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WASHINGTON, D.C. 20548

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The Honorable Richard G. Shoup
House of Representatives



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Dear Mr. Shoup:

1 On June 12, 1974, you asked us to review Federal funds provided
2 by the Department of Housing and Urban Development (HUD) to the Black-
feet Indian Developers, Inc. (BIDI), for constructing public housing
projects on the Blackfeet Indian Reservation in Browning, Montana,
during 1972-73.

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During a meeting with you on June 27, 1974, it was agreed that we would examine and provide information on the following matters.

- Background information on BIDI's origin and activities.
- The expenditures incurred to date, including cost overruns, under the two public housing construction contracts awarded to BIDI.
- The status of construction under each public housing contract.
- Determining which group absorbed the \$267,000 loss under the first construction contract to BIDI.
- HUD's and/or the local housing authorities' rationale for awarding the second construction contract to BIDI despite the purported financial loss on the first construction contract.
- The relationship between officials of the Blackfeet Indian Housing Authority and BIDI, and whether any official of the authority has an interest in BIDI.
- The problems BIDI experienced and determining whether they were caused by the inadequate performance of Touche Ross and Company, management consultant to BIDI, under its contracts with HUD.

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Our examination included work at the HUD headquarters office, the HUD Denver Regional Office, and the offices of the Blackfeet Indian Housing Authority and the Blackfeet Tribe in Browning, Montana. We reviewed records and held discussions with officials of HUD, the Blackfeet Indian Housing Authority, the Blackfeet Tribe, BIDI, the independent inspecting architects for the housing projects, and Touche Ross and Company.

We found that:

- The loss incurred by BIDI was absorbed by the Blackfeet Tribe.
- HUD approved the Blackfeet Indian Housing Authority's award of the second public housing construction contract to BIDI under the Federal Government's policy of maximum cooperation with and reliance on Indian tribes during the application of federally assisted programs. The Blackfeet Indian Housing Authority noted that BIDI's completion of quality constructed homes on the first public housing construction contract indicated that BIDI could successfully complete the second contract.
- The Blackfeet Indian Housing Authority and BIDI are tribal entities and their commissioners and board members are tribal members. From BIDI's inception through August 13, 1974, when our fieldwork was in process, no housing authority commissioner served as an officer of BIDI.
- The major difficulties experienced by BIDI (delays caused by not obtaining financing in a timely manner, an excessively large labor force, and a high staff turnover which resulted in inadequate implementation of the accounting and management systems designed by Touche Ross) were not caused by inadequate contract performance by Touche Ross.

Details on these matters and information on the origin and activities of BIDI and the expenditures and status of construction under the two public housing construction contracts awarded to BIDI follow.

BACKGROUND

The United States Housing Act of 1937, as amended (42 U.S.C. 1401), authorizes HUD to conduct a low-rent public housing program on Indian reservations. Under this program, decent, safe, and sanitary houses are

to be made available to low-income families at rents they can afford. Indian housing authorities own and operate the housing projects and are primarily responsible for administering the projects.

HUD is responsible for all aspects of planning and developing low-rent housing on Indian reservations. HUD regional and area offices are responsible for reviewing the administration of housing projects to determine whether they are being operated and maintained to conform to statutory requirements and in a manner which promotes efficiency, economy, and serviceability.

HUD gives Indian housing authorities financial assistance by making loans for developing new housing projects and annual contributions pursuant to contracts with Indian housing authorities. Annual contributions are for (1) paying the principal and interest on bonds and notes housing authorities sold to the public or to HUD for obtaining funds to develop the projects and (2) paying operating subsidies.

As part of its responsibility under an annual contributions contract, the housing authority may award a fixed-price contract to a construction contractor to develop low-rent housing. HUD must approve this contract, insure itself that the contract price between the housing authority and the contractor is reasonable, and take steps necessary to insure that the contractor complies with the contract terms. HUD does not provide development funds for low-rent housing directly to the construction contractor; the housing authority provides payments to the contractor.

ORIGIN AND ACTIVITIES OF BIDI

In November 1970 HUD established a policy waiving advertising and competitive bidding requirements on construction contracts for housing proposals by Indian tribes. The policy is supposed to create opportunities for Indian employment, training, and economic benefits, and is consistent with the Federal policy of maximum cooperation with and reliance on Indian tribes during the application of federally assisted programs.

In the fall of 1971, Blackfeet tribal representatives talked to officials of HUD's Denver Regional Office and obtained verbal commitment that HUD would waive its advertising and competitive bidding requirements enabling the Blackfeet Indian Housing Authority (housing authority) to negotiate directly with a Blackfeet-owned construction company if one was formed. In April 1972 BIDI was established by resolution of the Blackfeet Tribal Council. The housing authority awarded BIDI fixed-price construction contracts on Montana project 8-7 for 55 housing units in June 1972 and project 8-8 for 78 units in October 1973. In addition to its work on these public housing projects, the only major construction project that BIDI has undertaken was a tribally owned, 49-bed nursing home which the Blackfeet Tribe awarded to BIDI in October 1972.

EXPENDITURES INCURRED UNDER
PUBLIC HOUSING CONSTRUCTION CONTRACTS

Project 8-7

In June 1972 HUD executed an annual contributions contract with the housing authority for a 55-unit housing project with an estimated development cost of \$1,343,752. Of this amount, \$1,251,806 was for the construction contract between the housing authority and its developer; the remainder was for development costs not included in the developer's price, such as the housing authority's administration and planning costs. The estimated development cost is the maximum amount that HUD may provide to a housing authority under an annual contributions contract. HUD's general policy is not to increase an annual contributions contract; at the time of our review, the annual contributions contract for project 8-7 had not been increased.

On June 30, 1972, the housing authority entered into a \$1,251,806 fixed-price contract with BIDI for constructing the 55-unit project. The housing authority awarded the contract without advertising or competitive bidding after HUD waived these requirements in April 1972. Before HUD approved the contract, however, it obtained cost estimates from two independent firms. These estimates, both of which exceeded the contract price awarded to BIDI, were used by HUD in its in-house analysis of BIDI's proposal and its negotiations with the housing authority and BIDI.

At the time of our review, payments to BIDI for project 8-7 had not exceeded the contract price. As of August 13, 1974, the housing authority had paid BIDI \$1,227,748 for work completed and was withholding the remaining \$24,058 pending completion of certain items, such as installing a lawn and correcting a storm sewer deficiency.

Project 8-8

HUD also executed an annual contributions contract with the housing authority for a 78-unit housing project with an estimated development cost of \$2,408,339. On October 25, 1973, the housing authority entered into a \$2,287,997 fixed-price construction contract with BIDI for constructing the project.

The construction contract price was established through negotiations between HUD, the housing authority, and BIDI. As of August 13, 1974, the housing authority had not made any payments to BIDI for project 8-8.

CONSTRUCTION STATUS

Project 8-7 is essentially completed. The housing authority accepted the last increment of housing units in December 1973, and the inspecting architect signed completion certificates for the 55-units. As previously noted, the housing authority has retained about \$24,000 of construction funds pending completion of certain items.

Only the first phase of project 8-8 construction, which consists of grading and preparing the site, had been completed as of August 14, 1974. The Blackfeet Tribal Business Council plans to employ Mr. Gary Williams of the G. R. Construction Company to manage and supervise BIDI's construction of the project's first 25 units. Tribal council officials said that BIDI plans to obtain construction funds for project 8-8 from a number of sources: a \$350,000 bank loan, of which 90 percent will be insured by the Small Business Administration; a \$142,000 training grant from the Office of Native American Programs, Department of Health, Education, and Welfare; a \$157,000 training grant from the Bureau of Indian Affairs (BIA), Department of the Interior; and a material inventory on hand worth about \$50,000. Incremental payments to BIDI will be made by the housing authority as units are accepted for delivery in phases.

Tribal council officials also told us that they planned to have the units finished before January 1975, when winter will force construction to stop. They said that, if the arrangement with Mr. Williams worked out satisfactorily, BIDI planned to use him to manage and supervise the construction of the remaining units in the spring of 1975.

After our visit to Browning, the inspecting architect reported to the housing authority that the construction work was progressing smoothly. As of September 18, 1974, 22 of the units had been framed.

TRIBE ABSORBED BIDI LOSSES

A December 1973 audit report prepared by a certified public accounting firm showed that BIDI had incurred an operating loss of about \$267,000 from its inception through November 30, 1973. The Blackfeet Tribe absorbed the loss, which resulted from BIDI's construction of project 8-7 and the tribally owned nursing home. However, BIDI did not have records to show the extent of the loss applicable to the HUD-assisted housing project.

BIDI is 100 percent owned by the tribe, which made a capital contribution of \$98,000 to BIDI. In addition, the tribe advanced \$100,000 to BIDI during August and September 1973. This loan has no repayment requirement. On November 30, 1973, BIDI had a deficit of about \$169,000 (a \$267,000 loss less the capital contribution of \$98,000) and its current

liabilities exceeded current assets by \$89,377 (\$331,979 of current liabilities less \$242,602 of current assets). The current liabilities included a balance of \$100,000 remaining from a \$300,000 bank loan which was 90 percent guaranteed by the Small Business Administration. This loan was subsequently repaid.

In February 1974 the tribe requested BIA approval to use \$200,000 of tribal funds held in trust by BIA to pay BIDI's debts. These funds came from the interest portion of a settlement of a claim against the Government for land taken in violation of treaties. BIA approved the tribe's use of these funds for paying BIDI's debts in April 1974. These funds were used to pay BIDI debts incurred under project 8-7 and the nursing home contracts. As of August 14, 1974, BIDI still had about \$150,000 in debts, primarily attributable to work on project 8-8. Tribal officials told us that BIDI would pay these debts from funds provided by the housing authority for work on the first phase of project 8-8.

RATIONALE OF SECOND CONTRACT AWARD TO BIDI

HUD officials told us that they approved the housing authority's award of the construction contract for project 8-8 to BIDI under the Federal Government's policy of maximum cooperation with and reliance on Indian tribes during the application of federally assisted programs. They said that they had no reason to believe that BIDI could not construct this project. HUD officials pointed out that, at the time the second contract was awarded, project 8-7 was nearing completion; the tribe fully supported BIDI's ability to perform under the second contract; and BIDI's losses were being absorbed by the tribe, not HUD. They told us that, in November 1973, HUD rejected the housing authority's request to waive advertising and competitive bidding and negotiate directly with BIDI on another housing project consisting of 27 units. They said that HUD was concerned about BIDI's ability to finance project 8-8 and the 27-unit project at the same time. The construction contract for the 27-unit project was not awarded to BIDI.

With respect to the housing authority's rationale for awarding project 8-8 to BIDI, a housing authority resolution noted that BIDI's successful completion of project 8-7 indicated that it had the expertise and experience to successfully complete project 8-8. The resolution also stated that BIDI had produced quality constructed homes on project 8-7 which benefited the entire reservation and provided maximum opportunity for employing and training local residents. The inspecting architect for project 8-7 told us that the houses were constructed according to HUD's Federal Housing Administration requirements and were similar to houses built in other places under the same requirements.

RELATIONSHIP BETWEEN OFFICIALS OF
THE HOUSING AUTHORITY AND BIDI

The tribe made a capital contribution of \$98,000 to BIDI; no capital stock was issued. BIDI is owned by the entire tribe, not by individuals. BIDI's charter provides that any surplus funds generated by BIDI's operations are to be used for the tribe's industrial, economic, and recreational development.

BIDI's board of directors is composed of tribal members appointed by the Tribal Business Council. The tribal members do not receive any compensation as board members. The housing authority and BIDI are tribal entities and their commissioners and board members are tribal members. From BIDI's inception through August 13, 1974, when our field work was in process, no housing authority commissioner served as an officer of BIDI.

BIDI'S DIFFICULTIES WERE NOT CAUSED BY
INADEQUATE CONTRACT PERFORMANCE BY TOUCHE ROSS

We found no evidence that BIDI's difficulties were caused by inadequate contract performance by Touche Ross and Company. The available information indicates that the major difficulties experienced by BIDI, which contributed to its financial loss, were (1) delays caused by not obtaining financing in a timely manner, (2) an excessively large labor force, and (3) a high staff turnover which resulted in inadequate implementation of the accounting and management systems.

HUD headquarters awarded two contracts to Touche Ross in connection with BIDI's construction of low-rent housing on the Blackfeet Indian Reservation. The first contract, totaling \$91,000, was awarded in June and expired in December 1972, when BIDI's construction contract on project 8-7 was scheduled for completion. The first contract was to provide necessary systems, supervision, and training to help BIDI operate as an independent business enterprise. Touche Ross' responsibilities included assisting BIDI define business objectives; establish administrative and accounting policies; develop various accounting and management systems, such as books of original entry, budgeting, internal controls, and cost accounting; and monitor the project's financial progress. Touche Ross was also responsible for developing a written training program and conducting training of BIDI personnel.

When Touche Ross completed its initial contract in December 1972, BIDI had not completed its construction contract. A \$32,993 continuation

contract was awarded Touche Ross in June 1973. Under this contract, Touche Ross' responsibilities included continuing the training and management assistance begun under the first contract, reviewing all elements of the management systems developed to insure their adoption and proper implementation, and helping solve problems relating to finance and planning.

Failure to obtain timely financing

BIDI was unable to obtain a construction loan for project 8-7 until about 5 months after the construction contract was awarded. Although Touche Ross was responsible under its contract for assisting BIDI in defining funding requirements and arranging for necessary financing, BIDI's management was responsible for obtaining financing.

In July 1972 Touche Ross reported to HUD that BIDI's most serious problem was a lack of financing. In September Touche Ross reported that financing organizations had been negative about the project because of the recent failure of an Indian building company on the Fort Belknap Reservation. The report stated that initial negotiations with a local Browning, Montana, bank had been unsuccessful and that the search for financing had been expanded to 14 other banks. Touche Ross reported that a commitment contingent upon BIDI's obtaining bonding was obtained from a Denver bank in August. However, BIDI's bonding was rejected because the bonding company required a minimum capitalization of \$250,000 and the status of the surety guarantee provided by the tribe was questionable because of the sovereign status of Indian tribes and trust properties.

BIDI was unable to obtain a construction loan until November 1972 when it obtained a \$300,000 loan which was 90 percent guaranteed by the Small Business Administration. The Small Business Administration guarantees loans only after the applicant shows that credit is not otherwise available on reasonable terms. The Touche Ross contract expired in December, only a month after BIDI obtained its construction loan. Only 6 of the 55 units under project 8-7 planned for completion by the end of calendar year 1972 were completed before construction was stopped for the winter. The balance of the units were completed in 1973, but construction costs had increased.

Excessively large labor force

In September 1973 Touche Ross reported that BIDI hired a new general manager who reorganized and reduced construction crews--about 40 men which had been costing about \$8,000 a week--by about 20 percent, resulting in a positive effect on efficiency.

An evaluation study of BIDI prepared by a housing and industrial specialist for the Department of Health, Education, and Welfare noted that, because of a locked-in labor force and pressures exerted for employment under the high wage rates of the Davis Bacon Act, which BIDI was paying, there were three times as many people employed on project 8-7 than were necessary. The housing specialist's report also noted that BIDI's costs showed an exorbitant labor expense.

Although Touche Ross was responsible under its contract for tasks relating to BIDI's labor force such as defining responsibilities and authorities, preparing job descriptions, and identifying needed skill areas not available within the tribe, it was not responsible for and had no control over the number of employees hired by BIDI.

High turnover of officials and staff

Turnover of BIDI officials and staff, and the absence of Touche Ross assistance during the period between its two contracts, impeded BIDI's implementation of the accounting and management systems designed by Touche Ross.

A Touche Ross report of April 17, 1974, stated that the continual change in BIDI personnel created major problems in operating continuity and effective implementation of the management systems. As a result, the intended management tools and procedures were never fully understood or utilized.

Within 4 months of BIDI's inception, new appointments were made to its board of directors. BIDI's first general manager resigned in August 1973 and the second general manager left in March 1974. The financial manager position changed three times and six secretarial and clerical personnel left for various reasons.

As part of its responsibilities under its second contract, which related to reviewing the management systems developed to insure their adoption and proper implementation, Touche Ross reported in July 1973 on various deficiencies in BIDI's implementation of the accounting and management systems. These deficiencies included incomplete and inaccurate cost-accounting records and inaccurate financial reports; also, BIDI had not prepared or monitored cash forecasts and had not taken inventories. Subsequently, Touche Ross reported that BIDI was making good progress in correcting the deficiencies in the accounting and management systems.

The chairman of BIDI's board of directors told us that BIDI's losses were not attributable to bad advice from Touche Ross. He said

that Touche Ross developed a management system as required, but he did not think that Touche Ross had adequately sold the management systems to BIDI and that it had not tried hard enough to teach BIDI to use the systems.

HUD officials, however, said that BIDI's problems were not caused by Touche Ross' failure to comply with contract requirements. HUD's Denver Regional Inspector General for Audit (RIGA) said that Touche Ross met its contract obligations. HUD's Denver RIGA evaluated the effectiveness of the planning and development assistance furnished to BIDI by Touche Ross. In an October 31, 1973, audit report, RIGA concluded that the accounting and management systems developed by Touche Ross were being successfully implemented by BIDI.

As requested by your office, we did not give HUD or the other parties mentioned in this report an opportunity to formally comment on the matters discussed in this report. However, we have discussed the information presented in this report with officials of HUD, BIDI, the housing authority, and the Blackfeet Tribe. We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,



Arthur J. Altmeyer
Acting Comptroller General
of the United States