

Issue Date
October 31, 1995
Audit Case Number
96-SE-207-1001

TO: Jerry Leslie, Director, Northwest Office of Native American
Programs, OAPI

FROM: A. George Tilley, District Inspector General for Audit,
Northwest/Alaska District, OAGA

SUBJECT: Chehalis Tribal Housing Authority
Comprehensive Improvement Assistance Program
Oakville, Washington

We audited the Chehalis Tribal Housing Authority's use of a 1993 CIAP grant provided to address an identified emergency situation. We wanted to find out if the Housing Authority used the CIAP funds in accordance with requirements to fully address their emergency sewage treatment situation.

Our report contains one finding. This finding discloses that the Housing Authority changed the use of the emergency funds and is pursuing a permanent sewage treatment solution that involves the surrounding community. However, the Housing Authority could not obtain ONAP agreement in changing the use of funds, so problems occurred. The Housing Authority mismanaged the procurement of its modernization contract and the administration of this contract.

Within 60 days please give us a status report for each recommendation in the 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 review.

Should your staff have any questions, please have them contact me or Wayne Rivers at (206) 220-5360.

Executive Summary

The Chehalis Tribal Housing Authority (Housing Authority) was awarded a \$790,600 Comprehensive Improvement Assistance Program (CIAP) grant in

1993, with \$450,000 set aside to correct an identified emergency sewage treatment problem. The Housing Authority only drew down \$63,700 of the \$450,000 in emergency funds awarded to pump, clean, and repair the community sewer systems, and budgeted the balance for modernizing homebuyer's Mutual Help homes.

The Housing Authority indicated that it changed the use of the funds and the timing because it did not agree with Indian Health Service's recommendations for permanent sewer system repairs and because HUD's Northwest Office of Native American Programs (ONAP) said it would be better to use the funds than to lose them. However, the Housing Authority mismanaged the procurement of its modernization contract and the administration of this contract. The procurement process was flawed, project work is behind the original schedule with increasing costs, and the Housing Authority borrowed money to pay their CIAP bills, since funds were not forthcoming from ONAP. The pressure to use the funds and a lack of agreement between the Housing Authority and ONAP contributed to problems with the Housing Authority's procurement and management of the modernization work.

Before the Housing Authority restarts its modernization project, ONAP needs to finish its evaluation of the Housing Authority's ability to manage the remaining CIAP work. The Housing Authority needs to show ONAP a detailed plan on how it is going to complete the project; including work needed, inventory on hand, anticipated costs, and its method of collecting funds from homebuyers for extra work.

Also, we are recommending no funding for upgraded sewage treatment processes unless they are part of a community-wide solution.

We held an exit conference at the Housing Authority's office on July 27, 1995. The draft finding was furnished to the Chairman of the Housing Authority's Board of Commissioners on August 18, 1995, for written comments. We received written comments on September 18, 1995, which generally agree with the finding. However, the Housing Authority believes the entire situation leading to the audit would not have existed had ONAP and the Housing Authority communicated adequately and properly on the CIAP grant.

The Housing Authority's written responses are incorporated into the finding as we considered appropriate. A copy of the Chairman's letter is included in Appendix A and attachments are available in our office upon request.

Abbreviations

HUD Department of Housing and Urban Development
ONAP Office of Native American Programs
CIAP Comprehensive Improvement Assistance Program
CFR Code of Federal Regulations
EPA Environmental Protection Agency

Introduction

The Chehalis Tribal Council created the Chehalis Tribal Housing Authority (Housing Authority) by ordinance on May 2, 1978. The Chehalis Indian Reservation, comprising 4,225 acres, is located 25 miles southwest of Olympia, Washington, in the southeastern corner of Grays Harbor County and partially in Thurston County. The nearest towns, Oakville and Rochester are both about 3 to 4 miles away.

The Housing Authority administers three HUD-financed projects under two Annual Contributions Contracts. The Annual Contributions Contracts require the Housing Authority to comply with applicable HUD regulations for the Mutual Help and Low Rent programs. The Housing Authority administers 75 housing units under the three projects, primarily for low income Tribal members. The Mutual Help program consists of one project of 25 units and the Low Rent program consists of two projects with 50 units.

The Housing Authority's books and records are located at the Housing Authority office at 10 Petoie Lane, 3 miles east of Oakville, WA.

The objective of our audit was to determine if the Housing Authority used approved CIAP funds in accordance with requirements to fully address their emergency situation.

To accomplish the objective, we reviewed correspondence, reports, and other documentation concerning the sewage treatment problems and the Housing Authority's CIAP application and modernization project. We interviewed staff at the Housing Authority, HUD's Office of Native American Programs, Indian Health Service, the Environmental Protection Agency (EPA), and different contractors involved in the procurement process. We also reviewed the Housing Authority's policies, procedures, and practices related to our objective.

Our audit covered the CIAP grant approved in 1993 and the period of September 1993 through June 1995. We extended our audit period as necessary to fully respond to our audit objective. We performed our audit field work at the Housing Authority from May through July 1995.

We conducted the audit in accordance with generally accepted government auditing standards.

AFTER CHANGING THE PURPOSE OF ITS CIAP GRANT, THE HOUSING AUTHORITY MISMANAGED ITS PROCUREMENT OF A MAJOR CONTRACT AND SUBSEQUENT MODERNIZATION PROJECT

In 1993, HUD provided the Chehalis Tribal Housing Authority (Housing Authority) with \$790,600 of CIAP funding, with \$450,000 of the grant set aside to correct an identified emergency sewage treatment problem. The Housing Authority drew down only \$63,700 of the \$450,000 in emergency funds awarded to pump, clean, and repair the community sewer systems, and budgeted the balance for modernizing homebuyer's Mutual Help homes. The Housing Authority indicated that it changed the use of the funds and the timing because it did not agree with Indian Health Service's recommendations for permanent sewer system repairs and because HUD's Northwest Office of Native American Programs (ONAP) said it would be better to use the funds than to lose them. However, the Housing Authority mismanaged the procurement of its modernization contract and the administration of this project. The procurement process was flawed, project work is behind the original schedule with increasing costs, and the Housing Authority borrowed money to pay their CIAP bills, since funds were not forthcoming from ONAP. The pressure to use the funds and a lack of agreement between the Housing Authority and ONAP contributed to problems with the Housing Authority's management of the modernization work.

Section 14 of the amended U.S. Housing Act of 1937 (Act) authorizes HUD to provide assistance to public and Indian housing authorities to improve the physical condition of existing housing projects. Subject to appropriations, HUD provides assistance under the Comprehensive Improvement Assistance Program (CIAP) to Indian housing authorities with 250 units or less. Under the Act, HUD can make funds available for emergency or special purpose needs separately under CIAP, without regard to other grant requirements. Section 14(i)(1) of the Act states that emergency needs are limited to correcting conditions which threaten the health or safety of tenants. Under 24 CFR 950.618(f), HUD divides housing authorities' CIAP applications into two groups; Emergency Modernization and Other Modernization. ONAP automatically selects Indian housing authorities under Emergency Modernization for review to determine the size of their grant. Indian

housing authorities under Other Modernization, on the other hand, must go through a rating and ranking process to be selected for HUD funding.

HUD's regulations for modernization of Indian housing are at 24 CFR 950. Section 950.615(b) states that eligible costs for Mutual Help developments include alterations, betterments, non-dwelling additions, replacements, and non-routine maintenance that are necessary to meet modernization and energy conservation standards. Modernization standards include mandatory and development-specific work. Mandatory standards are intended to provide decent, safe, and sanitary living conditions. Development-specific standards permit an Indian housing authority to undertake improvements that are necessary or highly desirable for the long-term physical and social viability of a development.

The Indian Health Care Amendments of 1988 (Public Law 100-713) state that it is the United States' interest and policy to provide all Indian communities and Indian homes with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible. Under Public Law 86-121, Indian Health Service has the primary responsibility to provide the necessary sanitation facilities for Indian tribes.

The Housing Authority's homes and other homes on the Chehalis Indian Reservation with septic systems face the same type of sewage treatment problems because of the groundwater and soils in the area. Water from underground aquifers (groundwater) is very close to the surface and, at times, septic systems can drain directly into the groundwater. In addition, the predominant soils in the area, and on the Reservation, are coarse. Excessively permeable soils such as these coarse sands are not good for drainfields since waste water moves through the soils before it can be purified, contributing nitrates to the groundwater. The combination of high groundwater and permeable soils contributes to the problems with maintaining water quality. According to a City of Oakville representative on wastewater treatment, resolving the sewage treatment problems is an issue facing current residents, towns, and businesses in the area, especially considering the recent growth and the growth anticipated

due to a new Casino.

In response to sewer system failures, in April 1993, the Housing Authority asked Indian Health Service to look at their community septic systems. Indian Health Service surveyed the Housing Authority's two community sewer systems in early July 1993, but could not determine the exact causes of the system failures (sewage backing up into homes and streets). Recognizing the need to repair the two failing sewage treatment systems, the Housing Authority applied for \$753,000 in CIAP funds for sewer system repairs on July 23, 1993. According to the Housing Authority, the \$753,000 was based on Indian Health Service's best estimate to install a recirculating sand filter system at their low rent project only. Indian Health Service later estimated that a treatment system would cost \$450,000. Subsequent to the application, the Mutual Help project's community sewer system also failed. The Housing Authority decided to pump the septic tanks about every other month until an acceptable design for a repaired system was agreed upon. This stopgap measure, at an estimated cost of \$40,400 per year, alleviated the immediate problem of sewers backing up but certainly was not a long-term solution to problems with nitrates in the groundwater.

Indian Health Service completed their survey and prepared a project summary report on the sewer systems in July 1994. Their work indicated that the two main reasons for the sewer system failures were:

- 1) solids build-up, most likely caused by the lack of regular septic tank inspections and pumping; and
- 2) the seepage beds being installed below the seasonal groundwater level (an original design problem).

In addition, Indian Health Service noted that the drainfields contribute nitrates to the groundwater because of the coarse soils in the area. They recommended that the Housing Authority repair and continue to use the existing community septic tanks. For the two failing systems, they recommended installing an on-site recirculating sand/rock filter system with denitrification facilities. This proposed system was to serve the 49 homes (20 Mutual Help and 29 Low Rent) on the two community sewer systems.

Indian Health Service recommended this type of system in part to decrease the amounts of nitrates draining into the groundwater. The Tribe, EPA, Indian Health Service, and Washington State Department of Ecology have concerns about high nitrate levels and their effect on water quality. According to the Director of the Chehalis Tribe's Department of Natural Resources, the Safe Drinking Water Act states that any nitrate level above 10 milligrams per liter is illegal and can be dangerous to infants and pregnant women, causing "blue baby syndrome" which can be fatal to infants.

Although there are justified concerns on nitrate levels in the drinking water, water tests do not show this is an emergency situation. The only five tests of the Housing Authority's drinking water since 1992 show that the nitrate levels are high - but not illegal.

Date	Nitrate level
2/10/92	5.4 mg/L
4/19/93	5.3 mg/L
10/20/94	3.29 mg/L
4/3/95	6.3 mg/L
4/19/95	4.7 mg/L

In addition, Indian Health Service had no data that would show that their recommended system would decrease the high nitrate levels in the drinking water. Other failed septic systems and farms in the area are also sources for nitrates and would need to be addressed to increase water quality.

On September 10, 1993, HUD awarded a \$790,600 CIAP grant to the Housing Authority for emergency work and work for handicap accessibility. This award letter stated that the grant was divided among the Housing Authority's three projects as follows:

Mutual Help (1 project)	\$263,550
Low Rent (2 projects)	\$527,050

ONAP's internal grant approval documents show that the \$790,600 was also divided into three work items, as follows:

Emergency	\$450,000
CIAP (Renovation of units to bring them up to a standard condition)	\$259,000
Section 504 of the Rehabilitation Act	\$ 81,600

According to ONAP staff, they held the \$259,000 for unit renovation in reserve in case Indian Health Service required more than their estimate of \$450,000 for the sewer system repairs. The Executive Director stated he was not aware that ONAP had set aside \$259,000 until our draft report, and stated that ONAP has still not told him that \$259,000 was approved for unit renovation. Since HUD did not specifically indicate the purpose of the CIAP grant in the award letter, the Executive Director said he asked the ONAP office what the priority of the work should be. He stated that ONAP staff told him that the majority of the funds were designated for the sanitary waste facility rehabilitation.

Due to disagreements between the Housing Authority and HUD on the intended use of funds, a long delay (19 months) occurred between the grant approval and funds allocation. The Housing Authority's Executive Director signed Annual Contributions Contract amendments on September 24, 1993, and sent the amendments to HUD. The Northwest ONAP Director signed and executed these amendments on April 26, 1995. These amendments are the actual agreements where HUD agrees to release CIAP funds to the Housing Authority. According to ONAP staff, the long delay occurred because the Housing Authority did not send in budgets showing how it was going to use funds until 1995. The Executive Director stated that the Housing Authority provided written budgets, showing how it intended to use the funds, to ONAP staff on numerous occasions, but the ONAP staff would not accept the budgets because they did not include Indian Health Service involvement. Under 24 CFR 950.618 (j) and (k), after HUD approves a CIAP budget, then HUD and the Housing Authority shall enter into an Annual Contributions Contract amendment in order for the Housing Authority to requisition modernization funds. By approving a budget, HUD certifies that it agrees the assistance will not be more than necessary to make the assisted activity feasible.

In a September 24, 1993, Board of Commissioners meeting, the Executive Director and Board discussed the use of the awarded CIAP funds. The minutes show that, since repairing the septic system would take up \$400,000 of the award, the Executive Director recommended spending \$40,000 to just pump the septic system for a year and putting the money into the homes instead. The Board approved the proposal to pump for a year. According to the Executive Director, this was only a contingency plan since the Housing Authority had not heard any definite restrictions on how the funds were to be used.

The Housing Authority started the sewer repair process in November 1993 by requesting Indian Health Service assistance in replacing the two community septic systems. During the Spring of 1994, Indian Health Service staff met with the Executive Director to discuss repairing the septic systems and drainfields. On May 3, 1994, Indian Health Service wrote to the Executive Director that the estimated cost of a new sewer system would be \$450,000 based on the use of a recirculating sand filter system, although alternative systems would cost significantly less. (This estimate was the same as the funds allotted for the emergency work by ONAP.)

In their July 1994 report, Indian Health Service recommended a recirculating sand filter system with denitrification facilities costing \$454,000 to correct the Housing Authority's sewage treatment problems. Indian Health Service stated they understood that the Housing Authority was concerned with high nitrate levels in the drinking water, so they included denitrification facilities in their estimates.

The Housing Authority did not accept Indian Health Service's July 1994 recommendations. The Executive Director stated that the recommendations were not acceptable since they would not fit in the community-wide plans for a regional sewage treatment system. In addition, the Housing Authority had data from another recirculating sand filter system which showed that such a system was extremely unreliable. The Executive Director stated that Indian Health Service and HUD did not involve the Housing Authority, the Tribe, or the Tribe's Department of Natural Resources in their sewer system plans, which also

led to communication problems later.

With unacceptable recommendations, on August 31, 1994, the Housing Authority told the Tribe that it would begin temporary repairs to the community sewer systems immediately. The Housing Authority anticipated a æfinal permanent sanitary waste facility designæ (from Indian Health Service) by the end of December 1994. The Housing Authority indicated another source of funds might be available for a permanent facility. On September 15, 1994, the Tribe, on behalf of the Housing Authority, informed Indian Health Service that it wanted them to incorporate the repair of the defective sewer systems into a long range solution to the sanitary waste disposal needs on the Reservation. And the Housing Authorityæ Board believed a comprehensive solution involving all the parties (the City of Oakville, the Tribe, the Casino, and Briarwood Farms - a neighboring chicken farm) would be to the economic and environmental benefit of all parties.

The Housing Authority has followed up in planning and promoting a community-wide sewage treatment solution. On January 13, 1994, the Housing Authority hosted an interagency conference (attended by the Tribe, HUD, Indian Health Service, EPA, Thurston County, City of Oakville, and Briarwood Farms) to discuss appropriate solutions to the community problems with sewage treatment and groundwater protection. In the Spring of 1994, the Housing Authority sought the participation of the Tribe and Casino in an effort to develop a Reservation-wide solution to sanitary waste disposal/groundwater protection issues. Finally, in August 1994, it also asked Indian Health Service to look into the feasibility of a facility to serve the proposed Casino as well as non-Housing Authority customers.

In conclusion, the Housing Authority and Indian Health Service had different ideas on how the emergency funds should be used. The Housing Authority wanted to use the funds for a regional solution, involving the surrounding community, while Indian Health Service continued to recommend a solution for just the Housing Authorityæ community sewer systems.

Indian Health Service is no longer involved in the design

since the Tribe and Housing Authority chose to pursue other options in developing a solution to the Reservation's sewage treatment problems. Indian Health Service told us that they will still recommend a recirculating sand filter if the Housing Authority wants their input again.

With no prospects for a viable solution from Indian Health Service, the Housing Authority decided to start modernizing Mutual Help homes, on ONAP staff's advice, but without ONAP's official approval. According to the Executive Director, the Housing Authority started modernization for two reasons: 1) because two Tribal members heard from an ONAP official at a conference in Phoenix, Arizona that ONAP was going to recapture the CIAP funds; and, 2) because the recommendations from Indian Health Service did not address the community-wide needs for sewage treatment. The Housing Authority's Board minutes indicate ONAP staff informally told them that proceeding without HUD approval would be a finding, but no activity would be worse. The Housing Authority realized that it was not authorized to proceed with their modernization project or with this change, but decided that proceeding with a project that did not conform to the letter of the regulations was preferable to losing its funding due to further delays.

Indian Health Service provided the Housing Authority with the plans for temporary repairs to the sewer system in September 1994. A contractor completed Indian Health Service recommended temporary repairs in November 1994 for \$31,000. The repairs did alleviate the emergency situation and the need for continual septic tank pumping. However, as is the case with other sewage disposal systems in the area, a sewage treatment problem still exists. Indian Health Service stated that insufficiently treated waste water is still entering the groundwater and contributing to high nitrate levels in the drinking water supply. They believe this is a potential long-term threat that cannot be fully addressed by temporary repairs, but needs to be addressed on a community-wide basis.

To start modernization work, in August 1994 the Housing Authority requested proposals for work at 25 Mutual Help units. Available information from the Housing Authority and a bidding contractor indicates that ONAP staff was

aware that the Housing Authority intended to have modernization work done and that it requested bids on this major modernization project.

As demonstrated below, the Housing Authority mismanaged the procurement of its modernization contract and the project administration. Specifically:

- The Housing Authority's procurement was flawed and did not result in fair and open competition;
- Project work is behind schedule and costs on the first nine homes could be as high as \$71,027 per home;
- The Housing Authority borrowed money when funds were not forthcoming from ONAP; and
- The Housing Authority may incur extra costs due to homebuyer requests with no provisions for homebuyer payments for work items.

These issues are described in more detail below.

A. The Housing Authority's procurement of a major modernization project was flawed and did not result in fair and open competition

Although the Housing Authority extended the bid due date, it initially received only one bid. The following day, September 23, 1994, the Executive Director sent letters to seven different contractors. In the letters, the Executive Director stated that the Housing Authority was unable to provide additional specifications or bid submission forms due to technical and staff difficulties, so it did not receive competitive bids or comparable estimates. Therefore, it waived bonding requirements related to sealed bidding and requested estimates from interested parties by September 30, 1994.

In response to the letters, the Housing Authority received estimates from six contractors before September 30, 1994, including the original bidder. It then selected the original bidder to do modernization work at 25 Mutual Help homes for \$623,804. The Housing Authority and contractor signed a contractor-

supplied Modernization and Rehabilitation Contract on November 11, 1994.

As indicated by the letters to the contractors, the main problem with the procurement was a lack of complete bid specifications which prevented contractors from knowing just what was to be done. Although the Housing Authority hosted three pre-bid conferences, it did not use an architect to develop detailed plans to provide to the bidders. The Executive Director said he permitted contractors to submit proposals in their own format, with the hope that more local contractors might bid. But, with this latitude, the three bidding contractors we talked to each had a different understanding of what work was to be done and said the bid specifications were either vague or incomplete.

For example;

- One bidding contractor said he included the anticipated homebuyer requests or additions in his bid, so the bid was necessarily higher than usual.
- Another bidding contractor understood that homebuyer requests or additions were to be handled on a case-by-case basis for each homebuyer.
- The winning bidder said it was going to finance the homebuyer requests directly with the homebuyer, after discussing options with them.

Each contractor we talked to said it was difficult to bid the project using the specifications provided. (One contractor said there were too many questions that the Housing Authority could not answer, so they did not bid the project.) The Executive Director admitted the Housing Authority had problems with their procurement, but said ONAP staff informed him that a flawed procurement process was better than not spending the CIAP funds.

B. Project work is behind schedule and modernizing costs on the first nine homes could be as high as \$71,027 per

home

Project work is behind the original schedule and costs are exceeding expectations. Modernization work began in November 1994 and, under the contract, was expected to be completed by March 1995. However, as of June 1995, work has only been completed in nine homes. There is an ongoing dispute between the Housing Authority and the contractor on the amount due the contractor for work on these nine homes. If all accounts payable and the contractor's final claim for payment are included, costs could be as high as \$71,027 per home. If the Housing Authority's figures for the contract are considered, the costs could be as high as \$46,575 per home. The Housing Authority and contractor both contributed to and had reasons for the delay and increased costs.

According to Board meeting minutes, the contractor did not have appropriate supplies, disabled the power to the community septic system, did not coordinate workers and supplies, and cut skylights in inappropriate places among other issues. On March 16, 1995, the Housing Authority terminated the contract due to lack of performance. The Housing Authority then started paying suppliers and construction workers directly (a force account system).

The contractor admitted they had shortcomings in their work, but said blame can also be placed with the Housing Authority. The contractor said that they did not receive anything in writing on exactly what the Housing Authority wanted done. According to the contractor, the Housing Authority allowed homebuyers wide latitude in the changes done to their homes, so they did not know what to expect. The contractor ended up doing a lot of work (without going through a change order process) that was not included in their original contract, due to requests from the Executive Director and homebuyers.

On April 11, 1995, the contractor sent their final bill to the Housing Authority, asking for \$340,581 in payment (in addition to the \$93,412 already paid). The Housing Authority has prepared a counterproposal to

this billing. The differences are shown below:

	Contractor	Housing
	Authority	
Work under contract	\$ 163,668	\$ 93,594
Work requested by Executive Director		
- not by change order	53,675	40,727
Customized homebuyer requests	28,995	15,936
Inventory	92,260	69,934
Expenses for end of contract	95,395	53,125
Less payment made	(93,412)	(93,412)
Costs incurred by Housing Authority	-0-	(46,315)
Amount withheld for septic system	-0-	(13,078)
TOTAL DUE	\$340,581	\$120,512

This indicates that there were significant differences between the original contract and the work actually done, contributing to work delays. For example, according to the Executive Director, due to construction problems, the contractor stated they would donate the extra work to some homebuyers. However, the contractor's billing includes \$28,995 for customized homebuyer requests.

As of June 6, 1995, the Housing Authority had spent \$272,763 and incurred accounts payable of \$25,900 for modernization work in nine homes. With the ongoing dispute between the Housing Authority and contractor, the eventual cost of the modernization is unknown. According to the contractor's final billing, the Housing Authority owes them \$340,581. However, in the Housing Authority's counterproposal, it states that it owes the contractor \$120,512. Therefore, the total costs per home could range from \$46,575 (using the Housing Authority's figures) to \$71,027 (using the contractor's figures). In August 1995, the contractor indicated that the contract closeout amount will increase at least \$20,000 due to interest and attorney fees. The contractor filed a lawsuit against the Housing Authority on August 30, 1995, asking for a \$550,000 judgment.

We realize that the Housing Authority has spent funds to purchase doors, windows, insulation, and other supplies for all 25 units. But, based on the figures

above, we question whether comparable work at the other 16 units can be completed within the \$790,600 grant amount.

C. The Housing Authority borrowed money after their grant award was initially recaptured

Partially because of the Housing Authority's failure to proceed in a timely manner under their CIAP program, ONAP notified the Housing Authority on January 10, 1995, that the remaining CIAP funds were recaptured. This letter was the first written correspondence from ONAP regarding the CIAP project since September 1993. On January 18, 1995, the Housing Authority appealed the action. ONAP staff discussed the issues behind this action at a March 2, 1995, meeting with the Housing Authority and rescinded the recapture of funds, but placed the Housing Authority under a high risk designation. ONAP staff stated that this meeting was the first time they were aware that the Housing Authority intended to spend money on modernization instead of emergency sewer system repairs.

As indicated above, ONAP staff said they did not receive acceptable budgets from the Housing Authority. Therefore, ONAP was not able to execute the Annual Contributions Contract amendments until April 26, 1995. Without funds available from ONAP to pay for expenses already incurred (and with no timeframe on the appropriation), the Housing Authority's Board obtained a \$175,000 line of credit from their local bank on February 2, 1995, with a due date of August 2, 1995. This line of credit was obtained before ONAP actually agreed to provide CIAP funds to the Housing Authority and after ONAP notified the Housing Authority that their grant award was recaptured. The Board obtained a loan of \$160,000 on May 9, 1995. The total amount of \$335,000 is now due on December 31, 1995.

Since the Housing Authority and ONAP could not agree on Annual Contributions Contract amendments and proposed budgets, the Housing Authority incurred interest expenses on its line of credit. The interest rate

on the first \$175,000 of the line of credit is 6 percent and the interest rate on the \$160,000 increase is 10 percent. As of June 8, 1995, the Housing Authority had incurred about \$4,500 in interest expenses.

The Housing Authority used these funds from the line of credit and funds from ongoing operations to:

- 1) Pay the modernization contractor \$93,412 on February 3, 1995, for work performed.
- 2) Pay a local contractor \$31,000 for temporary repairs to the failed sewer systems.
- 3) Pay for other expenses, including the following:
 - \$36,631 for materials from Home Base,
 - \$ 7,900 for nine containers to store household items, and
 - \$ 5,568 for septic tank pumping.

As of June 6, 1995, the Housing Authority had spent \$353,835 for administration, repairs to the two community sewer systems, and work on 9 of the 25 Mutual Help homes. The Housing Authority drew down \$232,100 from HUD's Letter of Credit Control System (LOCCS) on June 7, 1995, to cover these expenses, divided as follows:

Administration	\$ 28,000
Site Improvement (sewer systems)	63,700
Dwelling Structures	136,350
Non-Dwelling Equipment	4,050

D. The Housing Authority may incur extra costs due to homebuyer requests with no provisions for homebuyer payments for work items

The focus of the contract between the contractor and Housing Authority was on modernizing the 25 Mutual Help homes. However, the contractor said they ended up doing a lot of customization according to homebuyer and Housing Authority requests, in addition to bringing the homes up to code. The contractor estimated that about 40 percent of the work was for homebuyer or Housing Authority requests in addition to code work. In the final billing from the contractor, about 35 percent of the charges for work and materials were for

work requested by the Executive Director or homebuyer.

Before modernization work started, in a November 17, 1994, Board of Commissioners meeting, the Board discussed equity upgrades involved with CIAP (homebuyer requests to be paid by the homebuyer). The meeting minutes state that the upgrades will be approved as long as they are put in writing and feasible.

The Executive Director stated that the contractor was to use a homebuyer coordinator to discuss possible extra work with homebuyers. The homebuyer then had a choice of what changes they could have done to their home and whether they wanted to pay more than the base package allowance for any home improvement. The Executive Director said all homebuyers understood they would have to pay for: any wall moving, moving the laundry area, skylights, cabinet upgrades, flooring (carpet and linoleum) upgrades, bathroom fixtures upgrades, a pellet stove, a pedestal for the stove, and other requests. He stated that they would pay for these changes through charges to their equity account or some type of repayment agreement.

Assuming that homebuyers with a small balance in their equity account would have to pay for improvements some other way, a review of the homebuyers' Monthly Equity Payment Accounts would show how many repayment agreements will be needed. As of April 1, 1995, only four of the nine homebuyers with work done had more than \$1,000 in their Monthly Equity Payment Account and one homebuyer even had a negative balance of \$1,366. This indicates there may be problems with collecting money for extra work at five of the nine homes, since the Housing Authority has yet to set up repayment agreements.

For example, at 7 Lacamus Lane, where the homebuyer had a \$81.03 Monthly Equity Payment Account balance (as of April 1, 1995), the contractor's final billing indicates they did the following for \$4,808:

Removed wall between kitchen and laundry area \$ 200

Removed wall between kitchen and living room	200
New hearth wall pad	100
Enclose new water tank location and install new door	350
Moved laundry into hallway	850
Installed tub through exterior wall	350
Customized cabinets (above allowance)	1,420
Extra charge for carpeting above vinyl	360
Bath accessories, plumbing fixtures (above allowance)	896
New electrical fixtures and circuits (above allowance)	82
Total customizing costs	\$4,808

None of the types of improvements above deal with an emergency condition or work to bring the home up to code. To accomplish the same type of work at other homes, the Housing Authority needs to make sure that it can actually collect funds from these homebuyers before spending money to make the improvements. Otherwise, the Housing Authority will not be able to do as much with the CIAP grant as it could. As of June 1995, the homebuyer ledger cards show the Housing Authority has received no payments from homebuyers for the improvements. The work done with no payments could be considered zero percent interest loans of HUD funds to homebuyers. The Executive Director indicated that the contractor has settled with the homebuyers for the work in excess of the basic work under the project. If this is the case, then the contractor's final billing is incorrect.

HUD awarded CIAP funds to the Housing Authority to correct an emergency situation which was temporarily repaired at a significantly lower cost. The Housing Authority chose not to repair their community sewer systems as proposed by Indian Health Service because, in their view, it would not be in the best interests of the community. The sewage treatment problem to be addressed is a community-wide problem and there is no data to show that spending the \$450,000 as proposed would have reduced nitrate levels and improved water quality. We believe HUD should provide no further funding to address this sewage treatment problem unless it is part of a community-wide solution.

The Executive Director indicated that he was aware that a

community-wide solution was necessary before receiving Indian Health Service's recommendations. Therefore, he asked Indian Health Service to use the \$450,000 to address the sewage treatment problems as part of a community-wide solution. However, Indian Health Service continues to recommend a new sewer system that would be specific to the Housing Authority.

The Housing Authority mismanaged the procurement of its modernization contract and the administration of this project. The procurement process was flawed, project work is behind the original schedule with increasing costs, and the Housing Authority had to incur interest on funds it borrowed for the project. The Housing Authority proceeded with its modernization although it did not have approved budget revisions and ONAP's approval for funds reprogramming. This absence of detail planning and following through raises questions on the Housing Authority's ability to manage a major modernization project.

However, we believe that ONAP's informal recommendation to use the funds now or they may be recaptured may have been the impetus behind the Housing Authority's decision to rapidly proceed with their modernization project. In addition, the sense of urgency may have contributed to the Housing Authority bypassing standard controls over procurement. The Housing Authority indicated it processed budget revisions to the extent of their capability and made many attempts to reprogram the use of the CIAP funds. However, ONAP did not accept the budget revisions or funds reprogramming that showed the Housing Authority's intent to use the funds for anything other than the sewer system repairs recommended by Indian Health Service.

HUD is in the process of evaluating the Housing Authority's ability to administer its modernization program. We believe this evaluation's emphasis should be on the Housing Authority's preparation of detailed work requirements for each home, the costs, who will pay for the extra work, and whether competitive bids are necessary to complete the work.

Auditee Comments

The Housing Authority basically agreed with the report, but stated the draft does not adequately reflect its position that the entire situation would not have existed if ONAP had adequately communicated with the Housing Authority. It also believes that the communication problem is continuing and suggests independent mediation to resolve the issue.

The Housing Authority stated that it believes the report should also suggest recommendations for ONAP. In their responses, the Housing Authority documented specific examples of failures by ONAP to adequately and properly communicate with the Housing Authority. It believes that with adequate and proper communication, the Housing Authority could and would manage procurement and modernization in compliance with their own policies and HUD's requirements.

The Housing Authority provided us with their version of a report. In its version of the report, the Housing Authority did not agree that it will not be able to complete the modernization work within the \$790,600 grant. The Housing Authority stated that it has purchased materials for all 25 units that is included in the \$272,763 spent on homes to date. It also provided us with their counterproposal to the contractor's final billing, which is significantly lower.

We do recognize that ONAP staff's communication with the Housing Authority may have contributed to some of the issues in the report and this is reflected in the report. However, it is still the Housing Authority's responsibility to follow sound business practices for procurement and project management.

For completing the modernization work, we still have questions on whether the Housing Authority will be able to complete comparable work at the other units. As of June 6, 1995, the Housing Authority had spent \$353,835 of the \$790,600 CIAP grant and incurred at least \$146,412 in payables (using the Housing Authority's counterproposal amount). This leaves \$290,353 for the 16 remaining units, or an average of \$18,147 per unit. This is significantly lower than the \$46,575 per unit spent and incurred as of

June 6, 1995.

Recommendations

We recommend that you:

1A. Finish your evaluation of the Housing Authority's ability to manage the remaining work by having the Housing Authority develop and provide a detailed plan on; its modernization needs, inventory on hand, anticipated costs, methods of homebuyer repayments for extra work items, and whether competitive bids are necessary.

1B. Provide no CIAP money for upgraded sewage treatment processes unless they are part of a community-wide solution.

1C. Look for ways to improve the working relationship with the Housing Authority with the ultimate objective of effectively serving the homebuyers and tenants.

Management Controls

In planning and performing our audit, we considered the Housing Authority's management controls to determine our auditing procedures and not to provide assurance on management controls.

Management control is the process by which an entity obtains reasonable assurance as to achievement of specified objectives. Management control consists of interrelated components, including integrity, ethical values, competence, and the control environment which includes establishing objectives, risk assessment, information systems, control procedures, communication, managing change, and monitoring.

We determined that the management control categories relevant to our audit objectives were the Housing Authority's policies, procedures, and practices for ensuring that:

- CIAP funds are spent in accordance with HUD's requirements.

- The procurement process ensures fair and open competition, resulting in selecting the best qualified product or service.
- Project oversight identifies construction problems and management corrects identified problems.

We evaluated all of the relevant control categories above by determining the risk exposure and assessing control design and implementation.

A significant control weakness exists if the controls do not give reasonable assurance that resources are used in accordance with applicable laws, regulations, and policies; that resources are safeguarded against waste, loss, and misuse; and that reliable data is obtained, maintained, and fairly disclosed in reports.

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

- The procurement process was flawed, since the Housing Authority did not provide complete bid specifications, preventing contractors from knowing just what was to be done.
- Communication between the contractor and Housing Authority was not well documented. Specifically, the contractor did not receive anything in writing on project requirements and the Housing Authority did not receive written descriptions or estimates for homebuyer requests from the contractor. This contributed to problems with completing the work and eventual contract termination.