to fully maintain the property. In addition, we identified at least \$9,581.09 of ineligible and questioned training costs. Moreover, the remaining Section 8 Housing Assistance Payments reserve of \$2,874,826 was not being utilized as intended.

The Last Star Homes' Use Agreement and Housing Assistance Payments Contract required that the Blackfeet Tribe operate and maintain the project in compliance with the

terms of the Contract. The Contract specified that Title 24 of the Code of Federal Regulations, Part 886, Subpart C, were the applicable criteria for Last Star Homes. Section 886.318 detailed the responsibilities of the owner, including: performing ordinary and extraordinary maintenance; properly completing the tenant selection requirements; collecting tenant rents; performing the required tenant recertifications; redetermining tenant rent and the amount of Housing Assistance Payment; reviewing at least annually the utilities allowance; and submitting to HUD the required financial and operating reports.

The Contract required submission of annual audited financial statements within 60 days of the fiscal year end, in a form required by HUD. The Contract included an Attachment, which stated that Section 2.6(b) was applicable to the Project. Section 2.6(b) stated that Project funds must be used for the benefit of the project to pay operating expenses. The August 2001 Management and Occupancy Review Report also cited criteria from HUD Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs*, and HUD Handbook 4381.5, *The Management Agent Handbook*.

HUD's Contract Administrator conducted a Management and Occupancy Review of Last Star Homes in June 2001. On August 1, 2001, the Contract Administrator issued the Management and Occupancy Review Report (Review Report) to the Director of Blackfeet Housing. The Contract Administrator gave the Project unsatisfactory ratings for all areas reviewed and an overall unsatisfactory rating for the Project. The Review Report contained 28 findings with corrective actions required and 4 observations with recommendations. Also, the Review Report identified the following areas of review: Maintenance and Security (6 findings and 1 observation); Financial Management (1 finding and 1 observation); Leasing and Occupancy (13 findings and 1 observation); Tenant/Management Relations (1 observation); Drug-Free Housing Policy (1 finding); and General Management Practices (7 findings).

The Blackfeet Tribe did not submit the required response to the Review Report in the specified time frame or after additional requests from HUD's Contract Administrator. Due to a lack of response from the Blackfeet Tribe, the HUD Denver Multifamily Hub took over the administration functions in March 2002. When the HUD Denver Multifamily Hub was not able to obtain a response from the Blackfeet Tribe, they referred the project to the HUD Los Angeles Departmental Enforcement Center in September 2002. Blackfeet Housing's attorney submitted a response to the Enforcement Center on January 8, 2003.

The response addressed all of the items contained in the 2001 Review Report and provided promised actions. Several of the promised actions specified a 4-month completion time frame. These actions pertained to the tenant file content and recertification process findings. Even though the response included time frames for corrective actions, the response did not identify a promised start or completion date.



During our September 2003 site work, we determined the current status of conditions and deficiencies identified in the August 2001 Review Report. We also determined the status of the Blackfeet Housing's promised actions.

The Review Report indicated that the exterior property condition was still generally acceptable. The findings related to maintenance and security included: the maintenance work order system did not ensure that the work requests were thoroughly completed or responded to in a timely manner; and, very little to no preventive maintenance was provided to the project. The Blackfeet Housing Response indicated that supplies and personnel would be committed and the maintenance staff would be required to timely respond to work requests. The Response also stated that the available funds were not sufficient to cover the costs of the required repairs and maintenance of the project; therefore, Blackfeet Housing looked forward to working with HUD to obtain the necessary funding. We determined the work order system still needed improvement and that preventive management was still not being done. The main reason for these continued deficiencies was the lack of funding to cover the cost of repairs.

The Review Report finding for financial management stated that tenants were in serious arrears of paying their Total Tenant Payment portions of their rents and the owner had failed to take the required steps to terminate assistance or tenancy for these tenants. The Blackfeet Housing Response stated that, within the standards of the Tribal law, they would start proceedings against those tenants who fail or refuse to bring their accounts up to date. A full audit of the tenant files would be conducted over a 4-month period, completing 15 files each month, to determine the tenants with rent balances. We determined that as of September 2003 the tenant accounts receivables balance was over \$132,000. We were told that the Tribal Court was not supportive of processing evictions.

The Review Report findings related to leasing and occupancy included: the wrong lease and other tenant occupancy forms were being used; tenant files were incomplete; tenants were not being properly recertified; the correct income limits and rent schedule were not being used; and, the project was not properly utilizing the allocated subsidy or submitting the payment requests in a timely manner. The Blackfeet Housing Response stated that, as part of the 4-month audit process, the tenant files would be fully updated and all correct forms and information be included; all tenants would be properly certified; the staff would be instructed to use the correct rent and income information; and, they would ensure that only 10 percent of the units would be at market rents. The Response also stated that since the suspension of payment subsidies from HUD, there had been no payments on vouchers. We determined that all these deficiencies still existed and Blackfeet Housing's promised actions had not been accomplished as of September 2003. Blackfeet Housing had not submitted a voucher request since June 2001.

The Review Report findings related to general management practices included: the owner was not actively involved in the management of the project; the required management plan and management certification were not available for review; the staff associated with Last Star Homes was not following the Blackfeet Housing Policies and Procedures Manual; and the staff was not properly trained. The Blackfeet Housing Response stated

that the Tribal Council was now serving as the Housing Board; the staff had received training to become certified and the Blackfeet Housing management plan was being followed; staff had been instructed to follow the policies and procedures; and, they would work with HUD to obtain funding to cover the necessary training costs. We determined there was not active management oversight of the project operations; the staff did not understand the Multifamily housing management plan and management certification requirements; the Blackfeet Housing Policies and Procedures Manual did not address the specific program requirements related to the project; and, pertinent training had been provided to project staff, but there were not clear understandings of how the training related to the operations of the project.

We determined that some of the deficiencies had been resolved. The garage added on the property for unit 6 had been removed. The large delay in preparing vacant units appeared to be corrected, since there were no vacant units at the time of our site visit. The Occupancy Technician now had the required copies of HUD Handbooks 4350.1 and 4381.5.

During our site work, we identified two additional deficiencies that were not part of the Review Report:

- HUD's records for Last Star Homes indicated that the required annual audited financial statements reports had not been submitted. Blackfeet Housing provided us copies of the Last Star Homes audited financial statements reports for 1998, 1999, 2000, and 2001. We determined the reports were not in the format required for a Multifamily Housing project and were not completed within the 60 days after fiscal year end required by HUD. The reports listed the project as a "special revenue fund of the Blackfeet Tribe." The reports had not been electronically submitted to HUD's Real Estate Assessment Center, as required. The same CPA firm conducted the 4 audits and was on site finishing the 2002 audit in September. The CPA Audit Manager was not aware that Last Star Homes was a Multifamily Housing project.
- We reviewed the accounts payable records for 2001 through 2003. The records were well organized and invoices and other payment records supported the disbursements. However, we did identify \$8,389.59 of ineligible costs and \$1,191.50 of questioned costs. These costs were for training and related travel expenses. There were 13 disbursements for training and related travel costs for training that did not pertain to the project. The training primarily related to tax credits. These courses were eligible activities for Blackfeet Housing, but not for Last Star Homes. There were also 3 disbursements that were questionable. The expenses were for training courses that were pertinent to Last Star Homes; however, the participants were not assigned to Last Star Homes.

In 1993, HUD and the Blackfeet Tribe executed a 15-year Section 8 Housing Assistance Payments Contract for all 50 units in the project. HUD's Line of Credit Control System showed a total reservation of \$3,637,278. During the first 10 years of the Contract, the Blackfeet Tribe had received a total of \$762,452 in Housing Assistance Payments,

leaving an outstanding balance of \$2,874,826. The balance had not changed since the Blackfeet Tribe stopped requesting Housing Assistance Payments in June 2001.

The Denver Multifamily Hub referred Last Star Homes to HUD's Departmental Enforcement Center in September 2002. The Enforcement Center and Denver HUD officials were working on determining if there was a legal way to rescind the Use Agreement. The Enforcement Center obtained a legal memorandum, dated May 19, 2003, from Blackfeet Housing's attorney. The legal memorandum supported information obtained during our site work. Specifically, neither the Blackfeet Tribe nor the Blackfeet Housing were aware that Last Star Homes was a Multifamily Housing project bound by a Use Agreement. The legal memorandum made no mention of Multifamily Housing or the Use Agreement. The Denver Office of General Counsel suggested that the Enforcement Center request advice from HUD's Headquarters Office of General Counsel, which would be better qualified to provide a legal opinion about rescinding the HUD Use Agreement.

The Review Report and other correspondence from the Contract Administrator and HUD identified program criteria and requirements. However, neither Blackfeet Tribe nor Blackfeet Housing officials understood that Last Star Homes was a Multifamily Housing project. Based on our review work, it became apparent that the Blackfeet Tribe and Blackfeet Housing were not familiar with the current project Use Agreement, Contract, or other applicable program requirements. Therefore, they did not ensure that the project was operated in compliance with the correct program requirements. They have not requested Section 8 Housing Assistance Payments since June 2001. Consequently, adequate funding was not available to fully maintain the property and at least \$9,581.09 of ineligible and questioned costs occurred. Moreover, the remaining Section 8 Housing Assistance Payments reserve of \$2,874,826 was not being utilized and was not being put to the best use.

#### **AUDITEE COMMENTS** **AND OIG EVALUATION OF AUDITEE COMMENTS**

The Blackfeet Housing agreed with the primary recommendation, that the Denver Office of Multifamily Housing work with the Denver Office of Counsel and Los Angeles Departmental Enforcement Center and refer the question of whether the Use Agreement can be rescinded to the Office of General Counsel. Appendix C contains a copy of the Auditee's written comments on the report.

The Blackfeet Housing did express concerns that the report did not give the Blackfeet Tribe or Blackfeet Housing adequate credit for actions taken to resolve the issues identified in the August Review Report.

OIG believes that the audit report appropriately reflects the Blackfeet Tribe and/or Blackfeet Housing efforts to resolve the issues identified in the Review Report.

In addition, the auditee commented that the Blackfeet Housing is stretched to the limit in its ability to provide services to its clients and without a substantial commitment of time, staff, energy and material from Housing, there would be little chance to address any problems at Last Star.

OIG disagrees with the Blackfeet Housing statement. As detailed in the background, HUD performed a substantial rehabilitation of all fifty Last Star units prior to turning the project over to the Tribe. In addition, the project did not have a mortgage and HUD provided a fifteen year Housing Assistance Payments Contract for all fifty units. As identified in the Review Report, the Blackfeet Tribe and/or Blackfeet Housing failed to comply with the HUD requirements placed on the project. More importantly, after HUD's Management and Occupancy Review, the Blackfeet Tribe and/or Blackfeet Housing stopped submitting Housing Assistance Payment request. This action stopped HUD's financial assistance to the project. In addition, the Tribe and/or Housing failed to appropriately certify current tenants and failed to collect rents due from tenants, as of our review tenants accounts receivables balance was over \$132,000. OIG believes that the Review Report and this audit report appropriately identify the actions taken by the Blackfeet Tribe and/or Blackfeet Housing. These actions clearly indicate that the management of the Last Star project continues to be operated in a manner inconsistent with HUD requirements.

**The Denver Multifamily Hub agreed with the recommendations and is working on the details for the management decisions. Denver Multifamily Hub advised that management decisions should be submitted by the end of January 2004.**

### RECOMMENDATIONS

We recommend that the Denver Multifamily Hub:

- 1A. Work with the Denver Office of Counsel and Los Angeles Departmental Enforcement Center and refer the question of whether the Use Agreement can be rescinded to the Office of General Counsel.
- 1B. Cancel the Section 8 Housing Assistance Payments Contract so that the remaining \$2,874,826 contract reserve may be made available for other Section 8 projects, if the Assistant Secretary for Housing or his designee elects to rescind the Use Agreement.

If the Denver Multifamily Hub is unable to implement recommendations 1A and 1B, then:

- 1C. Provide technical assistance to the project management to bring the project into compliance with program requirements, so they may start receiving Housing Assistance Payments. Specifically the technical assistance should focus on the areas of:

- Occupancy procedures to ensure that the occupancy functions and records comply with the program requirements;
- Preventive maintenance program to ensure maintenance is performed and the implementation of an effective work order system;
- Owner and management entity to ensure they understand the program requirements applicable to the project and comply with the requirements; and,
- Financial controls to ensure that all disbursements were project related expenses.

1D. Require the Blackfeet Tribe to repay the ineligible training and related travel costs of \$8,389.59 from non-project funds.

1E. Determine the appropriateness of the \$1,191.50 in questioned costs and require the Tribe to repay the amount determined to be ineligible from non-project funds.

### MANAGEMENT CONTROLS

Management controls include the plan of organization, methods and procedures adopted by management to ensure that its goals are met. Management controls include the processes for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

We determined that the following management controls were relevant to our objectives:

- Occupancy procedures;
- Project maintenance procedures;
- Project management functions; and,
- Financial operations procedures.

It is a significant weakness if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet an organization's objectives.

Based on our review, we believe the following items are significant weaknesses:

- The occupancy procedures were not sufficient to ensure that the occupancy functions and records comply with the program requirements;
- Preventive maintenance was not being adequately provided and an effective work order system had not been implemented;
- The owner and management entity did not understand the program requirements applicable to the project; therefore, they did not ensure compliance; and,
- Financial controls were not sufficient to ensure that all disbursements were project related expenses. (See Finding)

**SCHEDULE OF QUESTIONED COSTS AND FUNDS PUT TO BETTER USE**

<u>Recommendation Number</u>	<u>Type of Questioned Cost</u>		<u>Funds Put to Better Use 3/</u>
	<u>Ineligible 1/</u>	<u>Unsupported 2/</u>	
1B.			\$ 2,874,826.00
1D.	\$8,389.59		
1E.		\$1,191.50	

1/ Ineligible costs are costs charged to a HUD-financed or HUD-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 charged to a HUD-financed or HUD-insured program or activity and 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.

3/ Funds Put to Better Use are costs that will not be expended in the future if our recommendations are implemented.

**LAST STAR HOMES TIMELINE**

We prepared the following timeline of significant occurrences relating to the background of Last Star Homes pertinent to our review:

<b>DATE</b>	<b>OCCURRENCE</b>
April 22, 1970	Last Star Homes was originally mortgaged under Section 236 of the National Housing Act
March 16, 1982	The mortgage was assigned to HUD
July 27, 1989	The mortgage was foreclosed and purchased by HUD
November 13, 1990	HUD Headquarters issued a memorandum authorizing a negotiated sale of the project and stating the conditions under which the sale was to be negotiated
January 4, 1991	HUD Headquarters issued a memorandum stating the determination that the best method of disposition was for Denver HUD to do the needed repairs
June 19, 1992	HUD issued a letter to all the residents of Last Star Home stating that they had made progress toward making the project home ownership units
June 17, 1993	HUD gave the project back to the Blackfeet by executing a Use Agreement
June 17, 1993	The effective date of the Housing Assistance Payments Contract between HUD and the Blackfeet Tribe
September 11, 1997	The Blackfeet Tribe passed a Tribal Resolution transferring the management responsibilities to Blackfeet Housing
November 20, 2000	Blackfeet Housing and the Blackfeet Tribe signed a certification for the Contract Administrator certifying their employees were qualified to execute all documents relating to HUD Contract Administration Programs
June 27 and 28, 2001	The Contract Administrator conducted a Management and Occupancy Review
June 2001	The last month in which Blackfeet Housing submitted a Section 8 Housing Assistance Payment Voucher Request
August 1, 2001	The Management and Occupancy Review Report was issued to the Director of Blackfeet Housing
November 20, 2001	The Contract Administrator requested that HUD take back servicing of the project
March 2002	HUD took back the servicing of the project at the Contract Administrator's request
May 3, 2002	The Blackfeet Tribe proposed converting the units to home ownership
May 8, 2002	The Blackfeet Tribe requested that HUD terminate the Section 8 Housing Assistance Payments Contract
August 2, 2002	HUD denied the Tribe's request to terminate the Contract

<b>DATE</b>	<b>OCCURRENCE</b>
September 24, 2002	The Denver Multifamily Hub referred the project to the Los Angeles Departmental Enforcement Center
January 8, 2003	Blackfeet Housing's attorney finally submitted a response to the Management and Occupancy Review Report
May 19, 2003	HUD Enforcement Center received a legal memorandum from the Blackfeet Housing's attorney



AUDITEE COMMENTS



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December 19, 2003

Via First-class Mail and Facsimile (303-672-5006)

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Dear Mr. Rokosz:

Please consider this letter to be the response of Blackfeet Housing to the draft audit findings. Blackfeet Housing appreciates the opportunity to respond and also appreciates your willingness to accept these comments.

In general, a reviewer of the preliminary report would, from the broad language used, believe that Blackfeet Housing had not made any significant efforts to address the deficiencies first noted in the June 2001 Review Report. However, such an impression would be incorrect.

Blackfeet Housing is stretched to the limit in its ability to provide services to its clients. Maintenance costs on existing housing units have been rising, but there has not been a corresponding increase in available funding. Blackfeet Housing recognizes the unique nature of the Last Star project, as a Multifamily Housing project, but feels it necessary to point out that the necessary infrastructure must be in place to be able to respond to problems at Last Star. Without a substantial commitment of time, staff, energy and materials from Housing, there would be little chance to address any problems at Last Star.

Blackfeet Housing has made substantial efforts to address the less expensive and time consuming issues raised in the June 2001 Review Report. Notifying clients of contact persons, collecting the correct policies and procedures manuals, working on tenant files and working with the local utility on lighting issues has occurred. Blackfeet Housing has adopted a drug

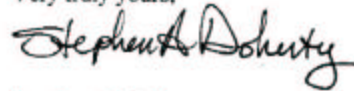
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free policy. Blackfeet Housing is working to improve general management practices. These are not unsubstantial efforts, especially when considering the fact that Blackfeet Housing is in effect subsidizing those costs for the Last Star project. The more serious issues - and expensive - cannot be addressed without an infusion of funds from outside of Blackfeet Housing and current Last Star revenues.

We believe the primary recommendation identified in the audit report is the best route to follow for all concerned. Rescinding the Use Agreement would appear to be beneficial for all the parties concerned. To that end, Blackfeet Housing will work with HUD to accomplish this goal.

Thank you for the opportunity to respond, your willingness to work with Blackfeet Housing is appreciated.

Very truly yours,



Stephen A. Doherty  
SMITH, DOHERTY & BELCOURT, P.C.

SAD:ac

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