

Issue Date: July 8, 1996

Audit Case Number : 96-SF-207-1005

TO: Raphael Mecham, Administrator, Southwest Office of Native American Programs, 9EPI

FROM: Gary E. Albright, District Inspector General for Audit, San Francisco, 9AGA

SUBJECT: All Indian Pueblo Housing Authority  
Albuquerque, New Mexico

We have completed an audit of All Indian Pueblo Housing Authority (AIPHA). The audit objective was to determine whether AIPHA operated in an efficient, effective and economical manner, and in compliance with the terms and conditions of its Annual Contributions Contract, applicable laws, HUD regulations, and other applicable directives. We also reviewed corrective actions AIPHA took to resolve prior audit recommendations and evaluated AIPHA's innovative housing acquisition program.

We found AIPHA's Tenant Relations and Finance Departments to be well managed. The AIPHA housing acquisition program appears to be a viable program, subject to further legal review, which has resulted in better quality homes and in some cases significant economic benefits to tribal governments and their members. But recent management actions, to acquire housing without monitoring contractors or misusing operating reserves for development purposes reflect AIPHA's continuing administrative deficiencies.

We found that AIPHA has not adequately administered its Comprehensive Grant program, and has failed to monitor contracting and procurement. Also, since our 1991 audit of AIPHA, receivables due from residents have continued to grow - and now total \$870,000. These deficiencies require timely action if AIPHA is to provide quality housing to its 10 pueblos.

We initially included in our draft findings specific recommendations for corrective action. However, by the completion of our audit site work, it appeared that AIPHA may dissolve into housing authorities serving individual pueblos or smaller collections of pueblos. In order to address this possibility, and provide your office with the flexibility to address the pervasive problems in AIPHA operations, we are replacing specific recommendations with a series of options available to improve housing operations within the cited pueblos.

## Management Memorandum

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Within 60 days, please furnish us for each option in this report a status report on (1) the corrective action taken, (2) the proposed corrective action and the date for its completion, or (3) why action is not needed. Also, please furnish us copies of any correspondence or directives issued related to the audit.

To ensure timely action on this report, we will strictly adhere to the Departmental requirements for a management decision within 120 days after report issuance. If a decision is not reached by then, we will immediately refer the report to the Deputy Assistant Secretary, Office of Native American Programs.

We have provided a copy of this report to AIPHA.

Should you have any questions, please contact me at (415) 436-8101.

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# Executive Summary

We completed an audit of the All Indian Pueblo Housing Authority (AIPHA) located in Albuquerque, New Mexico. The audit objective was to determine whether the AIPHA operated in an efficient, effective and economical manner, and in compliance with the terms and conditions of its Annual Contributions Contracts, applicable laws, regulations and other directives. Additional objectives were to evaluate AIPHA's actions to resolve prior audit findings, and to evaluate it's innovative acquisition method of development.

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Homeownership Counseling/Tenant Relations and Finance Departments were well run

We found AIPHA's Homeownership Counseling/Tenant Relations and Finance Department to be well run and in general compliance with HUD regulations. AIPHA's innovative acquisition program, as discussed in the Other Issues section of this report, may be a viable alternative to existing development programs - but only if AIPHA monitors contractors and ceases using operating reserves for development purposes.

Serious problems with the Comp Grant program, procurement and contract administration

AIPHA is experiencing serious problems with its Comprehensive Grant program, and procurement and contract administration. These problems adversely affect AIPHA's ability to carry out its housing and grant programs, including the condition of its housing. The problems primarily resulted from AIPHA's failure to develop or apply appropriate policies and procedures, frequent turnover of staff, and former employees who may not have been familiar with Comprehensive Grant requirements.

Comp Grant program was poorly planned and executed

The AIPHA's Comp Grant program was poorly planned and executed, based on the following conditions:

- There was no support for the Physical Needs Assessment submitted to HUD;
- Not all physical needs were identified and included in its plan;
- Emergency and handicapped repairs were not completed;
- Lead-based paint testing was not completed;
- Routine maintenance items, which were the responsibility of the homebuyers, were completed using Comp Grant funds; and,
- Energy audits were not completed.

Administration spending rate was excessive

We also found the Administration budget spending rate was more than twice that of its overall program, and the overall program progress is slower than that recommended by HUD. AIPHA also spent over \$54,000 for unsupported work items.

Procurement and contract administration were not effectively managed

The procurement and contract administration processes were not effectively managed. Our review found AIPHA did not:

- Maintain documentation showing how contracts were awarded,
- Ensure contractors and subcontractors complied with contract requirements,
- Ensure work was completed prior to paying contractors,
- Monitor the effectiveness of its legal services agreement,
- Determine the cause of construction deficiencies in homes only three months old,
- Require the general contractor complete warranty repairs, and
- Ensure contractors complied with labor standards, including Davis-Bacon wage rate requirements.

Unless AIPHA strengthens its contract administration system, the above problems will continue, and housing will remain deficient.

Tenant Accounts Receivable continue to increase

We reviewed AIPHA's resolution of significant audit findings from our prior audit report, dated September 17, 1991. Four of the five recommendations had been implemented. However, we noted AIPHA Tenants' Accounts Receivable had increased by over \$147,000 to \$869,812 as of April 1995. This level of lost or uncollected revenue has been compounded by a decided lack of corrective action over the last five years. Although AIPHA engaged legal assistance to address the receivables, the uncollected balances have grown along with the related legal costs.

Uncertain future of AIPHA

Recent actions by the AIPHA Executive Director and Board of Commissioners indicate the potential for AIPHA to evolve into a series of smaller housing

authorities, serving smaller groups of pueblos - or single pueblos. This potential, while not immediate, impacts both AIPHA's ability to improve its housing programs, and our intention to address recommended corrective action to a specific auditee. Given the pervasive problems identified in this report, we are not providing you with recommendations tied to specific findings. Instead, we are providing you a series of options to achieve corrective actions.

SWONAP options

From the following options, we recommend you select the appropriate actions necessary to address the deficiencies cited in this report. The options include:

- assigning your staff to provide immediate and consistent monitoring of AIPHA operations until the future structure or tenure of AIPHA can be determined.
- providing onsite technical assistance to existing AIPHA staff to assure consistent and accurate application of program requirements.
- developing, along with AIPHA board members/tribal leaders, a future action plan to address the housing needs of each participating pueblo - and the ability of each pueblo to develop and manage that housing.
- proposing and implementing a plan to improve the conditions cited in our audit report for Comp Grant, procurement and contract administration, and tenants' accounts receivable.
- declaring and implementing a takeover of AIPHA operations by your office.
- creating an alternative IHA for those pueblos that are unwilling or unable to operate housing programs in an efficient and effective manner.

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**AUDITEE COMMENTS**

On July 2, 1996 AIPHA was contacted for a scheduled telephonic exit conference. We were told the Executive Director was in a meeting and not available. AIPHA

did not provide a written response to the draft findings by the July 1, 1996 due date.

**FIELD OFFICE  
COMMENTS**

On July 2, 1996, we held a telephonic exit conference with the Administrator, SWONAP Phoenix and the Director, SWONAP, Albuquerque. They generally agreed with our findings and recommendations. We made changes to the report, where appropriate, to include SWONAP's comments and concerns.

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## Abbreviations

ACC	Annual Contributions Contract
AIPHA	All Indian Pueblo Housing Authority
CFR	Code of Federal Regulations
Comp Grant	Comprehensive Grant Program
DOFA	Date of Full Availability
HUD	The U. S. Department of Housing and Urban Development
IHA	Indian Housing Authority
MEPA	Monthly Equity Payment Account
MH	Mutual Help Program
MHO	Mutual Help and Occupancy (agreements)
OIG	Office of Inspector General
RFP	Request for Proposal
SWONAP	Southwest Office of Native American Programs
TAR	Tenant Accounts Receivable



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# Introduction

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## **BACKGROUND**

The All Indian Pueblo Housing Authority (AIPHA) was established on June 23, 1967 by the following 11 pueblos:

Cochiti	Isleta	Jemez	Nambe
Picuris	Pojoaque	Sandia	San Felipe
Santa Clara	Tesuque	Zia	

Between 1967 and 1969 the following pueblos joined AIPHA:

Acoma	San Ildefonso	San Juan
Santa Ana	Santo Domingo	

On February 26, 1971, five pueblos, Nambe, Picuris, Pojoaque, San Ildefonso and Tesuque withdrew from the AIPHA and established the Northern Pueblo Housing Authority. In September 1995, the Santo Domingo Pueblo withdrew, leaving 10 pueblos managed by AIPHA.

The participating pueblos cover a wide range of New Mexico. From the AIPHA Administrative offices in Albuquerque, pueblos are located as far as 190 miles north, to 15 miles south, and 80 miles west.

The AIPHA is governed by a ten member Board of Commissioners; one appointed by each of the ten Tribal Councils. The Board of Commissioners in turn appoints an Executive Director who is responsible for day-to-day operations.

As of May 1, 1996, the AIPHA managed 48 Mutual Help and 1 Low Rent projects. The projects included 686 units as follows:

Units under Management

PUEBLO	OLD MUTUAL	NEW MUTUAL	LOW RENT	TOTAL
Acoma	18	116		134
Cochiti	9	23		32
Isleta	18	72		90
Jemez	5	55		60
Sandia	1	31	1	33
San Felipe	5	5		10
San Juan	6	120		126
Santa Ana	3	22		25
Santa Clara	4	133		137
Zia		39		39
TOTAL	69	616	1	686

As of May 1, 1996, AIPHA had 11 projects and 231 houses under development using two development programs (Conventional and Acquisition) as follows:

Units under Development

PUEBLO	CONVENTIONAL	ACQUISITION
Acoma	46	
Cochiti	44	
Isleta		54
Jemez	32	
Sandia		
Santa Ana	6	
San Felipe		
San Juan	2	31
Santa Clara		
Zia		2
TOTAL	130	87

The AIPHA's Comprehensive Grant Program has been funded for four years with a total budget of over \$9,000,000.

The AIPHA was awarded a \$250,000 Drug Elimination in 1995 which has not begun operation.

The AIPHA administrative office is located at 5301 Central Ave NE, Suite 1700, Albuquerque, New Mexico, 87180. Housing Data Specialists, Inc., located in Onalaska, Wisconsin, is under contract with the AIPHA to provide bookkeeping services.

**OBJECTIVES, SCOPE  
AND METHODOLOGY  
OF THE AUDIT**

The purpose of our audit was to determine whether the AIPHA was (1) complying with its Annual Contribution Contracts, applicable laws, HUD regulations, policies and requirements, and (2) using its resources and managing its programs and operations effectively, efficiently and economically. Specifically, the objectives were to determine whether the AIPHA:

- Established and implemented procurement and contract administration policies and procedures which ensured that goods and services were obtained at the best available price and that contract terms were adhered to.
- Maintained current and accurate books and records which provided for appropriate control over assets and full disclosure of the results of its operations and grant activities.
- Ensured that its Mutual Help units were maintained in a decent, safe and sanitary condition.
- Met applicable occupancy requirements relating to resident admissions.
- Completed appropriate certifications and recertifications of resident income and properly determined monthly resident payments.
- Enforced homeownership agreements including collection requirements.
- Maintained efficient and effective personnel policies and procedures.
- Controlled and accounted for residents' Mutual Equity Payment Accounts (MEPA) in accordance

with applicable regulations and the Mutual Help and Occupancy Agreements.

Our principal methodologies used to accomplish this work included:

- reviews of Albuquerque HUD Office and the (Phoenix) SouthWest Office of Native American Programs (SWONAP) files, and interviews with HUD program personnel,
- reviews of AIPHA files, site inspections and interviews with AIPHA and various tribal officials,
- consideration of the AIPHA's internal control systems pertinent to our audit objectives to determine auditing procedures,
- inspections of housing units in the AIPHA Mutual Help programs, and
- examination of AIPHA procedures and controls related to procurement, accounting, occupancy, grant management, personnel, travel, investments, and Comp Grant and development programs.

Where pertinent, we also examined books, records, and other documents related to those areas of AIPHA operations to determine whether they were functioning as intended and/or required.

The audit was conducted from November 1995 through June 1996. On February 21 and April 16, 1996 we requested the Executive Director supply specific information to complete the audit. We did not receive all the information requested. This was an impediment in the audit process. The AIPHA Executive Director, on May 31, 1996, insisted our audit staff leave the AIPHA Administrative Offices. While this action created a minor impediment in the audit process, we had, by that date, gathered the information necessary to provide your office with our draft audit report.

The audit covered the period January 1995 through March 1996. Where appropriate, we extended our review to cover other periods. The audit was conducted in accordance with generally accepted government auditing standards.

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# AIPHA Needs To Improve Its Comprehensive Grant Program

**The AIPHA did not plan and administer its Comp Grant program in a cost effective and efficient manner. The AIPHA is midway through the fourth program year with a flawed strategy for using over \$9 million and has made little progress in identifying and addressing the physical needs of tribal housing. Also, the Administration budget spending rate is more than twice its overall program rate, and AIPHA spent over \$54,000 for unsupported work items.**

**Staff turnover, poor management decisions, a lack of policies, and the prior Grant Coordinators' apparent lack of program knowledge contributed to these conditions. As a result, AIPHA is not providing the necessary and intended modernization for tribal housing.**

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## CRITERIA

The Comp Grant program, governed by regulations contained in 24 CFR 950.600, was first funded in 1992 to provide modernization assistance to authorities that own or operate housing on a reliable and more predictable basis; to enable them to operate, upgrade, modernize and rehabilitate housing; and to ensure continued availability of decent, safe, and sanitary housing for low-income families.

IHAs prepare a Comprehensive Plan to identify the best use of Comp Grant program funds, including both a Physical and Management Needs Assessment based on technical and community input. The Physical Needs Assessment Plan identifies all work needed to ensure housing meets HUD modernization and energy conservation standards.

## PLANNING

The AIPHA's Comp Grant program was poorly planned. We found:

Comp Grant program was poorly planned

## Finding 1

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- no documentation to support the Physical Needs Assessments submitted to HUD;
- physical needs were not identified or included in its plan;
- units needing emergency and handicapped repairs were not identified;
- lead-based paint testing was not completed;
- routine maintenance items, which are the homebuyers' responsibility, were completed using Comp Grant funds; and
- energy audits were not completed.

Physical needs assessment inspections not available

The AIPHA's 1992 Comp Grant Executive Summary stated the Physical Needs Assessment was based on completed inspections. AIPHA staff was unable to find these documents, but stated they were completed and were used as the basis of the Physical Needs Assessment.

During our site visits and documentation review, we found homes with significant foundation, structural, design, and settlement problems not included in the Comp Grant program. Without the supporting documentation, AIPHA cannot justify its plan for work on homes without significant structural problems - or justify not working on homes with significant structural problems.

The current Comp Grant Coordinator agreed the Comp Grant program has not met HUD requirements, and was unable to explain why the Physical Needs Assessment did not address actual needs. The original planning had been completed by former employees, and AIPHA did not maintain supporting documentation.

CGP money not effectively used

Instead of completing only repairs needed to extend the life of houses and bring them to HUD's modernization standards, AIPHA spent \$17,000 to \$49,000 to remodel homes. The remodeling included new roofs, new



windows, and floor repairs, which extend the life of the home. However, the remodeling also included such items as new appliances, carpeting, and painting. Such repairs or replacements are the homebuyers' responsibility, and not the responsibility of AIPHA. The money spent for this work would be more effectively used to complete repairs on a larger number of homes needing new roofs or structural repairs.

Regardless of a home's condition, AIPHA's policy is to prioritize Comp Grant funds for repairs based on accounts receivable due from the resident. While AIPHA has a very poor record for collecting receivables from residents, inadequate collection policies and practices should not supplant the basic need for decent, safe, and sanitary housing.

**IMPLEMENTATION**

Comp Grant suffers from slow progress

Generally, an IHA is expected to obligate each year's Comp Grant funds within two years, and expend such funds within three years of HUD's approval. Although the AIPHA is over four years into the Comp Grant program, it has made inadequate progress towards expending and obligating funds. Based on March 1996 accounting records, AIPHA expended the equivalent of one year's program amount which is one year behind the expected spending rate. AIPHA does not maintain records showing fund obligation.

Delays in implementing the Comp Grant program partially resulted from the frequent turnover in Comp Grant staff, the extended time the Comp Grant coordinator position was vacant, and consistent understaffing. Also, prior staff may have been unfamiliar with the program or lacked needed qualifications. We are encouraged by the current Comp Grant Coordinator's knowledge and accomplishments, but overall management controls remain deficient.

Comp Grant Administration costs spending rate was excessive

**ADMINISTRATION**

The Administration cost (Line item 1410) spending rate is excessive. If not controlled and corrected, AIPHA

will run out of Administration funds long before the Comp Grant program is completed. According to the March 31, 1996 General Ledger, AIPHA spent 91% of the Administration Cost budget but completed only 41% of program activities. AIPHA lacks alternative funding sources to complete its Comp Grant program, so overspending the budgeted Administration costs would assure program failure.

Aside from the obvious delays in implementing its Comp Grant program, AIPHA charged salaries which:

- were excessive or were not justified,
- were for in-house architectural/engineering work incorrectly charged to Administration costs, and
- were for a temporary employee hired to reorganize the AIPHA development department.

### CONSULTANTS

Poor contract monitoring system

AIPHA paid \$21,000 to a grant writer who did not write the required grants, and paid \$4,500 for a questionable demolition study. AIPHA also paid \$28,500 to various tribes to collect demographic information, but did not monitor work completion. This use of Comp Grant funds examples AIPHA's poor contract monitoring system.

Consultant was paid for inadequate and uncompleted work

In April 1993, AIPHA contracted with a consultant to prepare and submit to AIPHA funding proposals for a Drug Elimination Grant, a Technical Assistance Grant, and a HOME Program Grant. In addition, the consultant was required to provide technical assistance and training to staff and tenant organizations. Records show AIPHA paid the consultant over \$21,000. The consultant submitted an inadequate Drug Elimination Grant Proposal, which AIPHA rewrote. The other proposals were not submitted.

Demolition study was without value

On April 7, 1995, AIPHA signed a contract with a consultant to prepare demolition applications to HUD for housing at Acoma and San Juan Pueblos. The consultant is a former AIPHA employee, and between December 1995 and March 1996 was under contract with the Authority as a temporary employee acting as a

management consultant. In March 1996 the employee was hired as full time Development Administrator. We evaluated the final demolition study for the Acoma Pueblo and found the study was without value. The study, which recommended demolishing 22 houses, was based on incomplete information and an unsupportable cost analysis. The information in the study ignored soils, foundation, and flooring work completed between 1990 and 1993. In addition, the rehabilitation cost calculations used inaccurate data, misreported conditions, and used unsupportable cost estimates. There is no evidence the consultant even inspected the houses.

Subsequent to our review of this study, the current Comp Grant Coordinator and the AIPHA inspector inspected the 22 houses to determine whether the recommendations were valid. Based on unit inspections and review of all unit work completed since 1990, AIPHA staff concluded the houses should not be demolished, and instead recommended AIPHA use Comp Grant funds to rehabilitate the houses.

The consultant also submitted a study for the San Juan Pueblo recommending 17 additional housing demolitions. Subsequent inspections of 5 units completed by AIPHA staff concluded only one of the five inspected houses should be demolished. Our inspection of 4 units concluded there was no justification to demolish the units.

## **STUDIES**

Demographic studies not completed

Between May 1995 and February 1996, AIPHA gave seven tribal governments \$28,500 to complete demographic studies for each pueblo. The studies were to be completed by May 31, 1996. The Memorandum of Agreement states if the work is not progressing in a manner sufficient to ensure completion, AIPHA may decline to approve payment in whole or in part. We found no evidence that AIPHA monitored progress or that tribal governments have started the studies.

## Finding 1

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The AIPHA's Comp Grant program is in disarray. While the current Comp Grant Coordinator is making every effort to improve program administration, management controls and overall administration remains deficient. AIPHA must substantially improve its ability to identify housing needs - and address those needs.

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## Procurement And Contract Administration Need Improvement

Lack of viable procurement and contract administration system

**The AIPHA did not have a viable procurement and contract administration system. Improvements are necessary to revise existing AIPHA practices such as:**

- **not maintaining support for contractor selection;**
- **paying contractors who do not comply with contract requirements (as prefaced in Finding 1);**
- **paying contractors before work is completed;**
- **not monitoring the effectiveness of contracted services;**
- **not requiring contractors to complete repairs noted during warranty inspections; and**
- **ineffective enforcement of labor standards and Davis-Bacon wage rates.**

HUD procurement regulations were ignored

**Problems occurred because a viable contract administration system did not exist and AIPHA ignored HUD procurement regulations. As a result, HUD has no assurance that:**

- **AIPHA gives fair and equitable treatment to all firms involved in the purchasing process;**
- **supplies, services, equipment, and materials are consistently procured efficiently, effectively, and at the best prices;**
- **contractors are complying with contract requirements;**

- **deficiencies noted during the warranty inspections are corrected; and**
- **contractors are complying with labor standards, including Davis-Bacon wage rates.**

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## CONTRACTOR SELECTION

Contract award documentation was not available

AIPHA was unable to provide documentation showing how they awarded contracts to a CPA, an attorney, a grant writer, and construction consultant. The files lacked the following information:

CPA - There were no scoring sheets to determine how AIPHA chose the CPA firm. The CPA selected was not the lowest bidder.

Attorney - There was no information showing AIPHA advertised for these services or explaining how the attorney was selected.

Grant Writer - There was no documentation showing the RFP was ever advertised.

Construction Consultant - There was no documentation showing AIPHA advertised for these services or explaining how the consultant was selected.

As a result HUD has no assurance AIPHA's contracting was open and fair, or obtained at the best price.

## CONTRACT REQUIREMENTS

Contractors were not required to comply with contracts

AIPHA does not ensure contractors and subcontractors comply with contract requirements.

For example, we reviewed the contract files for a contractor that rehabilitated houses at the Acoma, Jemez, and Cochiti Pueblos. We noted the AIPHA

Finance Program Specialist reported three times, November 1, 1994, July 21, 1995 and February 1, 1996 that the contractor failed to submit documents required by the contract. However, AIPHA never withheld payment for contract violations and even paid the contract retention in November 1995 without the contractually required information.

In another instance, AIPHA signed a contract with a contractor on October 3, 1994 to build 19 houses at Sandia Pueblo. The Notice to Proceed was dated October 10, 1994. Records in the contract file show that as of June 6, 1995, six of eight required documents had not been submitted to AIPHA. The required documents include non-Collusive Affidavit, Training and Employment Plan, Affirmative Action Program, Certificate of Non-Segregated Facilities, Supervision of Payment and the list of Core Crew Employees. These forms are required to be submitted prior to the notice to proceed.

### **CONTRACTOR PAYMENTS**

Contractors were improperly paid

AIPHA did not ensure work was completed prior to paying contractors. For example, a contractor rehabilitated three houses at the Zia Pueblo. When comparing drawdowns with payroll records, we noted the contractor drewdown money for roofing and electrical work before the work started. We noted the draw for February 15, 1995 included \$10,332 for Roof and Accessories. Payroll records show no work was completed on the roofs until March 7, 1995. The same thing occurred for the March 15, 1995 draw. This draw included \$1,012 for electrical work. According to payroll records, electrical work did not start until April 10, 1995.

### **CONTRACT EFFECTIVENESS**

Legal services contract ineffective

AIPHA is not monitoring the effectiveness of its Legal Services Agreement. On September 23, 1994, the AIPHA signed an agreement with an attorney to handle the eviction process. The contract does not require the attorney to submit documentation to AIPHA concerning



actions taken. Using the attorney to process the delinquencies is questionable because:

- Between September 1994 and April 1996, the TARs increased \$147,810 (\$722,002 to \$869,812),
- The number of delinquent tenants has not decreased,
- AIPHA does not know the cases status because the attorney does not submit supporting documentation to show what action was taken,
- AIPHA personnel do not know the status of payback agreements because the information supplied by the attorney was often verbal.
- The \$95 per hour cost for the attorney and \$45 for the paralegal is significantly higher than when AIPHA used its own personnel.
- During the contract's first 20 months, the attorney only handled cases with delinquent payments after September 1994.

AIPHA is responsible to establish a system to ensure contracts have performance requirements and periodically evaluate the contract's effectiveness. This contract is not effective.

### **WARRANTY REPAIRS**

Warranty items were not addressed

Although AIPHA established a system where quarterly warranty inspections are completed, management is not taking sufficient action to ensure repairs are completed. If repair items are not completed in a timely manner, additional damage may result, or the ability to collect from the contractor or architect may be jeopardized.

Although the AIPHA inspector completed the quarterly inspections and noted repairs the general contractor needed to complete, AIPHA management took little action to ensure the contractor completed the repairs.

Between December 4-7, 1995, the AIPHA inspector completed the first warranty inspections for the newly constructed Sandia Pueblo homes. AIPHA management did not notify the general contractor of needed repairs until February 28, 1996. AIPHA completed followup warranty inspections the weeks of March 4 and April 29, 1996 and noted some of the repairs listed on the first warranty inspections were not completed. As of May 13, 1996, AIPHA had not notified the general contractor of the repairs not completed based on the first and second warranty inspections.

AIPHA is also not fully analyzing warranty inspections to determine the cause of repair items that occur after a home has been accepted from the general contractor. Our review found that certain construction deficiencies may have resulted from poor architect specifications rather than contractor performance. Examples included (1) repetitive fascia board splitting and cracking, and (2) specified hosebibs that clogged during periods of high winds and subsequently leaked water onto stucco exteriors.

### **LABOR STANDARDS**

Labor Standards  
violations

AIPHA did not have an adequate system to review contractor payrolls. Discrepancies noted included:

- Payrolls were not obtained,
- Funds were not withheld when contractors failed to submit payrolls or payrolls were excessively late,
- AIPHA took insufficient action when they identified Davis-Bacon or labor standard noncompliance, and
- Staff verification of payroll information accuracy was insufficient to detect violations.

These problems occurred because AIPHA gave labor standards and Davis-Bacon violations a low priority when deciding to pay contractors. This practice eliminated the leverage needed to ensure contractors

submitted missing or corrected payroll information. As a result, HUD has no assurance contractors are complying with Davis-Bacon wage rates, other Labor Standards, and contract requirements.

Payrolls submitted by a general contractor showed significant non-compliance with federal labor standards. We noted the following problems:

- The General Contractor did not always submit payrolls for the subcontractors, or the payrolls were extremely late. The log maintained by the person who reviewed payrolls showed at least 6 subcontractors either did not submit payrolls or submitted the payrolls months late. For example, the payrolls for a subcontractor were not submitted until 11 months after work started, and 6 months after work was completed. In several instances, AIPHA did not know what payrolls were missing.
- Payrolls submitted were incorrect. Payrolls did not account for all time worked, were not signed or certified or were certified by an unqualified person.
- AIPHA did not ensure subcontractors reimbursed employees for prior incorrect pay rates. For example, AIPHA noted a subcontractor's employee was paid the "helper" wage rate. AIPHA and HUD determined this was an incorrect job classification and instructed the subcontractor to pay the employee retroactively for wage underpayments. The subcontractor replied and submitted some information indicating the employee was reimbursed. However, the payroll check submitted as proof of payment has not cleared the bank.
- The March 18 and 25, 1995 payroll information submitted and certified by a contractor was erroneous. The information provided to us by the general contractor did not support original payroll information they submitted to AIPHA. For example, the March 18, 1995 payroll showed three employees did not work during that pay period, but were paid for piece work. Other information

indicated the employees did work. For the March 25, 1995 payroll, the original payroll submitted to AIPHA indicated five persons worked on the project. Supporting documentation showed seven persons worked on the project.

\* \* \* \*

Until AIPHA strengthens its contract and procurement administration, the above problems will continue. AIPHA's lack of management control over procurement and contracting encourage poor contractor performance, set inordinately low standards, and are a disservice to the residents AIPHA is charged with serving.

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# Internal Controls

In planning and performing our audit, we considered internal control systems used by the Authority to determine our auditing procedures and not to provide assurance on internal control. Internal control is the process effected by an entity's board of commissioners, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

In each of these three categories of objectives, organizations will establish their own specific control objectives and control procedures aimed at achieving these broad objectives. If organizations are to meet these control objectives, five components of internal control - control environment, risk assessment, control activities, information and communication, and monitoring - must be present. That is, the control objectives in each category are inextricably linked with the five supporting components.

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We evaluated pertinent internal control systems

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

- Grant Administration
- Procurement and Contract Administration
- Books and Records
- Dwelling Unit Modernization
- Administration
- Tenant/Participant Management
- Development

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

Significant control weaknesses were noted

A significant weakness exists if internal control does not give reasonable assurance that all three control objectives are met. Based on our review, we believe the following were significant weaknesses:

- The All Indian Pueblo Housing Authority did not plan and administer its Comprehensive Grant Program in a cost effective and efficient manner. (Finding 1)

- AIPHA did not have a viable procurement and contract administration system. (Finding 2)

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# Followup On Prior Audit Recommendations

One of our audit objectives was to determine whether AIPHA had taken action as promised on the significant findings from our September 17, 1991 audit report (91-SF-202-1008). We categorized the following findings/recommendations as significant:

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**Finding 1 - The AIPHA Was Extremely Lax In Its Efforts To Collect Funds Due From Participants**

Recommendation 1a: Enforce the payment collection and eviction policy.

Recommendation 1e: Document tribal interference and lack of cooperation and submit this information to SWONAP for appropriate administrative action.

**Finding 2 - There Were Serious Deficiencies With The AIPHA's Financial Activities And Accounting Procedures**

Recommendation 2b: Identify and reimburse the sources of the \$325,910 and the interest the fund earned.

**Finding 3 - Poor Controls Over Mutual HELP Units Exposed The AIPHA To Substantial Financial Liability**

Recommendation 3a: Include in its insurance policies all units for which it holds title.

Recommendation 3b: Research and determine the validity of the 592 quit claim deeds. Require AIPHA to take action where title transfer was not proper.

We reviewed action taken by AIPHA to implement the above recommendations and resolve the findings. We found that four of the five recommendations were

implemented. AIPHA has been unable to implement Recommendation 1a and as a result the Tenant Accounts Receivable balances have increased \$147,810 between September 1994 and April 1996.

Since 1991 AIPHA has taken the following actions to reduce TARs:

1. Limiting MEPA use and participation in the Comp Grant program to those homebuyers who have small or zero TAR balances.
2. AIPHA changed the Administrative Fees to a variable amount based on tribal percent of the TAR balance.
3. Contracted with the AIPHA attorney to send letters, hold administrative hearings, and file complaints in tribal courts to collect payment or evict the tenant.

None of these actions have had an impact on TAR levels.

AIPHA's Board of Commissioners has refused to approve resolutions that would allow AIPHA to inform credit bureaus of the delinquent housing payments.

On June 5, 1996, the Assistant U. S. Attorney in Albuquerque informed us that his office had declined to prosecute residents who have substantial TAR balances.



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# Other Issues Needing Further Study And Consideration

## ACQUISITION METHOD OF DEVELOPMENT

During the planning stages of our audit, we spoke to the AIPHA Executive Director about alternative development methods to build housing for Native Americans. At that time, the Executive Director stated the AIPHA's acquisition method of developing housing would save time and money and result in a better quality house which met the cultural needs of Native Americans. He requested we "come down from our ivory tower and see what the real world was."

The acquisition program is a viable alternative to conventional construction

We took up the challenge and reviewed AIPHA's acquisition program. Essentially, the acquisition method involves tribal purchase or construction of single family housing which is subsequently sold to AIPHA. Based on our review, including interviews with officials of four tribal governments, contractors, a tribal construction company and a modular type home builder; and site visits to both new (Acquisition and Conventional) and old (Conventional) housing, we concluded the acquisition program could be a viable alternative to conventional construction. It appears to be a quicker and cheaper method of development which results in a better quality home at a lower price, while meeting tribal needs and resulting in significant economic development.

On April 11, 1996, we presented a briefing on the acquisition method to the Deputy Assistant Secretary, Office of Native American Programs. We recommended HUD consider the possibilities provided by the acquisition method, and clarify related HUD requirements for Native American tribes interested in the acquisition method. The Deputy Assistant Secretary expressed an interest in the acquisition method, and our OIG counsel is currently reviewing the legal implications of development through acquisition.

While we strongly encourage you to consider the acquisition method, our May 29, 1996 inspection of a replacement home identified a number of (recent)

inappropriate actions by AIPHA. Contrary to the method originally proposed by the Executive Director, AIPHA records show the Executive Director authorized using over \$250,000 of operating reserves to purchase two conventional and one acquisition units. AIPHA did not have available Development funds for the acquisition because they failed to submit the required documentation to HUD (including budgets), and therefore, applied operating reserves. This misuse of operating reserves clearly violates federal restrictions (OMB Circular A-87) for the use of specific program funds.

### **PERSONNEL ACTIONS**

Although not a specific objective during our audit, we noted potential problems with AIPHA's personnel practices. During our audit site work, AIPHA hired several new employees. According to AIPHA management, these new employees were hired without advertisement or interviews. Also according to AIPHA staff, employee job descriptions did not match job titles or had not been recently updated, and employees did not always receive annual work evaluations. These conditions, although subject to local and tribal initiatives, may impact AIPHA's ability to address the deficiencies cited in this report.

### **UTILITY ALLOWANCES**

AIPHA had not established utility allowances for newly developed houses which have or will soon be occupied. New allowances should be established as soon as possible considering the increased size of the houses developed under the acquisition program.

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# COMPREHENSIVE GRANT PROGRAM CRITERIA

Regulations covering the Indian Housing Authority Comprehensive Grant program are included in 24 CFR 950.600(1). Additional criteria are included in HUD Handbook 7485.3. We determined AIPHA was in non-compliance with the following citations:

## **Subpart I - Modernization Program**

### **General Provisions**

#### **Special requirements for Turnkey III and Mutual Help developments**

950.602 (c) The homebuyer family shall be in compliance with its financial obligations under its homebuyer agreement in order to be eligible for nonemergency physical improvements, with the exception of work necessary to meet statutory and regulatory requirements, (e.g., accessibility for disabled persons, lead-based paint testing....) and correction of development deficiencies.

Notwithstanding the above requirements, an IHA may, with prior HUD approval, complete nonemergency physical improvements on any homeownership unit...

#### **Modernization and energy conservation standards**

950.603 (a) All improvements funded under this subpart, which may include alterations, betterments, additions, replacements, or nonroutine maintenance, shall meet the HUD modernization standards, described in paragraph (b) of this section; comply with lead-based paint testing and abatement requirements in subpart H of this part; and provide decent, safe and sanitary living conditions in IHA-operated housing. All improvements funded under this part shall meet the HUD energy conservation standards for cost-efficient energy conservation measures in-such developments described in paragraphs (c) and (d) of this section.

(b) The modernization standards are comprised of both mandatory and development-specific standards. The mandatory standards are intended to provide decent, safe, and sanitary living conditions in Indian housing, including corrections of violations of basic health and safety codes, and to address all deficiencies, including those related to deferred maintenance.

950.603 (c) The energy conservation standards are standards for the installation of cost-effective energy conserving improvements, including solar energy systems. The energy conservation standards provide for the conducting or updating of energy audits, including cost-benefit analyses of energy saving opportunities, in order to determine which measures will be cost effective in conserving energy.

**Comprehensive Grant Program (for IHAs That Own or Operate 250 or More Indian Housing Units)**

**Eligible Costs**

950.666 (i)(1) The IHA shall properly apportion to the appropriate program budget any direct charges for the salaries of assigned full-or part time staff. (e.g. to CIAP, CGP, or operating budgets);

(m)(2) an IHA shall not use more than a total of 10% of its annual grant on administrative costs in account 1410, excluding any costs related to lead-based paint or asbestos testing, in-house architectural/engineering (A/E) work. (Note: Because of its large geographical area, AIPHA is allowed 12% administrative costs.)

**Comprehensive Plan (including Five-Year Action Plan)**

950.672 (d)(2)(i) The physical needs assessment identifies all of the work that an IHA would need to undertake to bring each of its developments up to the modernization and energy conservation standards, ...to comply with lead-based paint testing and abatement requirements...

(d)(2)(ii) The IHA shall identify in its needs assessment the sources from which it derived data to develop the physical needs assessment ...and shall retain such source documents in its files.

(d)(3)(ii) The IHA shall identify in its needs assessment the sources from which it derived data to develop the management needs assessment and shall retain such source documents in its files.

(d)(5)(ii)(A) In developing its action plan, an IHA shall give priority to

- (1) Activities required to correct emergency conditions;
- (2) Activities required to meet statutory or other legally mandated requirements;
- (3) Activities required to meet the needs identified in the Section 504 (handicapped) needs assessment within the regulatory timeframes; and
- (4) Activities required to complete lead-based paint testing and abatement requirements.

(d)(7)(iv) The proposed physical work will meet the modernization and energy conservation standards

(d)(7)(ix) The IHA will comply with the wage rate requirements.

(d)(7)(xi) The IHA will comply with requirements for physical accessibility

(d)(7)(xiv) The IHA will comply with lead-based paint testing and abatement requirements

**HUD review and approval of Comprehensive Plan (including action plan)**

950.675 (c) After HUD approves the Comprehensive Plan or any amendments to the plan, it shall be binding upon HUD and IHA until such time as the IHA submits, and HUD approves an amendment to its plan.

**Conduct of modernization activities**

950.681 (a) ... the IHA shall undertake in a timely, efficient, and economical manner the modernization activities and expenditures set forth in its approved Annual Statement...

**HUD review of IHA performance**

950.687 (a)(3)(iii) In determining whether the IHA has made reasonable progress, HUD will take into account the level of funding available and whether the IHA obligates its modernization funds within two years from the execution of the ACC amendment and expends such modernization funds within three years.

Other applicable criteria

**Homebuyer responsibility**

950.428 (d) The homebuyer shall be responsible for routine and non-routine maintenance of the home, including all repairs and replacements

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## PROCUREMENT CRITERIA

Regulations covering the Indian Housing Authority Procurement are included in 24 CFR 950.160 and OMB Circular A-87, dated January 15, 1981 entitled Cost principles for State and local governments. We found the AIPHA was in non-compliance with the following citations:

### **Subpart B - Procurement**

#### Procurement Standards

- 950.160 (a)(4) An IHA shall maintain records sufficient to detail the significant history of a procurement.
- (b) Each IHA shall adopt, promulgate, and comply with rules or regulations for the procurement and administration of supplies, materials, services, and equipment...These rules or regulations shall contain provisions on at least the following subjects:
- (i) Procedures to ensure that all procurement transactions are conducted in a full and open competitive manner and consistent with the standards of 24 CFR 85.36.
- (b)(2) An IHA shall maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts and purchase orders.

### **Methods of Procurement**

#### Request for Proposals

- 950.165 (c) Procurement by competitive proposals (Request for Proposals (RFP)). The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost reimbursement type contract is awarded. If this method is used, the following requirements apply:
- (1) Requests for proposals will be publicized and identify all evaluation factors and their relative importance.
- (2) Proposals will be solicited from an adequate number of qualified sources.
- (3) IHAs will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

- (4) Awards will be made to the responsible firm whose proposal is most advantageous to the program...

#### Other Criteria

Office of Management and Budget, Circular No. A-87, paragraph C.2.b. states "Any cost allocable to a particular grant or cost objectives under the principles provided for in this Circular may not be shifted to other Federal grant programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons."

#### **Federal Labor Standards**

HUD Handbook 1344.1 Rev 1. Federal Labor Standards Compliance in Housing and Community Development Programs, describes policies and procedures for Indian Housing Authorities in implementing statutory and regulatory requirements for construction labor standards compliance in HUD Housing. The following are areas of AIPHA non-compliance:

#### Chapter 3 LABOR STANDARDS COMPLIANCE AND ENFORCEMENT PROGRAM: CONSTRUCTION PHASE

Paragraph 3-3 states "Payrolls shall be examined to assure compliance with labor standards."

Paragraph 3-3(c) "Payrolls Must Be Obtained and Examined Promptly - Payroll Retention." states "the agency shall withhold funds from the contractor if excessively delinquent in the submission of payrolls." The payrolls shall be examined upon receipt so that any necessary corrective action may be initiated before the problem multiplies. The payroll examination should ensure that:

- address and Social Security numbers are reported,
- all required items are included,
- correct classification and wage rates are paid,
- payroll computations are correct,
- deductions are reasonable and justified, and
- the form is signed by an authorized officer or employee.



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## DEVELOPMENT CRITERIA

Regulations covering the Indian Housing Authority Development are included in 24 CFR 950.200. We found the AIPHA was in non-compliance with the following citations:

### **Subpart C - Development**

#### **Warranty Inspections and enforcement**

950.275 (b) The IHA shall conduct an inspection of each dwelling unit at least once not later than six months after the start of the contractor's warranty period. A separate or final warranty inspection shall be made in time to exercise the IHA's rights before expiration of the contractor's warranties. Each inspection shall cover all items under warranty at the time of the inspection including items covered by manufacturers' and suppliers' warranties. At each inspection, the IHA shall obtain a signed statement from the occupants as to any deficiencies in the structure, equipment, grounds, etc, so that it may enforce any rights under applicable warranties.

#### **Correcting deficiencies**

950.280 (a) The IHA shall pursue correction of any deficiencies against the responsible party (e.g. architect, contractor/developer or MH homebuyer) as soon as possible after discovering the deficiencies... The IHA shall be responsible for correction of any deficiencies that could have been detected and/or corrected during the warranty period if the IHA had inspected at the appropriate time or had pursued correction of deficiencies against the responsible party.

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Director, Office of Native American Programs, PI, Room 8204)  
Associate Director, US GAO, 820 1st St. NE Union Plaza, Bldg 2, Suite 150, Washington,  
DC 20002, Attn: Jacquelyn Williams-Bridgers  
Michael Sisneros, Executive Director, All Indian Pueblo Housing Authority, 5301 Central  
Ave NE, Suite 1700, Albuquerque, New Mexico 87180  
Congresswoman Barbara Vulcanovich, 300 Booth Street, Suite 3038, Reno Nevada,  
89509  
Christopher Boesen, U.S. House of Representatives, B-303, Rayburn House Office  
Building  
Washington, DC 20515