

**STATE OF NEW MEXICO  
OFFICE OF THE STATE AUDITOR**



**SPECIAL AUDIT REPORT  
REGION III HOUSING AUTHORITY, NEW MEXICO, INC.  
HOUSING ENTERPRISES, INC.**

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January 14, 2009**

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## I. EXECUTIVE SUMMARY

On June 1, 2006, Region III Housing Authority, New Mexico, Inc. (Region III) defaulted on its repayment of two Taxable Single Family Residence Acquisition and Rehabilitation Revenue Bonds in the amount of \$2,500,000 each. In partial response to the situation, the New Mexico State Legislature (Legislature) appropriated \$200,000 to the Office of the State Auditor (OSA) in 2007 for an accounting of all assets acquired by Region III. Following receipt of the OSA's report in December 2007, the Legislature extended the appropriation for the OSA in 2008 to conduct a complete financial audit of New Mexico's regional housing authorities.

In conjunction with the financial audits, the Special Investigations Division (SID) of the OSA conducted a Special Audit. The Special Audit found that there were considerable violations by Region III and HEI board members and employees of the reimbursement limitations set forth in the Per Diem and Mileage Act, Chapter 10, Article 8 NMSA 1978 (PDMA). The standard per diem rates established by Region III's policies and procedures and by the HEI board were in excess of what is allowed under the PDMA. Additionally, investigators identified multiple instances in which Region III and HEI board members and employees were paid per diem in violation of the PDMA's limitations. Board members charged and were reimbursed per diem and mileage from both Region III and HEI when their board meetings were held on the same day and in the same location. Board members also charged and were reimbursed per diem when official board meetings did not take place and overnight stays did not occur. HEI board members and employees also received reimbursement in excess of the annual amount allowed by the Act without obtaining appropriate authorizations. Finally, several board members were reimbursed for gas mileage in violation of the administrative rules promulgated pursuant to the PDMA.

These reimbursement documents also revealed several questionable payments and reimbursements for items and events, including purchases of alcohol, payments for private club dues, and a trip to Las Vegas, Nevada. In addition to the identifiable purchases that did not appear to relate to the mission of Region III, investigators discovered non itemized reimbursement receipts and documents. The non itemized reimbursements violate the PDMA as well as Region III's Policies and Procedures.

The Special Audit also found that Region III utilized Housing Enterprises, Inc. (HEI) to execute sales transactions that allowed Region III to convert bond proceeds to its own use. The report issued by the State Investment Office in 2006, *Region III Housing Authority, New Mexico Inc. Taxable Single Family Residence Acquisition and Rehabilitation Revenue Bonds Series 2003 & 2004, Performance and Management Review* (SIO Review) (Exhibit D-2.), described the nature of the transactions executed by Region III and HEI in the acquisition and sale of properties. OSA investigators substantiated the details of those transactions that facilitated the fraudulent conversion of bond proceeds. The Special Audit also uncovered additional transactions related to Region III's bond draws on certain properties cited by the SIO Review. Expanding on the inappropriate bond draws identified in the SIO Review, investigators found that

Region III also purchased, mortgaged, and sold properties prior to fraudulently obtaining bond draws on those properties. The results of the Special Audit reveal the striking extent of Region III's fraudulent transactions related to those properties.

## **II. OVERVIEW**

In 1994, the Legislature enacted the Regional Housing Law (Housing Law), Chapter 11, Article 3A NMSA 1978 (Exhibit A-1) to make affordable, safe and suitable housing available to low-income New Mexicans. The law created seven regional housing authorities throughout New Mexico and each region had a board of commissioners that were granted broad powers to acquire, purchase, lease, construct, improve or repair housing projects. The Housing Law mandated that each authority operate only within the area of its region.

Through their boards, the authorities could create partnerships between state, federal, city, county governments, non-profits and the private sector to carry out the mission of the Housing Law. The authorities also possessed the ability to create non-profit corporations to carry out their powers. Additionally, the authorities had the discretionary power to issue bonds to finance the cost of "the preparation, acquisition, purchase, lease, construction, reconstruction, improvement, alteration, extension or repair of any housing project." (Section 11-3A-14(A) NMSA 1978).

The Housing Law also prohibited certain acts by the authorities, their officers and their employees. For example, an officer or employee of an authority was precluded from acquiring any interest a housing project of an authority. Furthermore, an authority could not construct or operate a housing project for profit and could only rent, lease or sell accommodations to persons of "low-income." As defined by the Housing Law, "low-income person" means "any individual, couple or family whose gross income does not exceed eighty percent of the resident's particular county median income and who cannot afford to pay more than thirty percent of his gross income for housing rent or mortgage payments or a low-income person as defined by the federal government." (Section 11-3A-3(F) NMSA 1978).

Pursuant to Section 11-3A-6 (B), the boards were required to hold board meetings in accordance with the New Mexico Open Meetings Act, NMSA 1978 10-15 (Exhibit A-2) and adhere to the Per Diem and Mileage Act. (Exhibit A-4) Each authority also had the power to acquire office space, hire a director and appropriate staff to carry out the day to day activities and administrative functions of each region.

In August 2001, the Governor appointed Vincent "Smiley" Gallegos to Executive Director of the Region III Housing Authority. Region III consisted of Bernalillo, Sandoval, Valencia and Tarrant counties. Pursuant to its statutory authority under the Housing Law, Region III Housing Authority formed Region III Housing Authority, New Mexico, Inc. (Region III), a New Mexico non-profit corporation organized under Section 501(C)(3) of the Internal Revenue Code. Region III, Inc.'s Articles of Incorporation were filed with the New Mexico Public Regulation Commission (PRC) on September 12,

2001 (Exhibit B-1) and a Certificate of Incorporation was issued by the PRC on September 12, 2001. (Exhibit B-2)

In 2003, Region III Housing Authority created a non-profit corporation, Housing Enterprises, Inc. (HEI) for the purpose providing Region III with home acquisition and rehabilitation services. The PRC issued a certificate of incorporation for HEI on July 30, 2008, naming Robert Strumor as its registered agent (Exhibit C-1.) The certificate was amended and approved by the PRC on April 2, 2004, naming Vincent Gallegos as its registered agent (Exhibit C-2.) Mr. Gallegos also served as the Executive Director of HEI. Like Region III, HEI had an executive board consisting of up to seven members. Pursuant to its Articles of Incorporation, HEI intended to be a tax exempt 501(c)(3) corporation; however, the Internal Revenue Service has not granted this status to HEI.

Region III and HEI were considered separate entities and operated with separate financial accounts. Nevertheless, Region III and HEI shared the same office building and had “significant crossover” in staff and management. (Exhibit D-2). Both entities were managed by Mr. Gallegos and had many individuals serving on both boards.

In 2003 and 2004, the New Mexico State Investment Office (SIO) purchased two separate bonds issued by Region III, Inc for \$2,500,000 each. The bonds were authorized by Region III and issued to finance the acquisition and rehabilitation of single family residences for sale to low-income persons. The first bond, issued on July 1, 2003, was a \$2,500,000 Series 2003 Bond under an indenture of trust dated July 1, 2003. On April 4, 2004, a First Supplemental Trust Indenture (Indenture) was executed which amended the original indenture and issued a second \$2,500,000 Series 2004 Bond. (Exhibit A-7) The Supplemental Indenture secured both the Series 2003 and Series 2004 Bonds which matured on June 1, 2006 and June 1, 2007, respectively.

The Indenture provided that a Trustee bank would hold the proceeds of the bond issues with \$4,404,000 available for acquisition and rehabilitation. The Indenture also allocated \$500,000 to a reserve fund for payment of interest on the Bonds and \$96,000 to the costs of issuing the bonds. Section 3.11 of the Indenture required Region III to “upon receipt, pay to the Trustee bank, all proceeds of the sales of single family residences acquired by Region III, pursuant to the Indenture.”

In May 2006, Region III informed the SIO that it could not repay the Series 2003 Bond and requested an extension of the maturity date. In response, the SIO decided to conduct a performance and management review of Region III before ruling on the extension request. (Exhibit D-1) The SIO contracted with Moss Adams, LLP (Moss Adams), a New Mexico accounting firm, and the law firm of Wiggins, William & Wiggins, LLP (Wiggins), a real estate law firm, for the purposes of, respectively, tracing the bond proceeds and evaluating real estate transactions. The SIO also informed the State Auditor of the developments and of its intent to undertake the review.

Region III ceased operations in 2006 when the corporation defaulted on \$5,000,000 in Series 2003 and 2004 Bonds owed to the SIO. Mr. Gallegos resigned his positions as

Executive Director of both Region III and HEI on August 1, 2006. Subsequently, board members of Region III resigned either voluntarily or as a result of a request of their resignations by the Governor.

The SIO issued its report, *Region III Housing Authority, New Mexico Inc. Taxable Single Family Residence Acquisition and Rehabilitation Revenue Bonds Series 2003 & 2004* (SIO Review) (Exhibit D-2.) in October 2006. The Review concluded that Region III was grossly mismanaged and “violated the terms of the Bond Indenture and possibly the Regional Housing Law by selling properties to those who do not fall within the definition of ‘low income’, selling properties to interested parties, and retaining bond and sale proceeds for their own operating account instead of repaying the bond.” (Exhibit D-2) The Review disclosed that Region III loaned money to three other regional housing authorities: \$347,260 to Region I, \$95,553 to Region IV, and \$560,460 to Region VII. (Exhibit D-2) The Review also concluded that Region III/HEI retained \$3,559,571 of net bond and sale proceeds instead of repaying the Bonds. (Exhibit D-2)

Operations of Region III were taken over by the Mid-Region Council of Governments (MRCOG) in late 2006. Under new leadership, Region III began working with the SIO to liquidate properties to recover some of the investment. Region III transferred title to all unencumbered properties to the SIO. The SIO also referred the information to the New Mexico Attorney General’s Office. (Exhibit D-2, page 1, paragraphs 6 and 7). MRCOG remains the custodian of all available documents related to the now defunct housing authorities.

### **III. SCOPE AND METHODOLOGY**

Investigators requested documents related to the Bond Issues from the SIO. The SIO also authorized the OSA to examine work papers retained by Moss Adams. The OSA reviewed these documents along with documents retained by Region III that included some information from other regional housing authorities. The OSA also reviewed copies of work papers from Meyners+Co., a New Mexico accounting firm that conducted financial audits of Region III.

Investigators were also assigned to the MRCOG offices in Albuquerque, New Mexico in order to review available documents related to travel and other reimbursements of employees and board members of Region III and HEI for 2005. MRCOG, the current custodian of all documents relating to Region III and HEI, initially provided documents for 2005.

After thorough review of the 2005 documents, investigators discovered significant issues pertaining to adherence of New Mexico statutes and administrative rules. Upon the request of the State Auditor, investigators expanded their examination to include related documents for 2006. The investigators compared all per diem and mileage reimbursements to employees and board members of Region III to all per diem and mileage reimbursements to employees and board members of HEI to determine if any duplicate payments had been made.

The investigators also compared the board meeting minutes of Region III and to per diem and mileage reimbursements of Region III and HEI's board members to determine if board members were reimbursed appropriately. The investigators also compared miscellaneous reimbursements to applicable New Mexico statutes, administrative rules, and Region III policies and procedures to determine if HEI and Region III were in compliance.

#### **IV. DETAILED RESULTS**

##### **A. REGION III AND HEI BOARD MEMBERS AND EMPLOYEES VIOLATED THE REIMBURSEMENT LIMITATIONS SET FORTH IN THE PER DIEM AND MILEAGE ACT.**

Investigators found considerable violations of the reimbursement limitations set forth in the Per Diem and Mileage Act (PDMA), Chapter 10, Article 8 NMSA 1978 (Exhibit A-4), by Region III and HEI board members and employees. The PDMA and its accompanying administrative rules, Part 2.42.2 NMAC (Exhibit A-5), govern the payment of per diem and mileage rates and the reimbursement of expenses for all salaried and non-salaried public officers and employees of state agencies and public bodies. The PDMA provides reimbursement for general travel expenses that occur in the discharge of official business and not as any other form of compensation for services rendered. The statutory per diem allowance is in lieu of any other form of compensation for the services of non-salaried public officials, and serves as a mechanism to reimburse public employees for costs they incur in the discharge of their duties.

Pursuant to the Regional Housing Law, board members of the regional housing authorities "may receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance." (Section 11-3A-6 NMSA 1978). The PDMA also applies to all salaried employees employed by a regional housing authority. As defined by the PDMA, a "public officer" or "public official" is "an elected or appointed officer of the state", and an "employee" is "any person who is in the employ of any state agency . . . whose salary is paid either completely or in part from public money" (Section 10-8-3 NMSA 1978).

Board members and employees of Region III and HEI were subject to the same reimbursement rate limitations imposed on the boards of commissioners and employees of regional housing authorities. Specifically, the Regional Housing Law mandates that nonprofit corporations created by a regional housing authority "shall be subject to all of the duties and limitations imposed on the authority and its board of commissioners." (Section 11-3A-9 NMSA 1978). Therefore, Region III and HEI board members and employees were required to follow the reimbursement limitations mandated by the PDMA. The following sections explain the numerous violations of the PDMA's reimbursement limitations by board members and employees of Region III and HEI.

##### **1. THE STANDARD PER DIEM RATES SET BY REGION III AND HEI VIOLATED THE LIMITATIONS SET FORTH IN THE PDMA.**

**a. REGION III POLICIES AND PROCEDURES RELATING TO TRAVEL DID NOT COMPLY WITH THE PDMA.**

The PDMA and its administrative rules allow non-salaried public officers a standard reimbursement rate of up to \$95.00 per day for attending board meetings or for each day spent by public officers traveling within the state in discharge of their official duties. Salaried public officers and employees may receive a standard reimbursement rate of up to \$85.00 for each day spent in the discharge of their official duties; however, the Secretary of Finance and Administration may authorize a reimbursement rate of up to \$135.00 if the Secretary finds \$85.00 is inadequate for reimbursement expenses. (Section 10-8-4 NMSA 1978).

The policies and procedures implemented by Region III directly contravened the limitations of the PDMA. The Region III Housing Authority Personnel Policy and Operating Manual (Policy), Section 8, page 8, states that the maximum reimbursement rate for employees who are “on official travel status” is \$114.00. (Exhibit E-1) This reimbursement amount of \$114.00 implemented by Region III was not in compliance with the rates contained in the PDMA. During the time periods investigated for this report, Region III board members and employees consistently used the rate of \$114.00 in all reimbursements for travel.

In addition, the meal reimbursement rates included in Region III’s Policy conflict with those established by the PDMA. Section 8, Subsection C of the Policy addresses the reimbursement of meal expenses for Region III employees and requires that employees receive prior approval from the director for meal reimbursement. The Policy states that “an employee will be reimbursed \$28.50 per six hour period away from the office and \$57.00 for 12 hours or more.” The Policy further states that this rate may be adjusted for high rate destinations. These rates were inconsistent with those established by the PDMA, which provide that reimbursement for actual expenses for meals may not exceed “thirty dollars (\$30.00) per day for in-state travel and forty-five dollars (\$45.00) per day for out-of-state travel.” (Section 10-8-4(K) NMSA 1978).

**b. THE HEI BOARD APPROVED STANDARD PER DIEM RATES THAT DID NOT COMPLY WITH THE PDMA.**

The HEI Board approved an increase in the per diem reimbursement rate that exceeded the standard reimbursement rates of the PDMA for non-salaried public officers and salaried public officers and employees. HEI Board meeting minutes of August 19<sup>th</sup>, 2003 show that upon motion made by Board member Dan Rudolf and unanimously approved, the Board adopted the per diem rate of \$114.00. The meeting minutes do not clarify how this amount was reached, but the minutes do show that the rate was approved “[a]fter a discussion regarding per diem and other issues concerning how such costs are computed.” (Exhibit E-2) This reimbursement amount of \$114.00 implemented by Region III was not in compliance with the rates contained in the PDMA. During the time

periods investigated for this report, HEI board members and employees consistently used the rate of \$114.00 in all reimbursements for travel.

**2. INVESTIGATORS IDENTIFIED MULTIPLE INSTANCES IN WHICH INDIVIDUAL BOARD MEMBERS AND EMPLOYEES OF REGION III AND HEI WERE REIMBURSED FOR PER DIEM EXPENSES IN VIOLATION OF THE LIMITATIONS SET FORTH BY THE PDMA.**

**a. BOARD MEMBERS CHARGED AND WERE REIMBURSED FOR PER DIEM (BOARD MEETING ATTENDANCE COMPENSATION) AND MILEAGE FROM BOTH REGION III AND HEI WHEN THEIR BOARD MEETINGS WERE HELD ON THE SAME DAY IN THE SAME LOCATION. THE AMOUNT OF THESE INSTANCES FROM JANUARY 2005 THROUGH JUNE 2006 TOTALED \$12,391.60.**

The PDMA and its accompanying administrative rules only allow non-salaried public officers to claim reimbursement of \$95.00 per day, despite the number of meetings of different boards they may have attended on a single day. Part 2.42.2.8.C.(1)(a)(i) NMAC provides that non-salaried public officers may receive \$95.00 “per meeting day.” Furthermore, an Interpretative Memorandum published by the Department of Finance and Administration on January 1, 2006 (DFA Memorandum) regarding the payment of per diem rates for non-salaried public officials states that an “official may not claim more than \$95.00 per day, regardless of the number of meetings of different boards or subcommittees (on which they are members) they may have attended on that day.” (Exhibit A-6)

Investigators discovered many instances in which Region III and HEI board members were reimbursed multiple times for attending various meetings that occurred on the same day. All reimbursements were made according to the \$114.00 reimbursement rate previously discussed.

- Dan Rudolph was paid by Region III and HEI in the amount of \$1,463.00 in per diem and \$29.50 in mileage reimbursements amounting to a total of \$1,492.50 from June 2005 through March 2006. (Exhibit F-1);
- Delores Molina was paid by Region III and HEI in the amount of \$2,202.00 in per diem and \$59.00 in mileage reimbursements amounting to a total of \$2,261.00 from January 2005 through June 2006. (Exhibit F-2);
- Eugene Hurtado was paid by Region III and HEI in the amount of \$1,995.00 in per diem and \$127.50 in mileage reimbursements amounting to a total of \$2,122.50 from January 2005 through June 2006. (Exhibit F-3);
- Filo Sedillo was paid by Region III and HEI in the amount of \$1,614.90 in per diem and \$246.20 in mileage reimbursements amounting to a total of \$1861.10 from February of 2005 through March 2006. (Exhibit F-4);

- J. Morrow Hall was paid by Region III and HEI in the amount of \$1,843.00 in per diem and \$338.00 in mileage reimbursements amounting to a total of \$2,181.00 from February 2005 through March of 2006 (Exhibit F-5);
  - Ronnie Wallace was paid by Region III and HEI in the amount of \$1,055.00 in per diem and \$29.50 in mileage reimbursements amounting to a total of \$1,084.50 from June 2005 through March 2006 (Exhibit F-6); and
  - Ross Aranda was paid by Region III and HEI in the amount of \$1,330.00 in per diem and \$59.00 mileage reimbursements amounting to a total of \$1,389.00 from February 2005 through March, 2006 (Exhibit F-7).
- b. BOARD MEMBERS WERE PAID TWICE BY REGION III FOR ATTENDING THE SAME BOARD MEETING. THESE REIMBURSEMENTS TOTALED \$1,347.00.**

As previously discussed, The PDMA and its accompanying administrative rules only allow non-salaried public officers to claim reimbursement of \$95.00 per day, despite the number of meetings of different boards they may have attended on a single day. However, investigators found the following instances where certain board members were reimbursed twice by Region III for attending the same meeting in one day:

- The total amount paid to Dan Rudolph was \$228.00. Mr. Rudolph was reimbursed from Region III on May 5, 2005, check number 4672 and on May 5, 2005, check number 4672. Both checks were in the amount of \$114.00 and issued for a board meeting attended on May 5, 2005. (Exhibit G-1);
- The total amount paid to Filo Sedillo was \$262.00. Mr. Sedillo was reimbursed from Region III on May 5, 2005, check number 4673 and on May 5, 2005, check number 4687. Both checks were in the amount of \$131.00 and issued for a board meeting attended on May 5, 2005. (Exhibit G-2); and
- The total amount paid to Ross Aranda was \$857.00:
  - Ross Aranda was paid by Region III on January 21, 2005, check number 4437, and again on January 21, 2005, check number 4454. The first check included a trip back from Santa Fe to Albuquerque and included a per diem amount of \$114.00 for the date of January 26, 2005. The second check was for a trip to Albuquerque on January 26, 2005, in the amount of \$114.00. (Exhibit G-3);
  - Mr. Aranda was paid by Region III on February 14, 2005 check number 4518, and again on February 14, 2005, check number 4493. The first check included a trip back from Santa Fe to Albuquerque and included a per diem amount of \$114.00 for the date of February 11, 2005. The

second check was for a trip to Albuquerque on February 11, 2005, in the amount of \$114.00. (Exhibit G-4); and

- Mr. Aranda was paid by Region III on May 5, 2005, check number 4676 and on May 9, 2005, check number 4687. Both checks were in the amount of \$114.00 and issued for a board meeting attended on May 5, 2005. (Exhibit G-5).
- c. **REGION III AND HEI BOARD MEMBERS CHARGED AND WERE REIMBURSED A TOTAL OF \$45,213.00 IN PER DIEM WHEN AN OFFICIAL MEETING DID NOT TAKE PLACE AND AN OVERNIGHT STAY DID NOT OCCUR. INDIVIDUAL BOARD MEMBERS WERE ALSO PAID FOR THEIR ATTENDANCE AT BOARD MEETINGS WHEN THEY WERE NOT MEMBERS OF THE BOARD HOLDING THE MEETING.**

Pursuant to the limitations of the PDMA, Region III and HEI board members were not allowed to claim per diem for attending a board meeting that did not take place. Furthermore, they were prohibited from claiming reimbursement for attending a board meeting if they were not a member of that board. The DFA Memorandum clarifies that to be paid per diem, the “board meeting must be properly convened, noticed, and minutes should be taken.” Additionally, board members may not claim per diem for meeting with constituents or other members of the public or for attendance at related board, commission council or legislative meetings if they are not members of those bodies. In order to receive per diem, members must have actually attended a meeting of a board on which they are members.

However, investigators discovered instances where individual board members of Region III and HEI claimed per diem but an official Region III or HEI board meeting did not take place. Investigators also discovered that board members of Region III attended HEI board meetings as guests and received compensation as if they were HEI board members. Investigators equally discovered many instances where board members of HEI would attend Region III board meetings as guests and received compensation as if they were Region III board members. Investigators further found that board members of other regional housing authorities were paid per diem for attending as “guests” at Region III and HEI board meetings.

Accordingly, investigators found the following instances where individual board members received per diem when they should not have received compensation:

- Charles Esparza was unlawfully paid \$114.00 in per diem on January 18, 2006. (Exhibit H-1);
- Dan Rudolph was unlawfully paid \$7,446.00 in per diem from February 2005 through November 2006 (Exhibit H-2);

- Delores Medina was unlawfully paid \$8,244.00 in per diem from January 2005 through November 2006 (Exhibit H-3);
- Eugene Hurtado was unlawfully paid \$7,552.00 in per diem from January 2005 through August 2006 (Exhibits H-4);
- Filo Sedillo was unlawfully paid \$10,886.00 in per diem from January 2005 through November 2006 (Exhibits H-5);
- J. Morrow Hall was unlawfully paid \$1,596.00 in per diem from February 2005 through March 2006 (Exhibits H-6);
- Johnny Chavez was unlawfully paid \$1,026.00 in per diem from April 2005 through May 2006 (Exhibits H-7);
- Paula Chacon was unlawfully paid \$114.00 in per diem on April 11, 2005. (Exhibit H-8);
- Ronnie Wallace was unlawfully paid \$1,443.00 in per diem from February 2005 through November 2006 (Exhibits H-9);
- Ross Aranda was unlawfully paid \$6,156.00 in per diem from January 2005 through August 2006 (Exhibits H-10);
- Marjorie Gogolya was unlawfully paid \$114.00 in per diem on June 13, 2006 (Exhibit H-11); and
- Charles Esparza was unlawfully paid \$114.00 in per diem on June 13, 2006 (Exhibit H-12).

**d. HEI BOARD MEMBERS AND EMPLOYEES WERE REIMBURSED IN EXCESS OF THE AMOUNT ALLOWED BY THE PDMA IN AN AMOUNT TOTALING \$38,986.51.**

As applied to HEI board members, the PDMA requires that certain documentation be provided if a board member's annual reimbursement under the PDMA exceeds \$1500.00 in one year, either for a single reimbursement or in the aggregate. Pursuant to Section 10-8-5(I) NMSA 1978:

A person who is not an employee, appointee or elected official of a county or municipality and who is reimbursed under the provisions of the Per Diem and Mileage Act in an amount that singly or in the aggregate exceeds one thousand five hundred dollars (\$1,500) in any one year shall not be entitled to further reimbursement under the provisions of that act until the person furnishes in writing to his department head or, in the case of a department head or board or commission member, to the governor or, in the case of a member of the legislature, to the New Mexico legislative council an itemized

statement on each separate instance of travel covered within the reimbursement, the place to which traveled and the executive, judicial or legislative purpose served by the travel.

Investigators discovered that several board members of HEI received reimbursement for travel that exceeded \$1500.00 in one year. However, the investigators did not find evidence that the board members submitted any documents to the director or the board to support the members' reimbursement beyond the statutory limit imposed by the PDMA. Furthermore, the records did not show that per diem reimbursements to members were disallowed after the limit was met.

The investigators discovered the following instances of violations of this limitation on per diem and mileage reimbursement:

- James Perez exceeded the statutory limitation for travel in 2005 in the amount of \$96.00. (Exhibit I-1);
- Vincent Gallegos exceeded the statutory limitation for travel in 2005 in the amount of \$15,108.51 and in 2006 in the amount of \$11,102.00. (Exhibit I-2);
- Charles Esparza exceeded the statutory limitation for travel in 2005 in the amount of \$444.00. (Exhibit I-3);
- Delores Molina exceeded the statutory limitation for travel in 2005 in the amount of \$3,089.50 and in 2006 in amount of \$1,151.50. (Exhibit I-4);
- Eugene Hurtado exceeded the statutory limitation for travel in 2005 in the amount of \$3,375.00 and in 2006 in the amount of \$1,780.50. (Exhibit I-5);
- J. Morrow Hall exceeded the statutory limitation for travel in 2005 in the amount of \$520.75. (Exhibit I-6);
- Johnny Chavez exceeded the statutory limitation for travel in 2005 in the amount of \$1,570.75 and in 2006 in the amount of \$404.00. (Exhibit I-7); and
- Marjorie Gorgolya exceeded the statutory limitation for travel in 2005 in the amount of \$344.00. (Exhibit I-8).

**3. IN ADDITION TO THE UNLAWFUL REIMBURSEMENT OF MANY REGION III AND HEI BOARD MEMBERS AND EMPLOYEES, INVESTIGATORS DISCOVERED SIGNIFICANT VIOLATIONS BY SPECIFIC INDIVIDUALS OF THE LIMITATIONS SET FORTH BY THE PDMA.**

- a. VINCENT GALLEGOS CHARGED AND WAS REIMBURSED PER DIEM FROM BOTH REGION III AND HEI WHEN TRAVELING ON BUSINESS FOR THE SAME TRIP. MR. GALLEGOS WAS PAID A TOTAL OF \$45,690.25.**

Investigators found multiple instances where Vincent Gallegos was reimbursed by both Region III and HEI for the same trip or the same legislative session. Mr. Gallegos served as Executive Director for both Region III and HEI. In total, Mr. Gallegos was paid a total of \$22,181.25 from January 2005 through December 2005 (Exhibit J-1) and \$23,509.00 from January 2006 through July 2006. (Exhibit J-2)

Among the numerous occurrences of duplicate payments to Mr. Gallegos, investigators identified the following transactions as significant:

- Mr. Gallegos was reimbursed per diem by HEI to attend the legislative session from January 25, 2005 through March 19, 2005. The reimbursement was made on HEI check number 2470 in the amount of \$5,130.00, the check was dated April 1, 2005. Mr. Gallegos was also reimbursed per diem from Region III, check number 4444 for the dates of January 25, 2005 and January 26, 2005 in the amount of \$257.50, the check was dated January 21, 2005. The Region III check included per diem for \$228.00 and mileage from Albuquerque to Santa Fe and back for \$29.50 (Exhibit J-3);
- Mr. Gallegos was reimbursed by HEI to attend the Legislative session from January 16, 2006 through February 21, 2006. The reimbursement was made on HEI check number 3303 in the amount of \$4,247.50 and included per diem and mileage reimbursements, the check was dated February 22, 2006. Mr. Gallegos was also reimbursed from Region III to attend the legislative session From January 16, 2006 through February 21, 2006, check number 3366 in the amount of \$4,247.50 and included per diem and mileage reimbursements, the check was dated February 22, 2006. (Exhibit J-4);
- During the time period Mr. Gallegos was reimbursed for attending the legislative session in 2006, he was also reimbursed by HEI to attend a board meeting on the dates of January 17, 2006 and January 18, 2006, check number 3195 in the amount of \$257.50 and included per diem and mileage reimbursements from Albuquerque to Santa Fe and back, the check was dated January 13, 2006. Mr. Gallegos was also reimbursed for the same board meeting from Region III, check number 5259, in the amount of \$257.50, this check was also dated January 13, 2006. (Exhibit J-4) This board meeting was held by HEI and Region III, the entities' board meetings ran concurrent at 6:30pm at Garrett's Desert Inn in Santa Fe;
- Investigators discovered an instance in which Mr. Gallegos was reimbursed four times for the same trip. Mr. Gallegos was reimbursed twice by HEI for a trip to Las Cruces on September, 2005. The first reimbursement for \$228.00 was dated September 14, 2005, HEI check number 2891. The second reimbursement for \$228.00 was dated September 19, 2005, HEI check number 2915. Mr. Gallegos was also reimbursed twice by Region III for this same trip. The first reimbursement for \$228.00 was dated September 14, 2005,

Region III check number 4951. The second reimbursement for \$228.00 was dated September 19, 2005, Region III check number 4965. (Exhibit J-5); and

- Investigators noted a pattern of hand written check numbers, amounts and issues dates on the face of travel/per diem request forms. A reimbursement document was discovered for a per diem and mileage reimbursement for Mr. Gallegos from HEI for \$228.00. The reimbursement was for a trip on January 5, 2006 through January 6, 2006 from Albuquerque to Las Cruces and was issued on January 5, 2006. The travel reimbursement document for HEI shows a crossed out check number of 5238 adjacent to 3165, the appropriate check number for this reimbursement. Investigators subsequently discovered a travel reimbursement to Mr. Gallegos issued by Region III for the identical dates, destinations and amounts. This reimbursement was issued by Region III on check number 5238, the crossed out check number that appeared on the HEI reimbursement voucher. (Exhibit J-6).

**b. EUGENE HURTADO AND FILO SEDILLO WERE REIMBURSED A TOTAL OF \$2,637.50 FOR GAS MILEAGE THAT WAS NOT IN ACCORDANCE WITH THE ADMINISTRATIVE RULES OF THE PDMA.**

Under the administrative rules for the PDMA, Part 2.42.2.7(L), members may only claim reimbursement for gas mileage for travel to a meeting if the location of the meeting is “at least 35 miles from the designated post of duty of the public officer or employee.” Investigators found that Eugene Hurtado and Filo Sedillo were not entitled to the following reimbursement amounts they received for gas mileage:

- Eugene Hurtado was reimbursed \$682.50 that he was not entitled to from January 2005 through August 2006 for mileage. (Exhibit K-1); and
- Filo Sedillo was reimbursed \$1,955.00 that he was not entitled to from January 2005 through August 2006 for mileage. (Exhibit K-2).

**c. EUGENE HURTADO WAS COMPENSATED FOR ATTENDING BOARD MEETINGS THAT HE DID NOT ATTEND. THE TOTAL AMOUNT HE WAS COMPENSATING IN THIS MANNER IS \$486.00.**

The PDMA does not allow board members to be compensated for meetings they did not attend. Investigators found the following instances in which Eugene Hurtado received per diem but should not have received any compensation:

- Mr. Hurtado was compensated for an HEI board meeting and a Region III board meeting on August 9, 2005, both of which he did not attend. The amount of compensation he received for these meetings totaled \$243.00. (Exhibit L-1); and

- Mr. Hurtado was compensated for an HEI board meeting and a Region III board meeting on October 25, 2005, both of which he did not attend. The total amount of compensation he received for these meetings totaled \$243.00. (Exhibit L-2).

**D. REGION III HOUSING AUTHORITY EMPLOYEES AND BOARD MEMBERS DID NOT COMPLY WITH THEIR OWN POLICIES AND PROCEDURES.**

**1. REGION III EMPLOYEES AND BOARD MEMBERS DID NOT OBTAIN PROPER APPROVALS PRIOR TO THE INCURRENCE OR THE REIMBURSEMENT OF TRAVEL EXPENSES.**

Region III's Policy, Section 8, contained rules regarding vehicle use and travel expenses, including the following: "Lodging expenses must be authorized by the Director before travel." (Exhibit E-1) Investigators did not find any pre-authorizations for travel in the documents examined.

**2. REGION III EMPLOYEES AND BOARD MEMBERS DID NOT PRESENT JUSTIFICATION FOR TRAVEL EXPENSES INCURRED.**

Pursuant to Region III's Policy, Section 8, "[a]ll employees must present justification for expenses, as well as a travel voucher with supporting documentation." (Exhibit E-1) Investigators did not discover such material in examining travel documents.

**3. REGION III EMPLOYEES AND BOARD MEMBERS DID NOT SUBMIT ORIGINAL LODGING RECEIPTS FOR TRAVEL IN ACCORDANCE WITH THEIR OWN POLICIES AND PROCEDURES.**

Pursuant to Region III's Policy, Section 8, reimbursement is "for employees who are on official travel status for 24 hours or more. All overnight travel claims require original lodging receipts." (Exhibit E-1) Investigators did not find any lodging receipts associated with lodging reimbursements.

**E. REGION III AND HEI EMPLOYEES ENGAGED IN INAPPROPRIATE USE OF PUBLIC FUNDS.**

Investigators determined certain expenditures and reimbursements paid by Region III to be either questionable or inappropriate. In the vast majority of cases, investigators did not discover evidence that indicated the expenditures or reimbursements were related to the mission of Region III or pursuant the discharge of a public officer's or employee's official duties. The documents examined contained only receipts and check stubs. There was no evidence of pre-approval or other required documentation. Some of the receipts used for reimbursement were credit card statements that did not include itemization of the goods or services purchased. There is evidence that some of these reimbursements were issued before the event took place, and did not contain the necessary advancement approvals.

The following instances of the expenditure of public funds should be considered in view of the ethical principles set forth by the Governmental Conduct Act, Section 10-16-3(A) NMSA 1978, which provides that a “public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests incompatible with the public interest.” (Exhibit A-3).

**1. REIMBURSEMENTS FOR GIFT PURCHASES FOUND TOTALED \$406.95.**

Investigators discovered no evidence indicating the following expenditures were related to the mission of Region III or were made pursuant to the discharge of a public officer’s or employee’s official duties for Region III:

- A Louis Vuitton Briefcase was purchased in the amount of \$249.00 for Denise Padilla on February 14<sup>th</sup>, 2005 M-1); and
- Flowers were purchased on two different occasions in an amount totaling \$157.95. The first reimbursement was in the amount of \$50.00, check number 5332 issued on February 6, 2006 issued to James Raia for board member flowers. The second reimbursement was in the amount of \$115.24, check number 5359, issued on February 17, 2006 to Filo Sedillo for floral arrangement purchase and delivery. (Exhibit M-2).

**2. VARIOUS RECEIPTS AND REIMBURSEMENTS FOR ALCOHOL PURCHASES FOUND TOTALED \$806.94.**

Although the PDMA or Region III’s Policy does not prohibit expenditures or reimbursement for alcohol purchases, investigators determined the following expenditures to be questionable. The expenditures were as follows:

- A banquet ticket from and check issued to Best Western Inn Rio Grand was found in the amount of \$419.00 for sixty drink tickets. The check was issued by Region III, check number 2549 on May 5, 2005. This order was placed in conjunction with a Regional Housing Authority Association Seminar. The check reimbursement statement lists the reimbursement as training. (Exhibit N-1);
- Dennis Kennedy was reimbursed \$104.00 for alcohol purchases in Las Vegas, Nevada from September 22 through September 23, 2005. The reimbursement was made by Region III on check number 5040, issued on October 27, 2005. (Exhibit N-2);
- Dennis Kennedy was reimbursed \$76.25 for alcohol purchases in Las Cruces, New Mexico on September 11, 2005. The reimbursement was made by Region III on check number 5040, issued on October 27, 2005. (Exhibit N-3);

- Dennis Kennedy was reimbursed \$126.34 for alcohol purchases at the La Fonda Hotel in Santa Fe, New Mexico on February 8, 2005. The reimbursement was made by Region III on check number 4496, issued on February 14, 2005. HEI board meeting minutes were found for this date but were hand written and largely illegible. It was indicated on the receipt that the intention was for HEI to make the reimbursement, but the reimbursement was made by Region III. (Exhibit N-4);
- Dennis Kennedy was reimbursed \$76.95 for alcohol purchases at the Double Eagle Restaurant in Las Cruces, New Mexico on February 5, 2005. The reimbursement was made by Region III on check number 4527, issued on February 24, 2005. (Exhibit N-5); and
- Vincent Gallegos was reimbursed \$4.00 for alcohol purchases on February 8, 2005. The reimbursement was made by Region III on a check issued on February 14, 2005. (Exhibit N-6).

3. **ALBUQUERQUE PETROLEUM CLUB MEMBERSHIP DUES REIMBURSEMENTS FOR DENNIS KENNEDY WERE FOUND IN AN AMOUNT TOTALING \$580.40.**

Investigators discovered no evidence indicating the following expenditures were related to the mission of Region III or were made in the discharge of Mr. Kennedy's official duties for Region III:

- Dennis Kennedy was reimbursed for Albuquerque Petroleum Club member charges in the amount of \$280.40 by Region III, check number 5525, issued April 10, 2006. (Exhibit O-1);
- Dennis Kennedy was reimbursed for Albuquerque Petroleum Club membership dues in the amount of \$150.00 by Region III, check number 5698, issued June 6, 2006. (Exhibit O-2); and
- Dennis Kennedy was reimbursed for Albuquerque Petroleum Club membership dues in the amount of \$150.00 by Region III, check number 5841, issued July 31, 2006. (Exhibit O-3).

4. **REIMBURSEMENTS FROM A TRIP TO LAS VEGAS, NEVADA TOTALED \$1,680.49.**

Investigators discovered no evidence indicating the trip benefited Region III or that the trip was related to the mission of Region III. Furthermore, investigators found no evidence that would indicate either Ms. Dorothy Gallegos or Ms. Charlene Kennedy were employed by or were members of the board of Region III. However, their travel was paid for by Region III. Expenditures for the trip may also violate the limitations of the PDMA because no pre-authorizations for out-of-state travel existed and there was no evidence that the individuals took the trip in the discharge of official business.

The reimbursements were as follows:

- Receipts and reimbursements were found for a trip to Las Vegas, Nevada on September 22 through 24, 2005. Mr. Gallegos and his wife and Mr. Kennedy and his wife were in attendance. A total amount of \$1,211.60 was spent out of Region III's fund for the vacation package which included flights and stays at the Monte Carlo. (Exhibit P-1); and
- Dennis Kennedy was reimbursed \$468.89 for meals and alcohol in Las Vegas Nevada for the time period of September 22 - 24, 2005. This reimbursement was made by Region III, check number 5040, issued on October 27, 2005. (Exhibit P-2).

**5. QUESTIONABLE, NON-ITEMIZED REIMBURSEMENTS WERE FOUND IN AN AMOUNT TOTALING \$4,487.53**

The PDMA and the regulations promulgated pursuant to the PDMA allow for actual reimbursement of expenses provided that appropriate receipts for such expenditures are submitted with the reimbursement requests. In the absence of receipts, an affidavit from the public officer or employee attesting to the expenses must be submitted with the travel voucher and "include the signature of the agency head or governing board." (Part 2.42.2.9(B)(3) NMAC). As previously discussed, the PDMA limits the amount of reimbursement for actual expenses for meals to \$30.00 per day for in-state travel and \$45.00 per day for out-of-state travel. Furthermore, Section 8 of Region III's Policy provides that "[a]ll employees must present justification for expenses, as well as a travel voucher with supporting documentation." (Exhibit E-1) Investigators did not discover such material in examining the following documents described below.

The investigators were unable to determine what the following expenditure reimbursements were for because the submitted receipts were not itemized or, in some instances, the receipts were not submitted at all:

- Dennis Kennedy was reimbursed \$36.00 for unspecified purchases at Houdini's lounge in Las Vegas, Nevada on September 22, 2005. This reimbursement was very similar to an itemized receipt for alcohol purchases at the same location the prior day. The reimbursement was made by Region III, check number 5040 issued on October 27, 2005. (Exhibit Q-1);
- Dennis Kennedy was reimbursed \$44.00 for unspecified purchases at Sadie's restaurant in Albuquerque, New Mexico on September 20, 2005. The reimbursement was made by Region III, check number 5040 issued on October 27, 2005. (Exhibit Q-2);
- Dennis Kennedy was reimbursed \$50.71 for unspecified purchases at the Café Don Felix in Las Cruces, New Mexico on September 5, 2005. The

reimbursement was made by Region III, check number 5040 issued on October 27, 2005. (Exhibit Q-3);

- Dennis Kennedy was reimbursed \$380.00 for unspecified purchases at Meson De Mesilla Restaurant and Lounge in Las Cruces, New Mexico on March 6, 2005. The reimbursement was made by Region III, check number 4544 issued on March 8, 2005. (Exhibit Q-4);
- Dennis Kennedy was reimbursed \$225.00 for unspecified purchases for meals and entertainment, according to the payment record. The reimbursement was made by Region III, check number 5867 issued on August 3, 2006. (Exhibit Q-5);
- Dennis Kennedy was reimbursed \$280.40 for unspecified charges on his members account at the Albuquerque Petroleum Club. The reimbursement was made by Region III, check number 5525 issued on April 10, 2006. (Exhibit Q-6);
- Vincent Gallegos authorized a \$2,889.73 expense at the La Fonda Hotel in Santa Fe, New Mexico on February 14, 2005. The payment to the La Fonda was made by HEI, check number 2286 issued on February 8, 2005. (Exhibit Q-7); and
- Vincent Gallegos authorized a \$500.00 expense at the La Fonda Hotel in Santa Fe, NM on February 10, 2005. The payment to the La Fonda was made by Region III, check number 4431 issued on January 17, 2005. (Exhibit Q-8).
- Vincent Gallegos was reimbursed \$125.69 for unspecified charges at Vanessie of Santa Fe in Santa Fe, NM. This. The receipt indicates that the charge was incurred at 11:53 p.m. and that there was only one customer whose age was verified. The reimbursement was made by Region III, on an undetermined check number issued on February 14, 2005. (Exhibit Q-9)

In regards to the La Fonda payments authorized by Mr. Gallegos, the investigators were unable to determine if the La Fonda charges were for lodging, entertainment purposes or other types of services provided by the hotel; however, the expenses coincided with the dates of the legislative session and also were within the time period that Mr. Gallegos was reimbursed for per diem for attending the legislative session.

**B. REGION III UTILIZED HEI TO EXECUTE SALES TRANSACTIONS THAT ALLOWED REGION III TO CONVERT BOND PROCEEDS INTO CASH THAT REGION III USED FOR PURPOSES NOT AUTHORIZED BY THE BOND INDENTURE.**

Region III utilized HEI to create sales transactions that effectively enabled Region III to convert bond proceeds to its own use. The results of the Special Audit substantiate the nature of the transactions described in the SIO Review and further clarify the details of

those transactions. The minutes for the Region III Board of Commissioners (Board) meeting on July 8, 2003 show that Vincent Gallegos “explained the need to form a new non-profit which would provide needed opportunities for creating arms length transactions”. (Exhibit R). Robert Strumor, counsel for Region III, stated that he could get the non-profit “up and running in 48 hours.” The Board unanimously approved the formation of the non-profit, later named HEI. Both entities were considered separate entities and operated with separate financial accounts, yet the two entities shared the same office and had “significant crossover” in staff and management. (Exhibit D-2). Both were managed by Mr. Gallegos and had many individuals serving on both boards. Given the inability of HEI to act independently and without the influence of Region III, the transactions that occurred between Region III and HEI could not possibly qualify as arms length transactions. Therefore, it seems the true purpose of forming HEI was to create the *appearance* of arms length transactions.

OSA investigators found that Region III used HEI to circumvent the terms of the Indenture. The process of the Indenture, as explained in the SIO Review, first allowed Region III to draw bond proceeds from the Trustee after identifying a property for purchase and rehabilitation. After Region III presented the Bond Requisition Certificate, the Trustee would release the funds into the operating account of Region III. Next, Region III would use the proceeds to purchase the property, rehabilitate the property, and then sell the property to a “low-income” person. Finally, out of the proceeds of the sale, Region III would deposit with the Trustee an amount sufficient to repay the principal and interest on the bond proceeds. Region III, however, used HEI to facilitate the fraudulent conversion of bond proceeds. After identifying a property to purchase, Region III would requisition funds from the Trustee and then transfer the proceeds to HEI. HEI then purchased the property with the bond monies and then sold the property back to Region III, which had already obtained a mortgage. The receipt of the mortgage proceeds essentially converted the bond monies, less closing costs, into cash. Region III retained the closing proceeds instead of depositing them with the Trustee. Later, when Region III transferred the property by sale or lease-purchase, it also retained the proceeds of that transaction.

Each property exchanged in this manner, consequently, had two almost equal related debts: the bond proceeds and the mortgage. Unfortunately, the Indenture had no provision to secure a lien interest in any property purchased with Bond proceeds. Unless a property sold for approximately twice its purchase price, therefore, the SIO could not recoup its investment until the mortgage holder had been paid. This led to the current situation with the SIO attempting to salvage whatever it can from the remaining unencumbered assets of Region III/HEI.

Exhibit T-1 is a summary of bond draws that shows the sales transactions that effectively enabled Region III to convert bond proceeds to its own use. Region III and HEI entered into “Professional Service Agreements” (PSA) with other RHA’s and, effectively, became a statewide RHA (the PSAs are attached to this report as Exhibit S). Region III, through HEI, bought and sold real property in Region I, Region IV and Region VII while simultaneously funding the operations of those regional housing authorities. The

operating funds for the other regions, as well as for Region III and HEI, came primarily through the conversion scheme described in this report. (Exhibit W).

Exhibit B is based on closing statements for the properties located during fieldwork. As Exhibit B indicates, in some instances Region III acquired a mortgage before “purchasing” the property from HEI. There were also instances where HEI “sold” the property to Region III before closing on the property with the bona fide seller. In one instance involving a property located at 7615 Purple Fringe S. W., in Albuquerque, HEI purchased the home on May 26, 2004 yet Region III sold the same property on July 14, 2005. Because supporting documents could not be located, it is unknown how the exchange between Region III and HEI took place although there is a mortgage payoff shown on the closing statement for the Region III sale. This indicates that Region III/HEI utilized the same mechanism referred to in this report to effect the transfer.

The schedule “Bond Draws on Other Properties,” attached to this report as Exhibit T-2, shows other bond draws for which purchase documents could not be found. Consequently, OSA could not determine whether Region III used the same scheme in purchasing these properties.

**C. REGION III PURCHASED, MORTGAGED AND SOLD PROPERTIES PRIOR TO FRAUDULENTLY OBTAINING BOND DRAWS ON THOSE PROPERTIES.**

The SIO Review found that Region III drew bond proceeds ostensibly to purchase certain properties, yet Region III already owned the properties and had obtained other financing for the properties. (Exhibit A-7, page 10) Investigators uncovered additional transactions related to Region III’s bond draws on the properties cited by the SIO Review. For two specific properties, the following results of the OSA’s Special Audit reveal the striking extent of Region III’s fraudulent transactions.

With regard to the first property, located at 615 Union in Moriarty, New Mexico, the SIO Review stated that “Region III drew Bond Proceeds in an amount of \$68,000 on July 29, 2003 for a property it had previously purchased on or about February 1, 2003 for an unknown sum.” Investigators found, however, that prior to Region III’s bond draw on the property, Region III sold the property through a lease-purchase agreement and after the sale used the property as collateral to obtain a loan.

On January 10, 2002, Region III purchased the property at 615 Union from the Secretary of Housing and Urban Development for \$10.00. (Exhibit U-1) On January 15, 2002, Region III obtained a mortgage on the property from First State Bank in Albuquerque, New Mexico, in an amount not to exceed \$121,300. (Exhibit U-2) To support the mortgage, Region III presented the bank with property cost and rehabilitation calculations. (Exhibit U-2) The document lists the property cost as \$49,100, rehabilitation costs as \$5,550, and overhead costs as \$6,000.

On February 1, 2003, Region III sold the property at 615 Union to Presbyterian Medical Services, Inc. (Presbyterian) pursuant to a lease-purchase agreement. (Exhibit U-3) Under

the terms of the agreement, Presbyterian paid Region III \$12,750 upon execution of the agreement and \$1,323 each month during the term of the lease. The agreement required Region III to transfer clear title upon the expiration of the lease term on January 31, 2008. Subsequent to executing the lease-purchase agreement, Region III executed a mortgage dated April 9, 2003 with Neighborhood Housing Services of Albuquerque, Inc. (NHS) in the amount of \$67,500 secured by the property at 615 Union. (Exhibit U-4) The mortgage contains a covenant whereby Region III warrants that it has good title and lawful authority to convey the property. The mortgage had a due date of June 1, 2004.

After both the lease-purchase agreement with Presbyterian and the mortgage with NHS, Region III then presented a Bond Requisition Certificate dated July 29, 2003 to the Trustee to draw bond proceeds of \$68,000 for the purpose of acquiring and rehabilitating the property at 615 Union. (Exhibit U-5) As justification for the request, Region III presented the Trustee with calculations that “may be relied upon by the Trustee for the purpose of making deposits to the Reserve Fund, Redemption Account of the Bond Fund and payments to the Issuer.” Region III listed the acquisition cost as \$49,100, the rehabilitation cost as \$5,308, and additional costs as \$13,592. The “Net Profit” was listed as “To be determined”.

Investigators found a “Loan Modification Agreement” dated October 15, 2004 between Region III and NHS which extended the due date for the mortgage until June 1, 2005. (Exhibit U-6) However, the agreement was not signed by a representative of NHS or Region III. Investigators also found a second “Loan Modification Agreement” dated August 10, 2005 which extended the repayment period for the mortgage until June 1, 2005. (Exhibit U-7) The second agreement was signed on December 19, 2005 by Robert Garcia, Executive Director of NHS, and Vincent Gallegos, Executive Director of Region III. The agreement was not notarized.

With regard to the transactions related to the second property reviewed by investigators, the SIO Review stated that for a property located at 14 Bonnie Lane, Edgewood, New Mexico that “Region III drew Bond Proceeds in an amount of \$68,000 on July 29, 2003 for property it had previously purchased on December 23, 2002 for \$43,250.” Investigators found additional transactions related to this property that further exposes the fraudulent bond draws made by Region III.

On December 23, 2002, Region III purchased the property located at 14 Bonnie Lane. (Exhibit V-1) Subsequent to the purchase, on April 10, 2003, Region III obtained a mortgage from NHS in the amount of \$67,500 for the same property. (Exhibit V-2) After both the purchase of the property and the mortgage with NHS, Region III then presented a Bond Requisition Certificate dated July 29, 2003 to the Trustee to draw bond proceeds of \$68,000 for the purpose of acquiring and rehabilitating the property at 14 Bonnie Lane. (Exhibit V-3) As justification for the request, Region III presented the Trustee with calculations that “may be relied upon by the Trustee for the purpose of making deposits to the Reserve Fund, Redemption Account of the Bond Fund and payments to the Issuer.” Region III listed the acquisition cost as \$43,250, the rehabilitation cost as \$6,747, and additional costs as \$18,003. The “Net Profit” was listed as “To be determined”.

On August 3, 2004, HEI sold the property at 14 Bonnie Lane to Region III, which obtained a mortgage for \$92,150. Investigators did not locate documentation that demonstrated how HEI became the owner of the property.

## **V. CONCLUSION AND REFERRAL**

OSA SID discovered, documented and collected a significant amount of evidence relating to inappropriate and questionable reimbursements and purchases by board members and employees of Region III and HEI. In the course of the audit, significant violations of the Per Diem and Mileage Act were identified. The Special Audit also found that Region III utilized Housing Enterprises, Inc. (HEI) to execute sales transactions that allowed Region III to convert bond proceeds to its own use. The Special Audit also uncovered additional transactions related to Region III's bond draws on certain properties cited by the SIO Review. The results of the Special Audit reveal the striking extent of Region III's fraudulent transactions related to those properties.

Pursuant to Section 12-6-6 NMSA 1978, the OSA will refer this report to proper prosecuting authorities for violations of the Per Diem and Mileage Act and suspected violations of the Governmental Conduct Act (Chapter 10, Article 16), criminal statutes related to misconduct by public employees and officials (Chapter 30, Article 23 NMSA 1978), the crime of fraud (Section 30-16-6 NMSA 1978), and any other violations of New Mexico law that may be applicable.