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Monitoring HUD Investigation Of The Pueblo Of Laguna Housing Authority

B-176794

Department of Housing and Urban Development

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

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JULY 13, 1973



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-176794

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The Honorable Joseph M. Montoya
C) United States Senate

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Dear Senator Montoya:

At your request we monitored the Department of Housing and Urban
1 Development (HUD) investigation of low-rent public housing programs 23
2 administered by the Pueblo of Laguna Housing Authority (Authority), D.01638
3 Pueblo of Laguna, New Mexico. The results of HUD's investigation and
4 matters relating to HUD's and the Authority's management of the low-
5 rent public housing and modernization projects are in appendix I.
(See app. II for a list of housing projects administered or planned by
the Authority and a description of the construction methods used.)

At your request the Secretary of HUD in August 1972 initiated an
in-depth investigation of charges of construction and inspection
deficiencies on the part of HUD and Building Contractors, Inc., the
developer of project NM-12-3. Assisted by representatives of HUD's
Office of the Inspector General and the Department of the Interior,
HUD staff members investigated the management, construction, and
inspection of the low-rent public housing projects.

HUD made its investigation at HUD headquarters in Washington, D.C.;
the HUD regional office in San Francisco; the HUD area office in Los
Angeles; the Bureau of Indian Affairs (BIA), Southern Pueblo Agency,
and the Indian Health Service, Department of Health, Education, and (NM)
Welfare, in Albuquerque; and the Pueblo of Laguna Indian Reservation H-A-
in Pueblo of Laguna.

We monitored all phases of HUD's investigation and made suggestions
to the HUD investigation team to help insure that those areas of inter-
est to you, as expressed in your communications with HUD, were appro-
priately considered. During the investigation, we suggested and HUD
officials agreed to expand the scope of its work to include:

- HUD's part in developing, contracting for, and supervising
project NM-12-3 and the reasonableness of the cost for
modernization of projects NM-12-1 and NM-12-2.
- The responsibilities of BIA and the Indian Health Service,
for project NM-12-3.

- The Authority's management activities, including contract administration.
- A financial review of the Authority's mutual-help and modernization projects from their inception in November 1970 and April 1971 through September 30, 1972.
- The design, construction, and workmanship of the units built under project NM-12-3.

In our opinion, HUD made a comprehensive and impartial investigation. On January 24 and February 21, 1973, HUD submitted to you reports on its investigation. We concur with HUD's findings. HUD, however, did not include in its reports to you information on areas of management weaknesses disclosed in the expanded review suggested by us. Such weaknesses, in our opinion, may have contributed to the management problems encountered at the Laguna housing projects. In appendix I we describe weaknesses in HUD's management and administration of Authority programs and weaknesses in the Authority's management, together with corrective actions taken or planned by HUD and the Authority.

As agreed with your office, we have not given BIA, HUD, the Authority, and Building Contractors, Inc., officials the opportunity to formally examine and comment on the matters discussed in this report; however, we have discussed our observations with them and have included their comments.

As agreed also with your office, we are furnishing a copy of this report to Congressman Runnels. We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,

Paul G. Demby
Acting Comptroller General
of the United States

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MONITORING HUD INVESTIGATION OF
THE PUEBLO OF LAGUNA HOUSING AUTHORITYRESULTS OF HUD INVESTIGATION

On January 24, 1973, HUD reported that many of the charges of construction and inspection deficiencies were valid. HUD's investigation showed that: ---

- Some homesites were located in areas which could become flooded.
- Both HUD and the Pueblo of Laguna Housing Authority (Authority) inspectors were deficient in the performance of their inspection responsibilities.
- Some homes had construction defects.
- "Pilot" homes were constructed without HUD-approved plans and specifications.

In addition, the investigating team concluded that the HUD Los Angeles area office (LAAO) was not close enough to provide adequate supervision of the Laguna reservation housing projects. This factor added to the management weaknesses encountered at the project.

HUD stated that it has taken or plans to take the following actions in response to the investigation findings.

- On November 17, 1972, HUD met with Building Contractors, Inc., who agreed to correct all construction deficiencies which were its responsibility under the HUD-approved contract. As of May 14, 1973, the builder had tentatively agreed to accept a final payment of \$36,000, correct remaining construction deficiencies, obtain and provide a bond to protect HUD and the Authority from costs for future defects on some of the homes and extend the warranty on all homes.
- HUD, the Authority, and the builder have negotiated for the correction of defects in construction not covered by the contract.
- The San Francisco regional office (SFRO) will directly supervise LAAO in completing project NM-12-3.

- LAAO, with assistance from the Bureau of Indian Affairs (BIA) and the Corps of Engineers, will inspect each house constructed in the flood plain area of the Laguna reservation. In addition, LAAO will review all of its Indian housing projects to determine the adequacy of housing sites relative to the 100-year flood cycles and possible runoff flooding.
- LAAO will insure that it adequately supervises architects, particularly those assigned to Indian housing projects.
- HUD will reexamine its field offices' responsibility for the administration of Indian housing projects.
- HUD will give high priority to issuing an Indian Housing Handbook, which will consolidate all HUD requirements for Indian housing into one document. HUD will also try to establish new interagency agreements with BIA and the Indian Health Service (IHS) to help insure that these agencies provide needed support to local housing authorities in Indian housing areas.

The following actions have been taken on the matters reviewed by the HUD Office of the Inspector General and reported on February 21, 1973.

- The Inspector General, on January 10, 1973, submitted information on Mr. Paul H. Phillips, former maintenance engineer with LAAO, to a U.S. attorney for his consideration. Mr. Phillips, the Inspector General reported, was reimbursed by HUD for travel expenses he claimed allegedly on a false travel voucher. The U.S. attorney on February 16, 1973, said that, in view of the small amount of Federal funds involved (\$360) and the fact that Mr. Phillips is no longer employed by HUD, no legal action will be taken.
- The Inspector General forwarded the cases of Ismael F. Melendez, Acting Director, Housing Management Division, LAAO, and William S. Ellis, Construction Representative, LAAO, to the Regional Administrator, SFRO, for his consideration and action. The Inspector General reported that Mr. Melendez denied having issued a press release exonerating the developer of project NM-12-3 from any responsibility for deficiencies or irregularities in the construction of the project. However, according to

the Inspector General, Mr. Melendez was unable to explain the similarity of wording in the press release with the wording in his personal handwritten notes. The Inspector General reported that Mr. Ellis had signed his name to blank inspection forms and did not make appropriate inspections at project NM-12-3. As of May 31, 1973, the Regional Administrator, SFRO, had not taken any action on the information submitted to him on Mr. Melendez and Mr. Ellis.

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Although HUD, at our suggestion, expanded its investigation to include a review of both the HUD and Authority management of the low-rent public housing and modernization programs, it did not include in its January 24, 1973, report to you information on areas of management weaknesses noted during this segment of the investigation. Such weaknesses, in our opinion, may have contributed to the management problems encountered at the Laguna housing site. In the following sections of this appendix, we describe the more significant of these matters, together with corrective actions taken or planned by HUD and the Authority.

HUD'S MANAGEMENT AND ADMINISTRATION OF
AUTHORITY PROGRAMS

Project NM-12-3 was first administered at the Federal level by SFRO. In September 1970, however, as a result of HUD's reorganization, LAAO was established and was given responsibility for administering Indian projects in the HUD San Francisco geographical region and in New Mexico.

Weaknesses identified in HUD's processing
applications for project NM-12-3

HUD's investigation disclosed that neither SFRO nor LAAO followed HUD's required procedures for processing applications for housing projects. For example:

- HUD representatives should review plans and specifications for a housing project before approving the project development program. However, on project NM-12-3, SFRO approved the project development program without adequately reviewing the plans and specifications submitted by Building Contractors, Inc., contractor for project NM-12-3.

HUD officials stated that they assumed that BIA would provide certain planning assistance to the Authority under an interagency agreement between BIA and HUD (see p. 6). However, such planning assistance was not provided.

- A conference was not held between the local housing authority, the developer, the developer's architect, and HUD to reach an agreement on project design as well as on the value of the land to be used for the housing project.
- HUD did not obtain two independent cost estimates to use in evaluating the developer's preliminary plans and development cost for building homes under project NM-12-3.
- HUD did not hold a negotiation conference with the Authority, the developer, and the developer's architect to reach an agreement on the cost for such items as utilities, foundation design, and nondwelling facilities in connection with the construction of the homes.

In addition HUD did not make the required inspections of the project and HUD did not receive the final plans and specifications for the project until August 1972, which was 22 months after HUD approved the project. At that time, most of the homes had been accepted by the Authority and the developer had been paid \$1,504,500.

Lack of Federal agency coordination

In 1963 and 1965, HUD and BIA executed agreements that each would provide certain support services to Indian housing authorities administering low-rent housing projects. With regard to project NM-12-3, the HUD investigating team found that BIA did not properly determine the need for streets or offsite stream diversions. BIA also did not assist the Authority in selecting homesites. The HUD team concluded that BIA did not honor the interagency agreements between HUD and BIA.

We discussed this matter with BIA officials who told us that the 1963 and 1965 agreements did not apply to project NM-12-3 because the agreements did not cover construction by the turnkey mutual-help method. They advised us that the Authority did not request BIA assistance, therefore BIA provided none. Authority officials said they were not aware of the proper procedures for requesting assistance from BIA. This situation, in our view, points out the need for HUD and BIA to revise and clarify the interagency agreements. HUD and BIA officials agreed to this suggestion and added that, as soon as HUD completes its current evaluation of subsidized housing programs, they would take action to revise the HUD/BIA agreements.

The HUD investigation disclosed that officials of LAAO, SFRO, and BIA did not clearly understand their responsibilities for the construction and administration of turnkey mutual-help projects, such as project NM-12-3.

IHS is supposed to approve proposed homesites on Indian reservations from the standpoint of the availability of sanitary facilities. Before the agreement of sale was made between the developer and the Authority, IHS had approved 96 homesites and conditionally approved 10 of these homesites because a diversion channel to control runoff water was needed. HUD, however, did not review those sites which IHS conditionally accepted prior to construction of the homes.

IHS later approved 15 additional sites, but HUD found no evidence of approval for the remaining 39 sites. Sites for the nine pilot project homes were not subject to IHS approval.

HUD's investigating team concluded that, because BIA, IHS, HUD, and the Authority each had certain responsibilities for selecting the sites, all were at fault for not objecting to certain sites on which homes were constructed under project NM-12-3. The HUD investigating team concluded also that, because of the possibility of flooding, 18 of the homes constructed under project NM-12-3 were hazardous to life and safety as defined in Executive Order 11296 and Secretary of HUD Order 25. Also, it was noted that 32 additional homes are subject to flooding because they are located on hillside lots.

We discussed these matters with BIA and IHS officials and were advised that

- BIA did not participate in selecting the homesites or in the lease approval because the Authority did not request such assistance and
- IHS generally fulfilled its responsibility because it is only responsible for assuring that the houses have adequate water and sewage facilities.

AUTHORITY'S MANAGEMENT WEAKNESSES

The Authority is currently administering two housing programs--40 low-rent units, constructed under conventional methods, which the Authority was modernizing at the time of HUD's investigation, and 159 units constructed under the mutual-help method. Of the 159 units, 49 had been completed and were occupied at May 31, 1973.

HUD's investigating team found that the Authority needs HUD assistance in managing its housing program as demonstrated by the following weaknesses.

Need to revise rental rates
and maintain tenant files

The Authority should revise its rental rates, in accordance with HUD requirements, because it (1) implemented a rental schedule which does not conform to the "Brooke Amendment"--a statutory requirement that rent charged any Federal low-rent housing tenant may not exceed 25 percent of the family's income--and (2) did not adjust the rental rates to collect allowable amounts from overincome tenants as required by HUD.

In addition, the Authority's tenant files were incomplete and incorrect. Tenant files, according to HUD, should include data on income verifications, determinations of net assets of tenants, tenant eligibility certifications, certain admission and/or continued occupancy forms, evidence of reverification of tenant income, and data on the potential income of tenants as well as dwelling leases.

None of the files reviewed by the HUD investigative team contained income verification forms, and eligibility certificates had not been completed. In several cases, tenant dwelling leases were not properly executed or were missing, and the families' incomes for eligibility determinations and rent charges had not been computed. On January 15, 1973, HUD assigned a resident liaison staff member from IAAO to assist the Authority in making the necessary changes in its recordkeeping and rent collection procedures.

Income level of residents exceeded
limits established under
the mutual-help program

Before being selected as a mutual-help program participant, each family has to provide certain data to the housing authority on its estimated income. HUD noted that 33 of 49 families had incomes over the HUD approved admission limits at the time they were selected to participate in the program.

Further, none of the participants had signed mutual-help and occupancy agreements or supplemental lease forms, although required by HUD guidelines. Such agreements help insure that the participants understand and agree to the conditions of occupancy. These conditions generally are that the participant maintain his house to the satisfaction of the local housing authority and pay all utilities and insurance, in addition to equity payments, until the house is paid for, at which time the participant becomes the owner.

As of April 30, 1972, none of the occupants had made any equity payments to the Authority, even though some of the units had been occupied for about 16 months. The first equity payments were received by the Authority on May 1, 1973.

Excessive costs incurred in modernizing housing units

In April 1971, LAAO approved \$508,560 for modernizing the 40 housing units constructed under projects NM-12-1 and NM-12-2. The Authority received only one bid for the modernization work; however, the bid amount exceeded the HUD approved funds for the project by about \$250,000 and was rejected. LAAO then authorized the Authority to use the \$508,560 and their own work force to modernize the 40 units.

The Department of the Interior, in its review of the expenditures for modernization, identified \$228,000 in modernization expenses incurred by the Authority as of September 30, 1972. As of May 31, 1973, extensive modernization had been done on only 1 unit, some work had been completed on 17 other units, but no work had begun on the remaining 22 units.

In view of the amount of work done by the Authority, the HUD investigating team concluded that the modernization costs incurred were excessive. Also, the HUD team noted that the design for the work was poorly conceived and needed extensive modifications and/or complete redrafting.

HUD's investigating team concluded that the Authority did not have the skills necessary to manage a modernization program of this size and did not appear to be aware of the need to properly account for expenditures for this project.

Improper contracting procedures

The Authority entered into numerous contracts without the required HUD approval. These included contracts for management, architectural, and inspection services, and a contract for the construction of nine pilot homes. In its audit report on the Authority, the Department of the Interior concluded that one contract which the Authority entered into with the Capital City Construction Company of Denver was not valid because, in the contract, (1) the period of performance was omitted, (2) the contract amount was not mentioned, and (3) descriptions of the services to be provided were ambiguous and vague.

According to the terms of the agreement between the Authority and the company, the company primarily was to (1) manage the interior finishing of homes on project NM-12-3 (this effort, contrary to HUD requirements, was to replace the mutual-help aspect of the project) and

(2) manage the modernization of ~~the~~ housing units of projects NM-12-1 and NM-12-2. The company billed the Authority \$164,542 for services and was paid \$158,222. On June 26, 1972, the Authority discontinued using the company's services.

Lack of proper maintenance of
its 40 low-rent units

According to HUD, the Authority did not effectively maintain the units although it had a maintenance staff supported with Federal funds. HUD found that the Authority did virtually no interior or exterior maintenance and concluded that the modernization work was begun partly to counteract the effects of the lack of proper maintenance.

Inadequate accounting system

The Department of the Interior made a financial audit of the Authority's transactions examining all financial activities related to the homeownership and modernization projects from their inception in November 1970 and April 1971, respectively, through September 1972. Except for a cash disbursements journal prepared beginning in January 1971, the Authority had not kept formal accounting records. To complete its audit, the Department of the Interior auditors had to construct the Authority's accounting records. The HUD investigating team concluded that the Authority officials' lack of interest in fulfilling the necessary accounting responsibilities indicated that the Authority would not keep appropriate accounting records.

ACTIONS TAKEN BY HUD AND THE AUTHORITY

On January 15, 1973, HUD assigned a resident liaison staff member to handle the Authority's administrative affairs and assist the Authority in revising its recordkeeping and rent collection procedures. A senior construction representative was assigned to work with the developer in correcting certain defects in construction under the NM-12-3 contract. The question of what is to be done about defects in construction not covered by the contract has tentatively been resolved through negotiations among HUD, the Authority, and the developer. The construction deficiencies generally fall into three categories:

1. Unfinished work, such as improperly fitted doors, cracks in walls, etc.
2. Deteriorated materials due to the lack of paint and the use of interior materials on home exteriors.

3. Existing and present ~~settlement~~ and cracking of foundations and floors due to poor soil conditions and/or excessive fill.

The developer has corrected all items under 1 and 2 above on 42 of the homes. In a meeting with HUD and the Authority on May 14, 1973, the developer agreed to correct these items on the remaining 117 homes, to relinquish \$25,000 of the \$61,000 owed him, and to obtain a \$15,000 bond on 15 of the homes to help protect HUD and the Authority against any future expenses arising from factors listed in item 3 above. In addition, the developer agreed to extend the warranty on all homes for an additional 6 months beginning May 1, 1973.

HUD initially questioned that the Authority had improperly expended about \$376,200 of Federal funds. This amount consisted of expenditures for the following items.

<u>Item</u>	<u>Amount</u>
Administration	\$ 82,500
Planning	62,300
Site improvements	32,700
Dwelling structures and miscellaneous	<u>198,700</u>
Total	<u>\$376,200</u>

During subsequent negotiations between HUD and the Authority, some of the questioned expenditures were accepted by HUD while others were reduced on the basis of additional supporting data provided by the Authority. In a meeting on April 17, 1973, HUD and the Authority officials tentatively agreed that the Authority would reimburse HUD \$184,600 for costs incurred by the Authority which were not reimbursable under the HUD-Authority contract.

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HUD's investigating team concluded that HUD turnkey policies and procedures in effect at the time project NM-12-3 was processed by HUD were inadequate for mutual-help housing projects; HUD, we were advised, has given priority to issuing an Indian Housing Handbook. The issuance of a new handbook is intended to clarify the procedures to be used for future turnkey projects.

HUD's investigating team also concluded that Indian housing authority employees and HUD staff throughout the country need special training for preparing and submitting documents, maintaining records, and managing Indian housing projects. The investigating team found that

the LAAO staff assigned to the Indian housing program was not experienced in administering Indian housing projects at the time the program was transferred from SFRO. In addition, the number of staff assigned to the Indian housing program was considered inadequate to handle the workload and that the staff did not coordinate with BIA or IHS. The HUD team concluded that administrative weaknesses of the mutual-help project were further compounded because the Authority did not have experienced personnel. We concur with the HUD investigating team's findings.

In its January 24, 1973, report, HUD indicated that the geographical alignment of its field offices would be reassessed. We believe that HUD in its reassessment should consider assigning Indian housing specialists and construction representatives to the Phoenix and Albuquerque insuring offices. Placing knowledgeable HUD representatives at such locations may help achieve closer coordination and better communication among the Authority, the developer, HUD, BIA, and IHS.

We have discussed our views with HUD officials and they have agreed to begin training HUD regional office staffs to more effectively administer Indian programs. We were also advised that HUD had assigned two construction representatives to Albuquerque to review and inspect the construction of housing units for the Indians.

LOW-RENT PUBLIC HOUSING PROJECTS

ADMINISTERED OR PLANNED BY THE PUEBLO OF LAGUNA HOUSING AUTHORITY

<u>Projects</u>	<u>Year approved</u>	<u>Description (note a)</u>	<u>- Amount of Federal funds</u>
NM-12-1	1966	10 units (conventional)	\$ 146,773
	1971	modernization of units	133,540
NM-12-2	1966	30 units (conventional)	439,475
	1971	modernization of units	375,020
NM-12-3	1970	^b 170 units (turnkey mutual-help)	2,310,470
NM-12-CR (note c)	-	205 units (conventional mutual-help)	-

^aUnder the conventional method of construction, the local housing authority buys a site and acts as its own developer, employs its own design team, and, when plans are complete, solicits competitive bids for construction of the project. The construction contract is ordinarily awarded to the lowest responsible bidder. The contractor builds the units in accordance with plans and specifications provided by the local housing authority.

Under the turnkey method of construction, the local housing authority requests proposals and then contracts with a private developer to purchase housing units which the developer will construct, on a site which he owns, in accordance with plans and specifications he has developed. To assist Indian families living on reservations to purchase their own homes, HUD developed the mutual-help method, which may be used in conjunction with either conventional or turnkey projects. Under the mutual-help method, participating Indian families perform part of the labor, and the Indian tribe contributes the land and some of the building materials used in the construction of the homes. The participating families make low monthly payments and are given equity credit toward homeownership for such payments and for the labor performed in the construction of their homes.

^bAlthough the annual contributions contract between HUD and the Authority provided for construction of 170 units, only 159 units were constructed.

^cAs of May 31, 1973, HUD had not approved the application for this project.