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Audit-Related Memorandum
98-SE-107-0805

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
Northwest Office of Native American Programs
Seattle, Washington

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 eight IHAs identified in *The Seattle Times* series which were in Northwest ONAP's (NWONAP) servicing area. To accomplish this, we:

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

- * a perspective and position on the issues reported in *The Seattle Times* series for each IHA,
 - * 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 take by the office to the applicable requirements.

We performed our field work during February through April 1997, and extended our work as necessary to accomplish our objective.

Audit Results

Our review disclosed that NWONAP did not fulfill its oversight responsibilities to ensure that IHAs provided housing consistent with program intent and rules for eight of eight IHAs in NWONAP's servicing area. (See Attachment 1 for individual IHA summaries.) NWONAP:

- allowed IHAs to administer "innovative" housing programs without understanding how these programs worked and if these programs met program rules and expectations at the:
 - * Nez Perce Tribal Housing Authority (page 11),
 - * Tulalip Tribes Housing Authority (page 14),
 - * Southern Puget Sound Inter-Tribal Housing Authority (page 19), and
 - * Puyallup Housing Authority (page 38).
- assumed the Coquille Indian Housing Authority had the administrative capability to develop and manage housing programs without determining if the new IHA had the resources, capacity, and systems necessary to do so (page 24);
- did not always document decisions and actions to show their efforts to help the Chehalis Tribal Housing Authority (page 28) and Muckleshoot

Indian Housing Authority (page 32) develop and manage their operations; and

- did not act or put off taking action to identify and resolve problems which allowed problems at certain IHAs to continue and reach crisis stages in some cases.
 - * Coquille Indian Housing Authority (page 24),
 - * Tulalip Tribes Housing Authority (page 14),
 - * Southern Puget Sound Inter-Tribal Housing Authority (page 19),
 - * Chehalis Tribal Housing Authority (page 28),
 - * Muckleshoot Indian Housing Authority (page 32),
 - * Puyallup Indian Housing Authority (page 38), and
 - * Yakama Nation Housing Authority (page 43).

As a result, NWONAP's ineffective oversight contributed to the IHA's misuse of housing funds intended for low-income Native American families which totaled approximately \$2,981,844 for seven housing authorities. NWONAP did not hold IHA officials accountable when evidence existed of poor performance in administering their housing programs; and, NWONAP 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:

- NWONAP staff whose monitoring efforts are intended to ensure program compliance either misinterpreted, misunderstood, or misused guidelines and Headquarters instructions,
- NWONAP staff relied on Housing Authority certifications of compliance with requirements and on personal working relationships with IHA officials without follow up,
- NWONAP over-relied on contractors, independent public accountants, and the Office of Inspector General to identify problems, their causes, and recommend appropriate enforcement actions, and
- the Department's initiative to develop partnerships with tribes/IHAs emphasized providing technical assistance rather than taking appropriate enforcement action and holding IHA officials accountable for poor performance.

Although ONAP has oversight responsibility in these instances, it was IHA officials, not NWONAP officials, who had responsibility for housing authority operations including the misuse of housing funds or the abuse of their housing programs. For example:

- Executive Directors and Board members, who are expected to promote economical and effective operations, misused scarce resources and abused their positions for personal gain,
- Contracting practices are so poor that scarce federal housing funds have been wasted and/or unaccounted for, and
- Program design and devolution provided the flexibility and opportunity that IHA officials and consultants exploited to assist over-income people to obtain upscale housing at discounted prices.

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

- administratively incapable of developing their housing programs because of:
 - * difficulty in hiring, developing, and retaining a staff with the skills, abilities, and knowledge needed to adequately operate an Indian housing program in compliance with program rules.
 - * a lack of meaningful oversight of the Executive Director by the Board of Commissioners.
- unwilling to follow the program rules because:
 - * Executive Directors and/or Board members allowed tribal politics or family relationships to unduly influence their decision-making which directly benefited themselves, family members, relatives, or friends.
 - * IHA officials followed tribal philosophies and perspectives on how federal housing funds should be used which were contrary to program rules.

Auditee Comments

We provided our draft results to NWONAP's Administrator and management staff for review and comment. As discussed below, NWONAP's Administrator and management staff both agreed and disagreed with our results. NWONAP's written responses are included in Attachment 2. NWONAP's comments were considered in finalizing our results and were incorporated, as appropriate. The background footnotes referenced by NWONAP are available upon request.

The Administrator commented that the draft results contained areas where he agreed and disagreed with our conclusions.

The Administrator stated that neither he nor any of his staff made a decision to violate program requirements. More than likely, NWONAP staff did not know that program requirements were being violated. In retrospect, the Administrator believed NWONAP could have made better decisions.

Also, he noted that many public announcements indicated that HUD was giving tribes and IHAs greater flexibility in managing their housing programs. Although most requirements still existed, NWONAP's Administrator stated that many clients (tribes and IHAs) believed that HUD had already given them full authority.

NWONAP's comments about the specific IHAs generally addressed each element of our results. The comments included:

- At this time, the NWONAP is unable to respond to the issues regarding the Coquille IHA. In view of the pending litigation, the US Attorney's Office has advised NWONAP staff not to discuss any of the aspects of this case.
- NWONAP disagrees that there was a program violation in the development of the four Lawyer Court Homes developed by the Nez Perce IHA. The IHA submitted the schematic drawings of the four homes to NWONAP and they were reviewed and found to be acceptable under the Mutual Help program.
- It is difficult to understand how OIG can allege that the NWONAP relied too much on the new Executive Director of the Yakama IHA. NWONAP was in nearly daily contact with the IHA both with the Co-Directors and key staff. NWONAP identified irregularities in cash disbursements to the Executive Director, notified OIG, and then cooperated in every way possible with OIG. Additionally, in response to the special audit costs of \$80,000, NWONAP noted that the work performed by the auditors was more of a management improvement program, that it was ineligible for funding from subsidy, and that there was a proposal to fund it through the IHA's Comprehensive Grant Program.
- There is only one small portion of the land purchased by the Southern Puget Sound Inter-Tribal IHA that is contaminated. This was an unforeseen site condition. The tribe has received a verbal commitment from the EPA that the Agency will come in and either clean up the site or cap it. Additionally, NWONAP stated that the Tribal Chairperson's home is not in the IHA program and is financed by a mortgage.

- The NWONAP did not agree with the position that attempts to speed up the Puyallup IHA development were unsuccessful. The NWONAP did extensive work with the IHA in an attempt to find a building site. Funds were not recaptured because the delays were not due solely to the failure of the IHA.
- NWONAP agrees that the Chehalis IHA mismanaged the CIAP project and that a disagreeable relationship between the IHA and a former NWONAP employee contributed to the problem. However, this was identified in an OIG audit dated, October 31, 1995, and corrective actions taken by NWONAP were concurred with by the OIG. Also, funding of the imminent threat was proper and the funding went to the Tribe, not the IHA.
- NWONAP management and staff were misled by the former Executive Director of the Muckleshoot IHA. It was erroneously believed that the former Executive Director, a former HUD official, was an ethical and reliable person. However, NWONAP disagreed that there were apparent, early warning signals of this problem and requested specific examples.
- NWONAP comments on the Tulalip IHA results included:
 - * Approval was granted to admit two over income families to the Mutual Help program because no other financing was available. Also, the regulations in effect at the time of participant selection allowed the IHA discretion on the admission of families that became over income between selection and execution of the Mutual Help and Occupancy Agreement.
 - * There was no statutory or regulatory basis to disallow the home designs based on size and features. Direction from Headquarters was that the tribes/IHAs would define moderate housing design on their reservations. The exception was the large home built for the Executive Director and the Contracting Officer which was disallowed when NWONAP became aware of it.
 - * NWONAP was not aware of a conflict of interest in decision-making in the development of the Executive Director and the Contracting Officer's home until the audit was issued.

OIG Evaluation of Auditee Comments

We recognize that there were program and organizational changes which affected the environment in which NWONAP operates. However, as NWONAP noted in

their comments, most of the statutory and regulatory requirements were unchanged.

NWONAP's main point of disagreement with the draft results are with our conclusions. Specifically:

- NWONAP's position is that the Nez Perce IHA development of the four Lawyer Court Homes was acceptable under the Mutual Help program. Our results do not take exception to the eligibility of the four homes. Our position is that the Housing Authority, with HUD knowledge, used Mutual Help program funds for the ineligible purpose of providing interim financing for four houses that were to be financed with proceeds of sale funds. When the proceeds of sale did not materialize, NWONAP required the Housing Authority to include the four units in its Mutual Help Program. Accordingly, the four homes (the Lawyer Court homes) were built larger than the surrounding Mutual Help homes and could cause inequity to program participants.
- NWONAP's decision to reduce monitoring of the Yakama IHA in recognition of the progress being made under the new Executive Director and onsite technical assistance are inconsistent with developing the IHA's administrative capability. The lack of administrative capability and independent oversight provided the opportunity for the Executive Director to defraud the IHA as indicated in our results. Also, we take exception to the procurement method used to select the firm for the special audit. Selecting a different HUD funding source does not address the appropriateness of these costs.
- For Southern Puget Sound Inter-Tribal Housing Authority, NWONAP's position that only a small part of the property is polluted does not change the requirement that the property be free of environmental hazards. Additionally, the requirement for an environmental assessment is to provide assurance that such occurrences are identified. We agree that the Tribal Chairman's house is not in the program since the IHA sold the Low Rent unit in violation of program rules. This violation of program rules has not been addressed by NWONAP.
- NWONAP did not agree that attempts to speed up the Puyallup IHA development were unsuccessful. Their position is based on the extensive work NWONAP did with the IHA to find a building site. We did not take exception to the amount of work, only that the development took seven years to complete. The statements that the delays were beyond the IHA's control do not take into account the IHA's ability to change to an acquisition

program. When the IHA decided to change to an acquisition program, homes were acquired promptly.

- The NWONAP position that the Chehalis IHA's mismanagement was identified by OIG and corrective actions taken does not address the lack of oversight that allowed the IHA to mismanage its CIAP funding.
- Specific examples of early warning signs were included in the Muckleshoot IHA results.
- The NWONAP position on the Tulalip IHA results relative to:
 - * approval for admitting over income participants does not recognize that several had pre-approved FHA Sec 248 loans prior to selection. It is difficult to show that other financing was unavailable when pre-approved loans existed. Also, the position that the IHA has discretion to admit those that become over income after selection does not recognize that the IHA had outdated income information for four of the five participants so their income status was not actually known.
 - * moderately designed homes does not address the issue that NWONAP may not have acted promptly. The response does not address the fact that NWONAP became aware of the Executive Director's large home and took no immediate action.
 - * the conflict of interest not being known until the audit was issued is inconsistent with the NWONAP comments on moderate home designs. The NWONAP stated they identified the Executive Director and Contracting Officer's home as ineligible and took action which was prior to the audit report being issued.

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.

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Summary of OIG Internal Review

Nez Perce Tribal Housing Authority—Lapwai, Idaho

The Seattle Times: (December 1, 1996) The first expenditures of a \$1.8 million grant meant for low-income housing went instead to four large houses the housing authority had hoped to sell or rent to middle-income families. There were no takers, so the housing authority is stuck with them.

Even though indications of serious deficiencies existed at the Nez Perce Tribal Housing Authority (Housing Authority), indicating a lack of administrative capability, NWONAP did not monitor the Housing Authority's development closely or provide sound technical assistance. Specifically, NWONAP did not monitor the Housing Authority's Mutual Help program that included the use of proceeds of sale in an innovative program. Their innovative program was to develop four units of moderate income rental housing, using proceeds of sale, that would produce revenue for additional low income housing purposes. However, the Housing Authority used Mutual Help program funds for the ineligible purpose of providing interim financing for the four units since proceeds of sale did not materialize. As a result, when the ineligible use of funds was identified by NWONAP, the Housing Authority was required to include the four units in its Mutual Help Program. Accordingly, four homes (the Lawyer Court homes) were built larger than the other Mutual Help Homes in the surrounding neighborhood since they were designed to attract middle-income families. This will cause inequity to program participants and resulted in a loss of revenues to the Housing Authority since, as of May 1997, two of the homes still sat vacant months after completion. NWONAP did not monitor the Housing Authority's development closely or provide sound technical assistance because they interpreted guidance from Headquarters to mean they should take a more "hands off" stance with IHAs.

Due to a lack of administrative capability, the Housing Authority Chairman requested NWONAP approval of a consultant contract.

On May 2, 1995, the Housing Authority's Board Chairman requested NWONAP's approval of a technical assistance contract to hire a consultant because the Housing Authority's administrative capability had "diminished to a point seriously jeopardizing the housing program supporting the majority of the Nez Perce Tribal members housed on the Reservation." NWONAP approved the contract on May 11, 1995, and understood that the consultant would help the Housing Authority with its development project.

The consultant helped the Housing Authority with its Development Program which was not closely reviewed by NWONAP until the units were completed.

According to the Housing Authority's Acting Executive Director, in June of 1995, based on a proposal from the hired consultant, the Board decided to build and rent or sell four units (the Lawyer Court homes) to upper income families who could not find adequate rental units. The Housing Authority's plan was to build these units with "proceeds of sale" income generated from selling other Mutual Help homes in the project. A NWONAP Leasing Management Services Specialist confirmed that he was on site and aware of the Housing Authority's intention to build the four units. He visited the Housing Authority at the new Executive Director's request and discussed the consultant's plans. According to the Executive Director, the Specialist said "it looks good to me". Correspondence between NWONAP and the Housing Authority, a NWONAP trip report, and NWONAP's most recent risk analysis all indicate that NWONAP was aware of this innovative program.

The consultant for the Housing Authority told us that NWONAP's position on who could occupy the Lawyer Court homes changed in September 1995, again in September 1996, and again in November 1996. The question was whether middle-income families or only families eligible for the Mutual Help program could occupy the Lawyer Court homes. In September 1996, NWONAP's Administrator told the Executive Director that, since the homes were built with Mutual Help development funds, the homes had to be occupied under Mutual Help guidelines.

As a result, the Housing Authority was permitted to use Mutual Help development funds rather than proceeds of sale to develop units for middle income families.

The Housing Authority proceeded with its plans to build four homes larger than the surrounding Mutual Help homes. These homes also had attached garages (not included in other Housing Authority homes) to help attract higher income families. The Housing Authority's innovative plan did not work because no proceeds of sale funds materialized from the sales of Mutual Help homes. The Housing Authority's intent to rent or sell the homes to middle income families was ineligible because Mutual Help funds were used to build the homes. Therefore, four eligible Mutual Help families will receive the homes built to attract middle income renters. The Housing Authority has had some difficulties in placing families in the Lawyer Court homes. For example, two homes were offered to Housing Authority employees who turned them down, one to avoid an appearance of favoritism. As of May 1997, two of the four homes were occupied by Mutual Help participants.

The change in the Housing Authority's planned use for the four homes has resulted in a loss of revenue. As of May 1997, two of the Lawyer Court homes still sit

vacant, months after completion. The Housing Authority is losing revenue it could have earned had the homes been occupied when completed.

NWONAP did not monitor the Housing Authority's development closely or provide sound technical assistance.

NWONAP interpreted the new regulations, effective May 1995, and other guidance from Headquarters (such as a November 1993 memorandum from the Assistant Secretary for Public and Indian Housing limiting onsite reviews) to mean that NWONAP should take a more "hands off" stance toward monitoring IHAs. In the spirit of providing IHAs more flexibility and self determination, NWONAP approved the Housing Authority's Mutual Help development plans which included the use of proceeds of sale and let them use the consultant for their Development Program without close review.

NWONAP responsibility: At this Housing Authority, NWONAP was responsible for ensuring that an innovative development method met the minimum requirements. In addition, they were responsible for determining that the consultant's plans to develop four units for middle-income families met the program requirements.

IHA responsibility: The Housing Authority is responsible for making sure that eligible occupants are awarded the larger units. The Housing Authority did not do so, but followed the advice of its consultant which resulted in four homes intended for middle-income families instead of eligible Mutual Help participants.

Tulalip Tribes Housing Authority—Marysville, Washington

The Seattle Times: (December 1, 1996) A \$2.5 million HUD grant for low-income housing instead built luxury houses on big lots, including a 5,296-square-foot house for the housing authority's executive director and her husband, who make \$92,319 a year.

NWONAP staff monitoring, technical assistance, and decisions were not effective in ensuring compliance with program requirements and preventing program abuse. Specifically, NWONAP:

- approved the admittance of over-income families without the demonstration of need required by the regulations;
- did not take prompt actions on indications of potential problems which enabled the Tulalip Tribes Housing Authority (Housing Authority) to complete construction of large custom homes, including the Executive Director's home of 5,268 square feet; and
- accepted a known conflict of interest situation without instituting safeguards to ensure program performance and integrity were maintained.

As a result, low-income families were denied housing, HUD and the Housing Authority have received adverse media attention, and the Executive Director's home has become a symbol of HUD's inability to administer its Indian housing program. This occurred because NWONAP officials:

- approved requests for admission of over income participants routinely without the demonstration of need required by the regulations,
- did not to take prompt action to inspect houses or otherwise determine if they were of moderate design when complaints were first received, and
- did not consider that a conflict of interest situation was a problem because Executive Directors are eligible to participate in the program.

NWONAP improperly approved the admittance of over-income families without the demonstration of need required by the regulations.

The Housing Authority requested, and on March 25, 1996, NWONAP approved the participation of two over-income families based on 24 CFR 950.416. This section allows for admission of over-income families if there is a need to house the families which cannot be reasonably met except under the Mutual Help program. However, neither the Housing Authority's request nor NWONAP's approval letter demonstrate that there is an unmet need to house the over-income families.

In addition, alternative financing was available for over-income families prior to April 1995 when the Mutual Help grant was awarded. The regulations at 24 CFR 203.43(h) allow FHA to insure mortgages on tribal trust lands after the tribe has met the minimum requirements. The Tulalip Tribes met the minimum participation requirements for the 248 FHA loan program in February 1994, and two of the over-income families were pre-approved for 248 FHA loans prior to April 1995.

NWONAP's lack of prompt action enabled the Housing Authority to complete construction of large custom homes, including the Executive Director's home of 5,268 square feet.

NWONAP staff monitoring, technical assistance and decisions were not effective in ensuring compliance with 24 CFR 950.255(c) which requires IHAs to select a moderate design standard taking into consideration anticipated long-term operating costs. This permitted the Housing Authority to complete construction of large custom homes, including the Executive Director's home of 5,268 square feet.

The evidence available does not conclusively show when the NWONAP Administrator became aware that the Executive Director's home exceeded a moderate design standard. Evidence (summarized below) indicates the Administrator may have become aware of the potential problem as early as September 1995 or as late as January 1996.

- The Executive Director of another IHA told us that she called the NWONAP Administrator and the Deputy Assistant Secretary for ONAP about the Tulalip Housing Authority Executive Director's home plans. She said that she called shortly after a conference which was held from September 12-14, 1995.
- Two NWONAP staff members told us that they visited the development in September 1995. NWONAP's Program Advisor told us that he saw some of the homes under construction by the Housing Authority and the

foundation of the Executive Director's home while showing an official from the Federal Home Loan Mortgage Corporation HUD Mutual Help housing in September 1995. He also told us that he did not know if the houses were Mutual Help homes nor did he question the Executive Director because Federal Home Loan Mortgage Corporation officials were present. He told us that after the tour he talked about the houses with the Director of NWONAP's Housing Programs Division. However, the Director could not recall such a discussion.

A Facilities Planning and Development Specialist not assigned to the Housing Authority told us that he visited the development in September 1995 at the Administrator's request. He told us that the Administrator requested the visit after receiving the telephone call from the Executive Director of another IHA. During his site visit he saw homes in various stages of completion but did not see the Executive Director's home. He told us he prepared a trip report noting that the houses were larger and included amenities not usually found in Mutual Help projects. However, he did not have a copy of the original trip report and could not locate a copy in the office.

- The Deputy Assistant Secretary for ONAP told us that after he received complaints from another IHA's Executive Director about the Tulalip IHA's Executive Director's home in December 1995, he asked the NWONAP Administrator to check on the house.
- The NWONAP Administrator told us that he does not recall requesting a staff member to make a site visit in September 1995 or the Deputy Assistant Secretary's request that he check on the Executive Director's house. The Administrator told us that he first became aware that the Tulalip Executive Director's home could be questionable in January 1996, when he received a complaint from an Executive Director of another IHA (the same individual who stated she notified the Administrator in September 1995).

The Administrator met with the Tulalip IHA's Executive Director on February 12, 1996 and it was agreed that the house built for the Executive Director exceeded a moderate design standard and the program costs should be repaid. On June 24, 1996, NWONAP, the Housing Authority, and the Tribe agreed that the Housing Authority would sell the house to the Executive Director for about \$215,000 and reimburse the program for any additional costs (confirmed by June 28, 1996 letter).

NWONAP accepted a known conflict of interest situation without instituting safeguards to ensure program performance and integrity were maintained.

NWONAP officials accepted the Executive Director's participation in the program which created a conflict of interest situation between the Executive Director responsibilities and personal interests. The Administrator stated that he knew that the Executive Director was participating in the Mutual Help program she was in charge of administering. However, housing authorities are required to develop policies and procedures on conflict of interest situations and the Housing Authority did have these policies, which prohibited employees from participating in the program. NWONAP did not hold the Housing Authority responsible for not following its adopted policies.

As a result, low-income families were denied housing.

As indicated in the OIG audit report (97-SE-207-1001), at least eight of the homes were provided to over-income families. Consequently, at least eight low-income families were denied housing opportunities. In addition, HUD and the Housing Authority have received adverse media attention, and the Executive Director's home has become a symbol of HUD's inability to administer Indian Housing programs. *The Seattle Times* profiled the Executive Director's home on the front page of the Sunday paper on December 1, 1996 as a symbol of what has gone wrong at HUD. In addition, a picture of this home was prominently displayed at congressional hearings, with congressional leaders demanding to know who at HUD was responsible for allowing such a home to be built.

Over-income families were housed because NWONAP officials approved requests for admission of over income participants routinely without the demonstration of need required by the regulations.

NWONAP officials routinely approved requests for admission of over income participants to the Mutual Help program. The decision to routinely approve admission of over-income participants in NWONAP's May 29, 1996 Issues Paper was based on the assumption that private financing was not available for homes on tribal land.

NWONAP officials did not take prompt action to inspect houses or otherwise determine if they were of moderate design when complaints were first received.

We were not able to determine why NWONAP officials did not act promptly on indications that the Executive Director's home exceeded the moderate design standard. The evidence suggests NWONAP's Administrator may have been aware that the Executive Director's home could exceed the moderate design standard as early as September 1995 and that action was not taken until February 1996. However, the evidence does not clearly show what was initially identified and when and to whom it was communicated.

NWONAP officials did not consider that a conflict of interest situation was a problem because executive directors are eligible to participate in the program.

NWONAP officials accepted the Executive Director's participation in the program which created a conflict of interest situation between the Executive Director responsibilities and personal interests. The Administrator was aware that the Executive Director was participating in the program before her home was started, but took no action because he did not consider the conflict of interest situation to be a problem. Also, he told us the rules did not prohibit the Executive Director's participation.

NWONAP Responsibility: At this Housing Authority, NWONAP officials had an oversight responsibility to follow the regulations when approving the admittance of over-income families and good management practices require NWONAP to notify the Housing Authority of potential problems with the large homes being constructed. NWONAP did not do so, and their untimely action contributed to adverse media attention and questions on HUD's ability to administer its programs.

IHA Responsibility: The Housing Authority was responsible for only placing over-income families into housing whose needs could not be met otherwise, for constructing housing based on a moderate design standard, and for ensuring that persons administering the housing program did not receive undue benefits in their participation. The Housing Authority did not meet its responsibilities to provide housing in accordance with program rules, as demonstrated in the issued OIG report.

**Shoalwater Bay(Southern Puget Sound Inter-Tribal Housing Authority)—
Tokeland, Washington.**

The Seattle Times: (December 1, 1996) A \$1.2 million housing grant bought a polluted, unusable piece of property and built a large home for the tribal chairman.

NWONAP did not complete an environmental review before permitting the Housing Authority to advance \$205,000 of a \$1.2 million grant to the Shoalwater Tribe in exchange for a commitment to provide a leasehold on a site subsequently determined to be polluted and a health hazard. The polluted site cannot be used to develop the planned 10 units of Low Rent housing until another \$468,000 is spent to remove the contaminants. The Housing Authority has already spent an additional \$31,235 to identify and remove a portion of the hazardous pollutants from land that it has no legal claim to. NWONAP's Director of Development, who was aware of the requirements, placed a higher priority on starting the Low Rent development project than on ensuring the site was environmentally safe because of past difficulties in finding suitable sites.

In addition, NWONAP allowed the Housing Authority to use Low Rent development funds as if they were Mutual Help homeownership development funds. NWONAP's Administrator also encouraged the Housing Authority to treat the Low Rent project as Mutual Help for occupancy, income eligibility, and sale of the units. As a result, the Housing Authority provided at least \$471,826 of Low Rent development funds to Tribal members in the form of buy-down grants and gifts, and the 10 intended Low Rent units were not completed. The Tribal Chairman, who was not low-income and not eligible for the Low Rent Program, benefited from the Housing Authority's action, receiving a 2,100 square foot, \$176,405 custom two story home that he lived in without making a payment for the first 11 months. The Housing Authority is attempting to sell the \$76,184 mortgage on the home (the total the Tribal Chairman owes after the buy-down grant and gift). This occurred because NWONAP's Administrator placed a higher priority on the flexibility in the regulations than on following the rules of the program and relied on the verbal assurances of one of his staff members that the Housing Authority was not doing anything wrong.

NWONAP did not complete an environmental review before permitting the Housing Authority to advance the tribe \$205,000.

On December 22, 1993, the Housing Authority requested \$205,000 of its \$1.2 million Low Rent development grant to purchase a leasehold on a proposed housing site. The Housing Authority intended to build ten units on the site. Federal regulations at 24 CFR 50, and HUD Handbook 7540.1 state that HUD is responsible for completing an environmental assessment prior to expending other than planning funds on a project. These requirements are reiterated in HUD Development Handbook 7450.1, REV-1. On December 27, 1993, NWONAP approved the disbursement to the Housing Authority subject to five conditions, one being that HUD would complete its environmental review. The Housing Authority did not ensure these five conditions were met before releasing the \$205,000 for the leasehold.

(We noted that the Housing Authority advanced the funds to the Tribe in exchange for a commitment to provide a leasehold. As of August 1997, the Housing Authority has not yet received a leasehold on the land.)

NWONAP did not obtain or complete the environmental review and did not follow up on the conditional release of funds. A subsequent environmental review by the Bureau of Indian Affairs determined that there was possible contamination. A later level two review identified chemical and petroleum hazards, among other problems. The Regional Environmental Officer recognized that NWONAP staff were not trained or equipped to identify this type of contamination.

The polluted site cannot be used to develop the needed 10 units of Low Rent housing until another \$468,000 is spent.

The Housing Authority paid \$25,373 for the level two environmental review. In 1995, a subsequent review by the Environmental Protection Agency determined that the site cannot be used for housing until about \$468,000 is used to remove contaminants. The Housing Authority already has paid \$5,862 to a contractor for removal of some of the contaminants on a property it has no legal claim to. The property cannot be placed in trust because of the pollution and neither a written commitment to provide a leasehold or a leasehold have been provided to the Housing Authority.

NWONAP's Director of Development, who was aware of the requirements, placed a higher priority on starting the Low Rent development project than on ensuring the site was environmentally safe.

The Director of Development (at the time) stated that he approved the disbursement although he knew that an environmental review should have been done. He stated he approved the disbursement without doing the required review for several reasons. First, the Housing Authority had been trying for three years to obtain an approved site and had unsuccessfully attempted to purchase three sites. Second, NWONAP assumed the land could be (and needed to be) quickly purchased and placed into trust and that all parties were unaware of any items which would impede the process. Third, U.S. Senator Gorton's office, on behalf of a community based organization, requested NWONAP approve a site near the reservation in lieu of a planned site in Tokeland, Washington (which was outside the reservation).

In addition, NWONAP allowed the Housing Authority to use Low Rent development funds as if they were Mutual Help homeownership development funds.

In August 1995, the Housing Authority used Low Rent development funds to provide grants and gifts for the participants to purchase homes using leveraged financing. The Housing Authority did request a reformulation for the Shoalwater portion of the Low Rent development. To reformulate, or change a grant from Low Rent to Mutual Help during the development process, field ONAPs must re-rate and re-rank the Mutual Help applications. Since the Housing Authority did not qualify under a re-rating process, NWONAP denied the request.

Although the NWONAP Administrator was aware of what the Housing Authority was attempting at Shoalwater, he was not aware of the exact details of the program. But NWONAP's Administrator understood that if an IHA is planning to convert a rental project to Mutual Help, it should treat it as Mutual Help from the start. As such, according to the Housing Authority's Executive Director's notes from a January 1996 meeting, the NWONAP Administrator suggested the Housing Authority execute Mutual Help leases for the units it was acquiring, even though its request for reformulation was denied.

As a result, the Housing Authority provided at least \$471,826 to Tribal members.

Seven Tribal members received at least \$471,826 of Low Rent Development funds in the form of grants and gifts to help purchase their homes. The Housing Authority provided this method of development to the Tribal members instead of building the ten Low Rent units intended.

The Tribal Chairman, who was not low-income, received the greatest benefit from NWONAP's inaction.

The Tribal Chairman had an income of at least \$13,000 over the low-income limits when he applied for low-income housing in 1994. His income did include revenues from a store he owns but was never verified by the Housing Authority. The Chairman received the largest house under the program, at 2,100 square feet and at a cost of \$176,405. He also received a \$75,000 grant, in the form of a forgivable second mortgage and a \$25,221 gift when he moved into the home. Starting in April 1996, when the Chairman moved in, the Housing Authority attempted to sell the \$76,184 first mortgage, the total the Chairman owed. The Housing Authority did not require the Chairman to make any mortgage or rental payments for the first 11 months while it attempted to sell the mortgage. This provided the Chairman with free use of the home.

This occurred because NWONAP's Administrator placed a higher priority on the flexibility in the regulations than on following the rules of the program.

The NWONAP Administrator allowed the Housing Authority's innovative financing program to go forward in the spirit of increased flexibility. He stated that he depended on the Housing Authority's prior Executive Director's assurances that the program complied with regulations. Also, the NWONAP Administrator relied on the verbal assurances of a staff member and instructions he thought were from Headquarters that Low Rent projects could be treated as Mutual Help projects right from the start if an IHA intended to convert. However, the Low Rent requirements state that the reformulation (during development) must go through a re-rating and re-ranking process before being approved by ONAP. ONAP Headquarters staff confirmed that unless the Housing Authority applies and the Field Office approves a change, a Low Rent project may not be treated as Mutual Help. The Deputy Assistant Secretary for Native American Programs stated that to be fair, they do not want IHAs to be able to change the type of development at will, therefore they need to go through reformulation.

NWONAP responsibility: At this Housing Authority, NWONAP was responsible for performing or obtaining an environmental review and verifying that other

conditions were met before releasing \$205,000 for purchase of a leasehold. NWONAP was responsible for evaluating and approving the Housing Authority's change in program from Low Rent to Mutual Help. Also, NWONAP needed to obtain an understanding of whether the Housing Authority's innovative development program met minimum program requirements.

IHA responsibility: The Housing Authority was responsible for obtaining a site free from any environmental problems and fulfilling NWONAP's conditions before purchasing the property. The Housing Authority was also responsible for obtaining appropriate approvals before treating their Low Rent project as Mutual Help, for providing eligible families with the housing, and for ensuring that NWONAP clearly understands how their innovative development program operated.

Coquille Indian Housing Authority—Coos Bay, Oregon

The Seattle Times: (December 1 and 2, 1996) HUD officials are investigating indications that a former professional-football player, one-sixteenth Coquille, used some of a \$7.8 million grant for improper and/or illegal purposes.

NWONAP did not adequately carry out their oversight responsibilities for the Coquille Indian Housing Authority (Housing Authority). Approximately \$7.8 million of low-income housing grant funds were awarded to the Housing Authority with no assurance that the Housing Authority had the administrative capability to operate the programs, and \$814,510 of the grant funds were used for unnecessary costs and costs unrelated to the Housing Authority's low-income housing developments. Although NWONAP staff identified administrative problems and alleged misuses of funds, NWONAP management did not reassess the Housing Authority's administrative capability and chose not to exercise their authority to declare the Housing Authority high risk and require HUD approval for all development grant fund draws. This occurred because NWONAP did not know how to assess the administrative capability of a new housing authority and NWONAP's Administrator did not plan his staffs' travel to focus on potential problems because of a reliance on the Coquille Development Corporation President.

Although NWONAP staff identified administrative problems and misuses of funds, NWONAP management did not reassess the Housing Authority's administrative capability.

There is no documentary evidence that NWONAP has ever performed an assessment of the Housing Authority's administrative capability. NWONAP's file on the award of funds to the Housing Authority contains the Housing Authority's application, a completeness checklist, and a rating and ranking of applications. Based on NWONAP's conclusion that the application complied with the requirements of the Notice of Funding Availability (NOFA) and the rating and ranking factors, the new Housing Authority was awarded two grants totaling approximately \$7.8 million in August 1994.

NWONAP received information from a Housing Authority employee in July 1995 about the Housing Authority's organizational structure. Specifically, the Housing Authority was a subsidiary of a development corporation established by the Tribe and the employee believed this structure to be illegal. Due to these expressed concerns and the relationships involved, NWONAP planned a site visit to provide technical assistance and to evaluate the organizational structure. In two site visits

to the Housing Authority in August 1995, NWONAP staff identified several serious problems, including:

- Housing Authority staff were reluctant to talk to NWONAP staff because of fear of reprisals from the President of the Tribe's Development Corporation at that time (former Development Corporation President).
- The former Development Corporation President, a business associate, his realtor, and his son were all Housing Authority Board members.
- Ineligible disbursements of development funds for:
 - * cranberry bogs (at least \$60,000),
 - * paying the Tribe's casinos bills, and
 - * construction activities including the Tribal Health Clinic and a panel factory.
- Inadequate internal controls.

Based on these problems, NWONAP planned to perform another site visit for a more in depth review. However, this visit did not occur until February 1996.

In addition, the Housing Authority's Executive Director called NWONAP twice in November 1995 to get assistance. A NWONAP specialist's notes show that the Executive Director informed her that he no longer had control of the Housing Authority finances (but the former Development Corporation President did) and asked if NWONAP could classify the Housing Authority as high risk.

As a result, \$814,510 of the grant funds were misused.

Since NWONAP did not assess administrative capability initially, or reassess it when indications of problems arose, grant funds were awarded with no assurance that the Housing Authority had the administrative capability to operate its housing programs. With no corrective action taken, the Housing Authority used \$814,510 of HUD low-income housing development funds to pay unnecessary costs and costs unrelated to its low-income housing development. In nearly all instances, the evidence indicates the payments were intentional misuses of funds authorized by the former Development Corporation President.

NWONAP did not assess the administrative capability of a new housing authority and NWONAP's Administrator did not plan his staffs' travel to focus on potential problems.

NWONAP Development staff, the Director of Housing Programs, and the Administrator stated that they did not assess the administrative capability of the new Housing Authority prior to awarding the development grant. Even though NWONAP knew that the Tribe's Development Corporation oversaw the Housing Authority's activities (an uncommon arrangement) and that the Housing Authority had no track record, NWONAP relied on the Housing Authority's presentation of their business strategies, planning, computer systems, and staff.

After the two site visits in August 1995, NWONAP staff did not visit the Housing Authority again until February 28, 1996. The NWONAP Administrator attributes NWONAP's failure to follow up on identified problems in a timely manner to the unavailability of reliable information, staffing problems due to the government furlough, and bad weather. Even though NWONAP staff identified ineligible items and the lack of internal fiscal controls, the planned trip to evaluate these issues was put off. Neither NWONAP management nor staff were able to adequately explain why a follow up trip was not made in September 1995 before the fiscal year ended. However, the NWONAP Administrator did state that he cannot shut down an IHA every time someone complains and the time was not right to take action, especially with all the conflicting information. In addition, he viewed the former Development Corporation President, who had tight control over the Tribe, as a more dependable source of information than other complainants. In doing so, NWONAP did not fully recognize the increased risks of diversions of funds due to the relationship between the former Development Corporation President and Housing Authority.

NWONAP responsibility: At this Housing Authority, NWONAP was responsible for determining whether the Housing Authority was administratively capable before awarding them development grant funds. They were also responsible for following up timely and adequately on complaints and serious problems in order to ensure the awarded funds were used for the intended purpose. NWONAP did not determine that the Housing Authority was administratively capable before awarding them funds and did not follow up timely or adequately on indications of serious problems.

IHA responsibility: The Housing Authority was responsible for maintaining administrative capability and for ensuring the funds were used for authorized purposes. The Executive Director is primarily responsible for this. However, the Executive Director's authority was limited due to the extensive influence the former Development Corporation President had over Housing Authority operations. The

Executive Director had little recourse within the Housing Authority's organization because the former Development Corporation President also controlled the Housing Authority Board of Commissioners. As a result, the Executive Director used the only other option available by contacting NWONAP on two occasions to ask them to declare the Housing Authority high risk to help the Executive Director regain control of the Housing Authority's operations.

Chehalis Tribal Housing Authority—Oakville, Washington

The Seattle Times: (December 1 and 3, 1996) Housing officials won a federal grant of nearly \$800,000 for emergency home repairs and replacement of a sewage-treatment system - then spent most of it on the custom remodeling of 10 homes.

NWONAP's technical assistance and monitoring of the Chehalis Tribal Housing Authority (Housing Authority) was not sufficient to ensure that an emergency 1993 grant awarded to correct hazardous and serious safety concerns for the housing community was used as intended. At the time of grant award and after, there were indications that technical assistance and monitoring were needed to effectively address the emergency situation. Yet, NWONAP was not proactive in monitoring and ensuring the Housing Authority administered the program as required and the emergency situation was corrected. As a result, the Housing Authority was permitted to change the purpose of its Comprehensive Improvement Assistance Program (CIAP) project from emergency sewer system repairs to modernizing Mutual Help homes; mismanaged its modernization project; and was left with 15 of 25 homes with minimal work done and a sewer system that was only temporarily repaired. In addition, NWONAP provided an additional CIAP modernization grant to modernize the 15 homes and to complete handicap accessibility work. Also, NWONAP provided the Tribe an Imminent Threat Grant to address further problems with the sewer system. The Housing Authority was allowed to do this because of confusion in NWONAP on its roles and responsibilities under deregulation, a changing philosophy giving IHAs more independence, and a disagreeable relationship between the Housing Authority's Executive Director and a former NWONAP Facilities and Planning Specialist responsible for monitoring the project's progress.

The Housing Authority did not use an emergency 1993 CIAP grant as intended.

In 1993, NWONAP awarded the Housing Authority \$790,600 in CIAP funds to correct an identified emergency sewage treatment problem, to address handicap accessibility, and for other emergency work. The Housing Authority did not have to compete with other IHAs for this grant because of the nature of the funding (emergency). NWONAP staff had concerns about the Housing Authority's operations and this CIAP grant, and in May 1995 requested the Northwest/Alaska OIG to review the Housing Authority's CIAP project.

A subsequent audit determined that some of the concerns were justified and the Housing Authority had mismanaged their 1993 CIAP grant in several ways. The Housing Authority:

- did not follow the grant purpose and used the funds to modernize Mutual Help houses;
- procured the modernization contract without ensuring fair and open competition;
- allowed project work to fall behind schedule and go over budget;
- improperly borrowed funds for their modernization; and
- had no provisions for homebuyers to pay for homebuyer requested work items.

NWONAP took corrective action against the Housing Authority through a Corrective Action Order on January 10, 1995.

At the time of grant award and after, there were indications technical assistance and monitoring were needed to effectively address the emergency situation.

At the time of grant award in September 1993 and after, there were indications technical assistance and monitoring were needed to ensure the Housing Authority was managing its 1993 CIAP grant appropriately. For example,

- The Housing Authority was declared administrative incapable and had received high-risk designations in the years before the grant.
- The Executive Director previously worked for the City of Chehalis and was at the Housing Authority only six months prior to the September 1993 grant award. The Executive Director was the sixth Executive Director in ten years.
- The Housing Authority's Executive Director did not submit an acceptable budget until 19 months after the grant award, even though NWONAP had requested it within 15 days from the Housing Authority's receipt of the award letter. However, the Executive Director said he had visited a NWONAP Specialist numerous times in attempts to develop an acceptable budget.

NWONAP was not proactive in monitoring and ensuring the Housing Authority administered the program as required and the emergency situation was corrected.

NWONAP was not proactive in monitoring the Housing Authority's progress toward addressing the emergency situation identified in the grant. There was no documentation in the file to show that NWONAP followed up when the Housing Authority did not correct the emergency situation within one year of approval as required by 24 CFR 905.102. After NWONAP awarded the grant on September 10, 1993, the next documented communication was not until January 10, 1995, when NWONAP notified the Housing Authority that the CIAP funds were recaptured due to a lack of activity. In addition, the Housing Authority's Board minutes indicate that a NWONAP Facilities and Planning Specialist told them that changing the purpose of the grant without HUD approval would be a finding, but no activity would be worse.

As a result, the Housing Authority was permitted to change the purpose of its CIAP project, mismanaged its modernization project, and was left with 15 of 25 homes with minimal work done and a sewer system that was only temporarily repaired.

The Housing Authority received the 1993 emergency CIAP award to fix the sewer systems, meet their Section 504 handicap accessibility needs, and to perform some emergency work on housing units. Because of the Housing Authority's decisions to use the funds for different purposes and NWONAP's lack of proactive monitoring, the Housing Authority was able to change the funding intent, and planned to modernize 25 Mutual Help houses and temporarily fix the sewer systems. As described above, the Housing Authority mismanaged the project and 15 of the 25 houses and the sewer system were still in need of repair. The change in the use of the emergency funds was done without official NWONAP approval. However, the evidence indicates NWONAP was aware of the change and advised the Housing Authority to use the funds before they would be taken back.

In addition, NWONAP provided additional funding to complete the already planned modernization and to repair the sewer system (through an Imminent Threat grant).

In 1996, NWONAP awarded the Housing Authority another CIAP grant for \$479,541. According to the grant application, part of the grant is to address the work not completed at the 15 houses with the previous CIAP funds and to address the Section 504 handicap accessibility needs which still exist. In addition, NWONAP helped the Tribe obtain an Imminent Threat grant for \$235,000 to alleviate the failing tribal community septic sewer systems.

The Housing Authority was allowed to do this because of confusion in NWONAP on its roles and responsibilities.

NWONAP's Administrator believed that they were not to do any monitoring of non-high risk IHAs based on a November 1993 memorandum from the Assistant Secretary for Public and Indian Housing. He also understood that this memorandum was still in effect, and although there was a provision in the memorandum for monitoring other than high risk, NWONAP's general philosophy was that they would only monitor the high risk IHAs. The Director of Housing Programs said the NWONAP staff has had no specific guidance on what they should do relative to monitoring after the Handbook 7440.3 Rev-2 (Field Office Monitoring of IHAs) was phased out in 1993. As a result, there was confusion in NWONAP about their roles and responsibilities under deregulation. Although NWONAP could not enforce the requirements of the Handbook, they still used the procedures in the Handbook to perform their monitoring.

In addition, there was a disagreeable relationship between the Housing Authority's Executive Director and the NWONAP Facilities and Planning Specialist and other NWONAP staff. Interviews with NWONAP staff and the former Executive Director indicate that they did not work well together and a common goal did not exist. NWONAP had concerns with the Executive Director's honesty and the former Executive Director said he had difficulty with NWONAP's responsiveness, each feeling the other was causing all the problems.

NWONAP Responsibility: NWONAP was responsible for ensuring that the Housing Authority used emergency grant funds for the intent awarded. As such, they were responsible for following up with monitoring and technical assistance to make sure the emergency was corrected. However, NWONAP did not do so, resulting in the grant funds being misused, and the emergency situation continuing uncorrected.

IHA Responsibility: The Housing Authority was responsible for promptly submitting budgets and plans to address the emergency situation. The Housing Authority was responsible for then using the funds in a manner consistent with what was approved. The Housing Authority did not do so, changing the purpose of the funds and borrowing money against the grant when they had no approved budget for the grant.

Muckleshoot Housing Authority—Auburn, Washington

The Seattle Times: (December 1, 1996) The tribal-housing authority spent \$2.5 million of a \$7 million grant on a high-priced architect, overpriced model home and sewers before HUD suspended funding to investigate how the money was being spent. The money was supposed to build 65 badly needed units.

NWONAP did not take timely and appropriate action to determine whether the Muckleshoot Housing Authority (Housing Authority) was following development program requirements after it became aware of potential irregularities in contracting. The NWONAP staff were aware of indications of possible waste and program mismanagement as early as August 1995 but did not review the indications until April 1996 after the Executive Director, a former HUD official, resigned. On July 18, 1996, NWONAP's Director of Housing Programs issued a corrective action order and a high risk designation to the Housing Authority as a result of deficiencies found during their review of the administration of two development grants. A post corrective action order followed.

As a result of the delayed action, Indian housing development funds have been lost and the Housing Authority only expects to build 42 of the planned 65 units. In addition, low-income families have had to wait longer for housing and negative press reports have tainted the public's perception of HUD's and the Housing Authority's ability to administer housing programs. This occurred because NWONAP management and staff failed to recognize and follow up on indications of possible waste and program mismanagement. In addition, with the office's "hands off" policy on monitoring, the staff were not inclined to follow up.

NWONAP did not take timely and appropriate action to determine whether the Housing Authority was following development program requirements after it became aware of potential irregularities.

In June 1995, the Housing Authority's Executive Director completed the first draft of a Request for Proposals (RFP) and sent it to NWONAP for informational purposes. NWONAP requested that a copy of the final RFP be sent to them with the complete details. However, on July 28, 1995, the NWONAP Facilities Planning and Development Specialist responsible for the Housing Authority heard from the Housing Authority's Executive Director that the very sketchy first draft of the RFP had been sent out as the final product to solicit proposals. This draft was not complete as to NWONAP's specifications, and the Specialist had major concerns. There was no action taken by NWONAP to address the concerns

because the RFP had already been issued and they had no opportunity for corrective action.

In August 1995, a law firm for one of the losing bidders sent a formal bid protest to the Housing Authority, with a copy to NWONAP. The protest alleged that the Housing Authority changed and did not follow its stated bid evaluation and selection process. When asked, the Executive Director assured NWONAP's Director of Housing Programs that there was nothing wrong with the bid process.

NWONAP's Director of Housing Programs asked the Specialist to review the matter. The Specialist found two areas of concern with the way the bids were evaluated and processed and communicated these to the Director. However, the Director of Housing Programs Division took no further action on the concerns until April 1996.

The NWONAP staff were aware of indications of possible waste and program mismanagement as early as August 1995.

In August 1995, as part of his usual monitoring duties, a NWONAP Finance and Budget Specialist reviewed the budget status for the Housing Authority development projects. He found cost overruns of \$15,220 in the project's sundry account, which was budgeted only for \$2,000. The Specialist said he thought these costs were misclassified and posted to incorrect accounts and he notified the Housing Authority of the misclassification. The cost overruns were not identified as a potential problem area by the NWONAP staff and they did not adequately follow-up to determine the actual status of development funds. A subsequent budget in December 1995 showed the same overruns of the sundry account, and the budget also showed the Housing Authority anticipated planning costs of \$187,000 (or 285 percent) over budget.

On October 12, 1995, a Housing Authority employee informed the Facilities Planning and Development Specialist that the Housing Authority's Executive Director was improperly spending development funds. However, the employee did not provide any specific instances. The Executive Director stated he later fired the employee for cause.

Since they viewed the employee as disgruntled, neither NWONAP's Director of Housing Programs nor the Facilities Planning and Development Specialist considered the complaint viable, and no follow up action was taken to determine if the allegation was true.

In October 1995, the Facilities Planning and Development Specialist heard of an arrangement that seemed to him like a conflict of interest. A consultant working

for a competitive bidder later collaborated with the winning bidder's architect, at the direction of the Executive Director. The winning bidder's architect also entered into a contract with the Housing Authority. The Specialist considered this action unethical, because of the turnkey nature of the project, and unprofessional, since all architectural costs are normally funded and absorbed by the contractor and this would raise the costs of the project. The Specialist said it raised serious doubts about how the Housing Authority's procurement process was being operated. The Specialist informed the Director of Housing Programs about his concerns, but the Director said he took no action because they did not have the authority to do so.

In April 1996, after the Executive Director resigned¹, NWONAP's Director of Housing Programs and an Operations, Management, and Personnel Specialist did an onsite review of the bid protest they received in August 1995. NWONAP files do not show that NWONAP had any further information than they did when they first received a copy of the bid protest in August 1995 and neither NWONAP's Director of Housing Programs nor the Specialist remember why they decided to review the protest in April 1996 and not when it was initially received in August 1995.

As a result of deficiencies found during their review, NWONAP issued a corrective action order.

As a result of their onsite review, NWONAP's Director of Housing Programs issued a corrective action order on July 18, 1996. The purpose of this order was to prevent the continuation of identified deficiencies in the Housing Authority's procurement program, to mitigate any adverse effects of these deficiencies to the greatest extent feasible, and to prevent the recurrence of the same or similar deficiencies.

This corrective action order came one day after the Executive Director's July 17, 1996 scathing reply to NWONAP's June 25, 1996 letter. This June 25th letter recommended corrective actions to address "major

¹ The Executive Director was the former Regional Inspector General for Audit for the Northwest/Alaska area.

irregularities” found in the procurement procedures used for the two development projects. The irregularities included:

- problems with preferences;
- the Housing Authority not following government-wide contract requirements;
- improper rating and ranking criteria; and
- entering separate contracts.

In their July 18, 1996 Corrective Action Order, NWONAP then recommended actions to allow the projects to proceed to completion in a timely manner without protests and/or litigation by developers who responded to the original RFP's. This action also placed restrictions on what the Housing Authority could use funds for and made the Housing Authority ineligible for future funding. However, before this order, the Housing Authority was allowed to draw down funds for their developments without supporting documentation, and these funds were used for ineligible purposes, including:

- a non-HUD program where four houses were bought and subsequently sold to Tribal members at a discount, and construction of a model home intended to be used as a marketing tool for sales of houses under a non-HUD program,
- excessive, unauthorized and/or undocumented travel expenses including expenses for the prior Executive Director,
- excessive and/or inappropriate payroll costs including costs for the prior Executive Director, and
- unsupported, unnecessary and/or ineligible sundry administrative costs including clothing for the prior Executive Director and gifts.

The questioned travel, payroll and sundry administrative costs were under the direct control of the Executive Director who was granted extensive control and latitude over the IHA's operations by the Board of Commissioners.

A post corrective action order followed.

The initial corrective action order covered deficiencies found in the procurement process used for the two development projects. Subsequent NWONAP reviews identified extensive and significant deficiencies with the administration of the two developments, including use of funds for ineligible purposes, a lack of proper purchasing procedures, the start of construction before final site control, and other problems. NWONAP issued an update to the original corrective action order on May 13, 1997 to address these other deficiencies.

In addition, on April 3, 1997, NWONAP issued a Limited Denial of Participation against the former Executive Director for failure to follow requirements in his procurement actions and management of the Housing Authority.

As a result, the Housing Authority only expects to build 42 of the planned 65 units.

In May 1997, the Facilities Planning and Development Specialist estimated that, of the 65 initially planned units, 42 will probably be built. These deficiencies caused low-income families to wait longer for housing and some on the waiting list will not receive housing. However, according to NWONAP management, they are working with the Housing Authority to re-bid the contracts in question and the Muckleshoot Tribe has agreed to work with the Housing Authority to restore the project to its original size. The Housing Authority's mismanagement also created negative press reports that tainted the public's perception of HUD's ability to administer its housing programs.

NWONAP management and staff failed to recognize and follow up on indications of possible mismanagement. In addition, with the office's "hands off" policy on monitoring, the staff were not inclined to follow up.

Several warning signs existed that showed the Housing Authority may not have been following HUD requirements, especially for procurement, in its development projects. However, NWONAP management and staff did not recognize or give these warning signs the credibility that an overseeing agency should. Rather, NWONAP's Director of Housing Programs said he placed reliance on the Executive Director with HUD experience to know and follow requirements. In addition, NWONAP had adopted a "hands off" monitoring policy, in response to guidance from the Assistant Secretary for Public and Indian Housing in November 1993. With this monitoring environment, the Facilities Planning and Development Specialist indicated that he was less likely to follow-up on his concerns over the Housing Authority's development process.

NWONAP Responsibility: At this Housing Authority, NWONAP was responsible for overseeing the Housing Authority's development and following up timely on indications of potential deficiencies in the development. NWONAP did not follow up on these indications and did not evaluate the information they had to see if the Housing Authority was complying with development program requirements.

IHA Responsibility: The Housing Authority was responsible for following procurement guidelines when requesting proposals and obtaining a contract to develop housing. The Housing Authority was responsible for ensuring that funds were spent prudently in order to produce the number of houses agreed to with NWONAP. They did not do so and as a result, will produce less houses than planned.

Puyallup Housing Authority—Tacoma, Washington

Seattle Times: The tribe is embroiled in a legal battle with residents of newly purchased low-income houses after a complicated financing scheme backfired, allowing some of them to occupy their places without signing a contract or paying rent. Even though the mess is not yet sorted out, the housing authority recently received another \$1.3 million.

NWONAP's attempts to help the Puyallup Housing Authority (Housing Authority) to speed up their development project were not successful. The Housing Authority was unable to obtain local approvals for planned sites. As a result, the project, approved in August 1989 to build 25 houses, extended over a 7 year period, the Housing Authority needed an extra \$592,676 to continue, and they ultimately produced 5 fewer units than planned. NWONAP sent out notices of deficiencies addressing slow progress in development, and management problems (which resulted in poor Administrative Capability Assessment scores). However, NWONAP did not issue a Corrective Action Order, which is intended to make sure an IHA corrects problems, until 1995 because they believed the problems were beyond the Housing Authority's control. Nor did NWONAP act to recapture funds because the Housing Authority was moving forward and the factors that slowed the development were beyond their control.

In addition, when the Housing Authority decided to use an acquisition method to speed up its Mutual Help development process, NWONAP did not provide adequate technical assistance and guidance to ensure the Housing Authority complied with program requirements. As a result, the Housing Authority did not treat the acquired units as Mutual Help, allowed all participants to move into homes without the Housing Authority determining income eligibility, and did not obtain the minimum Mutual Help contribution or create the proper financial documents for conveyance for all but one participant. Therefore, participants have moved into their homes without fulfilling program requirements, are unsure of their legal rights and obligations, and are delinquent on their payments. This occurred in part because, after NWONAP determined the Housing Authority had restored its administrative capability, they chose to perform the minimum monitoring at the Housing Authority². NWONAP also did not provide adequate technical assistance for the Housing Authority's acquisition program because staff were not aware of how such a program should work, and permitted the Housing Authority to develop the program the way it chose.

² In addition, when NWONAP determined that the Housing Authority was administratively capable, they awarded the Housing Authority another \$1.3 million development grant.

NWONAP's attempts to help the Housing Authority to speed up its development were unsuccessful.

The Housing Authority received a Mutual Help development grant of \$1,768,559 in August 1989 to build 25 units. However, due to complications with getting good sites, receiving necessary approvals from the City, and expensive site improvements on purchased sites, the Housing Authority did not proceed timely with the development. On September 30, 1993, NWONAP issued a report of deficiency due to the lack of progress by the Housing Authority, stating the Housing Authority was required to begin construction within 30 months of the program reservation date. This report followed NWONAP's letters of July 15, 1991, September 29, 1992, and November 3, 1992, which also identified problems in the Housing Authority's development program progress. The next documented action NWONAP took for this development program was to classify the Housing Authority as High Risk in January 1995 because of lack of development progress. Through its reviews, NWONAP noted that the Housing Authority had problems staffing the important positions of Executive Director and Bookkeeper, failed to keep accounts and records current, and failed to begin construction for at least 69 months.

The program extended over a 7 year period and the Housing Authority needed an extra \$592,676 to complete 5 fewer units than planned.

After the initial grant award in August 1989, NWONAP increased the Housing Authority's grant 3 times (in 1990, 1991, and 1993) and decreased it once (in 1995). The increases were due to increased costs and inflation while the decrease was due to a rescission to help protect ONAP's Housing Development program. The Housing Authority did not purchase its first unit under the development project until September 1995, and purchased its 20th unit in November 1996, 7 years after the grant award. With this final purchase, the Housing Authority's development contains five fewer units than planned.

NWONAP did not act to recapture funds because the Housing Authority was moving forward and the factors that slowed the development were beyond their control.

NWONAP's Senior Advisor (formerly the Director of Development) told us that they were trying to push the Housing Authority to get things done, but the Housing Authority had several problems outside of their control. He said that NWONAP did not terminate the grant because they would have to give the money back to Treasury and it would not go to help those who needed assistance. In addition, the Housing Authority was working diligently to acquire acceptable sites.

When the Housing Authority decided to use an acquisition method for its Mutual Help development, NWONAP did not provide adequate technical assistance and guidance to ensure the Housing Authority complied with program requirements.

In January 1995, the Housing Authority was put on High Risk status for lack of development progress and lack of management capability. Through the help of a management consultant, the Housing Authority hired an interim Executive Director who changed the housing development method from construction to acquisition, primarily due to pressures to start the development process and construction bids that were substantially over the budget. The Housing Authority obtained NWONAP's approval of an Acquisition Plan in May 1995. In the narrative describing how they would acquire homes, the Housing Authority stated it would offer participants the option of immediate refinancing of the Mutual Help unit upon acquisition through a private mortgage company. However, problems with participants' credit histories forced the Housing Authority to use an alternative. Therefore, the Housing Authority decided to self-finance the mortgages. After this change in approach, the Housing Authority did not request, nor did it receive guidance from NWONAP on how to make sure the new financing plan would comply with Mutual Help requirements.

The Housing Authority did not treat the units as Mutual Help and did not follow Mutual Help guidelines.

With the flexibility provided with the reduced oversight, as explained by NWONAP, the Housing Authority's Executive Director understood that she did not have to follow Mutual Help requirements for the development. Acting on advice (as they understood it) from NWONAP, the Housing Authority did not determine if participants were low-income eligible, did not obtain the required Mutual Help contribution (for all but one participant), and did not create the proper financial documentation for conveying the unit to the participants (for all but one).

Therefore, participants have moved into their homes without fulfilling program requirements, are unsure of their legal rights and obligations, and are delinquent on their payments.

The Housing Authority's Executive Director stated they never intended to treat the development as Mutual Help. As a result, participants that may not be income eligible have moved into their homes without providing a Mutual Help contribution. The participants also are uncertain of their homeownership status and obligations. Also, over three-quarters of the participants have not made all their required payments, with one owing \$2,848 and four others owing over \$1,000 (as of January 1997).

This occurred in part because, after NWONAP determined the Housing Authority had restored administrative capability, they chose to perform the minimum monitoring of the Housing Authority.

When the Housing Authority was classified as High Risk, a management consultant, with NWONAP direction, made recommendations on how to improve administrative capability. In response to the recommendations to restore administrative capability, the Housing Authority hired an Executive Director and a bookkeeper and started to acquire houses (rather than build) under its development program. After the Housing Authority took these actions, in April 1996 NWONAP evaluated the Housing Authority and determined that it was administratively capable. With the new Executive Director and staff, NWONAP assumed there would be no further problems with administrative capability, provided the Housing Authority more development funds, removed the Housing Authority from High Risk, allowed the Housing Authority to implement their new development program, and decided to no longer monitor the Housing Authority closely.

NWONAP did not provide adequate technical assistance for the Housing Authority's acquisition program because staff were not aware of how such a program should work.

NWONAP staff stated that they did not have a standard package for IHA financing due to the variation required by different tribes across the country. NWONAP approved the switch from construction to acquisition and allowed the Housing Authority, which had just reestablished administrative capability, to handle its own financing program.

NWONAP responsibility: At this Housing Authority, NWONAP was responsible for ensuring that a new development method still met the minimum Mutual Help

requirements. In addition, they were responsible for taking aggressive action to get the Housing Authority to use its development funds to house low-income families timely.

IHA responsibility: The Housing Authority was responsible for restoring administrative capability and for making sure that all new homebuyers met Mutual Help requirements. Due to the understanding that they did not have to follow Mutual Help requirements, the Housing Authority did not develop its program in accordance with requirements.

Yakama Nation Housing Authority—Wapato, Washington

The Seattle Times: (December 1 and 2, 1996) The troubled housing authority hired a San Diego businessman as executive director in 1993. Within a year he had stolen \$92,000 worth of goods and services intended for low income Indians.

NWONAP took action to evaluate and help improve the Yakama Nation Housing Authority's (Housing Authority) administrative capability, but then relied too much on a new Executive Director who defrauded the Housing Authority. The Housing Authority hired two co-Executive Directors to bring it out of troubled status, at a combined salary known to be in excess of a recent wage comparability study. Even though the Housing Authority was under a Corrective Action Order and High Risk Designation, in March 1994 NWONAP decided not to monitor the Housing Authority since it was making progress. However, about a month before NWONAP had brought allegations of irregularities they had discovered through an off-site review to OIG Investigations. As a result of the OIG investigation, one of the recently hired Executive Directors pled guilty to theft of funds and went to prison for personally misusing \$92,000 of goods and services. By mid-October 1994, this Executive Director had been removed.

The Housing Authority hired two co-Executive Directors to bring it out of troubled status, at a combined salary known to be in excess of a recent wage comparability study.

In 1993, NWONAP notified the Housing Authority of serious deficiencies in its financial administration and on August 26, 1993, NWONAP issued a Corrective Action Order and High Risk Designation to the Housing Authority. In September 1993, to help bring the Housing Authority out of troubled status, the Housing Authority Board withdrew all management responsibilities from its Executive Director and hired two co-Executive Directors to replace her. Together, the Executive Directors were to receive a total salary of \$138,480 to perform the duties of one Executive Director. This was in excess of a wage comparability study performed by a consultant for the Housing Authority in early 1993. This study showed that the salary should be in the range of \$40,664 to \$54,080. (For a 13 month period, the Executive Directors actually received \$196,199 in compensation.)

Even though the Housing Authority was under a Corrective Action Order and High Risk designation, in March 1994 NWONAP decided not to monitor the Housing Authority since it was making progress.

In 1993, as part of their Corrective Action Order, NWONAP had identified serious deficiencies in Occupancy, Finance, Procurement, Development, Comprehensive Improvement Assistance Program, Comprehensive Grant Program, Internal Controls, and General Administration. The Housing Authority was notified that the Corrective Action Order would not be removed until all goals established in the required Management Improvement Plan were met to NWONAP's satisfaction.

The Corrective Action Order was still in effect on March 30, 1994 when NWONAP staff, at an internal meeting to discuss the Housing Authority, decided that they would not need to monitor for a while since the Housing Authority, with a new Executive Director, was proving to be positively moving forward. In addition, one of the Housing Authority's Executive Director's was talking to NWONAP's Director of Housing Programs by telephone almost daily, so NWONAP also decided that no technical assistance was necessary.

In February 1994, NWONAP brought allegations of irregularities they had discovered through an off-site review to OIG Investigations.

In February 1994, NWONAP's Director of Housing Programs brought allegations of irregularities committed by one of the Executive Directors to OIG Investigations. He and a NWONAP Specialist had discovered suspicious invoices in an off-site review of the Housing Authority's support for a draw down of funds. The Special Agent-in-Charge opened the complaint as a case on May 5, 1994.

As a result of the investigation, one of the recently-hired Executive Directors pled guilty to theft of funds from a Federal program and went to prison for personally misusing \$92,000 of goods and services.

The subsequent investigation identified numerous problems at the Housing Authority, specific to one of the Executive Directors. The Executive Director had allowed the Housing Authority to incur severe budget overruns and had converted Housing Authority property for his personal use. This Executive Director pled guilty to theft of funds from a Federal program and on June 5, 1995 was sentenced to 15 months in prison, restitution, and a \$15,000 fine.

After this Executive Director was removed, NWONAP's Administrator authorized the Housing Authority to use a questionable noncompetitive method to procure a special audit.

The Housing Authority removed the Executive Director from his position by mid-October 1994 (the other Executive Director had already resigned). The Housing Authority requested and, on May 13, 1996, NWONAP's Administrator authorized a special audit—in part to verify the integrity of the accounting system and identify funds that could not be accounted for after the Executive Director left. NWONAP's Administrator concurred with the Housing Authority's decision to award the special audit under the noncompetitive procurement provisions. To use a noncompetitive procurement process one of the following conditions must exist:

- the item is available only from a single source;
- the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- HUD authorizes noncompetitive proposals; or
- after solicitation of a number of sources, competition is determined inadequate.

There was no evidence to show that the special audit was available from only one source, an emergency existed, or that competition was inadequate. The documentation actually shows that the Board had already decided to use a certain audit firm before the procurement was put out to bid. The fact that HUD then authorized the noncompetitive proposal appears to be the only way the Housing Authority would be able to justify a noncompetitive procurement. This does not appear to be an appropriate approval since the intent of using a competitive procurement process is to ensure free and open competition that will result in the best product. Nor is this approval a good example of encouraging compliance with program requirements.

The resulting audit work, which was different than NWONAP agreed to, has cost the Housing Authority \$80,772, a cost which appears to exceed the benefit provided.

According to the Housing Authority's records, they have paid \$80,772 to the auditing firm. The Housing Authority's Board had approved the use of operating subsidies to pay these costs. However, after discussions with NWONAP, the Housing Authority agreed to pay for the audit work from the Comprehensive Grant Program and classify it as management improvements. The audit report shows the auditors performed agreed-upon procedures in only three areas, when NWONAP staff had recommended ten areas for audit. We question whether the benefits derived from this audit exceeded its costs. A former interim Executive Director and consultant to the Housing Authority stated that for \$80,772 the

Housing Authority could have hired a controller for a whole year to get the accounts in order. Also, the “special audit” desired by NWONAP was not done. The Housing Authority had not had a regular annual audit since Fiscal Year 1994, and NWONAP has recently contracted for an audit to cover Fiscal Years 1995, 1996, and 1997.

NWONAP Responsibility: For this Housing Authority, NWONAP was responsible for promptly and appropriately helping the Housing Authority to improve administrative capability. NWONAP was also responsible for bringing potentially fraudulent activities to the attention of OIG Investigations when the activities came to their attention. Finally, NWONAP was responsible for evaluating and approving the Housing Authority’s use of a noncompetitive procurement method.

IHA Responsibility: The Housing Authority was responsible for improving administrative capability. The Housing Authority Board was responsible for overseeing the activities of the Executive Director in order to hold him accountable for his actions.

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