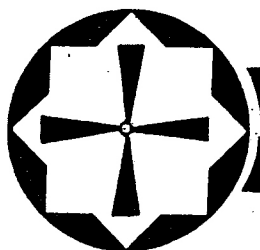


AICHTEL: (212) 598-0100
FAX: (212) 598-4909**AMERICAN INDIAN COMMUNITY HOUSE, INC.**ADMINISTRATIVE/PROGRAM OFFICES
404 LAFAYETTE ST. • NY, NY 10003GALLERY ENTRANCE
708 BROADWAY

August 21, 2001

Mr. Richard H. Brooks
Regional Inspector General for Audit
New York Regional Audit Office
Office of the Inspector General
201 Varick Street
New York, NY 10014

RE: Audit JTPA, Title IV-A
Grant Number B-5247-5-00-81-55

Dear Mr. Brooks:

We apologize for the delay in responding to your draft audit report for the period July 1, 1997 - June 30, 1998, which we received on July 9 - having been closed for summer holiday between July 3 - 9, 2001. Upon initial review of the draft, we requested back-up material for the questioned expenses which was received on July 13.

Before getting into our response to the draft, it should be noted that it is our opinion that the OIG auditor assigned to this task had no knowledge, understanding or experience working with "Indian" JTPA programs. A fact he so stated on one or two occasions. We believe this is relevant to the overall "opinion" of the auditor with regard to the innovative training methods used by American Indian Community House (AICH) and approved by the U. S. Department of Labor's Division of Indian and Native American Programs (DINAP) for approximately 15 years.

In fairness to the auditor, we believe his opinions and recommendations to be more in line with non-Indian programs. If that standard of judgement were appropriate, there would be no need for "special targeted" programs such as DINAP. As is our responsibility, AICH's employment and training programs are uniquely designed to meet the needs of our community.

For example, the OIG auditor chose to use our "cultural" brochure as evidence supporting his findings over documented statistics to support recommendations for disallowed costs. These

brochures were designed to target a specific segment of the population - both Indian and non-Indian, were not meant to promote the employment and training program, per se and were not paid for with DOL funds.

The following bolded headings are taken directly from our Comprehensive Annual Plan (CAP). The information following each heading was verbally discussed/explained during meetings with the OIG auditor in attempts to help him understand how our program works and how it is different from other programs he may have audited.

Instill pride in past heritage as well as pride in current accomplishments.

The AICH Gallery/Museum (G/M) and Communications & Information (C&I) have been especially instrumental in providing historical information on Indian culture and accomplishments. Participants placed in these work areas have gained considerably more than marketable skills; they've learned about the richness, importance and value of their own personal cultures.

This method of training has no monetary value because it addresses the very core of confidence, self esteem, self image, self growth and multiple barriers to life success. These are life lessons that cannot be taught or learned in a classroom, nor can they be adequately taught or learned at a typical day job. However, these are the very things that AICH intentionally provides through its innovative approach to employability enhancements.

AICH training programs are designed to meet the needs of those participants with multiple barriers to life successes. The Native American Indians need the alternatives that AICH can provide. We act as the support group to help Native American survive in urban areas...including classes to develop creative talent to work in various business and artistic fields...develop hands-on, technical, artistic, administrative and production experience; public speaking, press conferences; press releases; handling theatrical equipment; working with costumes, sets and props; casting, directing and producing; acting in television, commercials and live theater. All of the above will develop discipline and responsibility, time management and team work...This will develop positive work ethics for life skills and future careers.

The curators/directors and supervisory staff in the G/M, C&I and Performing Arts are all charged with the responsibility of providing work environments to accomplish these training goals. The JTPA director and staff monitor the training that program participants receive in these work areas; however, it is the directors curators and supervisory staff that do the day to day training/supervision and they are closely involved in job referrals, career counseling, coaching for auditions, updated resumes, vitae, etc. (It should also be noted that JTPA provides more "traditional" training

for artists so that they have other marketable skills to support themselves as they pursue an artistic career.)

Provide services to enhance participants' life skills and help them to overcome such barriers to employment as...non-positive attitudes; poor work ethics; sketchy background; a lack of education; a lack of work experience, a lack of motivation; poor communication skills; etc.

If the auditor is to be consistent with the determination of disallowed costs, then funds spent on numerous CRTs pursuing degrees in communications, public relations, visual and performing arts must also be disallowed. Having a degree is useless for maintaining long-term employment if there is no experience to support one's knowledge. By placing individuals in these positions, they have a legitimate listing for their resumes. While in these positions, the participant's needs that are lacking (as noted in the heading) are addressed and corrected. We strive to provide a safe environment for our clients to learn basic skills so that they don't continue the cycle of rejection and failure in the unsubsidized job market.

Determine whether the program can or cannot benefit the participant.

The responsibility for this determination is delegated to the grantee and DINAP then approves or disapproves the plan submitted. This is one of the objectives outlined in our CAP. The auditor ignored the 26+ visual/performing artists that received benefit (including employment) through AICH/JTPA and instead chose to focus on the previously mentioned brochure. By disallowing the cost for training, the auditor determined that the 18+ participants that received employment (and the participant that later went on to receive the "Outstanding Participant Award) from DINAP did not benefit from our program.

Determine client aptitude, interests, weaknesses and deficiencies and then work with client to develop a plan to overcome these deficiencies and move toward specific educational and/or employment goals.

It is the grantee's responsibility to "work with client to develop a plan..." The AICH/JTPA program has been doing this for over 20 years and the training methods that we have in place have been successful. How can the auditor determine that the grantee's plan to assist participants overcome barriers and obtain employment is questionable when that plan has already been approved by DINAP and the participants assigned to C&I, G/M and Performing Arts are eliminating barriers and obtaining employment as a result of that plan and method(s) of training?

Offer experience and skill training to make a more marketable client...Each Work Experience job is related to actual job situations in the private sector. Each participant is assessed and a tailor made plan (employability development plan) is outlined based on individual needs, goals, preference and experience...These clients need to be motivated to overcome traditional fears, lack of confidence, lack of employable skills, lack of job stability and inability to function in the work environment. We will be conducting a hands on training program teaching life skills, basic work skills, work habits and appropriate attitudes and behavior in the work place.

Again, this is the grantee's responsibility and is one of the objectives outlined in our approved CAP. Our CAP states that participants are placed in "*actual job situations*". This does not mean that participants placed in the G/M must then get unsubsidized employment only in another art gallery (as was the auditor's suggestion at one of our meetings). Participants gain highly marketable skills (i.e.: telephone etiquette, office equipment, verbal and written communication skills following directives, getting along with others/teamwork, meeting deadlines, getting to work on time, dressing appropriately, completing assignments, conflict resolution, appropriate attitudes/behaviors, etc.) Wherever they are placed in-house to work/train.

Some clients are unemployable due not only to a lack of formal training, but a lack of motivation to pursue long-term jobs or careers.

It is very difficult and takes a long time for many of our clients to reach the point of being able to maintain long-term employment. Many of our clients have a history of alcohol/substance abuse and we must take mini steps in order to get them to the ultimate goal of long-term, meaningful employment. Newsletter production is one of the methods we have chosen to help clients who are unemployable achieve a work related success. The production of the newsletter is closely monitored from start to finish by the C& I director. Workers are given specific tasks and a time frame in which to complete them. In addition to showing up on time and following directives, participants are required to work in cooperation with one another as well as other in-house staff. In addition to supervising this project, the C&I director is often required to do counseling, problem solving, motivating, etc., before determining whether or not the participant is ready to move on to handle more responsibility and longer job placements. When the participant is stable enough, we move them to the next level and place them in-house to work/train before moving them on to unsubsidized employment. When participants are consistently unable to complete short-term, temporary work/training assignments, we work with them to eliminate the barriers that are preventing them from achieving success.

All of this work with participants is done in-house at AICH (because it is a safe yet productive work environment). And, it occurs with the curator, directors and staff in all of the work areas that the auditor determined should be disallowed because they are not JTPA related.

The preceding are things that were discussed with the auditor and the information was supported and approved by DINAP in our Comprehensive Annual Plan. We fail to understand why the information and documentation that we provided to the auditor:

- The approved CAP outlining goals and training methods
- A chart showing that 26 visual/performing artists were eligible/enrolled in the program and that of the 19 on which training dollars were spent, 18 obtained employment
- A master list of performing artists that were eligible for services but could not receive program funds

seems to have been ignored in favor of the superficial information provided by the brochures and job descriptions. And, why, after reviewing only 8 client files, would the auditor determine that our performing arts department primarily served non-JTPA clients and that the objectives of the Gallery, C&I and Performing Arts were not JTPA related.

With regard to the questioned costs, I will address them separately in the following paragraphs. However, they are related to the preceding paragraphs/pages and have been addressed without specific mention of dollar amounts.

\$195,245.00...allocated to JTPA grant...primary functions not JTPA related.

These costs represent direct program costs that were distributed to the programs benefitted, using methodologies that have been in place for years and accepted by DHHS, the cognizant agency, and previous OIG auditors as indirect Central Administrative costs. It seems that the disallowance of costs for the three departments is based on something other than actual fact.

There is a significant mention of "public relations", "fund raising", "exhibition costs", etc. related to this audit. We disagree with these assumptions/charges. None of these costs were or are charged to JTPA. The NYSCA and DCA grants, donations and earned income cover all costs that might be categorized under these headings. Space costs and salaries/fringe for the staff who are charged with training and supervision of JTPA participants assigned to this site are charged to the program as direct costs as approved by DINAP in our CAP. The cost of the labor for labeling and mailing the newsletter are a JTPA related cost and should not be disallowed. The brochure has already been addressed and no expenses related to its creation were charged to JTPA even though it promotes JTPA programs/activities.

No exhibition costs were ever paid by JTPA. Artists fees, printing costs, honorariums, postage, shipping of artwork, etc. have always been covered by earned income from Gallery/Gift Shop

sales and grants from New York State Council on the Arts and New York City Department of Cultural Affairs. The same holds true of performers fees and equipment rentals, etc. for actual performances and readings, etc. JTPA was charged a share of rent, utilities, other overhead costs and salaries/fringe related to curators, directors and other training staff - all of which are program related.

Other Cost Allocations - \$47,581

Regarding the \$22,573.00 cost for phone operator/receptionist and maintenance and related health insurance of \$4,340.00, at the time that these costs were charged to JTPA both were training sites for JTPA participants. Therefore, we feel the charges are justified and should not be disallowed. These two positions have long been charged with the task of providing temporary short and long term employment for clients who were unemployable elsewhere. Much of their time was spent removing the barriers to their being placed in unsubsidized employment. The distribution of employee benefits are based on gross salaries of staff by appropriate groups of employees which is acceptable under OMB Circular A-122 as follows:

Fringe benefits in the form of employer contributions or expense for...employee insurance...
Such benefits...shall be distributed to particular awards or other activities in a manner
consistent with the pattern of benefits accruing to the individuals or group of employees
whose salaries, etc.

Further, this is the system that has been used and audited in the past by OIG.

Regarding accounting and auditing fees of \$18,000.00, these are direct costs to the program and were not charged as both direct and indirect costs to JTPA. The accounting services provided to AICH were specifically for the JTPA program and were not incurred for the same purpose as accounting services that were charged to the central administrative cost pool by other programs. The \$3,000.00 audit fee was JTPA's (unfair) share of the total cost of the audit (that was in the neighborhood of \$19,000.00) the \$15,000.00 balance was for the aforementioned accounting services. Because of our inability to pay competitive salaries we have been unable to hire the cream of the crop in many areas of the agency. This was the case in our accounting department at that time. The accounting services cost was incurred when we had to replace the two of the three employees in that department due to incompetence which required Mr. Scarano services to train the replacement(s) and to review their work to ensure that everyone was functioning with the same understanding of the policies and procedures of that department. The \$15,000.00 was JTPA's share of the total cost.

Regarding the Board of Directors expense of \$2,668.00, these costs relate to expenses for Board Members attending Board and Board Committee meetings, the expense for hiring a JTPA participant to take and transcribe the minutes of said meetings, the cost of a printer for C&I and several miscellaneous expenses. While it appears that the costs are being borne solely by JTPA that is not actually the case. In any event, JTPA funds are consistently less than the expenses.

These additional expenses are covered by donations, earned income, etc. If you wish to continue to question these costs, they can be replaced by other more acceptable JTPA expenses. In fact, the JTPA program doesn't pay its' fair share of common costs for Central Administrative expenses. The approved administrative rate for AICH was, at that time, 27% (it is now 28.2%). The JTPA program only allows for 20% of administrative costs. Further, your draft indicates that \$1,659.00 of these particular expenses were disallowed due to the fact that they were not discussed by the Board of Directors at a board meeting. These kinds of expenses have never been discussed at a Board meeting and most likely won't ever be discussed. The Board has delegated the authority to incur expenses and enter into contracts on their behalf and anything else necessary to conduct the day to day business of the organization. I have never abused this authority in the 14 years I have held this position. As to not providing justification for the purchases, original receipts were provided and the reason for the purchase was so indicated at the time the reimbursement request was made. What else is required for this \$650.00 in charges?

As a point of information, I consistently use my own personal funds to purchase supplies and other items that are needed immediately and cannot wait for the ordering process. Sometimes these costs are reimbursed to me and sometimes they are not. If they are not, for whatever reason, I consider them a donation to the agency. Whether this is good practice or not, it is unlikely to change until such time as AICH has more than enough funds to operate or I am no longer with the agency. I don't believe there is a law against this.

Low Percentage of Funds Spent on Participants

This is a major point of disagreement. The OIG auditors comments regarding this issue are misleading and, we believe, incorrect. The calculation of 16% direct and 31% indirect expenses for the program are based on the remainder after the \$293,419.00 questioned costs are removed from the total expenses of \$550, 235.00.

The evaluation of program costs for programs is usually based on the percent of direct and indirect costs to total costs. In OIG's allowable costs on page 13 of the draft audit report, direct costs were 75.7% and administrative costs were 24.3%. AICH reported spending a total of \$550, 235.00 for the year ending June 30, 1998 for JTPA which included \$110,047. for administrative expenses. Only \$102, 191. of the administrative expense was allocated from the Central Administrative pool or 18.6% of total JTPA costs. Why are you disallowing 22.81% in indirect costs? Direct program costs for this program year were 81.4% of the total costs.

To this point, the preceding was prepared with input and responses by LaTanya Hutchins, the firm of Frank Scarano and myself. The following are questions/statements regarding the draft audit report directly from the firm of Frank Scarano which I feel are reasonable and I would be interested in hearing your response to them.

RE: Auditor's Working Paper, A1 and A2

1. The draft questioned the footage assigned to the Circle for the JTPA program because we couldn't support the use of the Circle. The auditor has determined that the Circle is part of the Performing Arts department as opposed to considering it as a common area and has, therefore, disallowed 100% of that space, determining that the JTPA program doesn't use the Circle at all.
2. In a note in the draft, it is stated that "AICH improperly allocated costs of its Gallery and Performing Arts department to the JTPA program. It also improperly Allocated its C&I department costs of \$35,412. to the JTPA pool instead of allocating the department's direct costs to the Indirect Cost Pool."

This note/statement assumes that the Circle area is part of the Performing Arts department, contrary to our response dated December 1999, wherein we advise that the Circle should be considered a common area. If the Circle were to be considered a common area the JTPA portion of the rent expense would increase as we noted in the schedule we provided to the auditor with the December 1999 response.

The C&I department is not part of the Central Administrative costs as stated in the above mentioned note. All costs of printing and postage for the newsletter was charged to other programs. The space costs and staff salaries are JTPA's portion of these costs.

The draft states the auditor did not audit the Indirect cost pool, since DHHS is the cognizant agency and negotiated a final indirect cost rate of 27%. The report also states that "Indirect costs were allocated to the final cost centers on direct costs and were classified as Administrative costs under the grant. This is incorrect. Indirect costs were distributed to the various cost centers in several ways. Some were distributed as line items in the grant. AICH's methodology does not distribute each item in the indirect cost pool at the rate of 27%. The total distributed equals 27%. The C&I costs are considered to be direct program costs, not indirect costs as stated.

RE: Working Paper B1

- A. This schedule has classified Carrese Gullo's salary as an Indirect cost. The classification of her salary as Indirect, in effect, says that the JTPA program will not pay for their fair share of the C&I costs. The newsletter is a direct program expense that must be distributed to the programs benefitted. It is not a Central Administrative cost. Further, it seems that Carrese's role in training, etc. of JTPA participants (as referred to early on in this document) has been completely overlooked. The draft audit report states that the Indirect cost pool wasn't audited, yet direct costs for the JTPA program are being disallowed and classified as indirect costs.

B. Gallery space costs were disallowed because the auditor determined that the Gallery space costs were charged to JTPA "even though these costs have no direct relationship to JTPA. This disallowance is based on the purpose of the Gallery as stated in the brochure, all of which was discussed earlier in this document and, hopefully, clarified to OIG's satisfaction.

RE: Working Paper E1 and E2

A. The schedule shows an "unexplained rent expense difference of \$8,089. The auditor advised us that he had traced each payment made to the NYC office landlord and there was this difference. We provided the general ledger detail for 100% of the rent paid and asked him to provide us with the details - which we never received.

B. We provided the auditor with the details of the space costs totaling \$368,427. and adjustments thereto. However, it appears that the items making up the total were changed. We also provided the names of the maintenance staff that were included with Central Administrative costs, which wasn't accepted by the auditor because we didn't provide documentation to support the change (charge). We were not aware that we didn't provide the documentation needed. A review of the personnel files of the named individuals would have substantiated the expense.

C. We don't understand the note "its claimed expenses were under calculated by \$3,412. (8,193 @ 41.64%). However, our audit disclosed that only 6.81% of the total AICH useable office space is JTPA program allowable. Therefore, AICH is only entitled to an additional \$558. (862/12661 X 8.193%) in allowable expenses."

After careful review of the draft audit and in consultation with Ms. Hutchins and Mr. Scarano and also with my own knowledge and experience, it appears that the disallowance is based on the auditor's opinion rather than the purpose and DOL/DINAP's approved CAP of the JTPA contract in question.

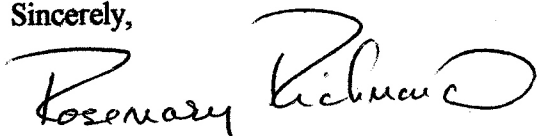
We did not institute these cost allocations in the program year in question. These allocations and methodology have been in place since 1986 or 1987 and we have been audited by OIG since they were instituted.

We verbally responded to the auditors questions about these issues on numerous occasions. We thought that sufficient documentation had been provided. It is difficult to totally recall every conversation after more than a year. But, we can pull our notes and memos to file, if that is necessary.

Obviously, we disagree with the vast majority of the auditors finding's and recommendation. I expect we will talk once you have had an opportunity to review our response.

We are enclosing several attachments that speak to the issues for your reference.

Sincerely,

A handwritten signature in cursive script that reads "Rosemary Richmond". The signature is written in black ink and is positioned above the typed name.

Rosemary Richmond
Executive Director

Attachments

cc: LaTanya Hutchins, Director of Employment/Training
Frank Scarano, CPA