



U. S. Department of Housing and Urban Development
Washington, D.C. 20410-4500
Office of the Inspector General for Audit
Northwest/Alaska
909 First Avenue, Suite 125
Seattle, WA 98104-1000
Phone 206-220-5360
Fax 206-220-5159

Audit-Related Memorandum
98-SE-107-0802

February 23, 1998

To: Jacqueline Johnson, Deputy Assistant Secretary for Office of Native American Programs, PI

From: Robert H. Woodard, Acting District Inspector General for Audit, OAGA

Subject: Secretarial Request
Office of Native American Programs
Oversight of Indian Housing Authorities
Northern Plains Office of Native American Programs
Denver, Colorado

On November 29, 1996, OIG received a request from the Secretary of HUD to thoroughly review allegations of various improprieties in the use of HUD funds by tribal governments and/or Indian housing authorities (IHAs) and inadequate monitoring by HUD's Office of Native American Programs (ONAP). Program abuse at IHAs across the country was alleged in *The Seattle Times*' December 1996 series of articles entitled "From deregulation to disgrace" which identified 29 instances.

Audit Objective, Scope and Methodology

As part of our review to address the Secretary's request, we wanted to know if ONAP's field offices (excluding Alaska) provided effective oversight to ensure IHAs provided housing consistent with program intent and rules. Our review included five instances identified in *The Seattle Times* series which were in Northern Plains ONAP's (NPONAP) servicing area. To accomplish this, we:

- reviewed *The Seattle Times* series to identify the issues and locations.
- contacted the NAPON Administrator to obtain:

- * a perspective and position on the issues reported in *The Seattle Times* series for each IHA in the NPONAP servicing area,
 - * a description of the program requirements applicable to each of the IHAs, and
 - * a description of actions taken by the office in relation to the issues reported in the series.
- obtained and reviewed applicable program requirements including statutes, regulations, handbooks, guidebooks, memorandums, and other directives.
 - interviewed appropriate staff; and reviewed available documentation related to oversight. The review included testing of the management information and control systems to obtain an understanding of how those systems functioned.
 - compared the oversight and actions taken by the office to the applicable requirements.

We performed our field work during June and July 1997, and extended our work as necessary to accomplish our objective.

Audit Results

Our review disclosed that NPONAP did not fulfill its oversight responsibilities to ensure that IHAs provided housing consistent with program intent and rules for two of four ¹ IHAs in NPONAP's servicing area reported in *The Seattle Times* (see Attachment 1 for individual IHA summaries).

NPONAP did not act or put off taking action to resolve problems at the:

- Northern Cheyenne Indian Housing Authority (page 8), and
- Omaha Tribal Housing Authority (page 11).

As a result, NPONAP's ineffective oversight allowed uninsured IHA assets to be at risk and allowed an Executive Director to continue to misuse his position to operate a personal business. Also, ONAP has been the subject of negative publicity which has eroded public confidence and caused Congressional scrutiny of HUD's Indian housing programs. Ineffective oversight occurred, in part, because:

¹ One instance reported in the *Seattle Times* was a cash probe of 12 IHAs by the Rocky Mountains OIG which we did not categorize.

- NPONAP staff relied on their working relationships with Housing Authority staff, and did not require documentation showing that uninsured assets had been properly secured.
- NPONAP delayed taking enforcement action until OIG audit assistance was provided as a basis to take corrective action.

Although ONAP has oversight responsibility in these instances, it was IHA officials, not NPONAP officials, who had responsibility for housing authority operations, including the safeguarding of assets and use of housing authority resources. At Omaha Tribal Housing Authority, the Executive Director, who is expected to promote economical and effective operations, abused his position for personal gain.

Available evidence suggests that these conditions occurred because IHAs were either administratively unable or unwilling to follow program rules because of:

- difficulty in developing and retaining staff with the skills, abilities, and knowledge needed to follow HUD rules, and
- an Executive Director being allowed to make decisions which either directly benefited himself, or other family members.

Auditee Comments

We provided our draft results to NPONAP's Administrator and management staff for review and comment. As discussed below, NPONAP's Administrator and management staff did not agree with our results. NPONAP's written responses are included in Attachment 2. NPONAP's comments were considered in finalizing our results and were incorporated, as appropriate.

NPONAP's Administrator generally found the draft results to be somewhat misleading as to the degree of seriousness of the offenses said to be committed by NPONAP. NPONAP stated that it almost seems that OIG has become overly enthusiastic and bent on the idea of showing NPONAP in the worst possible light. The Administrator stated that staff of the NPONAP, with available resources, does an exceptional job in the provision of HUD oversight and technical assistance to IHAs and tribes. NPONAP supervisors and staff who reviewed the draft results stated it appears that the draft results established against NPONAP were embellished for the sake of making matters appear worse than the facts indicate. Further, they felt the results do not identify any violation by NPONAP of the laws and regulations governing the program.

NPONAP's comments about the specific IHAs included:

- The NPONAP did not delay taking action for the Omaha Tribal IHA. NPONAP did not take administrative sanctions because it did not have evidence defensible in a court of law. The Rocky Mountains OIG was reviewing the IHA operations and was not sharing the evidence.
- For the Northern Cheyenne IHA, NPONAP noted that there was confusion regarding the requirements for HUD approved investments. The HUD handbook that listed approved investments was canceled during this period and there was a time lapse before new guidance was issued.

OIG Evaluation of Auditee Comments

While the issues in our results may be considered minor, they were included in *The Seattle Times* coverage on the program. We believe these issues need to be reviewed and evaluated based on the facts of each issue. Accordingly, the results include the information needed for a reader unfamiliar with the HUD program and IHAs to evaluate the results.

For Northern Cheyenne IHA, we considered NPONAP's comments in finalizing our results. NPONAP's main point of disagreement with the draft results on Omaha Tribal IHA are with our conclusions. Specifically, we understand that the NPONAP could not take administrative sanctions against the Omaha Tribal IHA without adequate evidence. However, we believe NPONAP could have advised the Executive Director that private business operations at the IHA were not appropriate. Asking or suggesting should always be options.

This memorandum does not contain specific recommendations. However, you may determine that specific personnel actions may be warranted. We are including recommendations for programmatic issues in our national audit report on HUD's Native American Programs (number 98-SE-107-0002).

Should you or your staff have any questions please contact me at 206-220-5360.

Summary of OIG Internal Review

Rocky Mountain Indian Housing Authorities - Denver, Colorado

The Seattle Times: (December 1, 1996) Federal auditors have found a serious problem with cash controls at Indian Housing Authorities throughout the Rocky Mountain district. Eleven of 12 flunked spot checks because they had cash shortages or were highly susceptible to internal thievery.

The Northern Plains Office of Native American Programs (NPONAP) provided the required cash control oversight for 9 of the 11 IHAs with cash control problems, as identified by the Rocky Mountains OIG. Once NAPONAP became aware of the cash shortages and cash control weaknesses, they took action to resolve weaknesses at all but 2 of the 11 housing authorities and have implemented cash control monitoring procedures for all housing authorities to help prevent and detect future cash problems. The 11 housing authorities with weak cash controls included 5 where over \$173,000 was embezzled, and 1 with over \$1,900 lost in the mail. NAPONAP became aware that money was lost at three housing authorities through independent audit reports; two through Rocky Mountains OIG audits; and one other housing authority through its onsite monitoring efforts. NAPONAP's controls worked to detect lost cash which NAPONAP then acted on. However, the housing authorities did not have controls to provide reasonable assurance on the prevention or timely detection of cash shortages. Actions on the five embezzlements include three housing authority staff members convicted and the others under investigation. The cash control weaknesses at the two housing authorities remained because NAPONAP staff did not follow up to ensure the housing authorities took the actions recommended.

NAPONAP provided the required cash control oversight for 9 of the 11 IHAs with cash control problems.

A Rocky Mountains OIG audit report issued on August 15, 1996 reported that 11 of 12 housing authorities reviewed had weaknesses in cash controls making them susceptible to loss. The report also stated that 6 of the 11 had sustained losses totaling about \$175,000.

NAPONAP became aware of losses at three of the six housing authorities prior to the OIG audit. Independent audit reports received from the housing authorities identified cash shortages at two of these housing authorities. Also, a NAPONAP onsite monitoring review identified one other housing authority with cash shortages. Once identified, NAPONAP took appropriate actions to resolve the cash shortages. The actions included requests for OIG assistance, the provision of

technical assistance, and placement of housing authorities in the Partners-in-Progress program. In addition, NPONAP has implemented cash control monitoring procedures for all housing authorities to help prevent and detect future cash problems.

The controls generally worked to detect lost cash which NPONAP then acted on. However, the housing authorities did not have controls to provide reasonable assurance on the prevention or timely detection of cash shortages.

Once identified, appropriate actions were taken to address the losses. The six losses included five embezzlements, and at the time the OIG audit was issued, three housing authority employees had been convicted and the others were under investigation.

The OIG audit noted that all of the identified cash shortages stemmed from the housing authorities' weak cash controls, and that the five most common control weaknesses found at the housing authorities included:

- deposits of cash receipts not made timely and/or intact,
- inadequate separation of duties,
- receipt discrepancies,
- improper control over change/petty cash funds, and
- inadequate safeguarding of cash assets.

However, NPONAP action for the 11 housing authorities with weak cash controls have not resolved all the weaknesses. Two of the housing authorities continue to have cash control weaknesses, Cheyenne River and Northern Cheyenne. In addition, Cheyenne River Housing Authority has not yet made its financial records auditable.

On April 5, 1997 ONAP issued a new operating handbook that included a section on cash management. The cash management section requires ONAP staff to perform a limited cash management review any time they are onsite at an Indian housing authority where such a review has not been completed within the last six months. NPONAP has implemented the handbook requirements and is completing the required limited cash management reviews during on-site visits.

NPONAP responsibility: At these 12 Housing Authorities, NPONAP was responsible for providing proper oversight through monitoring and technical

assistance in order to ensure the Housing Authoritys managed the awarded funds to meet housing needs and program intent. The regulations at 24 CFR 950.135 require NPONAP to, at least annually, review the performance of each Housing Authority as may be necessary or appropriate to make the determinations required by this section, taking into consideration all available evidence. The evaluation must include the financial management function. NPONAP did not ensure that two of the housing authorities implemented the needed controls to provide reasonable assurance on the prevention or detection of cash shortages.

IHAs responsibilities: Under the terms and conditions of the Annual Contributions Contract, IHAs are to operate their housing programs in an economic and efficient manner to ensure that housing program funds are used solely for authorized activities. Accordingly, IHAs are obligated to set up adequate internal controls over cash and other assets. Eleven of the IHAs did not fulfill their obligation to set up adequate internal controls over cash and other assets. Nine IHAs' cash control weaknesses and shortages were resolved after NPONAP provided technical assistance. However, the remaining two IHAs continue to have cash control weaknesses.

Northern Cheyenne Indian Housing Authority - Lame Deer, Montana

The Seattle Times: (December 1, 1996) A spot audit discovered the Northern Cheyenne Indian Housing Authority had \$700,000 in uninsured investments and bank accounts.

The Northern Plains Office of Native American Programs (NPONAP) oversight of the Northern Cheyenne Indian Housing Authority (Housing Authority) was inadequate because NAPONAP did not take appropriate action to determine and verify bank deposits and investments were adequately secured.

While there was no loss sustained by the Housing Authority, there was an unnecessary risk as shown by the 1995 Rocky Mountains OIG audit-related memorandum. The OIG memorandum showed \$317,882 of cash deposited in the bank and \$402,725 of investments with Dain Bosworth were not FDIC insured or not properly collateralized. The uninsured bank deposits and investments with Dain Bosworth continued because NAPONAP staff did not determine and verify that the Housing Authority had its bank collateralize deposits in excess of the FDIC insurance limit, and there was confusion over the requirements for the use of investment firms, especially after the January 1995 cancellation of the handbook covering investments.

NAPONAP did not take appropriate action to determine and verify that the Housing Authority's bank deposits and investments were adequately secured. The Housing Authority's fiscal year 1989 audited financial statements contained a finding pertaining to depository agreements. The Housing Authority apparently could not document that the required agreements were in place, or that amounts deposited with Dain Bosworth were properly collateralized. NAPONAP was only required to keep information on resolution of this finding for three years and no longer had documentation in its files showing what actions were taken to close this finding. However, HUD's Automated Audits Management System showed that the finding was closed in 1991.

The Finance and Budget Specialist at NAPONAP, responsible for the Housing Authority, stated that deposits in excess of FDIC insurance limits was an issue that was regularly discussed with Housing Authority staff during onsite monitoring. However, he did not obtain documentation from the Housing Authority to show that their bank had pledged collateral for any funds exceeding \$100,000. The Specialist stated he was aware of the reference to Dain Bosworth in the 1989 financial statement. However, at that time they did not consider investments with Dain Bosworth as inappropriate because the funds were in HUD approved types

of investments (government backed securities). They did not question the use of the investment firm itself.

A financial management review performed by NPONAP staff at the Housing Authority in June 1993 did not contain any findings relating to uninsured or inadequately collateralized bank deposits or investments. However, there is reference to the Housing Authority's investments with Dain Bosworth. In recommendation five of the review report, NPONAP states that the Housing Authority should establish a separate account for MEPA funds, review the level quarterly, and transfer the funds into investments with Dain Bosworth.

According to the Specialist, in discussions with Housing Authority staff in 1995 prior to the OIG issuing an audit-related memorandum on the Housing Authority, he discussed the importance of making sure that bank deposits in excess of FDIC insurance limits are adequately collateralized. However, he did not require any documentation showing that any funds exceeding these limits were actually secured.

While there was no loss sustained by the Housing Authority there was an unnecessary risk. On May 24, 1995, the Rocky Mountains OIG issued an audit-related memorandum on the Housing Authority's management of its cash assets. OIG found that the Housing Authority had bank deposits exceeding the FDIC insurance limit by \$317,882 and \$402,726 invested in corporate bonds and securities with an investment firm that was not insured by the FDIC. OIG recommended that NPONAP follow up with the Housing Authority to ensure these funds were properly insured. The OIG did not monitor the actions taken by NPONAP for these recommendations.

On October 10, 1995, NPONAP sent a letter to the Housing Authority requesting a report of what action the Housing Authority took or would take to resolve the issues in the OIG audit-related memorandum. Then on February 23, 1996, NPONAP followed up and told the Housing Authority to start the process of divesting itself from its investments with Dain Bosworth and asked for a narrative explaining how they were collateralizing their bank deposits in excess of \$100,000.

In February 1997, NPONAP found out that the Housing Authority had reached an agreement with Dain Bosworth on collateralization of investments. However, no agreement had been made with the Housing Authority's bank on deposits in excess of FDIC insurance limits. In fact, according to the Specialist, as of June 1997 NPONAP still had not received documentation of an agreement between the bank and the Housing Authority.

The uninsured bank deposits and investments continued, in part, because NPONAP staff did not determine and verify that the Housing Authority had its bank

collateralize deposits in excess of the FDIC insurance limit, and there was confusion over the requirements for the use of investment firms, especially after the January 1995 cancellation of the handbook covering investments. In addition, NPONAP staff did not recognize that Dain Bosworth was ineligible under the ACC.

NPONAP commented that during the time period covered by OIG's review, there was confusion regarding the status/requirements of HUD-approved investments. In addition, HUD canceled the HUD handbooks addressing bank deposits and investments in January 1995. NPONAP staff also advised us that the use of investment firms was discussed with an official in Public and Indian Housing's Financial Management Division who told them it was acceptable to use an investment firm if HUD approved investments were used.

NPONAP responsibility: At this Housing Authority, NPONAP was responsible for evaluating whether the Housing Authority was complying with HUD requirements in the area of financial management. NPONAP did not determine and verify that the Housing Authority had a pledge of security for its bank deposits or a proper General Depository Agreement including a pledge of security to protect funds and investments.

IHA Responsibility: The Housing Authority was responsible for ensuring that its funds were protected from loss. The Housing Authority did not execute required general depository agreements for their bank deposits and investments as required by their ACC. In addition, the Housing Authority did not execute a proper depository agreement for its investments after notification by HUD that it was required.

Omaha Tribal Housing Authority - Macy, Nebraska.

The Seattle Times: (December 1, 1996) The housing authority's former executive director ran a private loan business out of the office, while basic controls on agency cash and assets were lacking. For example, the son of an employee bought two trucks but never paid for them, and the authority continued to pay the insurance on the vehicles for months.

After learning of the Omaha Tribal Housing Authority (Housing Authority) Executive Director's personal business operated at the Housing Authority, the Northern Plains Office of Native American Programs (NPONAP) referred the issue to the Rocky Mountains OIG before starting corrective action. NPONAP received complaints that the Executive Director was running a private business out of the Housing Authority in early 1995. NPONAP supervisors discussed the complaints and scheduled a monitoring visit for February 1995 during which NPONAP staff witnessed collections at the Housing Authority for the Executive Director's private business. Instead of requiring immediate corrective action, NPONAP discussed the personal business operation with the Rocky Mountains OIG. Also, after receiving a complaint in the summer of 1995 that the Executive Director did not collect payment for Housing Authority trucks sold to his son, NPONAP discussed the sale with OIG. NPONAP staff told us that they requested OIG assistance because they considered the potential loss to the Housing Authority to be small, believed OIG audit results would provide them a basis to address the Executive Director's continued employment which they considered the real problem, and based on rumors feared that the Executive Director would physically harm Housing Authority staff. NPONAP's decision to not take immediate action but to refer the issue to the OIG allowed the Executive Director's personal business operations at the Housing Authority to continue for approximately nine months.

NPONAP did not take immediate action on the Executive Director's personal business operation, but referred it to the Rocky Mountains OIG.

In early 1995, NPONAP received a complaint that the Housing Authority's Executive Director was operating a personal business operation out of the Housing Authority. After hearing rumors and complaints that the Executive Director was using Housing Authority staff for his personal business, NPONAP performed an onsite review of the Housing Authority's Comprehensive Grant and Housing Development programs from February 27 through March 2, 1995. During the review, a NPONAP Organization Management and Personnel/Leasing Management Services (OMP/LMS) Specialist stated she witnessed collections at the Housing Authority for the Executive Director's private business. The Specialist determined that the Executive Director was operating a personal loan business out

of the Housing Authority's office. The Executive Director made loans to residents and, on occasion, had Housing Authority employees receive the payments on his behalf.

According to another OMP/LMS Specialist, a Housing Authority employee called NPONAP and informed them about the sale of two Housing Authority trucks. Because the sale occurred in June 1995, this information was probably provided in the summer of 1995. The employee advised NPONAP that the Housing Authority had sold two trucks to the Executive Director's son and had not received any money for the transaction.

After the February 1995 onsite visit, NPONAP staff members discussed the Executive Director's loan business with NPONAP management. According to the OMP/LMS Director, NPONAP did not take any direct or immediate corrective action with the Housing Authority at that time. NPONAP met with the Rocky Mountains OIG to discuss the issues after NPONAP confirmed the problems, because NPONAP knew that the OIG was planning an audit at the Housing Authority.

NPONAP waited to take action with the intent of possibly changing management at the Housing Authority, through the use of an OIG report.

A NPONAP OMP/LMS Director stated they did not take direct corrective action when they found out about the issues at the Housing Authority for several reasons. NPONAP believed that if OIG issued an audit report that identified the two issues as violations, NPONAP would have enough evidence to get the Board to take action against the Executive Director. Also, NPONAP heard the Executive Director was an abusive individual who may have retaliated against the staff. In addition, NPONAP believed the Housing Authority was not losing a lot of money due to these actions, and only a small amount of staff time was being used, so waiting would not worsen the problems.

In September 1995, NPONAP assigned the Housing Authority to the Partners-in-Progress program. In addition, between September 1995 and January 1996 NPONAP's Administrator had at least five discussions with Tribal leaders related to management at the Housing Authority. NPONAP and a contractor made multiple technical assistance visits from September 1995 through June 1997.

The Rocky Mountains OIG started an audit and cash probe of the Housing Authority in August of 1995.

The Rocky Mountains OIG started an audit and cash probe in August 1995 and issued a report in January 1996. This report confirmed the existence of: the Executive Director's personal loan business; the sale of trucks to the Executive Director's son; the son's possession of these trucks prior to payment; and the Housing Authority's continuing payments of the trucks' insurance premium.

Documents in NPONAP files showed that, prior to issuance of the OIG audit report, the Housing Authority received payment for the trucks in December 1995. On October 2, 1995, three months after the sale, the insurance company issued a credit for premiums covering the vehicles after the date of sale. On December 18, 1995, the Housing Authority's Executive Director issued a memorandum to the Housing Authority's Occupancy Specialist, with instructions to discontinue accepting payments for his personal business. NPONAP's decision to wait for the OIG to begin an audit before acting allowed the Executive Director's personal business operations to continue for approximately nine months.

Due to some of the issues identified in the OIG audit report and NPONAP's technical assistance, organizational changes occurred at the Housing Authority including the Board's termination of the Executive Director on February 10, 1996. The reasons for termination included incompetence and neglect of duty through repeated failings to submit various reports and information to HUD and the usage of the Housing Authority's equipment, property, and staff for his personal business which was a violation of the Housing Authority's Personnel Policy.

NPONAP responsibility: At this Housing Authority, NPONAP was responsible for overseeing the Housing Authority and following up on serious issues in a timely manner to ensure that the Housing Authority's resources were used properly. NPONAP performed its oversight responsibilities at the Housing Authority by making onsite visits and providing technical assistance. However, NPONAP delayed taking prompt action to address the issues regarding the Executive Director's actions and his violations of program requirements and referred the issues to OIG who was planning an audit of the Housing Authority.

IHA responsibility: The Housing Authority was responsible for maintaining administrative capability, for ensuring program objectives and program requirements were met, and for maintaining adequate controls to detect and prevent fraud, waste, and abuse. The Board was responsible for overseeing the activities of the Executive Director. However, the Board did not ensure that program requirements were met and did not ensure that the Executive Director

properly did his job and allowed the Executive Director to use Housing Authority resources for his own and another family member's benefit.

Sisseton-Wahpeton Housing Authority - Sisseton, South Dakota

The Seattle Times: (December 1 and 3, 1996) The Tribal-housing Authority is riddled with charges of misuse of HUD money. Meanwhile, a tribal leader has been indicted in a scandal involving excess government property.

The Northern Plains Office of Native American Programs (NPONAP) efforts at the Sisseton-Wahpeton Housing Authority (Housing Authority) were timely and appropriate to correct deficiencies it identified during the normal course of its oversight activities. These deficiencies included the reported misuse and recovery of \$19,000 of HUD funds. For this Housing Authority most of the reported deficiencies were known and corrected by NPONAP prior to the *Seattle Times* article. However, the NPONAP was unaware of any problems with the Housing Authority's selection of homebuyers for its Mutual Help program until the *Seattle Times* article suggested problems may exist; and did not act in regard to the tribal leader indicted for diverting excess government property from a General Service Administration program since HUD funds were not involved. The NPONAP should have required the Housing Authority to obtain approval for the selection and admission of over-income families to participate in its Mutual Help program.

NPONAP responded in a timely manner to the Housing Authority's emergency situation.

In a May 11, 1994 letter, the Indian Health Service Unit notified the Housing Authority's Executive Director that a Housing Authority resident called in April 1994 complaining of headaches. The Indian Health Service (IHS) official determined that the source of the family's headaches was carbon monoxide gas which was coming from a defective furnace. The official recommended that the Housing Authority relocate the family as soon as possible due to the high level of carbon monoxide gas in the home. The next day, the Housing Authority sent a moving crew to move the family per IHS's notification that the family was in an emergency situation. The Housing Authority confirmed with NPONAP that Comprehensive Grant funds could be used to fix the furnace in the unit. However, the family refused to move. To remedy the emergency situation, the Housing Authority installed a new furnace early in June 1994. Subsequent tests for carbon monoxide in July 1994 were negative.

NPONAP also responded in a timely manner on a complaint that the Housing Authority was improperly administering the Tribe's Indian Community Development Block Grant.

NPONAP received a complaint by telephone in July 1995 that the Housing Authority was improperly administering the Tribe's CDBG program through an ineligible purchase of a \$19,000 trailer using CDBG funds. NPONAP's Specialist went onsite in August 1995 and determined the complaint was correct. In a September 1995 letter to the Tribe, NPONAP required the Tribe to reimburse its CDBG program the \$19,000 spent on the trailer. The Tribe agreed to repay the funds and completed repayment by making four equal installment payments. The final payment was made in February 1996.

NPONAP was not aware of any problems with the Housing Authority's selection of homebuyers for its Mutual Help program.

NPONAP was unaware of any problems with the Housing Authority's selection of homebuyers for its Mutual Help program until the *Seattle Times* article suggested problems may exist. NPONAP had classified the Housing Authority as low risk for the past three years and had not done any onsite monitoring; but had been onsite in response to complaints and to provide technical assistance. After the *Seattle Times* articles were published, NPONAP contacted the Housing Authority and discussed its selection process and determined that the Housing Authority followed the regulations and properly selected the Executive Director off the waiting list for Mutual Help Project #19.

For the Mutual Help project, the Housing Authority's selection was based on bedroom size followed by date of application. According to the Housing Authority's waiting list, the Executive Director's application was dated August 28, 1985. According to a NPONAP Director, the Executive Director's income was \$28,620 when he applied. The selected applicants had applications on file, were qualified for Mutual Help Project #19, and were selected by the Board during its October 24, 1994 meeting. At the time of selection, the Executive Director's annual income was \$36,000, which was still considered low income per the prescribed income limits in that area. Also, according to Housing Authority records, the Executive Director's application indicated that he already had a house, but it was overcrowded for a five person family. At the meeting, the Board required any applicants with existing homes to agree to get rid of those houses completely, and make the Mutual Help house their principal residence.

NPONAP obtained a copy of the Executive Director's settlement statement for the sale of his previous residence by fax from the Housing Authority. The settlement statement showed that the Executive Director's previous residence was sold for

\$32,400 in May 1997. An NPONAP Director stated that the Executive Director moved into the Mutual Help unit in the same month, and the Executive Director's annual income at that time was \$37,752 which put him over the low-income limit.

In addition, the Rocky Mountains OIG determined that four other applicants were not low-income at the time the applicants were selected from the Mutual Help waiting list (one of which withdrew prior to occupancy). HUD regulations state that an IHA may admit families whose income exceed the levels established for low-income families if the IHA demonstrates to HUD's satisfaction that there is a need for housing such families that cannot otherwise be met except under the Mutual Help program. The regulations also limit the number of dwelling units in any project that may be occupied by or reserved for over-income families to the greater of 10 percent of the units in the project or 5 units.

NPONAP's Administrator told us that they did not have a problem with IHAs admitting over-income families into Mutual Help houses, provided the 10 percent/5 unit ceiling was not exceeded. He also told us that it was NPONAP's unwritten policy that as long as an IHA does not exceed the exception for over-income families in Mutual Help projects, they would approve the over-income families. The Administrator commented that admission of over-income into the Mutual Help program is not a big issue in NPONAP's District because: there are not that many over-income Indian families served by IHAs; most IHAs operate in remote rural areas where housing is hard to find; and unemployment rates in these areas are very high, usually above 70 percent.

However, NPONAP should have required the Housing Authority to obtain approval for the selection and admission of over-income families to participate in its Mutual Help program. Since the Mutual Help program is for low-income Indian families, NPONAP must ensure that the Housing Authority is not serving over-income families whose housing needs can otherwise be served by some other means in the IHA's operating area. The regulations are clear that a need to house over-income families must be demonstrated and approved by HUD; otherwise needy low-income families are denied housing.

A Tribal leader was indicted in a scandal that involved excess government equipment.

In regard to the Tribal leader indicted in a scandal that involved excess government equipment reported in *The Seattle Times*, the diversion centered around federally excessed heavy machinery intended for the Tribe and there was no HUD money involved. We concluded that NPONAP's oversight responsibilities for the Housing Authority would not have included identification of the indictment of a Tribal leader for non-HUD funded activities. The General Services

Administration Inspector General Special Agent in charge of the case advised that no HUD money was involved in the matter.

NPONAP responsibility: At this Housing Authority, NPONAP was responsible for following up timely and adequately on complaints and serious problems to ensure low rent units were environmentally safe; CDBG funds were used for intended purposes; and eligible applicants for the Mutual Help program were selected. NPONAP staff took actions in a timely and adequate manner in resolving the emergency situation involving the carbon monoxide leak and in requiring the Tribe to repay \$19,000 used to purchase a trailer which was an ineligible use of CDBG funds. However, NPONAP did not ensure that the Housing Authority demonstrated a need to house over-income participants including the Executive Director under its Mutual Help program.

IHA and Tribe responsibility: The Housing Authority was responsible for ensuring that rented units were environmentally safe; that the Tribe's CDBG program was administered properly and funds were used for the intended purpose; and the selection process for its Mutual Help program was properly followed and required HUD approvals obtained. The Housing Authority remedied the emergency situation caused by the carbon monoxide leak in a timely manner by replacing the furnace. The Tribe repaid the CDBG funds that were used for an ineligible purchase of a trailer as required by NPONAP. The Housing Authority did not demonstrate a need and obtain required HUD approval to admit over-income participants into its Mutual Help program.

Southern Ute Indian Tribe and Housing Authority - Ignacio, Colorado

The Seattle Times: (December 1, 1996) HUD gave the Tribe and its Housing Authority more money than it could handle - eight grants totaling \$6.7 million over just three years for housing, hotel renovations at its casino complex, and water and sewer lines. Long delays resulted in the money sitting idle for years although it was badly needed elsewhere.

The Northern Plains Office of Native American Programs (NPONAP) provided effective oversight for the grants to the Southern Ute Indian Tribe and the Southern Ute Housing Authority. During a three year period ending in 1995, NAPONAP awarded the Southern Ute Tribe four grants and the Housing Authority four grants for a total of \$6,734,057. As of July 1997, grant funds totaling about \$4,138,309 or 61 percent of the eight grant total had not been expended. However, funding for projects that were not completed by the planned date only included an unexpended total of \$2,506,783. This funding was for three projects which were interrelated and delays were caused by conditions beyond the control of the Housing Authority.

HUD requirements emphasizing time frames to provide housing and services to those in need.

Federal regulations for Community Development Block Grants for Indian tribes and Alaskan Native Villages require that, in order for applications to be rated and ranked, field offices must determine that the project is usable or achievable (generally within a two year period). In addition, federal regulations for the HOME Investment Partnership Program indicate that HUD will recapture any funds that are not committed within 24 months of the last day of the month in which the funds were made available.

Federal regulations for Indian housing programs state that an IHA must commence construction within 30 months from the program reservation date for development grants.

The NAPONAP provided effective oversight for the grants to the Southern Ute Indian Tribe and the Housing Authority.

NAPONAP staff were responsible for processing the grant applications, awarding the grants, and ensuring that the Tribe and Housing Authority complied with grant requirements.

During the three year period ending in 1995, NPONAP awarded the Southern Ute Tribe four grants and the Housing Authority four grants for a total of \$6,734,057. As of July 1, 1997, the status of the grants was:

Grantee and Type	Grant			
	Amount	Expended at 7/1/97	Unexpended at 7/1/97	Planned Completion
<u>Tribe</u>				
1993 CDBG	\$800,000.00	\$800,000.00	\$0.00	Completed
1994 CDBG	800,000.00	541,510.75	258,489.25 ¹	3/1/96
1995 CDBG	564,000.00	0.00	564,000.00	2/1/97
1995 Home	1,488,000.00	0.00	1,488,000.00	2/1/98
<u>Housing Authority</u>				
Housing Authority Development	1,840,331.00	156,037.00	1,684,294.00	12/96
1993 CIAP	418,000.00	418,000.00	0.00	Completed
1994 CIAP	363,700.00	363,700.00	0.00	Completed
1995 CIAP	460,026.00	316,500.00	143,526.00	12/31/98
Total	\$6,734,057.00	\$2,595,747.75	\$4,138,309.25	

As of July 1, 1997, the Tribe had substantially completed the 1993 and 1994 CDBGs and the Housing Authority had substantially completed the 1993 and 1994 CIAP grants and appeared to be on schedule for the 1995 CIAP grant. The progress on the 1994 CDBG, 1995 CDBG, and Housing Authority Development were delayed beyond the scheduled completion dates. The 1995 HOME grant progress was also delayed but the scheduled completion is not until 1998.

The delays for the 1994 CDBG, 1995 CDBG, HOME, and Housing Authority Development were beyond the control of the Tribe and the Housing Authority. Projects were interrelated since the sewer and water lines funded by the two CDBG projects were intended for the housing developed by the other two grants as well as other housing developments. The delays were caused by a legal question over the ownership of the existing sewer system that was to be upgraded, and archeological finds and environmental problems that disqualified the first three sites selected. Although responsible for ensuring compliance with grant requirements, NPONAP could not foresee the legal and archeological issues that would affect projects after approval. The unexpended amount as of July 1, 1997 for these four grants (total does not include 1995 CIAP which is on schedule) totaled \$3,994,783.

¹ NPONAP advised us that their July 1997 financial management review determined that all funds had been obligated and the Tribe was awaiting a final bill from the contractor.

NPONAP responsibility: At this Housing Authority and Tribe, NPONAP was responsible for determining whether the Housing Authority and Tribe had the capacity to timely administer multiple grants before awarding grant funds. Although grants were not administered in a timely manner, NPONAP approved the Tribe's requests to extend the time to use grant funds due to circumstances beyond the control of the Housing Authority and Tribe.

IHA and Tribe responsibility: The Housing Authority and the Tribe were responsible to ensure that awarded funds were used within the time frame requirements to provide basic housing and related services. The Housing Authority and Tribe were working to meet these time frames, but circumstances beyond their control delayed their completion.

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US GAO
441 G. Street NW, Rm. 2474
Washington, DC 20548
Attn: Judy England-Joseph

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Government Reform and Oversight Committee
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