



**Office of Native American Programs,
Washington, DC**



Issue Date: September 28, 2012

Audit Report Number: 2012-LA-0005

TO: Rodger J. Boyd, Deputy Assistant Secretary, Office of Native American Programs, PN

Tanya E. Schulze

FROM: Tanya E. Schulze, Regional Inspector General for Audit, Los Angeles Region, 9DGA

SUBJECT: HUD's Office of Native American Programs Did Not Provide Adequate Oversight To Ensure Grantee Compliance With Annual Audit Report Submission Requirements

Enclosed is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), final results of our review of HUD's Office of Native American Programs (ONAP) annual audit reporting process. The review was initiated primarily in response to complaints that ONAP did not take appropriate enforcement action for two grantees that failed to submit required annual audits.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8L, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (213) 534-2471.



September 28, 2012

HUD's Office of Native American Programs Did Not Provide Adequate Oversight To Ensure Grantee Compliance With Annual Audit Report Submission Requirements

Highlights

Audit Report 2012-LA-0005

What We Audited and Why

We completed a review of the U.S. Department of Housing and Urban Development's (HUD) Office of Native American Programs' (ONAP) annual audit reporting process primarily in response to complaints that ONAP did not take appropriate enforcement action for two grantees that failed to submit required annual audits.

Our objective was to determine whether ONAP provided adequate oversight of its grantees nationwide to ensure grantee compliance with the annual audit report submission requirements.

What We Recommend

We recommend that the Deputy Assistant Secretary, Office of Native American Programs, (1) pursue enforcement or corrective action for delinquent audit reports, (2) update the Performance Tracking Database (PTD) system to ensure audit reporting compliance for all grantees, (3) review reports not reported in the PTD system, (4) implement controls to ensure adequate oversight of grantee audit reporting, (5) discontinue the practice of accepting tribe audits in lieu of required tribally designated housing entity audits, and (6) begin enforcing the required audit submission deadline.

What We Found

ONAP did not implement consistent procedures to ensure compliance with the annual audit report submission requirements. Specifically, it did not

- Implement controls to consistently monitor grantees' audit reporting compliance,
- Obtain required audit reports from tribally designated housing entities when an associated tribe submitted an audit, and
- Consistently enforce the statutory audit submission deadline.

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BACKGROUND AND OBJECTIVES

The U.S. Department of Housing and Urban Development's (HUD) Office of Native American Programs (ONAP) administers housing and community development programs for the benefit of American Indian and Alaska Native tribal governments, tribal members, the Department of Hawaiian Home Lands, Native Hawaiians, and other Native American organizations. As part of its oversight of these programs and in accordance with Office of Management and Budget (OMB) Circular A-133, ONAP is responsible for ensuring that grantees submit required annual audit reports in a timely manner. Also, OMB Circular A-123, issued under the authority of the Federal Managers' Financial Integrity Act of 1982 as codified in 31 U.S.C. (United States Code) 3512, specified that HUD management was responsible for developing and maintaining internal control to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations. ONAP's Grants Evaluation Guidebook describes the policies and controls ONAP has established for its six field offices to monitor and enforce grantee audit reporting requirements.



ONAP grant funds are administered by tribes or by separate tribally designated housing entities selected by the tribes. In accordance with the Single Audit Act (31 U.S.C. 75) and OMB Circular A-133, an independent audit is required if these entities expend Federal funds equal to or in excess of \$500,000.

ONAP relies on grantee audits to provide information about the grantee's financial situation, use of resources, internal controls, and compliance with HUD requirements. ONAP's Grants Evaluation Guidebook notes that these reports are ONAP's primary source of data on a recipient's financial position and internal controls. Findings identified in audit reports provide information necessary for ONAP to accurately complete its grantee risk assessment process and plan its onsite monitoring strategies. Missing audit reports could be an indication of possible fraud or abuse, increasing risk to the program.

Our overall objective was to determine whether ONAP provided adequate oversight of its grantees to ensure compliance with annual audit report submission requirements.

RESULTS OF AUDIT

Finding: ONAP Did Not Provide Adequate Oversight To Ensure Grantee Compliance With Annual Audit Report Submission Requirements

ONAP did not implement adequate and consistent procedures to monitor grantees' compliance with annual audit report submission requirements. Specifically, it did not (1) implement controls to consistently monitor grantees' audit reporting compliance, (2) obtain required audit reports from tribally designated housing entities in some cases when the associated tribe submitted an audit, and (3) consistently enforce the required audit submission deadline. This condition occurred because ONAP lacked adequate policies and procedures, did not implement consistent controls over grantee audit reporting, and allowed varied procedures among the six ONAP field offices. As a result, ONAP could not readily identify delinquent audit reports and did not have adequate assurance that its grant funds were expended in accordance with HUD's program requirements.

ONAP Lacked Consistent Controls To Monitor Grantee Audit Submissions

ONAP did not have adequate controls in place to consistently monitor audit report submissions and readily identify delinquent audit reports. ONAP's Grants Evaluation Guidebook requires that ONAP field office staff use a centralized database system, the Performance Tracking Database (PTD), to enter expected audit receipt dates and record audit submissions to allow ONAP to monitor delinquent audit reports. It further requires that staff document all missed grantee deadlines and the grantees' explanations for delays. The guidebook notes that missing audits could be a sign that a grantee wishes to avoid detection of serious irregularities or noncompliance with regulations or avoid monitoring or sanctions by HUD.

ONAP did not consistently implement its guidebook requirements because field office staff did not always update the PTD system as required. As a result, the system did not include sufficient information to document grantees' compliance with the audit reporting requirements. For example,

- Three of the six ONAP field offices created a record in the PTD system only for audit reports that had already been received. Therefore, the system did not have a complete record of missing or delinquent audit reports.

- Three of the six ONAP field offices did not update the PTD system to indicate which grantees were exempt from the audit requirements due to the \$500,000 expenditure threshold. Because the PTD system did not have a record indicating compliance for such grantees, it was not evident whether the grantees were exempt or failed to submit required audits.
- ONAP previously accepted tribe audit reports in lieu of required tribally designated housing entity audit reports; however, the PTD system did not identify such instances and, therefore, did not indicate the compliance status of the associated entities.

To evaluate whether ONAP consistently monitored and enforced the grantee audit submission requirements, we selected a nonstatistical sample¹ of 202 possible required audits for review. In all 202 cases, ONAP's PTD system did not have a record to support the grantees' compliance with the audit reporting requirements. The 202 samples were associated with 90 grantees that received Indian Housing Block Grants (IHBG), Indian Community Development Block Grants (ICDBG), or both totaling approximately \$84 million during fiscal years 2006 through 2010. The sample was selected from a population of 2,038 possible required annual audits associated with 509 individual grantees with grant amounts totaling approximately \$3.5 billion (all funded IHBG and ICDBG grants reported in ONAP's PTD system).² Therefore, the sample included approximately 10 percent of the possible required audits in the population and one or more audits for 18 percent of the population grantees.

ONAP's PTD system did not include existing functionality to match grant records to the audit reporting records in the database. The sample was selected based upon our analysis of data extracted from the PTD system and included IHBG and ICDBG program grants that did not have an associated audit record in ONAP's PTD system, for both the grantee and any associated tribally designated housing entities.

Our review of documentation provided by ONAP related to the 202 samples found the following:

- 21 audits were at least 90 days delinquent with no evidence indicating that HUD took enforcement action before the start of our audit (see table 1, appendix B). Fourteen of these audits were associated with grants from fiscal year 2009 or earlier. Two of the audits were later submitted by the

¹ The sample selection process was not designed to identify all possible missing audit reports, and in some cases, required reports may have been missing yet were not selected for the sample. The sample results demonstrate examples of noncompliance that resulted from the control deficiencies identified in the audit finding yet cannot be projected to estimate an error or compliance rate for the population of grants.

² The number of ONAP grantees referenced includes both tribes and their associated tribally designated housing entities.

grantee; however, the remaining 19 audits with grant amounts totaling approximately \$6.2 million had not been received by ONAP.

- 29 audits associated with grant amounts totaling approximately \$19.8 million were submitted to the Federal Audit Clearinghouse, yet ONAP had no record of the audit in its PTD system (see table 2, appendix B). In 19 of these cases, there was no evidence indicating that ONAP had reviewed the audit. In 6 of these 19 cases, the audit reports included findings associated with HUD programs. In 5 of the 29 cases, the audit reports were delinquent, and ONAP did not pursue enforcement; however, the reports were later submitted by the grantee.
- For 45 audits associated with grant amounts totaling approximately \$22.6 million, ONAP accepted tribe audits in lieu of tribally designated housing entity audits (see table 3, appendix B).
- For 93 audits with grant amounts totaling approximately \$23.2 million, an audit was not required because the grantee did not meet the OMB Circular A-133 expenditure threshold (see table 4, appendix B). However, ONAP had no record of the grantees' audit reporting compliance in the PTD system. In 37 of these cases, there was no evidence that ONAP verified the grantees' expenditure amounts and audit reporting compliance before our audit.
- For 14 audits, timely enforcement was initiated, or an audit of the grantee was not required due to circumstances such as a fiscal yearend date change or a change in the tribally designated housing entity's status as a separate entity or tribal department. For these cases, the grantees' audit reporting compliance for the associated grants was not evident in the PTD system.

ONAP Did Not Always Obtain Required Tribally Designated Housing Entity Reports

ONAP did not always obtain required audit reports from tribally designated housing entities, instead accepting the associated tribe's audit submission. Section 405(a) of the Native American Housing and Self Determination Act (NAHASDA) defines tribally designated housing entities as "non-Federal entities" that must comply with the Single Audit Act. Consistent with this statute, HUD's policy required that these entities submit required audit reports in accordance with OMB Circular A-133.

ONAP did not consistently implement HUD's policy regarding tribally designated housing entity audit reports, accepting tribe audits in lieu of these required audits. As noted above, our audit sample testing of 202 possible required audits for the

period 2006 through 2010 found that ONAP accepted tribe audits in lieu of tribally designated housing entity audits in 45 cases associated with grant amounts totaling approximately \$22.6 million³ (see table 3, appendix B). ONAP indicated that for 10 of the 45 cases, it had determined that the entity ultimately did not require an audit due to the \$500,000 expenditure threshold.

Through a review of PTD system data and information provided by ONAP, we identified nine additional tribe audits during this period that were accepted in lieu of tribally designated housing entity audit reports (see table 5, appendix B).

ONAP Did Not Consistently Enforce the Audit Submission Deadline

ONAP did not consistently enforce the required audit submission deadline. OMB Circular A-133 and its authorizing statute at 31 U.S.C. 7502 require that audit reports be submitted to the Federal Audit Clearinghouse within the earlier of 30 days after receipt of the auditor's report(s) or 9 months after the end of the grantee's audit period. OMB Circular A-133 also requires ONAP to ensure that grantee audits were received in a timely manner in accordance with the circular requirements. Further, it requires that ONAP issue a management decision on audit findings within 6 months after receipt of the audit report and ensure that the grantee was taking appropriate and timely corrective action.

During the audit period from 2006 to 2010, three of the six ONAP field offices chose not to enforce the statutory 9-month deadline. Instead, the ONAP offices waited until at least 15 months after each grantee's audit period (the due date for grantee annual performance reports for the following grant year) to begin enforcement action for delinquent audits. Because the offices waited until at least 6 months after the required due date and management decisions to resolve audit findings were due within 6 months, ONAP would not have been able to fulfill its responsibility to ensure timely corrective action in accordance with the timeframes indicated by OMB Circular A-133. For example, it may have taken at least 21 months after the audit period (and 33 months after the start of the audit period when problems may have first occurred) before a corrective action plan was approved by HUD. These delays would have been further extended for audits that were not received by the annual performance report due date.

³ The amounts noted include only funds awarded directly to the involved tribally designated housing entities. Because these entities may have also administered additional grant funds awarded to their associated tribes, the amount of HUD funds at risk may have been significantly more.

ONAP Lacked Adequate Internal Controls

The deficiencies identified occurred because ONAP lacked adequate policies and procedures, did not implement consistent controls over grantee audit reporting, and allowed varied procedures among the six ONAP field offices. Specifically,

- ONAP did not have consistent procedures for entering expected audit receipt dates and expenditure threshold determinations into its PTD system.
- ONAP did not ensure that requirements were known, as some field offices were not aware of ONAP’s policy, which prohibited accepting tribe audits in lieu of required tribally designated housing entity audits.
- ONAP’s Grants Evaluation Guidebook is insufficient by not requiring field offices to enforce the statutory and regulatory audit reporting deadline (9 months after the grantee’s fiscal yearend). It states that the offices “should” begin enforcement if the report is not submitted with the annual performance report and “may” also begin enforcement when the audit is late to the Federal Audit Clearinghouse. ONAP officials stated that the field offices were given discretion to decide whether to enforce the statutory deadline.

Conclusion

ONAP did not provide adequate oversight and implement consistent procedures to monitor grantee compliance with the annual audit report submission requirements. As a result, it could not readily identify delinquent audit reports and did not have adequate assurance that its grant funds were used for eligible purposes and in compliance with program requirements. Additionally, tribally designated housing entity grantees did not always receive the extent of audit review required, and ONAP may have unnecessarily delayed required corrective actions for grantee audit report findings.

Recommendations

We recommend that the Deputy Assistant Secretary, Office of Native American Programs:

- 1A. Initiate appropriate corrective or enforcement action authorized under 24 CFR (Code of Federal Regulations) 1000.530 for the 19 audit reports identified during the audit that were at least 90 days delinquent with no

prior enforcement (see table 1, appendix B).⁴ For those audits that remain outstanding, HUD should initiate appropriate monetary enforcement actions authorized under 24 CFR 1000.532, 24 CFR 1000.538, or 24 CFR 1003.703.⁵

- 1B. Update the PTD system to ensure that ONAP has a record of audit reporting compliance for all grantees and pursue enforcement action for any additional grantees found, based upon review of the updated records, that did not submit required audit reports.
- 1C. Obtain and review the 29 audit reports that were submitted to the Federal Audit Clearinghouse yet not reported in ONAP's PTD system (see table 2, appendix B). ONAP should also pursue appropriate corrective actions for audit findings within these reports.⁴
- 1D. Implement controls necessary to consistently monitor grantee compliance with the annual audit reporting requirements. These controls should include procedures that will allow ONAP to document grantee audit reporting compliance and readily identify missing or delinquent audit reports. ONAP should consider updating its PTD system to automatically generate a list of possible required audits to facilitate a complete accounting of audit reporting compliance.
- 1E. Discontinue the practice of accepting tribe audits in lieu of required tribally designated housing entity audits and provide training or guidance to field offices to ensure that ONAP's policy regarding tribally designated housing entity audits is consistently enforced. For grantees associated with the 45 tribe audits identified during the audit that were accepted in lieu of entity audits, ONAP should ensure that any further required audits are submitted by the entities and reviewed by HUD to identify any questioned costs.⁴ For those entities that do not submit a single audit, HUD should pursue timely corrective or enforcement actions, including possible reduction, termination, or limitation of grant amounts pursuant to 24 CFR 1000.532, 24 CFR 1000.538, or 24 CFR 1003.703.⁵
- 1F. Implement policies and procedures to enforce the required audit submission deadline specified in OMB Circular A-133 and 31 U.S.C. 7502, which is 9 months after each grantee's fiscal yearend.

⁴ Any monetary adjustments (including future grant reductions or terminations) or questioned costs identified as a result of this recommendation should be reported during audit resolution.

⁵ See appendix C.

SCOPE AND METHODOLOGY

Our review generally covered ONAP procedures that were in place during the period January 2010 through December 2011 to oversee audit reports due for fiscal years 2006 through 2010. In some cases, we reviewed documents related to periods outside these dates. We performed our audit from January to July 2012 at our office in Phoenix, AZ, based on records and information obtained from the ONAP offices and personnel.

To accomplish our objective, we:

- Reviewed requirements that govern ONAP programs, including statutes, HUD guidebooks, the Code of Federal Regulations, and OMB circulars;
- Reviewed written policies and procedures specific to ONAP field offices;
- Reviewed records maintained by ONAP, including enforcement documentation available on ONAP's SharePoint server;
- Interviewed ONAP management and staff at HUD headquarters and each of the six ONAP field offices;
- Obtained a copy of ONAP's PTD and analyzed the data to identify potentially missing audit reports, and
- Reviewed a nonstatistical sample of grants to evaluate ONAP's controls over grantee audit reporting (see page 6 of the report for a detailed discussion of the sample selection).

We assessed the reliability of ONAP's PTD data by (1) performing limited testing to determine whether reported audits were submitted, (2) reviewing information about the data and the system that produced the data, and (3) interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of this audit.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Policies and procedures that were implemented to ensure that program activities complied with applicable laws and regulations.
- Policies and procedures to provide reasonable assurance that funds were used only for authorized purposes.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- ONAP did not implement adequate procedures to monitor grantees' compliance with annual audit report submission requirements (finding).

APPENDIXES

Appendix A


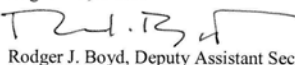
AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 1

Comment 2

 OFFICE OF PUBLIC AND INDIAN HOUSING	U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT WASHINGTON, DC 20410-5000 AUG 28 2012
MEMORANDUM FOR:	Tanya E. Schulze, Regional Inspector General for Audit, Region IX, 9DGA
FROM:	 Rodger J. Boyd, Deputy Assistant Secretary, Office of Native American Programs, PN
SUBJECT:	Response to the Discussion Draft Report HUD's Office of Native American Programs Did Not Ensure Grantee Compliance with Annual Audit Report Submission Requirements
	<p>The Office of Inspector General (OIG) audited the Office of Native American Programs' (ONAP) annual audit reporting process. OIG's objective was to determine whether ONAP provided adequate oversight of its grantees nationwide to ensure grantee compliance with the annual audit report submission requirements per Office of Management and Budget (OMB) Circular A-133. The OIG found that ONAP did not implement consistent procedures to ensure compliance.</p> <p>ONAP has reviewed the subject draft report and believes that there is insufficient support for a finding and provides the following rationale:</p> <ol style="list-style-type: none">1. First and foremost, ONAP disagrees that the finding is a significant deficiency, as stated on page 12 of the draft report. On page 6 of the audit, OIG states that its sample "was selected from a population of 2038 possible required annual audits associated with 509 individual grantees . . . (all funded IHBG and ICDBG grants reported in ONAPs PTD system)." On pages 6 and 7 of the audit report, OIG states: "Our review of documentation provided by ONAP related to the 202 samples found the following: . . ." ONAP's position is that OIG's analysis should be based on the entire population of 2,038. ONAP concludes that:<ol style="list-style-type: none">a. OIG found that "21 audits were at least 90 days delinquent with no evidence indicating HUD took enforcement action prior to the start of our audit." The 21 cases cited out of 2,038 is only 1.03 percent of the audit population reviewed. The report further states that of the 21 audits, 2 were subsequently submitted. Therefore, the stated total of 19 cases is only 0.93 percent.b. OIG found that "29 audits...were submitted to the FAC [Federal Audit Clearinghouse], yet ONAP had no record of the audit in its PTD system."
	1

Accordingly, 29 cases out of 2,038 is only 1.42 percent. Further, the report states that in 19 of these cases, there was no evidence indicating ONAP previously reviewed the audit. "In 6 of these 19 cases, the audit reports included findings associated with HUD programs." ONAP's position is that if there were no findings in 13 of the 29 audits cited, those should be excluded in OIG's calculation. Therefore, 6 audits with findings, out of 2,038, is only 0.29 percent. Finally, the report states that "in 5 [of] the 29 cases the audit reports were delinquent and ONAP did not pursue enforcement, however the reports were subsequently submitted by the grantee." Again, ONAP's position is that the 5 cases should be excluded from the calculation; therefore, 24 out of 2,038 is only 1.17 percent.

- c. OIG found that ONAP accepted 45 tribal audits in lieu of TDHE audits. Accordingly, 45 cases out of 2,038 is only 2.20 percent.
- d. OIG found that 93 audits did not meet the audit threshold of \$500,000; therefore, an audit was not required to be submitted. Further, the report states that in 37 of the 93 audits, "ONAP had no record of the grantee's audit reporting compliance in the PTD." ONAP's position is that if 93 audits were not required to be submitted, the OIG should not include these in its justification for the finding.
- e. OIG states that ONAP initiated timely enforcement on 14 audits, or the audits were not required. ONAP's position is that the OIG should not include these audits in its justification for the finding.

The instances cited in the draft audit, when taken into consideration with the entire population, are minimal and do not reflect a pattern or practice. Furthermore, ONAP's position is that a total of 19 instances does not represent a "significant deficiency." All other instances or examples cited in the audit represent minor technical or tracking errors.

Comment 3

- 2. Page 5: In the first paragraph, the report states, "The guidebook notes that missing audits could be a sign that a grantee wishes to avoid detection of serious irregularities or noncompliance with regulations, or to avoid monitoring or sanctions by HUD." ONAP could not find this statement in the GE Guidebook.

Comment 4

- 3. Page 5: The OIG states that "ONAP Lacked Consistent Controls to Monitor Grantee Audit Submissions." The report then provides three examples of why "the [PTD] system did not include sufficient information to document grantees' compliance with the audit reporting requirements." ONAP's position is that in many cases the time and effort to verify "which grantees were exempt from the audit requirements due to the \$500,000 expenditure threshold..." can result in a significant amount of staff time that might be better used for items of greater importance such as reviewing Annual Performance Reports (APRs) or conducting grantee monitoring.
 - a. The annual determination of whether a grantee has met the \$500,000 federal expenditure threshold can be difficult, time-consuming, and sometimes almost

impossible. This is particularly true for grantees under the ICDBG program since HUD funds typically make up just a portion of federal funds a tribe might expend. The only way to find out if a tribe has exceeded the annual threshold in these cases is to ask the grantee.

b. As indicated on page 6, each year ONAP has approximately 500 grantees that may or may not be required to submit an audit, depending on the grantees' annual Federal expenditures. Many of these grantees are extremely small without full-time employees and contacting them via letter and telephone, usually through repeated attempts, to verify their audit requirement status can take hundreds of staff hours.

4. Pages 5 and 6: In the second example provided, it states, "Three of the six ONAP field offices did not update the PTD system to indicate which grantees were exempt from the audit requirements due to the \$500,000 expenditure threshold." ONAP's position is that in those instances when HUD is not the oversight agency for a recipient, ONAP will only know if the recipient met the threshold once the report is submitted to and accepted by the FAC. Staff would have to periodically check the FAC database to see if the audit report has been submitted even though the audit is not yet due to HUD with submission of the APR. If an audit is not showing up in the FAC database, it can either be because the recipient is in violation of OMB Circular A-133, or because it did not meet the threshold.

5. Page 6: The report states: "To evaluate whether ONAP consistently monitored and enforced the grantee audit submission requirements, we selected a non-statistical sample of 202 possible required audits for the review." ONAP's position is that the OIG selected a sample of audit records that it already believed were non-compliant and therefore the sample is biased.

a. Footnote 1 does not adequately define what the "non-statistical sample" was comprised of or explain the ramifications/implications of using a biased, non-statistical sample, particularly a sample comprised of audits that had issues or questions associated with them.

b. The last sentence of Footnote 1 is unclear. ONAP assumes the OIG is saying the report cannot be used to project error rates in audit processing. ONAP requests that this point be clarified.

c. ONAP's position is that the draft report is largely based on Area ONAP data entry into the PTD rather than on a non-statistical sample of actual ONAP audit receipt and processing.

6. Page 6: The report states, "The sample was selected based upon our analysis of data extracted from the PTD system and included IHBG and ICDBG program grants that did not have an associated audit record in ONAP's PTD system, for both the grantee and any associated TDHE." It is ONAP's understanding that the OIG reviewed the

Comment 5

Comment 6

Comment 7

PTD and extracted the data on January 13, 2012. However, it does not appear that the
OIG continued to review the PTD system during or towards the conclusion of its
review to determine if the PTD had been updated. The data in the PTD is updated on a
regular basis and a more current status would be helpful.

Comment 8

7. Page 6: In the first bullet in the discussion of what the OIG found in the 202 samples,
it states, "21 audits were at least 90 days delinquent with no evidence indicating HUD
took enforcement action prior to the start of our audit..." Nowhere in the Native
American Housing Assistance and Self-Determination Act (NAHASDA) or its
implementing regulations is there a timeline for when enforcement action is to be
taken. Therefore, ONAP disagrees that OIG's statement is justification for the finding.

8. Page 7: The report states, "ONAP did not always obtain required audit reports from
TDHEs, instead, accepting the associated Tribe's audit submission." This is a much
more complex issue than the OIG implies, and has significant financial ramification for
IHBG recipients that receive fairly small grants. The cost of conducting a separate
audit of the TDHE is significant. While this expense is covered as an eligible activity
under NAHASDA, many small TDHEs would rather spend the thousands of dollars to
provide housing instead of procuring an audit, if indeed their tribe is willing to include
the IHBG funds under the tribal audit.

a. Based on the statutory provisions in place at the time, in the year 2000, ONAP
issued NAHASDA Guidance 2000-01T, which advised that a tribe could include
the TDHE's program(s) in its audit, but that OMB Circular A-133 § 310(a)
applies, which requires that the TDHE's financial statements be included in the
tribe's financial statements. Subsequent to the issuance of that Guidance,
NAHASDA was amended in Section 405(a) to say that a TDHE shall be treated as
a non-Federal entity that is subject to the audit requirements that apply to non-
Federal entities under Chapter 75 of Title 31, United States Code.

b. The question of whether a TDHE can be audited as part of the tribe involves a
determination of whether the IHBG recipient is a component unit of the tribe. In
Government Accounting Standards Board Statement 14 (GASB-14), it defines
component units as "legally separate organizations for which the elected officials of
the primary government are financially accountable.... In addition, component
units can be other organizations for which the nature and significance of their
relationship with a primary government are such that exclusion would cause the
reporting entity's financial statements to be misleading or incomplete...." In many
of the tribal Circular A-133 audits that include the TDHE's financial statements,
the tribe and/or the auditor have represented the TDHE as a component unit of the
tribe. To compound that uncertainty, GASB-14 further discusses "blended" and
"discrete" component units.

c. Therefore, for many years, ONAP has had conflicting views on whether the
TDHEs were actually separate component units of the tribe, and whether they had
to have their own audits conducted. After discussions with program counsel,

auditing experts, and staff from OIG, ONAP has determined that TDHEs will be required to have their own audits conducted, whether the tribe includes them in their audit as component units or not, and has instructed the Area ONAPs to start informing its TDHEs of this requirement. Also, earlier this year, ONAP removed the outdated Guidance 2000-01T from ONAP's website. Once the affected grantees have been notified and/or provided technical assistance on this complex issue, any subsequent audit submission that does not meet ONAP's requirement can be pursued through enforcement as willful noncompliance in accordance with 24 CFR § 1000.534(b).

Comment 9

9. Page 8: ONAP does not understand the discussion on the top of page 8, the accompanying table, and Footnote 5 about the 17 additional tribe audits the OIG identified. The following statement in the report is unclear. "The average annual grants amounts awarded directly to TDHEs for these 62 cases totaled \$5,716,081." ONAP does not understand why this would be an average annual amount and not an exact amount. ONAP requests that the OIG clarify the statement in Footnote 3 that reads, "Because these TDHEs may have also administered additional grant funds awarded to their associated Tribes, the amount of HUD funds actually at risk may have been significantly more."

Comment 10

10. Page 8: The report states, "During the audit period from 2006 to 2010, three of the six ONAP field offices chose not to enforce the statutory, nine-month deadline. Instead, the ONAP offices waited until at least fifteen months after each grantees' audit period (the due date for grantee annual performance reports (APR) for the subsequent grant year) to begin enforcement action for delinquent audits." ONAP's position is that the decision to pursue enforcement is complex and should not be undertaken lightly. Each Area ONAP has either written or understood protocol on how and when to pursue enforcement, which takes the following two realities into consideration.
- a. Enforcement is a time-consuming process that involves multiple offices and multiple staff in each office. Pursuing enforcement too early typically means that hours of staff time are wasted when the grantee eventually complies with the requirements of the program.
 - b. Also, in accordance with section 401(a) of NAHASDA, ONAP can only take enforcement if it is determined that a recipient is in substantial noncompliance. The regulations at 24 CFR §1000.534 state that "HUD will review the circumstances of each noncompliance with NAHASDA and the regulations on a case-by-case basis to determine if the noncompliance is substantial." In addition, the same regulation defines substantial noncompliance as:
 - i. The noncompliance has a material effect on the recipient meeting its major goals and objectives as described in its Indian Housing Plan;
 - ii. The noncompliance represents a material pattern or practice of activities constituting willful noncompliance with a particular provision of

- NAHASDA or the regulations, even if a single instance of noncompliance would not be substantial;
- iii. The noncompliance involves the obligation or expenditure of a material amount of the NAHASDA funds budgeted by the recipient for a material activity; or
- iv. The noncompliance places the housing program at substantial risk of fraud, waste or abuse.

Comment 11

11. Page 8: Also in that paragraph, it states, “Because the offices waited until at least six months after the required due date, and management decisions to resolve audit findings were due within six months, ONAP would not have been able to fulfill its responsibility to ensure timely corrective action in accordance with the timeframes indicated by OMB Circular A-133.”

- a. This quoted sentence should be corrected to identify the referenced due date. ONAP assumes that the report is referencing the date the audit is due to the FAC. The regulation at 24 CFR § 1000.548 establishes that the audit is due to HUD with submission of the subsequent year’s APR, which is different and later than the date the audit is due to the FAC. Therefore, an audit may be overdue to the FAC, but is not yet due to HUD.
- b. ONAP does not understand the statement since Circular A-133 § __.405 states that “a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to recipients . . .” and “shall do so within six months after receipt of the audit report. Corrective action should be initiated within six months after receipt of the audit report . . .” [emphasis added]. If an audit has not been submitted to the FAC (in violation of A-133 and § 1000.544), but the Area ONAP decides not to initiate enforcement until after the recipient has also violated § 1000.548 (non-submission of audit with APR), ONAP does not understand how this affects the required Circular A-133 timeframes on the management decision since they are based on ONAP’s receipt of the audit report.

Comment 12

12. Page 9: The report states, “The deficiencies identified occurred because ONAP lacked adequate policies and procedures....” The GE Guidebook states, “If the PTD does not automatically generate the date that the next IPA audit is due to the Federal Audit Clearinghouse (FAC), then the GE Specialist or Program Assistant will do this.” Therefore, ONAP disagrees that it lacks adequate policies and procedures.

Comment 13

13. Page 9: ONAP disagrees with the statement that “ONAP’s Grants Evaluation Guidebook is insufficient by not requiring field offices to enforce the statutory and regulatory audit reporting deadlines.... It states the offices “should” begin enforcement if the report is not submitted with the APR, and “may” also begin enforcement when the audit is late to the FAC.” As stated in item 10b. above, enforcement decisions must be made on a case-by-case basis and only if the noncompliance meets the regulatory definition of substantial. Using words like ‘must’ and ‘shall’ in the guidebook would violate the provisions of the stated NAHASDA statute and regulations.

Comment 14

14. Page 9: ONAP disagrees with the OIG's conclusion as follows:

- a. Under the Conclusion, the report states, "As a result, ONAP . . . did not have adequate assurance that its grant funds were used for eligible purposes and in compliance with program requirements." If the auditor determines that the ONAP program is not a major program, which happens most of the time with the ICDBG program, then the expenditures are not sampled. Therefore, ONAP could not rely on the audit providing assurance that its grant funds were used for eligible purposes and in compliance with program requirements anyway.
- b. The statement "Additionally, TDHE grantees did not always receive the extent of audit review required..." is not correct. Whether the HUD funds were audited within the tribe's audit or separately under an audit of the TDHE, the same OMB requirements apply. At ONAP the audit review process for the program is the same whether the audit is submitted by the tribe or the TDHE.
- c. The report also states, "Additionally...ONAP may have unnecessarily delayed required corrective actions for grantee audit report findings." See ONAP's position under comment 11 above.

Comment 15

15. Attached Tables:

- a. ONAP requests that OIG identify in the Tables whether those audits included were for the IHBG or the ICDBG program since it is not always clear. ONAP will need this information when preparing the Management Decision.

Comment 16

- b. In reviewing the data contained in Tables 1, 3 and 5, ONAP noted that there were 25 instances within the Tables where the OIG incorrectly identified a Housing Authority or TDHE as the recipient of the IHBG funds, when the tribe was actually the recipient. This is particularly significant in Tables 3 and 5 where the OIG claimed that ONAP accepted tribal audits in lieu of audits by the TDHE. Therefore, ONAP's position is that these 25 recipients (Attachment 1) should be excluded from the tables and any numerical identification of instances within the audit itself. There are possibly two other instances in which the recipient was incorrectly identified; however, because the OIG did not indicate in the Table whether the audits involved IHBG funds, it is unknown at this time whether those two cases should also be excluded.

Comment 17

- c. ONAP also noted in Tables 3 and 5, that there were 13 instances in which the TDHE identified did not meet the audit threshold; however, the tribe included the IHBG expenditures in its audit. Since there was no requirement for the TDHE to submit the audit, ONAP's position is that these 14 recipients (Attachment 2) should be excluded from the Tables and any numerical identification of instances within the audit itself.

In conclusion, based on these comments, ONAP requests that the OIG reconsider the finding and recommendations contained in the draft report when issuing the final audit report. If you have questions about the comments, please contact Jennifer Bullough, Director, Office of Grants Evaluation, at (202) 402-4274.

Attachments

Attachment 1 - IHBG Recipients Incorrectly Identified

Table 1: Delinquent audits without timely enforcement (90 days)

Region	Grantee ID	Grantee Name	Fiscal year	Total IHBG/ICDBG funds	Late with no enforcement, subsequently received	ONAP Comments
Southern Plains ONAP	15	Tunica-Biloxi Housing Authority	6	296,276		The Tunica-Biloxi Tribe has been the IHBG of IHBG funds since the inception of NAHA. Therefore, there was no TDHE for this audit.
Southern Plains ONAP	15	Tunica-Biloxi Housing Authority	7	288,010		The Tunica-Biloxi Tribe has been the IHBG of IHBG funds since the inception of NAHA. Therefore, there was no TDHE for this audit.
Possible Incorrect Recipients						
Southern Plains ONAP	39	Delaware Tribe - Eastern	9	800,000		Uncertain if this refers to ICDBG or IHBG. the Delaware Tribe is a subrecipient of the Nation and is not a direct recipient of IHBG.
Southern Plains ONAP	39	Delaware Tribe - Eastern	10	800,000		Uncertain if this refers to ICDBG or IHBG. the Delaware Tribe is a subrecipient of the Nation and is not a direct recipient of IHBG.

Table 3: Tribe audits accepted in lieu of TDHE audits

Region	Grantee ID	Grantee Name	Fiscal year	Total IHBG/ICDBG funds	ONAP Comments
Northwest ONAP	76	Lummi Nation Housing Authority	6	2,904,854	In FYs 1998 through 2007, the Lummi Tribe was the recipient of IHBG funds; therefore, there was no TDHE for this audit period.
Southwest ONAP	693	Tuolumne Me-Wuk HA	7	424,231	The Tuolumne Me-Wuk Tribe was the recipient of IHBG funds for FYs 2004 - 2006. Therefore, the Tribe's audit for this FYE included expenditures from those FYs.

Comment 18

Comment 19

Comment 20

Comment 21

Comment 22

Comment 23

Attachment 1 - IHBG Recipients Incorrectly Identified

Comment 24

Comment 25

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Comment 27

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Comment 30

Southwest ONAP	693	Tuolumne Me-Wuk HA	8	558,207	The Tuolumne Me-Wuk Tribe was the recipient of IHBG funds for FYs 2004 - 2006. Therefore, the Tribe's audit for this FYE included expenditures from those FYs.
Southwest ONAP	693	Tuolumne Me-Wuk HA	9	409,192	The Tuolumne Me-Wuk Tribe was the recipient of IHBG funds for FYs 2004 - 2006. Therefore, the Tribe's audit for this FYE included expenditures from those FYs.
Southwest ONAP	888	North Fork HA	6	1,010,942	The North Fork Rancheria has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there is no TDHE.
Southwest ONAP	888	North Fork HA	7	1,083,291	The North Fork Rancheria has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there is no TDHE.
Southwest ONAP	888	North Fork HA	8	1,093,438	The North Fork Rancheria has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there is no TDHE.
Southwest ONAP	1174	Torres-Martinez HA	9	254,613	The Torres-Martinez HA was the recipient of IHBG funds from FYs 2004 through 2006. Since FY 2007, the All Mission Indian Housing Authority has been the recipient of IHBG funds. Therefore, there would not have been an audit in FYE 2009 from Torres Martinez HA.
Southwest ONAP	1174	Torres-Martinez HA	10	276,297	The Torres-Martinez HA was the recipient of IHBG funds from FYs 2004 through 2006. Since FY 2007, the All Mission Indian Housing Authority has been the recipient of IHBG funds. Therefore, there would not have been an audit in FYE 2009 from Torres Martinez HA.

Attachment 1 - IHBG Recipients Incorrectly Identified

Eastern Woodlands ONAP	128	Nottawaseppi Huron Band of Potawatomi Indian HA	10	598,500	The Band has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there is no TDHE.
Eastern Woodlands ONAP	167	Lower Sioux Indian Housing Authority	6	196,640	The Tribe was the IHBG recipient during this audit period and prior FYEs. The TDHE was established on 5/14/07. However, the IHBG funds were not transferred to the TDHE until 1/2009.
Eastern Woodlands ONAP	167	Lower Sioux Indian Housing Authority	7	203,831	The Tribe was the recipient of IHBG funds from FYs 1998 through 2007. The TDHE was established on 5/14/07; however, the IHBG funds were not transferred to the TDHE until 1/2009.

Comment 31

Comment 32

Comment 33

Table 5: Additional Tribe audits accepted in lieu of TDHE audits

Region	Grantee ID	Grantee Name	Fiscal year	Total direct funding to TDHEs	ONAP Comments
Southern Plains	15	Tunica Biloxi HA	9	\$ -	The Tunica-Biloxi Tribe has been the IHBG recipient of IHBG funds since the inception of NAHASDA. Therefore, there was no TDHE for this audit period.
Southern Plains	41	Delaware Nation HA (Western)	8	-	The Delaware Nation has been the IHBG recipient of IHBG funds since the inception of NAHASDA. Therefore, there was no TDHE for this audit period.
Southwest	873	Pascua Yaqui Housing	8	-	The Pascua Yaqui Tribe has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there was no TDHE for this audit period.

Comment 34

Comment 35

Comment 36

Attachment 1 - IHBG Recipients Incorrectly Identified

Southwest	873	Pascua Yaqui Housing	9	-	The Pascua Yaqui Tribe has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there was no TDHE for this audit period.
Southwest	873	Pascua Yaqui Housing	10	-	The Pascua Yaqui Tribe has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there was no TDHE for this audit period.
Southwest	888	North Fork HA	7	1,083,291	The North Fork Rancheria has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there is no TDHE.
Southwest	888	North Fork HA	8	1,093,438	The North Fork Rancheria has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there is no TDHE.
Southwest	902	Jemez Housing	7	-	Jemez Housing Department, which is a department of the Tribe, has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there is no TDHE.
Southwest	917	Reno-Sparks Housing	7	-	Reno Sparks Indian Colony (Tribe) has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there is no TDHE.
Southwest	917	Reno-Sparks Housing	10	-	Reno Sparks Indian Colony (Tribe) has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there is no TDHE.
Southwest	921	Ysleta Del Sur Housing	9	-	The Isleti Del Sur Pueblo has been the recipient of IHBG funds since the inception of NAHASDA. Therefore, there is no TDHE.

Comment 37

Comment 38

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Comment 39

Comment 40

Comment 41

Comment 42

Attachment 2 - TDHE Did Not Meet Threshold - Tribe Included IHBG in Audit

Table 3: Tribe audits accepted in lieu of TDHE audits

Region	Grantee ID	Grantee Name	Fiscal year	Total IHBG/ICDBG funds	ONAP Comments
Southwest ONAP	887	Enterprise HA	6	296,293	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.
Southwest ONAP	891	Scotts Valley HA	6	96,749	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.
Southwest ONAP	891	Scotts Valley HA	7	119,727	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.
Southwest ONAP	891	Scotts Valley HA	8	126,398	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.
Southwest ONAP	891	Scotts Valley HA	9	140,275	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.
Southwest ONAP	918	Moapa HA	9	365,734	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.
Eastern Woodlands ONAP	20	Houlton Band of Maliseet Indians Housing Authority	7	457,290	TDHE did not meet the threshold; therefore, an audit was not required. However, according to the FAC database, the Tribe did not include the IHBG program in its audit.

Comment 43

Attachment 2 - TDHE Did Not Meet Threshold - Tribe Included IHBG in Audit

Eastern Woodlands ONAP	31	Hannahville Potawatomie Housing Authority	6	181,694	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.
Eastern Woodlands ONAP	31	Hannahville Potawatomie Housing Authority	7	191,646	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.
Eastern Woodlands ONAP	31	Hannahville Potawatomie Housing Authority	8	317,094	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.

Comment 43

Table 5: Additional Tribe audits accepted in lieu of TDHE audits

Region	Grantee ID	Grantee Name	Fiscal year	Total direct funding to TDHEs	ONAP Comments
Southwest	889	Chico HA	8	268,117	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.
Southwest	891	Scotts Valley HA	8	126,398	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.
Southwest	898	Pojoaque HA	9	213,338	TDHE did not meet the threshold; therefore, an audit was not required. However, the Tribe included IHBG in its audit.

Comment 44

Comment 45

OIG Evaluation of Auditee Comments

Comment 1 We disagree with ONAP's assertion that the audit report did not present sufficient support for a finding. As stated in the audit report and supported by the facts presented, ONAP failed to consistently monitor grantees' audit reporting compliance, failed to obtain required audit reports in some cases, and did not consistently enforce the audit submission deadline (see finding). In our opinion, the corrective actions (recommendations) identified in the audit report are necessary to address ONAP's control weaknesses and to prevent possible systemic fraud, waste, and abuse from developing. We note that the risk associated with these deficiencies will likely increase as grantees observe that ONAP did not always follow up to determine which audits were required or submitted. Therefore, the report remains unchanged.

Comment 2 We disagree with ONAP's statement that the finding was not a "significant deficiency." The elements in the finding represent a significant deficiency because, without basic controls to consistently monitor grantee audit submissions, such as maintaining a list of grantees that were required to submit audit reports, HUD did not have adequate assurance that its funds were audited as required, thereby increasing the risk for losses associated with fraud, waste, and abuse. In our opinion, ONAP's failure to maintain an accurate accounting of grantee audit reporting compliance and failure to consistently enforce the statutory deadline for audit submissions to the Federal Audit Clearinghouse represents noncompliance with the fundamental requirements for government agencies to implement sufficient internal controls and to ensure accountability.

ONAP also stated that the examples of noncompliance identified by the OIG audit sample testing were minimal when considering the total number of ONAP grants and should have been based on the entire population of ONAP grants. We disagree with ONAP's statements questioning the significance of the OIG findings. An acceptable nonstatistical sample was utilized as a means of audit testing to identify weaknesses and deficiencies. The percentages presented by ONAP are irrelevant as the audit sample was not meant to be absolute or used as a means of projection. However, we agree that a complete review of grantee compliance for all ONAP grants is needed and note that the total number of grantee audit reporting deficiencies could not be determined during our audit because ONAP did not have an accurate accounting of grantee audit reporting compliance. Our audit sample testing procedures were consistent with the audit objective and were not intended as substitutive procedures for ONAP's required monitoring responsibilities (for example, reviewing all grants to determine grantee compliance). As stated in the audit report, we recommend that ONAP update its PTD system to ensure that it has a record of audit reporting compliance for all grantees. We further recommend that ONAP pursue enforcement action for any additional grantees found, based upon review of the updated records, that did not submit required audit reports (see recommendation 1B). The results of our audit sample testing confirmed that ONAP's internal controls were not always

effective in ensuring grantee audit reporting compliance and further demonstrated the need for corrective measures.

- Comment 3** ONAP indicated it could not find a statement from its Grant’s evaluation guidebook that was referred to in the OIG audit report. Section 3.2.2 of the ONAP Grants Evaluation Guidebook in effect during our audit period stated, “Late submissions of audit reports may be a warning sign of waste, fraud, or abuse. Recipients may have failed to contract for an audit, may wish to avoid detection of serious irregularities or noncompliance with regulations, or to avoid monitoring or sanctions by HUD.”
- Comment 4** We disagree with ONAP’s claim that contacting grantees to determine whether an audit was required represents an unwarranted burden. This role and specific function is an ordinary task necessary for HUD to comply with its oversight responsibilities under OMB Circulars A-123 and A-133. Because HUD, as a Federal agency, is required to review annual audit reports from its grantees, it must create and maintain procedures to determine which grantees were required to submit audits and have appropriate controls in place to ensure that required reports were received and reviewed. Additionally, ONAP’s review of grantee audit reports is an important part of HUD’s risk assessment and monitoring process. In our opinion, if grantees are unwilling or unable to readily indicate their audit reporting compliance, this is a significant risk indicator, even for smaller grantees, that should not be intentionally avoided or ignored.
- Comment 5** We agree that the audit sample design included a nonstatistical methodology and, as stated in the audit report, could not be used to project an error or compliance rate for the entire population of grants. The actual rate of grantee noncompliance was not determined during the audit because ONAP did not have an accurate accounting of audit reporting compliance for its grantees. To address this deficiency, the audit report recommends that ONAP update the PTD system to ensure that ONAP has a record of audit reporting compliance for all grantees and pursue enforcement action for any additional grantees found, based upon review of the updated records, that did not submit required audit reports (see recommendation 1B).

As part of the audit, we reviewed ONAP’s procedures for tracking grantee audit reporting compliance, including procedures for data entry into its PTD system. As discussed in the audit report, we also reviewed a nonstatistical sample of 202 possible required audits including associated hardcopy documentation, as necessary, such as audit reports, Federal Audit Clearinghouse summary documents, annual performance report documents, etc. The audit report conclusions are based upon our observation that ONAP lacked adequate internal controls. The sample results serve as examples to demonstrate the effect of these control weaknesses and the need for corrective action to prevent further noncompliance and minimize the risk of fraud, waste, and abuse.

Comment 6 We agree that the PTD data used were provided by ONAP in January 2012 and find that this does not conflict with any statements or conclusions in the audit report and is consistent with the audit objective. The PTD data used were related to grants awarded during fiscal years 2006 through 2010. Accordingly, audit reports for these grants were due, at the latest, by September 30, 2010, more than 3 months before the date ONAP provided PTD records to OIG. We recognize that ONAP enters data into the PTD system regularly; however, as noted in the audit report, three of the six ONAP field offices created a record in the PTD system only for audit reports that had been received. Also, three of the six ONAP field offices did not update the PTD system to indicate which grantees were exempt from the audit requirements due to the \$500,000 expenditure threshold. Because ONAP did not update this key information, it did not have a reliable accounting of audit reporting compliance for its grantees and did not have a complete record of missing or delinquent audit reports.

Comment 7 ONAP stated that the Native American Housing Assistance and Self Determination Act (NAHASDA) and its implementing regulations do not specify a timeline for when enforcement action is to be taken and concluded that the 21 delinquent audits identified by OIG should not be considered a finding. OMB Circular A-133 requires HUD to ensure that grantee audit reports are received in a timely manner, and OMB Circular A-123 requires ONAP to develop and maintain internal control to achieve the objectives of effective and efficient operations and compliance with applicable laws and regulations. To evaluate whether follow-up action for delinquent audits was timely, we conducted interviews with ONAP field offices about their policies and procedures for issuing letters of warning. The ONAP field offices interviewed indicated that their policy was to send letters of warning for delinquent audits between 1 and 30 days after the due date, which in our opinion, appears to be a reasonable timeframe. However, all 21 of the missing audits identified in our audit report were at least 90 days delinquent. Fourteen of the audits were between 1 and 4 years overdue. Procedures that result in such protracted delays without responsive action by HUD are not consistent with the agency's responsibility to ensure that audits are received in a timely manner and maintain proper accountability. Therefore, the report remains unchanged

Comment 8 ONAP concedes that that it has had "conflicting views" in the past regarding whether certain tribally designated housing entities were required to submit their own financial audits. However, ONAP has concluded, in agreement with our determination, that tribally designated housing entities should be required going forward to have their own audits conducted if the appropriate threshold is met. This is consistent with the already established statute and HUD regulations. ONAP also noted that many small entities would rather not incur the cost of procuring an audit if their tribe was willing to include the IHBG funds under the tribal audit. Section 405(a) of NAHASDA defines tribally designated housing entities as "non-Federal entities" that must comply with the Single Audit Act. We find ONAP's statement that the entities' desire to spend money on other activities,

rather than on required audits, is not a valid justification for noncompliance with the Federal audit reporting requirements.

Comment 9 For clarification, the table titled “Total direct funding to TDHEs” was removed from the audit report, and the associated table 5 in appendix B was revised accordingly (see also comments 44 and 45). Footnote 3 describes how funding received by tribally designated housing entities may be higher than the amount we reviewed. The entities that did not submit required audits may have administered both the direct grants they received from HUD and a portion of an associated tribe’s HUD funding, as a subrecipient for example. All ONAP funds administered by the tribally designated housing entity, whether received directly from ONAP or through a tribe, were at risk when ONAP did not obtain the required audit reports.

Comment 10 We agree with ONAP in its assessment that the decision to pursue enforcement action is complex and requires consideration. In that regard, it is important to maintain consistent national policies and procedures that follow Federal requirements (see revised recommendation 1F). As stated in our audit report, three of the six ONAP offices did not consistently enforce the 9-month audit submission deadline required under OMB Circular A-133 and its authorizing statute at 31 U.S.C. 7502. We determined that ONAP area offices did not begin to consider grantees for possible enforcement action until at least 6 months after the reporting deadline was missed. ONAP’s Grants Evaluation Guidebook includes specific procedures that must be followed to obtain an extension to the audit submission deadline. Because the offices did not enforce the 9-month deadline until at least 15 months had elapsed, ONAP effectively granted an extension to the statutory deadline without following the required procedures. Again we note that, as grantees become aware that HUD is not enforcing the audit submission requirements, this may result in an increased rate of noncompliance.

Comment 11 ONAP requested that OIG clarify the due dates referenced in the audit report related to audit submissions and audit finding corrective actions. For clarification, the due dates for audit report submissions and management decisions are both specified in OMB Circular A-133. Audit reports are due 9 months after the end of the audit period, and management decisions for audit findings are due within 6 months after the audit report is received. Accordingly, if audits are received in a timely manner (within 9 months), management decisions should be completed within 15 months.

We disagree with ONAP’s indication that by delaying its own receipt of required audit reports (although the reports may have already been received by the Federal Audit Clearinghouse), ONAP effectively extended the due date for management decisions beyond the 15-month period contemplated by OMB Circular A-133. We determined that ONAP waited, in some cases, at least 15 months to obtain grantee audit reports and did not pursue enforcement action for delinquent audit reports until this time. The delay in obtaining reports and enforcement action

would then delay a management decision beyond the 6-month timeframe contemplated by OMB Circular A-133. In other words, ONAP could not issue a management decision within 15 months because it did not obtain the required audit reports within this timeframe.

Comment 12 We agree that ONAP’s written policies required staff to enter expected audit receipt dates. However, we determined that ONAP did not consistently implement this guidebook requirement. As stated on page 5 of the audit, three of the six ONAP field offices created a record in the PTD system only for audit reports that had been received. Therefore, the system did not have a complete record of missing or delinquent audit reports.

ONAP’s policies and procedures were insufficient with regard to enforcement of the audit submission deadline (see revised recommendation 1F). As stated in the audit report, the Grants Evaluation Guidebook did not properly require field offices to enforce the statutory audit reporting deadline (9 months after the grantees’ fiscal yearend).

Comment 13 We disagree with ONAP’s assertion that the Grants Evaluation Guidebook was sufficient with regard to enforcement. During the review, ONAP officials stated that ONAP’s policy was to allow each area ONAP office discretion to wait until the annual performance report due date (6 months after the statutory audit due date) to initiate enforcement action for delinquent audits. ONAP’s Grants Evaluation Guidebook confirms that this was the policy, as it states that the area ONAP offices “may” begin enforcement when the audit is late to the Federal Audit Clearinghouse and “should” begin enforcement when audits are not submitted with the grantees annual performance report. Because the report is not due until due 6 months after the statutory audit submission deadline, we believe the guidebook should be revised accordingly and state that enforcement should begin based upon the statutory due date (see revised recommendation 1F). We agree that enforcement should be considered on a case-by-case basis and find that this should not prevent HUD from enforcing the statutory audit submission deadline on a timely basis or developing related procedures applied consistently across ONAP offices.

Comment 14 ONAP noted that, in some cases, grantee audits do not provide significant assurance that funds were used for eligible purposes and therefore, any failure by ONAP to provide adequate oversight of grantee audits did not result in a lack adequate assurance that ONAP funds were used for eligible purposes. We agree that the level of audit review and associated assurance that each audit provides can vary based upon the amount of the program funds awarded to each grantee and other factors. However, this does not conflict with the audit report conclusions. Because ONAP did not have a complete and accurate accounting of grantee audit reporting compliance, ONAP could not identify all missing or delinquent audit reports and, therefore, did not have assurance that all required audits were performed. We note that ONAP’s Grants Evaluation Guidebook

stresses the importance of grantee audit reports, stating that the reports are ONAP's primary source of information regarding grantees' financial position and internal controls. By failing to provide adequate oversight and implement consistent procedures to monitor grantee compliance with the audit submission requirements, ONAP did not have the required level of assurance prescribed under the audit requirements of OMB Circular A-133 for grantee expenditures.

Additionally, the level of audit review and specific audit procedures may vary if the tribally designated housing entity was audited separately instead of being included as a component unit of a tribe. For example, the financial statements of the entity would be separately presented and audited, the auditors' evaluation of relative program risk and associated levels of audit testing could vary, and the auditors would be required to perform a separate evaluation of the entity's internal controls regardless of its funding amounts relative to the tribe.

Comment 15 ONAP requested that OIG specify the grant type for each of the audit reports identified in the OIG audit report and stated this information will be necessary when preparing its management decision for the OIG audit. We will provide the requested information to ONAP officials if needed for preparation of the management decision during resolution. However, this information should already be available to ONAP because the funding amounts from our audit report were obtained from the PTD system data provided by ONAP.

Comment 16 All data reported in our report tables, including the listed grantee identification numbers, were obtained from ONAP's PTD system. In response to ONAP's assertion that there were 25 instances of incorrect data, we reviewed the data again and found that the report tables correctly reported the grant recipient identification numbers and grant amounts from ONAP's PTD system. Because ONAP's response indicates that its PTD system may have erroneously reported the identities of its grantees, we reiterate the need for the corrective actions identified in our audit report recommendation 1B, which states that ONAP should update its PTD system to ensure that it has a record of audit reporting compliance for all grantees. If ONAP's PTD system did not correctly report which entity was funded, ONAP should update the data to reflect the correct grantee and ensure that it has a record of audit compliance for the correct entity. To clarify, we note that all 202 of the sample grants we reviewed did not have a record of audit reporting compliance reported in the PTD system for both the grantee on record and any associated tribally designated housing entity. If ONAP determines that corrective action is not required in accordance with the report recommendations for any of the grants identified in the audit report, it should provide documentation to support this conclusion as part of the audit resolution. Our response for each case referred to in ONAP's response is stated below (see response comments 18 through 42). Our analysis is based on data available to us, including data from ONAP's own PTD system. ONAP should provide supporting documentation during audit resolution if it determines a different grant recipient.

Comment 17 ONAP stated that for 13 instances identified in the audit report for which ONAP accepted a Tribe audit in lieu of a TDHE audit, the TDHE did not require an audit because the audit threshold was not met. We revised the audit report to note ONAP's determination regarding the audit expenditure threshold for the 10 cases noted from table 3 (see comments 44 and 45). A footnote was also added to table 3, appendix B, for clarification. However, because information provided by ONAP during the audit for these cases indicated that ONAP accepted the tribe audits without determining the audit compliance status of the tribally designated housing entity, we did not make an adjustment for these cases to the total number of reported instances of tribe audits that were accepted in lieu of entity audits. Although ONAP's response states that it has now determined that the threshold was not met, we note that the PTD system was not updated for these cases, and the grantees' audit reporting compliance was not evident for the associated grants. ONAP's failure to record the grantees' audit reporting compliance for these cases supports our audit report conclusion that ONAP did not have consistent controls to monitor grantee compliance with the audit reporting requirements. As noted in the audit report, three of the six ONAP field offices did not update the PTD system to indicate which grantees were exempt from the audit requirements due to the \$500,000 expenditure threshold. The three cases, reported in table 5, appendix B, of the report, referenced by ONAP in attachment 2 of its response, were removed from the report (see comment 43).

Comment 18 Our audit report data were correct. For grantee number 15, in Region 5 (Southern Plains), for fiscal year 2006, ONAP's PTD system reported an IHGB grant totaling \$296,726 with an associated grant number of 06-IH-22-18100. During our review, in response to our request for documentation regarding the grantee's audit reporting compliance, ONAP's response for this item stated, "Grant closed do not have 06 Grantee Files."

Comment 19 Our audit report data were correct. For grantee number 15, in Region 5 (Southern Plains), for fiscal year 2007, ONAP's PTD system reported an IHGB grant totaling \$288,010 with an associated grant number of 07-IH-22-18100. During our review, ONAP's response for this item stated, "Grant closed do not have 07 Grantee Files."

Comment 20 Our audit report data were correct. For grantee number 39, in Region 5 (Southern Plains), for fiscal year 2009, ONAP's PTD system reported an ICDBG grant totaling \$800,000 with an associated grant number of B09SR400796. During our review, ONAP's response explaining why no audit was reported for this grant stated, "Oversite / ICDBG Grantee, Audit not submitted to FAC [Federal Audit Clearinghouse]."

Comment 21 Our audit report data were correct. For grantee number 39, in Region 5 (Southern Plains), for fiscal year 2010, ONAP's PTD system reported an ICDBG grant totaling \$800,000 with an associated grant number of B10SR400796. During our

review, ONAP's response explaining why no audit was reported for this grant stated, "Oversite / ICDBG Grantee, Audit not submitted to FAC."

- Comment 22** Our audit report data were correct. For grantee number 76, in Region 2 (Northwest), for fiscal year 2006, ONAP's PTD system reported an IHBG grant totaling \$2,904,854 with an associated grant number of 06IT5308420. The PTD system reported that this grantee was a tribally designated housing entity named "Lummi Housing Authority."
- Comment 23** Our audit report data were correct. For grantee number 693, in Region 4 (Southwest), for fiscal year 2007, ONAP's PTD system reported an IHBG grant totaling \$424,231 with an associated grant number of 07IH0637940. The PTD system reported that this grantee was a tribally designated housing entity named "Tuolumne Me-Wuk Housing Authority."
- Comment 24** Our audit report data were correct. For grantee number 693, in Region 4 (Southwest), for fiscal year 2008, ONAP's PTD system reported an IHBG grant totaling \$558,207 with an associated grant number of 08IH0637940. The PTD system reported that this grantee was a tribally designated housing entity named "Tuolumne Me-Wuk Housing Authority."
- Comment 25** Our audit report data were correct. For grantee number 693, in Region 4 (Southwest), for fiscal year 2009, ONAP's PTD system reported an IHBG grant totaling \$409,192 with an associated grant number of 09IH0637940. The PTD system reported that this grantee was a tribally designated housing entity named "Tuolumne Me-Wuk Housing Authority."
- Comment 26** Our audit report data were correct. For grantee number 888, in Region 4 (Southwest), for fiscal year 2006, ONAP's PTD system reported an IHBG grant totaling \$1,010,942 with an associated grant number of 06IH0624740. The PTD system reported that this grantee was a tribally designated housing entity named "North Fork Rancheria Indian Housing Authority."
- Comment 27** Our audit report data were correct. For grantee number 888, in Region 4 (Southwest), for fiscal year 2007, ONAP's PTD system reported \$1,083,291 in direct grants awarded (as illustrated in the audit report, table 3, appendix B). The associated grant number was 07IH0624740. The PTD system reported that this grantee was a tribally designated housing entity named "North Fork Rancheria Indian Housing Authority." This entity was listed in the PTD system as the tribally designated housing entity for a tribe named "North Fork Rancheria of Mono Indians," indicating that a portion of the funding awarded to the tribe may have been administered by this entity. During our review, ONAP confirmed that it accepted a tribe audit in lieu of an entity audit.
- Comment 28** Our audit report data were correct. For grantee number 888, in Region 4 (Southwest), for fiscal year 2008, ONAP's PTD system reported \$1,093,438 in

direct grants awarded (as illustrated in the audit report, table 3, appendix B). The associated grant number was 08IH0624740. The PTD system reported that this grantee was a tribally designated housing entity named “North Fork Rancheria Indian Housing Authority.” This entity was listed in the PTD system as the tribally designated housing entity for a tribe named “North Fork Rancheria of Mono Indians,” indicating that a portion of the funding awarded to the tribe may have been administered by this entity. During our review, ONAP confirmed that it accepted a tribe audit in lieu of an entity audit.

Comment 29 Our audit report data were correct. For grantee number 1174, in Region 4 (Southwest), for fiscal year 2009, ONAP’s PTD system reported an IHBG grant totaling \$254,613 with an associated grant number of 09IH0637460. The PTD system reported that this grantee was a tribally designated housing entity named “Torres-Martinez Tribal Housing Authority.”

Comment 30 Our audit report data were correct. For grantee number 1174, in Region 4 (Southwest), for fiscal year 2010, ONAP’s PTD system reported an IHBG grant totaling \$276,297 with an associated grant number of 10IH0637460. The PTD system reported that this grantee was a tribally designated housing entity named “Torres-Martinez Tribal Housing Authority.”

Comment 31 Our audit report data were correct. For grantee number 128, in Region 6 (Eastern Woodlands), for fiscal year 2010, ONAP’s PTD system reported an ICDBG grant totaling \$598,500 with an associated grant number of B10SR263078. The PTD system reported that this grantee was a tribally designated housing entity named “Nottawaseppi Huron Band of Potawatomi Indians HA.”

Comment 32 Our audit report data were correct. For grantee number 167, in Region 6 (Eastern Woodlands), for fiscal year 2006, ONAP’s PTD system reported an IHBG grant totaling \$196,640 with an associated grant number of 06IH2728120. The PTD system reported that this grantee was a tribally designated housing entity named “Lower Sioux Indian Housing Authority.”

Comment 33 Our audit report data were correct. For grantee number 167, in Region 6 (Eastern Woodlands), for fiscal year 2007, ONAP’s PTD system reported an IHBG grant totaling \$203,831 with an associated grant number of 07IH2728120. The PTD system reported that this grantee was a tribally designated housing entity named “Lower Sioux Indian Housing Authority.”

Comment 34 Our audit report data were correct. For grantee number 15, in Region 5 (Southern Plains), for fiscal year 2009, ONAP’s PTD system reported no direct grants awarded (as illustrated in the audit report, table 5, appendix B). The PTD system reported that this grantee was a tribally designated housing entity named “Tunica-Biloxi Housing Authority.” This entity was listed in the PTD system as the entity for a tribe named “Tunica-Biloxi Indian Tribe of Louisiana,” indicating that a

portion of the funding awarded to the tribe may have been administered by this entity.

- Comment 35** Our audit report data were correct. For grantee number 41, in Region 5 (Southern Plains), for fiscal year 2008, ONAP's PTD system reported no direct grants awarded (as illustrated in the audit report, table 5, appendix B). The PTD system reported that this grantee was a tribally designated housing entity named "Delaware Nation Housing Authority." This entity was listed in the PTD system as the entity for a tribe named "Delaware Nation," indicating that a portion of the funding awarded to the tribe may have been administered by this entity. Data from the Federal Audit Clearinghouse indicate that no HUD funding was reviewed as part of the tribe's audit.
- Comment 36** Our audit report data were correct. For grantee number 873, in Region 4 (Southwest), for fiscal year 2008, ONAP's PTD system reported no direct grants awarded (as illustrated in the audit report, table 5, appendix B). The PTD system reported that this grantee was a "housing department" named "Pascua Yaqui Housing Department." This entity was listed in the PTD system as the tribally designated housing entity for a tribe named "Pascua Yaqui Tribe," indicating that a portion of the funding awarded to the tribe may have been administered by this entity. During our review, ONAP confirmed that an audit was required for this entity and, further, that ONAP accepted a tribe audit in lieu of the entity audit.
- Comment 37** Our audit report data were correct. For grantee number 873, in Region 4 (Southwest), for fiscal year 2009, ONAP's PTD system reported no direct grants awarded (as illustrated in the audit report, table 5, appendix B). The PTD system reported that this grantee was a "housing department" named "Pascua Yaqui Housing Department." This entity was listed in the PTD system as the tribally designated housing entity for a tribe named "Pascua Yaqui Tribe," indicating that a portion of the funding awarded to the tribe may have been administered by this entity. During our review, ONAP confirmed that an audit was required for this entity and, further, that ONAP accepted a tribe audit in lieu of the entity audit.
- Comment 38** Our audit report data were correct. For grantee number 873, in Region 4 (Southwest), for fiscal year 2010, ONAP's PTD system reported no direct grants awarded (as illustrated in the audit report, table 5, appendix B). The PTD system reported that this grantee was a "housing department" named "Pascua Yaqui Housing Department." This entity was listed in the PTD system as the tribally designated housing entity for a tribe named "Pascua Yaqui Tribe," indicating that a portion of the funding awarded to the tribe may have been administered by this entity. During our review, ONAP confirmed that an audit was required for this entity and, further, that ONAP accepted a tribe audit in lieu of the entity audit.
- Comment 39** Our audit report data were correct. For grantee number 902, in Region 4 (Southwest), for fiscal year 2007, ONAP's PTD system reported no direct grants awarded (as illustrated in the audit report, table 5, appendix B). The PTD system

reported that this grantee was a “housing department” named “Pueblo of Jemez Housing Department.” This entity was listed in the PTD system as the tribally designated housing entity for a tribe named “Pueblo of Jemez,” indicating that a portion of the funding awarded to the tribe may have been administered by this entity. During our review, ONAP confirmed that an audit was required for this entity and, further, that ONAP accepted a tribe audit in lieu of the entity audit.

Comment 40 Our audit report data were correct. For grantee number 917, in Region 4 (Southwest), for fiscal year 2007, ONAP’s PTD system reported no direct grants awarded (as illustrated in the audit report, table 5, appendix B). The PTD system reported that this grantee was a “housing department” named “Reno-Sparks Housing Department.” This entity was listed in the PTD system as the tribally designated housing entity for a tribe named “Reno-Sparks Indian Colony,” indicating that a portion of the funding awarded to the tribe may have been administered by this entity. During our review, ONAP stated that an audit was required for this entity, and we confirmed that no audit was submitted to the Federal Audit Clearinghouse.

Comment 41 Our audit report data were correct. For grantee number 917, in Region 4 (Southwest), for fiscal year 2010, ONAP’s PTD system reported no direct grants awarded (as illustrated in the audit report, table 5, appendix B). The PTD system reported that this grantee was a “housing department” named “Reno-Sparks Housing Department.” This entity was listed in the PTD system as the tribally designated housing entity for a tribe named “Reno-Sparks Indian Colony,” indicating that a portion of the funding awarded to the tribe may have been administered by this entity. During our review, ONAP stated that an audit was required for this entity, and we confirmed that no audit was submitted to the Federal Audit Clearinghouse.

Comment 42 Our audit report data were correct. For grantee number 921, in Region 4 (Southwest), for fiscal year 2009, ONAP’s PTD system reported no direct grants awarded (as illustrated in the audit report, table 5, appendix B). The PTD system reported that this grantee was a “housing department” named “Ysleta Del Sur Housing.” This entity was listed in the PTD system as the tribally designated housing entity for a tribe named “Ysleta Del Sur,” indicating that a portion of the funding awarded to the tribe may have been administered by this entity. During our review, ONAP confirmed that an audit was required for this entity and that ONAP accepted a tribe audit in lieu of the entity audit.

Comment 43 For the 10 cases referenced in ONAP’s response, we requested from ONAP during our review a statement indicating the reason an audit was not reported in the PTD system, a copy of the grantee certification regarding the OMB Circular A-133 expenditure threshold, and a copy of the annual performance report pages demonstrating Federal expenditure amounts. ONAP did not provide any such documentation evidencing the grantees’ expenditures for these cases and did not state the expenditure threshold as an explanation for why the audit was not

received or reported in ONAP's PTD system. As noted in comment 17, because information provided by ONAP during the audit for these 10 cases indicated that ONAP accepted the tribe audits without determining the audit compliance status of the tribally designated housing entity, we did not make an adjustment for these cases to the total number of reported instances of tribe audits that were accepted in lieu of entity audits. However, a footnote was added to table 3 in appendix B for clarification.

Comment 44 We removed the noted exception from our report for this case because we determined that ONAP had verified the referenced tribally designated housing entity's audit reporting compliance.

Comment 45 Table 5, appendix B, was amended to avoid duplication. Specifically, we removed seven relevant reports identified in table 5 that were also identified in table 3, appendix B. Associated values in the report were adjusted accordingly.

Appendix B

DETAILED RESULTS OF OIG'S REVIEW SAMPLE

Table 1: Delinquent audits without timely enforcement (90 days)				
Region	Grantee ID	Fiscal year	Total IHBG-ICDBG funds	Late with no enforcement received
Northern Plains ONAP	91	10	\$ 476,367	
Southwest ONAP	665	10	668,255	
	688	09	99,619	
	713	09	227,367	
	713	10	241,005	
	787	06	173,721	
	787	07	170,642	
	787	08	144,071	
	789	09	49,715	
	793	08	98,624	
	906	10	886,868	
	918	06	323,739	
	918	07	340,909	
	1143	10		X
Southern Plains ONAP	15	06	296,276	
	15	07	288,010	
	39	09	800,000	
	39	10	800,000	
	40	10		X
	82	06	109,024	
	86	07	25,000	
Totals			\$ 6,219,212	2

Table 2: Audits submitted to the Federal Audit Clearinghouse and not in ONAP's PTD system

Region	Grantee ID	Fiscal year	Total IHBG-ICDBG funds	No evidence of audit review	Finding in audit	Received late with no enforcement
Alaska ONAP	305	09	\$ 90,000	X		
Northern Plains ONAP	177	06	900,00	X		
Southwest ONAP	657	07	35,463			
	666	10	54,019			
	699	10	200,215			
	711	10	54,019			
	777	10	54,019	X		
	778	09	2,750,000	X		X
	789	10	54,019	X		
	892	07	662,821	X	X	X
	916	08	978,047			
	1070	06	791,195			
	1130	06	346,806	X		X
	1180	06	1,403,490			
	1180	07	1,448,425			
	1180	10	1,346,145			
Southern Plains ONAP	1197	10	438,600	X		
	4	08	849,337	X	X	X
	5	10	249,430	X	X	
	17	10	800,000	X	X	
	21	09	903,959	X		X
	24	08	438,842	X	X	
	53	09	779,700	X		
	53	10	799,780	X		
	68	07	561,151	X	X	
85	06	800,000	X			
Eastern Woodlands ONAP	16	10	471,285	X		
	111	06	632,375			
	112	06	885,870	X		
Totals			\$ 19,779,012	19	6	5

Table 3: Tribe audits accepted in lieu of tribally designated housing entity audits⁶			
Region	Grantee ID	Fiscal year	Total IHBG-ICDBG funds
Alaska ONAP	288	06	\$ 783,422
Northwest ONAP	76	06	2904854
Southwest ONAP	693	07	424,231
	693	08	558,207
	693	09	409,192
	885	06	2,487,504
	887	06	296,293
	888	06	1,010,942
	888	07	1,083,291
	888	08	1,093,438
	889	06	274,265
	889	07	280,473
	889	09	307,763
	889	10	355,760
	891	06	96,749
	891	07	119,727
	891	08	126,398
	891	09	140,275
	891	10	151,305
	892	06	585,571
	898	07	213,970
	898	08	203,596
	898	09	213,338
	898	10	232,447
	901	06	1,069,440
	901	07	1,035,046
	906	06	295,739
	906	07	245,254
	906	08	231,150
	906	09	864,501
	918	09	365,734
	1174	09	254,613
	1174	10	276,297
	1189	06	117,091
1189	07	123,465	
1189	08	188,670	
1189	09	195,775	
1189	10	882,314	
Eastern Woodlands ONAP	20	07	457,290
	31	06	181,694
	31	07	191,646
	31	08	317,094
	128	10	598,500
	167	06	196,640
	167	07	203,831
Total			\$ 22,644,795

⁶ Grants highlighted in blue were determined by HUD, during audit reporting, to have not met the audit threshold. However, in these cases, we determined that ONAP accepted a tribe audit without previously verifying whether a separate entity audit was required (see comments 17 and 45 in appendix A).

Table 4: Threshold not met ⁷				
Region	Grantee ID	Fiscal year	Total IHBG-ICDBG funds	Threshold not met and not verified
Northern Plains ONAP	107	06	346,126	X
	107	08	370,549	X
	107	09	328,095	X
	107	10	347,475	X
	119	06	122,105	X
	119	07	198,965	X
	119	08	364,329	X
	119	09	433,934	X
	119	10	434,880	X
	124	10	54,019	X
Southwest ONAP	656	09	49,715	X
	656	10	54,019	X
	663	06	25,000	X
	663	08	48,660	X
	663	09	49,715	X
	663	10	54,019	X
	666	06	25,000	
	666	09	49,715	X
	682	09	80,362	
	683	10	54,019	
	698	06	25,000	X
	698	07	25,000	X
	698	08	48,660	X
	698	09	49,715	X
	698	10	54,019	X
	709	10	178,627	X
	711	06	25,000	X
	744	09	49,715	X
	744	10	54,019	X
	787	09	158,261	X
	879	06	306,225	X
	887	08	421,164	
	889	08	268,117	
	908	07	679,731	
	918	08	353,526	X
	1101	06	78,249	
	1101	07	75,848	
	1101	08	107,816	
	1132	06	75,877	
	1132	07	60,702	
1132	08	75,877		
1132	09	108,937		

⁷ Table 4 illustrates 93 instances in which the grantee did not meet the \$500,000 audit threshold specified by OMB Circular A-133, yet the PTD system had no record of the grantees' audit reporting compliance.

Table 4: Threshold not met⁷

Region	Grantee ID	Fiscal year	Total IHBG-ICDBG funds	Threshold not met and not verified
	1132	10	176,828	
Southern Plains ONAP	8	06	198,468	
	8	07	200,265	
	11	09	120,250	
	11	10	116,000	X
	16	07	58,218	
	16	08	116,286	
	16	09	82,798	
	16	10	88,547	
	21	10	120,520	
	44	08	114,398	
	44	09	94,498	
	44	10	101,286	
	46	06	115,071	
	46	07	113,476	
	46	08	99,954	
	46	09	110,770	
	46	10	126,396	
	51	06	46,821	
	51	07	71,136	
	51	08	61,417	
	51	09	68,595	
	51	10	86,602	
	52	09	483,439	X
	52	10	550,661	
	58	06	83,792	
	90	06	\$ 136,598	
	90	07	117,740	
	90	08	306,607	
	90	09	198,823	
	98	06	540,999	X
98	07	1,618,618	X	
98	08	1,180,813	X	
98	09	1,438,165	X	
98	10	734,175	X	
Eastern Woodlands ONAP	16	06	588,453	
	16	07	417,291	
	20	06	443,701	X
	54	06	266,131	
	76	06	369,744	
	76	07	331,034	
	76	08	418,939	
	76	09	290,612	
	76	10	350,999	

Table 4: Threshold not met⁷				
Region	Grantee ID	Fiscal year	Total IHBG-ICDBG funds	Threshold not met and not verified
	86	09	600,000	
	149	08	340,371	
	149	09	349,616	
	149	10	401,047	
	162	07	600,695	
	167	08	421,596	
	167	09	314,936	
Totals			\$ 23,154,981	37

Table 5: Additional tribe audits accepted in lieu of tribally designated housing entity audits		
Region	Grantee ID	Fiscal year
Southern Plains	15	09
	41	08
Southwest	873	08
	873	09
	873	10
	902	07
	917	07
	917	10
	921	09

Appendix C

CRITERIA

24 CFR 1000.544. What audits are required?

The recipient must comply with the requirements of the Single Audit Act and OMB Circular A-133, which require annual audits of recipients that expend Federal funds equal to or in excess of an amount specified by the U.S. Office of Management and Budget, which is currently set at \$300,000.

24 CFR 1000.548. Must a copy of the recipient's audit pursuant to the Single Audit Act relating to NAHASDA activities be submitted to HUD?

Yes. A copy of the latest recipient audit under the Single Audit Act relating to NAHASDA activities must be submitted with the annual performance report.

Single Audit Act of 1984 (amended 1996), Section 7502(a)(1)(A)

Each non-Federal entity that expends a total amount of Federal awards equal to or in excess of \$300,000 (currently \$500,000) or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of this chapter.

OMB Circular A-133, Subpart B, Section 200. Audit Requirements.

- a) Audit required. Non-Federal entities that expend \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Guidance on determining Federal awards expended is provided in §__.205.
- b) Single audit. Non-Federal entities that expend \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) or more in a year in Federal awards shall have a single audit conducted in accordance with §__.500 except when they elect to have a program-specific audit conducted in accordance with paragraph (c) of this section.

OMB Circular A-133, Subpart D, Section 400. Responsibilities.

- c) Federal awarding agency responsibilities. The Federal awarding agency shall perform the following for the Federal awards it makes:
 - 1) Identify Federal awards made by informing each recipient of the CFDA [Catalog of Federal Domestic Assistance] title and number, award name and number, award year, and if the award is for R&D [research and development]. When some of this information is not available, the Federal agency shall provide information necessary to clearly describe the Federal award.
 - 2) Advise recipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements.
 - 3) Ensure that audits are completed and reports are received in a timely manner and in accordance with the requirements of this part.
 - 4) Provide technical advice and counsel to auditees and auditors as requested.

- 5) Issue a management decision on audit findings within six months after receipt of the audit report and ensure that the recipient takes appropriate and timely corrective action.
- 6) Assign a person responsible for providing annual updates of the compliance supplement to OMB.

OMB Circular A-123. Introduction.

Management has a fundamental responsibility to develop and maintain effective internal control. The proper stewardship of Federal resources is an essential responsibility of agency managers and staff. Federal employees must ensure that Federal programs operate and Federal resources are used efficiently and effectively to achieve desired objectives. Programs must operate and resources must be used consistent with agency missions, in compliance with laws and regulations, and with minimal potential for waste, fraud, and mismanagement.

OMB Circular A-123, Section III. Single Audit Act, as Amended.

The Single Audit Act, as amended, requires financial statement audits of non-Federal entities that receive or administer grant awards of Federal monies. The financial statement audits include testing the effectiveness of internal control and determining whether the award monies have been spent in compliance with laws and regulations. Each Federal agency which provides Federal awards shall review the audits of the recipients to determine whether corrective actions are implemented with respect to audit findings.

NAHASDA, Title IV, Section 405. Review and Audit by Secretary.

- a) REQUIREMENTS UNDER CHAPTER 75 OF TITLE 31, UNITED STATES CODE.
An entity designated by an Indian tribe as a housing entity shall be treated, for purposes of chapter 75 of title 31, United States Code, as a non-Federal entity that is subject to the audit requirements that apply to non-Federal entities under that chapter.

24 CFR 1000.530. What corrective and remedial actions will HUD request or recommend to address performance problems before taking action under section 1000.532 or 1000.538?

- a) The following actions are designed, first, to prevent the continuance of the performance problem(s); second, to mitigate any adverse effects or consequences of the performance problem(s); and third, to prevent a recurrence of the same or similar performance problem. The following actions, at least one of which must be taken prior to a sanction under paragraph (b), may be taken by HUD singly or in combination, as appropriate for the circumstances:
 - 1) Issue a letter of warning advising the recipient of the performance problem(s), describing the corrective actions that HUD believes should be taken, establishing a completion date for corrective actions, and notifying the recipient that more serious actions may be taken if the performance problem(s) is not corrected or is repeated;
 - 2) Request the recipient to submit progress schedules for completing activities or complying with the requirements of this part;
 - 3) Recommend that the recipient suspend, discontinue, or not incur costs for the affected activity;

- 4) Recommend that the recipient redirect funds from affected activities to other eligible activities;
 - 5) Recommend that the recipient reimburse the recipient's program account in the amount improperly expended; and
 - 6) Recommend that the recipient obtain appropriate technical assistance using existing grant funds or other available resources to overcome the performance problem(s).
- b) Failure of a recipient to address performance problems specified in paragraph (a) above may result in the imposition of sanctions as prescribed in §1000.532 (providing for adjustment, reduction, or withdrawal of future grant funds, or other appropriate actions), or §1000.538 (providing for termination, reduction, or limited availability of payments, or replacement of the TDHE [tribally designated housing entity]).

24 CFR 1000.532. What are the adjustments HUD makes to a recipient's future year's grant amount under section 405 of NAHASDA?

- a) HUD may, subject to the procedures in paragraph (b) below, make appropriate adjustments in the amount of the annual grants under NAHASDA in accordance with the findings of HUD pursuant to reviews and audits under section 405 of NAHASDA. HUD may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided on behalf of an Indian tribe.
- b) Before undertaking any action in accordance with paragraphs (a) and (c) of this section, HUD will notify the recipient in writing of the actions it intends to take and provide the recipient an opportunity for an informal meeting to resolve the deficiency. In the event the deficiency is not resolved, HUD may take any of the actions available under paragraphs (a) and (c) of this section. However, the recipient may request, within 30 days of notice of the action, a hearing in accordance with §1000.540. The amount in question shall not be reallocated under the provisions of §1000.536, until 15 days after the hearing has been held and HUD has rendered a final decision.
- c) Absent circumstances beyond the recipient's control, when a recipient is not complying significantly with a major activity of its IHP [Indian housing plan], HUD shall make appropriate adjustment, reduction, or withdrawal of some or all of the recipient's subsequent year grant in accordance with this section.

24 CFR 1000.534. What constitutes substantial noncompliance?

HUD will review the circumstances of each noncompliance with NAHASDA and the regulations on a case-by-case basis to determine if the noncompliance is substantial. This review is a two step process. First, there must be a noncompliance with NAHASDA or these regulations. Second, the noncompliance must be substantial. A noncompliance is substantial if:

- a) The noncompliance has a material effect on the recipient meeting its major goals and objectives as described in its Indian Housing Plan;
- b) The noncompliance represents a material pattern or practice of activities constituting willful noncompliance with a particular provision of NAHASDA or the regulations, even if a single instance of noncompliance would not be substantial;

- c) The noncompliance involves the obligation or expenditure of a material amount of the NAHASDA funds budgeted by the recipient for a material activity; or
- d) The noncompliance places the housing program at substantial risk of fraud, waste or abuse.

CFR 1000.538. What remedies are available for substantial noncompliance?

- a) If HUD finds after reasonable notice and opportunity for hearing that a recipient has failed to comply substantially with any provisions of NAHASDA, HUD shall:
 - 1) Terminate payments under NAHASDA to the recipient;
 - 2) Reduce payments under NAHASDA to the recipient by an amount equal to the amount of such payments that were not expended in accordance with NAHASDA;
 - 3) Limit the availability of payments under NAHASDA to programs, projects, or activities not affected by the failure to comply; or
 - 4) In the case of noncompliance described in §1000.542, provide a replacement TDHE for the recipient.
- b) HUD may, upon due notice, suspend payments at any time after the issuance of the opportunity for hearing pending such hearing and final decision, to the extent HUD determines such action necessary to preclude the further expenditure of funds for activities affected by such failure to comply.
- c) If HUD determines that the failure to comply substantially with the provisions of NAHASDA is not a pattern or practice of activities constituting willful noncompliance, and is a result of the limited capability or capacity of the recipient, HUD may provide technical assistance for the recipient (directly or indirectly) that is designed to increase the capability or capacity of the recipient to administer assistance under NAHASDA in compliance with the requirements under NAHASDA.
- d) In lieu of, or in addition to, any action described in this section, if HUD has reason to believe that the recipient has failed to comply substantially with any provisions of NAHASDA, HUD may refer the matter to the Attorney General of the United States, with a recommendation that appropriate civil action be instituted.

CFR 1003.703. Other remedies for noncompliance.

- a) *Secretarial actions.* If the Secretary finds a grantee has failed to comply with any provision of this part even after corrective actions authorized under §1003.701 have been applied, the following actions may be taken provided that reasonable notice and opportunity for hearing is made to the grantee. (The Administrative Procedure Act (5 U.S.C. 551 et seq.), where applicable, shall be a guide in any situation involving adjudications where the Secretary desires to take actions requiring reasonable notice and opportunity for a hearing):
 - 1) Terminate the grant to the grantee;
 - 2) Reduce the grant to the grantee by an amount equal to the amount which was not expended in accordance with this part; or
 - 3) Limit the availability of funds to projects or activities not affected by such failure to comply; provided, however, that the Secretary may on due notice revoke the grantee's line of credit in whole or in part at any time if the

Secretary determines that such action is necessary to preclude the further expenditure of funds for activities affected by such failure to comply.

- b) *Secretarial referral to the Attorney General.* If there is reason to believe that a grantee has failed to comply substantially with any provision of the Act, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted. Upon such a referral, the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this part which was not expended in accordance with this part or for mandatory or injunctive relief.