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Grants Evaluation Guidebook

Introduction

In December 1999, the original **Grants Evaluation Guidebook** was printed and distributed to ONAP Grants Evaluation staff. That guidebook was one significant product of an intense effort by ONAP Field Office staff and Denver Program Office staff to establish and define the business process for the ONAP Grants Evaluation Division. In the almost two years since that time, we have had the opportunity to field test the processes and procedures contained in the guidebook and have found that although much of what was set forth was valuable and helpful to Area ONAP and Denver Program Office GE staff, not enough guidance was provided in certain areas, and certain of the procedures were inefficient, duplicative or redundant.

A number of revisions to the original guidebook have already been made by NAHASDA Guidance documents or memoranda. In April 2001, during a meeting of the GE Division Directors, a number of decisions were made regarding additional GE business process changes that should be incorporated in the guidebook. Subsequent to that meeting, a decision was made that it was more reasonable and efficient to produce a revised guidebook rather than attempting to make any more revisions or amendments to the original.

Significant changes to the Guidebook are:

- Complete rewrite of the Annual Assessment and APR Review chapters to reflect the consolidation of these two activities;
- Reorganization of the Enforcement chapter, now re-titled Sanctions;
- Updated sample letters contained in the appendices;
- Added a table of contents and numbered the appendices for easier reference.
- Incorporated either directly or by reference the following changes that were made to the original guidebook through March 01, 2001, although some of these earlier changes have been revised or changed in the development of this revised guidebook.
 - **December 20, 1999** - Chapter 4, Risk Assessment - added the Risk Assessment Workbook in the Appendix. Chapter 5, Monitoring - replaced pages 5 and 6 of the text and pages 1 and 26 of Monitoring Checklist in the Appendix.



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- ▶ **February 16, 2000** - Chapter 5, Monitoring - added an Appendix, Supplement-Monitoring of IHP Certifications. Chapter 6, Enforcement - replaced the text; deleted the Compliance Confirmation Letter in the Appendix and added a Notice of Intent/Offer of Informal Meeting Letter and Compliance Confirmation/Removal of Sanctions Letter; and revised the Process Maps in the Appendix.
- ▶ **August 7, 2000** - Chapter 2, Audit Review - revised the IPA Audit Tracking Log and the OIG Audit Tracking Log. Chapter 3, Annual Assessment - replaced the text of the chapter and added an Appendix on Administrative Capacity Determinations. Chapter 5, Monitoring - added a new Program Income item (now Item 7) and revised the Additional Monitoring Factor, Labor Standards, on the Monitoring Checklist.
- ▶ **September 7, 2000** - Chapter 5, Monitoring - supplemented Section 5.5 of the Guidebook in describing what monitoring reports should include.
- ▶ **December 5, 2000** - Chapter 5, Monitoring - provided the components of a recipient monitoring strategy, which was not specified in the original guidebook.
- ▶ **January 18, 2001** - Chapter 6, Enforcement Process - withdrew the requirement for DAS concurrence before determining a grant recipient is “high risk” under 24 CFR Part 85.12.
- ▶ **January 26, 2001** - Chapter 1, APR Review - added Annual Performance Review Guidelines and APR Reviewer Questions to the Appendices.
- ▶ **February 12, 2001** - Chapter 5, Monitoring - added an Appendix, Draft Monitoring Report and Transmittal Letter Formats - IHBG Program Recipients to the Appendix.

Every attempt has been made to incorporate lessons learned and efficiencies developed by the staff of the Area ONAP GE Divisions in their efforts to implement the GE business process. This guidebook should be viewed as a work in process. While many significant improvements have been made when compared with the first version, there will be a continuing need for additional improvements as we gain experience in implementing our responsibilities. All GE staff are encouraged to take the time to read and become familiar with the changes reflected in the guidebook, to use the tools provided in the completion of assignments, and to share local improvements with all GE staff.



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Chapter One -- Overall Performance Assessment Process Guidelines

This chapter provides ONAP staff with guidelines for undertaking and completing an overall assessment of a recipient's performance.

It includes the following major sections:

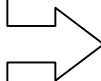
- Objectives and Overview of the Process -- 1.1
- Overall Performance Assessment -- 1.2
- Overall Performance Assessment Report -- 1.3

Background, Tools and Templates

- Reporting requirements – Other HUD Programs
- Administrative Capacity Determinations
- Overall performance assessment schedule
- Overall performance assessment document checklist
- Overall performance assessment questions
- Overall performance assessment report tracking
- Overall performance assessment report letter format

(Background tools and templates are to be found in the Appendix of this Guidebook.)

Objectives
and
Overview



1.1 Objectives and Overview of the Overall Performance Assessment Process

This process consolidates two formerly separate procedures that were undertaken by the GE Division of an Area ONAP, Annual Performance Review (APR) review and Annual Assessment, into one multi-phase



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process.* The results of the APR review conducted under the guidelines of Chapter 2 will be part of the overall performance assessment report to be provided to the recipient. The objectives of this process are to make an overall assessment of recipient performance under its HUD assisted programs and to provide a report on the status of that performance to the recipient.

1.1.1 Program Performance or Status Reporting requirements

As noted, the overall performance assessment process is initiated by the submission of the APR, Annual Status and Evaluation Report (ASER), or other performance or status reports if the recipient does not participate in NAHASDA. If the recipient participates in IHBG and ICDBG, the overall assessment process will be initiated by the submission of the APR, not ASER.

IHBG recipients are required to review and report on the progress made on the Indian Housing Plan (IHP) to their constituents and to HUD/ONAP (NAHASDA §404) once a year, within 60 days of the end of their program year. The report they submit to HUD is the APR. ICDBG recipients are required to submit an ASER 45 days after the end of the Federal Fiscal Year (November 15th) (24 CFR 1003.506(a)). Reporting requirements for other programs are discussed in the *appendix* to this guidebook.

1.1.2 Interface with APR, ASER or other Performance or Status Report Review

For IHBG recipients all observations and comments of the reviewer made during the APR review serve as the foundation for the overall performance assessment. A similar use will be made of the observations and comments

* The process and procedures in this chapter focus on Indian Housing Block Grant (IHBG) recipients, although the overall performance assessment process will be similar for non-IHBG recipients. For tribes which receive Indian Community Development Block Grant (ICDBG) but not IHBG, the receipt of the Annual Status and Evaluation Report will initiate the process; for recipients of neither IHBG nor ICDBG, the process will be initiated by the receipt of the first performance or status reports required after January 1st. Given the limited nature of regulatory or other requirements for reports other than the APR, detailed processing guidelines for such reports have not been developed by ONAP.



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of the reviewer made during the review of the ASER or other program performance or status reports for non-IHBG recipients.

1.2 Overall Performance Assessment

1.2.1 Information used during overall performance assessments

The overall performance assessment process relies on a variety of information sources, including the following:

- The comments and observations made during the review of APR, ASER, and other program performance and status reports. In some instances, the review of these reports will include or require the review and analysis of the following documents or information. If so, there will be no need to complete a separate review of these documents and information to establish the current status for the overall assessment report; if not, a separate review will be required
- Audits and compliance reviews and audit log
- Monitoring reports and monitoring logs
- OIG and other Federal agency reports
- LOCCS reports and SF 272-I
- Enforcement action documents
- Third-party information (e.g., beneficiary complaints, reports from congressional inquiries, and media coverage)

1.2.2 Prepare Area ONAP overall performance assessment schedule

The GE Division Director should schedule recipient performance assessments to coincide with APR or ASER reviews. For IHBG recipients, since the assessment report will include comments and recommendations made as a result of APR reviews, the issuance of this report must occur 60 days after the receipt of the APR at the Area ONAP to be in compliance with §1000.521. As a matter of policy, for ICDBG recipients, the issuance of the report should occur within 60 days of the receipt of the ASER.

Tool: overall performance assessment schedule



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By September 15 of each year, the GE Division Director will prepare a schedule of overall performance assessments for all its recipients with open grants and will submit this schedule to the Denver Program Office for review and consolidation with those from the other Area ONAPs. The target completion date, i.e., the date the report will be issued for each overall performance assessment will be entered in the *overall performance assessment schedule*.

The GE Specialists in an Area ONAP may participate in preparation of this schedule by submitting to the GE Division Director a proposed schedule for assigned recipients. The GE Specialist will base this schedule on APR or ASER due dates for open grants.

1.2.3 Prepare a national overall performance assessment schedule

The Denver Program Office provides a consolidated *overall performance assessment schedule* to the Information and Communication Manager for posting on ONAP's web page. Each AREA ONAP GE Director will be expected to provide copies of its overall performance assessment schedule to recipients and the general public on request.

1.2.4 Maintain overall performance assessment tools

The Program Office will maintain the *overall performance assessment document checklist* and the *overall performance assessment questions*. The Program Office will revise these tools, as needed, in response to new or revised reporting and/or monitoring requirements and will review suggested changes to the tools with GE Division Directors.

1.2.5 Assemble overall performance assessment documents

The GE Specialist will collect all documents needed for their overall performance assessments. Use of the *overall performance assessment document checklist* can help the GE Specialist to:

- Identify documents needed,
- Prompt the GE Specialist to request documents from other agencies,
- Keep track of documents collected, and

Tool: Overall Performance Assessment Document Checklist and Overall Performance Assessment Questions



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- Record comments on the documents (e.g., whether the documents were acceptable in form and content).

1.2.6 Review documents

The *overall performance assessment questions* consist of a set of questions that should guide the GE Specialist when analyzing available documents. As noted above, the review of the APR, ASER or other program performance or status report will often require the GE Specialist to consult or review these documents. The following documents are the primary sources of answers to those questions.

Individual audit reports and compliance reviews and audit log

Recipients that expend at least \$300,000 in federal funds in a fiscal year must conduct annual audits in compliance with OMB circular A-133 and must submit the results of the audits to HUD. In those instances where HUD is not the cognizant or oversight agency for audit, the recipient submission requirements are discussed in the Audit Review Process Guidelines Chapter of this Guidebook.

The GE Specialist should focus on the oversight agency's compliance review report, which establishes findings and assigns them to the appropriate department for resolution and the audit log. If the compliance review cites findings that are assigned to HUD for resolution, the GE Specialist will record the recipient's progress on its corrective action plan.

Monitoring reports and monitoring logs

The GE Specialist should review the documents pertaining to recipient monitoring. If the documents report deficiencies, the GE Specialist will record the recipient's progress on addressing any findings/taking corrective actions.

OIG reports

Office of Inspector General (OIG) reports can provide historical information, similar to monitoring reports, on previous activities of the recipient. The reports could include findings and concerns directly related to recipient management of HUD grants.



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LOCCS Reports and HUD 272-I or SF 272 reports

The GE Specialist should review the current HUD 272-I (or SF 272 for ICDBG recipients) financial report and generate a current LOCCS report for all recipient open HUD grants. Financial reports and LOCCS reports can indicate that a recipient's expenditure rate is too high or too low for the actual or planned accomplishments. Such inconsistencies may be indicators of problems with grant implementation. The GE Specialist should compare the reports with approved implementation schedules and performance reports for each relevant grant.

Enforcement action reports and other sanctions

The GE Specialist should review all documents on enforcement actions or other sanctions related to a recipient. Actions taken by HUD to protect the government, such as limited denial of participation, suspension, debarments, or civil filings are an important source of information for overall performance assessments.

Third-party information

Complaints from beneficiaries, reports on congressional inquiries, media coverage, or other public information may suggest potential or actual recipient performance problems. It is the GE Specialist's responsibility to search for and track this "other information" on the recipients to which the GE Specialist has been assigned. The GE Specialist can seek help with tracking this information from the GE Division Director and the Office of Information Services.

While this information can serve as an early warning system for the GE Specialist, the GE Specialist should be cautious about drawing conclusions in an overall performance assessment on the basis of this information alone. In general, if information comes from a source other than HUD, the GE Division bears responsibility for validating that the information is accurate and reliable before citing it in any ONAP assessment.

1.2.7 Discuss recipient with Grants Management staff

The GE Specialist should discuss the recipient with Grants Management (GM) staff members who have relevant knowledge of the recipient's performance. The GE Specialist should probe for specific examples and evidence and must document those discussions by taking careful notes of



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the date(s), staff involved, and issues covered. This documentation could play an important role in supporting the GE Specialist's overall performance assessment report and other ONAP actions.

1.2.8 Determine administrative capacity

The GE Specialist assesses a recipient's administrative capacity in the normal course of ongoing performance assessment. The determination of administrative capacity emerges from the GE Specialist's review of the APR, audit report(s), monitoring report(s), and other documentation and resources. (See the *Appendix* to this Guidebook for a detailed discussion of administrative capacity assessments.)

If the GE Specialist has not reviewed administrative capacity since the last overall performance assessment, this review and determination will be performed as part of the current overall performance assessment. It is not required that ONAP make a specific declaration of a recipient's administrative capacity.

However, deficiencies noted in any necessary review must be reported on the overall performance assessment report. The results of the assessment of a recipient's administrative capacity must be considered during the review of new or amended IHPs.

1.3. Overall performance assessment report

The GE Specialist should use the letter template provided in electronic form (*overall performance assessment report letter*) and include the following information:

- A confirmation of the completion of the review of the APR, ASER or other program performance or status report and specific description of any performance deficiencies and recommendations to improve performance based on that review
- A report on or summary, as appropriate, of conclusions reached regarding status and compliance identified during the review and response to the *overall performance questions*
- If applicable and appropriate, acknowledgement and congratulations for and the identification of "best practices" and /or specific program successes

***Tool: Overall Performance
Assessment Report Letter***



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- The name and telephone number of the GE Specialist if the recipient has any questions or comments

The GE Specialist submits the report letter to the GE Division Director for review and signature. The Area ONAP management team may wish to review the final overall performance assessment reports before they are sent to recipients. Ideally, the GM Division Director should always concur on the report; however, the GE Division Director ultimately decides on the content of the overall performance assessment report.

The GE Specialist or GE Program Assistant will send the overall performance assessment report to the recipient and all beneficiary tribes, if applicable, by regular mail. The GE Division Director will make all overall performance assessment reports available for public review at the Area ONAP. ONAP's Office of Information Services will advertise the availability of the reports on its web page. The GE Specialist or GE Program Assistant records the mailing date on the *overall performance assessment report tracking* tool to document compliance with regulatory or policy requirements.

Outputs of the overall performance assessment process

The overall performance assessment process should generate the following outputs:

- Overall performance assessment schedule
- Overall performance assessment reports



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Chapter Two -- Annual Performance Report Processing Guidelines

This chapter provides ONAP staff with guidelines for processing Annual Performance Reports (APR).

It includes the following sections:


- Objectives and Overview of the Process -- 2.1
- Receive APR from Recipient -- 2.2
- Conduct APR Review -- 2.2.3 – 2.2.12
- Reviewing the Opening Grants of a Recipient -- 4.2

Tools and Templates

- APR reminder letter
- APR extension letter
- APR Past Due Notice/Letter of Warning
- APR receipt letter
- APR receipt and information request letter
- APR Second Request for Information letter

(Background tools and templates are to be found in the Appendix of this Guidebook.)

Objectives
and
Overview



2.1 Objectives and Overview of the APR Process

NAHASDA states “*For each fiscal year, each recipient shall—*



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- (1) *review the progress it has made during such fiscal year in carrying out the Indian housing plan (or plans) for the Indian tribes for which it administers grant amounts; and*
- (2) *submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.” (NAHASDA Section 404(a))*

The objective of assessing how a recipient is managing its grants is to identify those recipients whose grants or projects have a higher risk of implementation problems or failure, and to determine if an audit or review is warranted as mandated in this statute.

In the Overall Performance Assessment process, the GE Division of ONAP uses a risk-based approach to its work. Accordingly, all grantees do not receive the same level of oversight. The purpose is to analyze data in order to identify problems and risks as described in 24 CFR §1000.520. Data that indicates greater risks supports a greater allocation of the GE Specialist’s time in the annual processing and subsequent monitoring.

“What are the purposes of HUD review?

At least annually, HUD will review each recipient's performance to determine whether the recipient:

- a. *Has carried out its eligible activities in a timely manner, has carried out its eligible activities and certifications in accordance with the requirements and the primary objective of NAHASDA and with other applicable laws and has a continuing capacity to carry out those activities in a timely manner;*
- b. *Has complied with the IHP of the grant beneficiary; and*
- c. *Whether the performance reports of the recipient are accurate.” (24 CFR §1000.520)*

The Overall Performance Assessment process is initiated by receipt of the APR for the NAHASDA program or the appropriate annual report, if the recipient does not participate in NAHASDA.

2.1.1 Reporting requirements

The report submitted to HUD is the Annual Performance Review (APR). Each grant recipient is to be sent an APR Reminder Letter 60 days prior to the recipient’s Program Year End. Once the APR is received ONAP has 60 days to review and provide comments on the APR in the form of an



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Overall Performance Assessment Report. ONAP may request additional information from the recipient during that 60-day review and comment period. Also, all IHBG recipients must submit quarterly the Federal Cash Transaction Reports (HUD 272-I).

2.1.2 Extension requests

- If requested the Area ONAP may grant an extension for a maximum period of 30 days when warranted by the circumstances of the delay..

2.1.3 Recipient noncompliance

If an APR is not received within three days after its due date, the grant recipient is to be sent a *past due notice/letter of warning*. This notice gives the recipient 30 days to submit an APR. The *past due notice/letter of warning* provides the recipient with notification that an edit has been added to the recipient's line of credit, requiring HUD review of drawdown requests before funds may be disbursed by LOCCS. Regulations at 24 CFR §1000.530(a) state that prior to HUD taking any sanctions provided under section 1000.532 or 1000.538, HUD must take one of the following actions (1) issue a *Letter of Warning/Final Report* advising the recipient of the performance problem, 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 a progress schedule for completing activities or complying with NAHASDA guidelines; (3) advise the recipient to suspend, discontinue or not incur costs for the affected activity; (4) advise the recipient to redirect funding from the affected activity to other eligible activities; (5) recommend the recipient reimburse the program account for improper expenditures; and (6) recommend recipient obtain technical assistance to overcome a performance problem using grant funds or other available resources. A recipient's noncompliance for failure to submit an APR becomes a sanctions issue and the procedure to be followed is stated in the Sanctions Chapter of this Guidebook.

2.1.4 Interface between APR and IHP reviews

The review requirements for the APR are not as stringent as those for reviewing an IHP. The APR describes the recipient's progress in

Tool: APR Extension Letter

Tool: Past Due Notice/Letter of Warning



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accomplishing the goals and objectives that are stated in their IHP. In contrast to the review of an IHP, the purpose of the APR review is not to establish recipient compliance with statutory requirements. The primary purpose of the APR is to provide ONAP with information regarding progress with implementation of the tribe's IHP.

Reviewers' responsibilities include:


- Determining if the report was submitted in a timely manner;
- Determining if it included all required information;
- Providing recommendations on the recipient's plans and on the APR to assist the recipient in improving affordable housing delivery; and,
- Providing comments to the recipient regarding its IHBG performance based on review of information in the report.

The GE Specialist has the flexibility to determine which steps of the review guidelines must be completed to support the reviewer's conclusions and recommendations.

Interface with Overall Performance Assessment: The APR and any reviewer observations and comments made during the APR review serve as the foundation for the Overall Performance Assessment. Reviewing the APR and completing an Overall Performance Assessment should be accomplished within 60 days of receipt of the APR.

APR Review Guidelines: The APR Review Guidelines are divided into two stages, with slightly different objectives. The first stage is to determine if the APR is complete and accurate. The second stage is a detailed evaluation of the APR (1) to determine if the recipient is progressing towards meeting its affordable housing goals and (2) to develop constructive suggestions to the recipient to improve its operations, IHP, and delivery of its affordable housing services.

Receive
APR from
Recipient



2.2 Receive APR from Recipient

2.2.1 Log receipt of APR and Assignment to a GE Specialist

IHBG recipients may submit APRs in hard copy, on diskette, or by the Internet. The GE Director (or Team Leader) of each Area ONAP should



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record the date the APR is received at the Area ONAP and forward the document to the assigned GE Specialist.

Enter APR data into PIC System

The necessary text from the APRs must be entered into the PIC system within 3 days of receipt. For APRs received in hard copy, the program assistant will key or scan them into the system; soft copies on diskette will be loaded electronically into PIC. If the APR hard copy contains an excessive amount of data, then the GE Specialist may decide to input only the essential parts of the report. At a minimum, the following data must be entered:

- Part I: Reporting on the One-Year IHP – Table I and II for each open IHBG
- Part II:
 - Section A – Monitoring – Table III for the reporting
 - Section B – Audits – Questions 1 and 2

2.2.2 Determine completeness of APR Form

The GE Specialist reviews the APR to determine whether it contains the essential components or if additional information is required from the recipient. The GE Specialist should make this determination within 8 working days of the date of receipt.

The essential components of the APR are:

Part I detailing progress on the goals, objectives and performance objectives of each open grant

Table 1 – Sources of Funds

Table II – Uses of Funds

Table III – Inspection of Assisted Housing

The GE Specialist or GE Program Assistant enters complete APR into PIC. Only in exceptional cases will an APR be considered too incomplete for the GE Specialist to review and develop recommendations. In no instance will the review process be halted or “the clock stopped” to await



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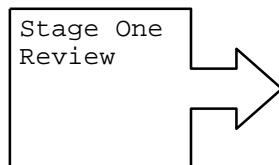
data from a recipient. If the APR is too incomplete to be reviewed, the APR should be rejected.

2.2.3 Confirm receipt of APR

Tool: APR receipt letter

The GE Specialist prepares and sends a letter to the recipient acknowledging receipt of the APR. The GE Specialist may use the *APR receipt letter* template. The letter indicates the date the APR was received and the anticipated date that the APR review will be completed (generally 60 days after the date it was received at the Area ONAP). The letter informs the recipient that additional information or clarification may be requested. The GE Specialist must send this letter by fax or regular mail within 8 days of the date the APR was received. However, this time limit can be adjusted by the GE Division Director to accommodate fluctuations in workload.

2.2.4 Determine if APR content is complete and accurate.

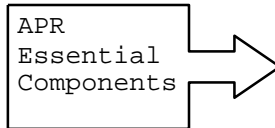


- Read APR for completeness and accuracy.
- Compare available fund amounts in Table I – Sources of Funds to grant award documentation for IHBG and any other HUD grants.
- Compare expenditure amounts to budgeted amounts of Table II – Uses of Funds.
- Compare expenditure amounts of Table II –Uses of Funds to the narrative sections of the APR for internal consistency.
- Determine if the APR is sufficiently complete to acknowledge receipt of the report and indicate it has been accepted for review. If the APR is insufficiently complete, the APR should be rejected.
- Verify mathematical accuracy of Table I – Sources of Funds, Table II – Uses of Funds, and Table III – Inspection of Assisted Housing.
- Review responses to ensure that appropriate questions have been answered and that answers are complete and reasonable. If the recipient indicates this is the final APR for a grant, a copy of the APR must be forwarded to the Grants Management Director to complete the



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close-out procedures identified in NAHASDA Guidance 2000-09 (ONAP), once the review of the APR is complete.



- Determine if the essential components of the APR have been submitted. The essential components of the APR are: Part I detailing progress on the goals, objectives and performance objectives of each open grant; Tables I, II and III; and Part II Section A- Monitoring.

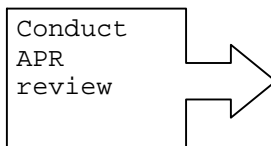
2.2.6 Request additional information from recipient, if needed

If the GE Specialist determines there is missing data, questions about information provided, etc., the GE Specialist is to contact the grantee by telephone requesting the needed information to avoid delays in processing. If the grantee cannot provide the information in a timely manner, generally within 24 hours, the data deficiency or issue should be reflected in the APR review. This request must be confirmed with a letter sent by fax or by regular mail. The GE Specialist may use the *APR receipt and information request letter* template.

Recipients should be given 15 days to respond to a request for additional information. The GE Specialist should log all requests into PIC.

Continue to Stage Two if the essential components are complete and accurate. If the recipient does not submit the essential components within the review period, the APR will be rejected.

Tool: APR receipt and information request letter



2.2.7 Conduct APR Review

The GE Specialist is responsible for conducting the APR review and initiating and tracking all correspondence with the recipient and drafting the report that summarizes the results of the review. The GE Division Director will determine whether AR reviews will be peer reviewed. The PIC system allows the peer reviewer to enter comments.

2.2.8 Answer APR review questions

The GE Specialist answers the APR review questions in PIC. The system allows the GE Specialist to input the answer to only the first part of a



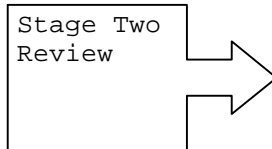
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question. The answers to the other parts of a question should be made as comments to the appropriate sections in PIC.

2.2.9 Identify performance deficiencies

The APR review questions are intended to help the GE Specialist identify performance deficiencies. The GE Specialist should document all deficiencies that emerge from the review so that the deficiencies can be incorporated in the letter to the recipient. Those deficiencies will be incorporated into the recipient performance assessment, which is used as the basis for the risk assessment and monitoring processes.

2.2.10 Read and compare APR to IHP



A. Part I – Reporting on the One-Year IHP

1. For each open grant, compare the goals, objectives and performance objectives with the most recent version of the IHP's One Year Plan:
 - a. Notate any differences between APR and IHP.
 - b. Determine if the differences indicate an amended IHP should be submitted. Title 24 CFR 1000.232 requires a HUD review if the recipient is adding a new activity or decreasing funding to protect and maintain 1937 Housing Act assisted units.
 - c. If a determination is made that an amended IHP should be submitted, confer with the Grants Management Director and appropriate specialist. Notify the recipient in the review letter and provide any comments that could be useful to the recipient in the implementation of its IHP or in the preparation of future housing plans and performance reports.
2. Review responses to questions 2 and 3 of Part I:
 - a. If recipient is behind schedule to complete the 5-year goals and objectives, are the plans to modify its program reasonable and attainable?



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- b. Determine if the modifications require an amended IHP. (Refer to 24 CFR 1000.232)

If an amended IHP should be submitted, confer with Grants Management Director and the appropriate specialist and notify the recipient in the review letter.

3. Review Table I – Sources of Funds and Table II - Uses of Funds for each open grant:

- a. Notate any differences between APR and IHP.
- b. Determine if the differences require an amended IHP.
- c. If amended IHP should be submitted, confer with the Grants Management Director and the appropriate specialist and notify the recipient in the review letter.
- d. Compare expenditure amounts to LOCCS disbursements.
- e. Compare expenditure amounts to audit report for the period, provided the report has been issued and received.
- f. Compare expenditure amounts to monitoring reports.
- g. Compare financial tables to financial tables in prior APRs.
- h. Compare reported investment information to ONAP investment approval file for consistency with HUD approvals.
- i. Compare amount of funds available (Table I) to the expenditure amount (Table II) for reasonableness. For example, did the recipient report expending more funds than available.
- j. Determine if amounts reported are reasonable based on information from narrative sections of APR, audit reports, monitoring reports, prior APRs,

LOCCS disbursements, complaints, investment approval, self-monitoring and tribal monitoring review results, comments from public and tribe and reviewers past experience with recipient.



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- k. Provide any comments based on review that could be useful to the recipient in the implementation of its IHP or in the preparation of future performance reports.

2.2.11 Reporting on Program Year Accomplishments

1. Review Section A – Monitoring
 - a. Review responses to ensure that appropriate questions have been answered and that answers are complete and reasonable.
 - b. Provide any comments based on review that could be useful to the recipient in the implementation of its IHP or in the preparation of future performance reports.
2. Review Table III – Inspection of Assisted Housing:
 - a. Compare total number of 1937 Housing Act funded units to the Formula Current Assisted Housing Stock listing. The Current Assisted Housing unit count for Mutual Help units should decrease over time as the units are paid off and conveyed to the homebuyer. If the unit count has not changed for older Mutual Help projects, this may indicate the recipient is not reporting conveyances properly and timely. Title 24 CFR §1000.318 provides Mutual Help and Turnkey III units are no longer considered Formula Current Assisted Stock when the recipient does not have the legal right to own, operate, or maintain a unit. The right to the unit may cease because of conveyance, demolition or other reasons.
 - b. Review narrative responses to ensure that appropriate questions have been answered and that answers are reasonable.
 - c. Compare inspection policy information to IHP.
 - d. Compare inspection information to narrative sections of the APR for internal consistency.
 - e. Determine if housing inspection data is reasonable based on information from narrative sections of APR, audit reports, monitoring reports, prior APRs, complaints, comments from public and tribe, self-monitoring and tribal monitoring review results and reviewers past experience with recipient.



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- f. Provide any comments based on review that could be useful to the recipient in the implementation of its IHP or in the preparation of future performance reports.
3. Review Section B – Audits:
 - a. Compare to audit file.
 - b. Compare to narrative sections of the APR for internal consistency.
 - c. Determine if an audit is due based upon financial table information.
 - d. Determine if audit information is reasonable based on information from narrative sections of APR, Financial Table II, monitoring reports, complaints, comments from public and tribe, self-monitoring and tribal monitoring review results and reviewers past experience with recipient.
 - e. Provide any comments based on review that could be useful to the recipient in the implementation of its IHP or in the preparation of future performance reports.
4. Review Section C – Public Accountability:
 - a. Compare to narrative sections of the APR for internal consistency.
 - b. Compare to accountability information of previous APRs.
 - c. Determine if accountability information is reasonable based on information from narrative sections of APR, monitoring reports, complaints, self-monitoring and tribal monitoring review results, prior APRs and reviewers past experience with recipient.
 - d. Provide any comments based on review that could be useful to the recipient in the implementation of its IHP or in the preparation of future performance reports.
5. Review Section D – Jobs Created by NAHASDA: Determine if the number of positions is reasonable based on information from



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narrative sections of APR, monitoring reports, complaints, self-monitoring and tribal monitoring review results, prior APRs and reviewers past experience with recipient.

Progress
Review



2.2.12 Overall Assessment of Annual Performance Report

1. Review the recipient's reported progress:
 - a. Determine if the recipient has received ONAP approval for Requests for Release of Funds for any /all applicable projects.
 - b. Notate any occurrences of work beginning before meeting the environmental review requirements.
 - c. Compare reported progress with recent monitoring reports both on- and off-site.
 - d. Does amount of progress reported match available funds from Table I, amount of funds drawn from LOCCS, and expenditure amounts from Table II?
 - e. Does amount of progress reported match information in the audit report for the period?
 - f. Compare to progress reported in prior APRs.
 - g. Determine if reported progress is reasonable given information from narration, financial tables, audit reports, monitoring reports, prior APRs, LOCCS disbursements, recent complaints, self-monitoring and tribal monitoring review results, comments from public and tribe, and reviewers past experience with recipient.
 - h. Provide any comments based on review that could be useful to the recipient in the implementation of its IHP or in the preparation of future performance reports.
 - i. Determine if recipient is fulfilling the responsibility to maintain the 1937 Housing Act units, by comparing the amount expended for operating and modernization of housing units to assisted housing inspection for the current and previous APRs. If the recipient is maintaining the 1937 Housing Act units the number of units needing rehabilitation will fluctuate up and down as the



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recipient rehabilitates units and conducts subsequent unit inspections.

2.2.13 Outputs of the APR review process

The APR review process requires that the GE Specialist record comments on each recipient's performance deficiencies and best practices. Those comments will be incorporated in the *Overall Performance Assessment Report*.

2.2.14 Release of Line of Credit Control System (LOCCS)

LOCCS is a computerized cash management and disbursement system developed for HUD to assist the Office of Finance and Accounting (OFA) in planning, accounting, and evaluating HUD disbursements. LOCCS enforces Program guidelines for document processing by automatically denying payment requests from grantees who do not comply with reporting schedule. As stated in the Recipient noncompliance section of 2.1, three days after the due date of an APR, the grant recipient is to be notified by a Past Due Notice that an edit has been added to the recipient's LOCCS requiring a HUD review before funds can be disbursed. If the APR is received and found to be complete and accurate, the GE Specialist is to release the edit control placed in LOCCS for this grant.



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Chapter Three -- Audit Review Process Guidelines

This chapter provides ONAP staff with guidelines for reviewing independent public auditor (IPA) audits, and for tracking necessary corrective actions by HUD recipients in response to IPA audits and Office of the Inspector General (OIG) audits. It includes the following sections:

- Objectives and overview of the process – 3.1
- Track audit receipt – 3.2
- Conduct compliance review of IPA audit –3.3
- Review cognizant or oversight agency acceptance letter – 3.4
- Review OIG audit report – 3.5
- Outputs of the audit review process

Tools and Templates

- Audit tracking log
- OIG audit tracking log
- Audit delinquent letter
- IPA audit review checklist
- CAP request letter
- CAP acceptance letter
- Federal agency acceptance letter checklist
- Management decision letter

(Background tools and templates are to be found in the Appendix of this Guidebook.)

3.1 Objectives and Overview of the Process

Reports prepared by auditors provide useful information about a recipient's financial situation, use of its resources, internal controls, and



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compliance with HUD regulations. Findings identified in audit reports and the recipient's actions to resolve findings are important inputs for the consolidated annual review, including risk assessment, and monitoring processes.

The GE Specialist has two roles in the audit review process:

- Identify audit findings that require ONAP monitoring to ensure that the recipient takes necessary corrective actions and resolves findings
- Conduct a review of certain audits to ensure that the auditor has complied with OMB Circular A-133 requirements

3.1.1 Who must submit audits?

Any non-Federal entity that expends \$300,000 or more in a fiscal year in Federal funds must submit an annual audit that complies with Office of Management and Budget (OMB) Circular A-133. These are referred to as independent public auditor (IPA) audits.

Grant recipients are responsible for contracting for their required audits and submitting the audits to the Federal Audit Clearinghouse for a completeness review and dissemination to the appropriate Federal agencies. The Federal Audit Clearinghouse will only disseminate audit reports containing findings. Auditees may be a recipient, a subrecipient, or a vendor.

3.1.2 What types of audit reports will ONAP receive?

In general, HUD requires that recipients obtain a single audit that covers all grant funds, in compliance with the Single Audit Act (SAA). If a recipient elects to have multiple program-specific audits, then the recipient may not use grant funds for the additional audits. However, if a recipient not subject to the SAA, because of insufficient Federal fund expenditures, elects to have a periodic financial review such a review would be an eligible program expenditure. The financial review should accompany the annual performance report.



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IPA audit reports on TDHEs

ONAP may be the cognizant or oversight agency for TDHEs and would conduct the A-133 compliance review for content of IPA audits. The cognizant or oversight agency is responsible to:

1. Provide technical audit advice and liaison to auditees and auditors.
2. Consider auditee requests for extensions to the audit report submission date. Cognizant agencies may grant extensions for good cause.
3. Conduct quality control reviews of selected IPA audits and provide the results to other interested organizations with an acceptance letter.
4. Promptly inform other affected Federal agencies and law enforcement officials of irregularities or illegal acts.
5. Advise the auditor and, where appropriate, the auditee of any deficiencies found in the audits that require corrective action by the auditor.
6. Coordinate, as practical, audits or reviews in addition to the SAA audit, so that additional audits build upon the SAA audit.
7. Coordinate management decisions for audit findings that affect the programs of more than one Federal agency.
8. Coordinate the audit work and reporting responsibilities among auditors to achieve the most cost-effective audit.

ONAP also is responsible for issuing management decisions on audit findings related to HUD programs within six months after recipient of the audit report and ensuring that recipients take appropriate and timely corrective action.

Federal Agency acceptance letters on tribal IPA audits

The Departments of the Interior (DOI), Health and Human Services (HHS) and Education (DOE) may have cognizant or oversight responsibilities for tribal entities. These responsibilities, listed above, include conducting the A-133 compliance review for content of IPA audits for tribal grant recipients, providing assistance to the auditor and the auditee, and sending an acceptance letter to other Federal agencies



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identified in the audit report. The cognizant or oversight agency is responsible for sending an acceptance letter to the recipient and to other Federal funding agencies that confirms compliance and identifies all findings. Acceptance letters will only be sent if the IPA audit report contains findings. ONAP is responsible for ensuring that recipients address audit findings on HUD grants and awards.

OIG audit reports on recipients

An audit by the OIG is usually triggered by a report of misuse or abuse of Federal funds. It also may be triggered by IPA audit findings. The OIG conducts investigations that determine whether: a recipient is in compliance with the terms of its grants; grant funds have been used appropriately; locally adopted policies are being observed; and operations are proper, efficient, and economical. The OIG is an independent entity that is responsible directly to the HUD Secretary and to Congress. HUD policies governing OIG audits are found in HUD Handbook 2000.06, Rev 3, Audits Management System. ONAP is responsible for ensuring that recipients address OIG audit findings.

SUMMARY OF AUDIT TYPES

Type of Audit	Responsible Agency	ONAP responsibility
Independent Public Accountant	ONAP Cognizant or Oversight Agency	Conduct a review to ensure that the auditor complied with the requirements outlined in OMB Circular A-133 on reports containing findings Transfer auditor's findings to the recipient <i>audit tracking log</i> and monitor progress on necessary corrective actions
Independent Public Accountant	Other Federal Agency is the Cognizant or Oversight Agency	Transfer auditor's findings relating to HUD programs to the recipient <i>audit tracking log</i> and monitor progress on necessary corrective actions



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Type of Audit	Responsible Agency	ONAP responsibility
HUD OIG		Transfer auditor’s findings to the recipient <i>audit tracking log</i> , monitor progress on necessary corrective actions, and track findings through the Departmental Automated Audit Management System (DAAMS).

3.1.3 Audit report submission requirements

An auditee must submit a complete reporting package to the Federal Audit Clearinghouse. A reporting package includes: Financial statements and schedules of Federal award expenditures, a summary schedule of prior audit findings, the auditor’s report and a corrective action plan.

Additionally, an auditee must submit an OMB data collection form (Form SF-SAC) and a report package for each Federal funding agency for which the audit report identifies findings or gives the status of previous audit findings. For those grant recipients when ONAP is not the cognizant or oversight agency, a courtesy copy of its audit report must be submitted to ONAP when submitting its APR (24 CFR §1000.548).

The recipient must submit the audit report and OMB data collection form SF-SAC, to the Federal Audit Clearinghouse. The Clearinghouse will:

- Distribute audit reports
- Maintain a database of completed audits
- Provide appropriate information to Federal agencies
- Follow up with recipients that have not submitted the required data collection forms and reporting packages

Audit due date

The recipient must submit a complete audit report and data collection form within 30 days after receipt of the auditor’s report or 9 months after the end of the audit period, whichever is earliest. The agency responsible for compliance review may agree in advance to extend the submission period (*A-133, .320(a) and .300(e)*).



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3.1.4 Sanctions for noncompliance with audit requirements

In cases of continued inability or unwillingness to have an A-133 audit, HUD may impose sanctions. According to A-133, .225, it may:

- Withhold a percentage of Federal awards until audit is completed satisfactorily
- Withhold or disallow overhead costs
- Suspend Federal awards until the audit is conducted
- Terminate the Federal award

3.1.5 Reference documents on audit review

These documents may be found at the following Internet addresses:

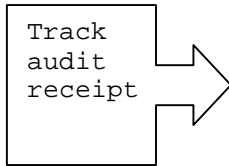
- OMB Circular A-133 Compliance Supplement for current and past years: <http://www.whitehouse.gov/omb/grants/#circulars.html>
- PIH Notice 98-14: <http://www.hud.gov/pih/publications/notices/pih98-14.pdf>
- Form SF-SAC, Data Collection Form for Reporting on Single Audits: <http://harvester.census.gov/fac/collect/formoptions.html>
- AICPA Illustrative OMB Circular Reports Examples: <http://www.aicpa.org/belt/a133.htm>

3.1.6 Audit review, risk assessment, and monitoring

The audit review is the primary source of data on a recipient's financial and internal controls. This information is essential to rating recipient risk. Audit report findings will be entered in the *audit tracking log*, so the findings can be tracked on an ongoing basis. Audit report findings should be carefully considered in the design of the monitoring strategy for a recipient so that ONAP resources (staff time and travel) are allocated effectively.



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Tool: audit tracking log

Tool: audit delinquent letter

3.2 Track audit receipt

3.2.1 Create audit tracking log

The GE Specialist will use the *audit tracking log* to record expected receipt dates of all audit reports for assigned recipients. This can be used by individual GE Specialists to prompt requests for delinquent audit reports and by the GE Division Director to help with scheduling and assignments.

3.2.2 Request delinquent IPA audit

The GE Specialist should identify and contact recipients that have not submitted an IPA audit with the APR to discuss any problems that may be causing a delay and to determine a new audit submission date. The GE Specialist must follow up the phone call with a letter to the recipient that confirms the new agreed-on audit due date and should record this in the "Notes and Comments" column in the *audit tracking log*. The GE Specialist may use the *audit delinquent letter* template.

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. For these reasons, the GE Specialist must document all recipient deadlines missed and the recipient's explanations for delays.

3.2.3 Log audit receipt

The GE Program Assistant will record the date that all audit reports are received at the Area ONAP in the *audit tracking log*.

Unique audit identifier

The GE Specialist creates a unique identifier for each audit in the *audit tracking log*. Identifiers should allow for tracking of audits and their findings over a several-year period. One suggested method is to create a unique number by using the fiscal year as a prefix followed by a recipient number. For example, 98CA143 refers to the 1998 audit for the Karuk



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Tribe IHA. An additional alpha identifier can be used to denote additional audits commissioned by the recipient.

OIG audit reports

These audit reports will be addressed to the Action Official in the Area ONAP, who is usually the Administrator. An OIG audit may be received by regular mail or accessed on the OIG web page. The Action Official is the local official accountable for tracking required corrective actions and closing OIG findings. Usually, the GE Specialist will handle the day-to-day monitoring and recipient support activities required to resolve OIG findings.

An OIG audit report has a unique number assigned when it arrives at the Area ONAP. The Action Official and GE Specialist are required to use tools developed by the OIG to track and document progress on resolving findings. They also may choose to use the *OIG audit tracking log* to track their cases.

Tool: OIG audit tracking log

Conduct
compliance
review of
IPA audit

3.3 Conduct compliance review of IPA audit

The GE Division Director will determine who has responsibility for the A-133 compliance reviews for content of IPA audit reports. The audit reviews may be part of each GE Specialist's duties or may be assigned to selected individuals who have special knowledge.

3.3.1 Review IPA audit for completeness

The Federal Audit Clearinghouse will review the IPA audit report to determine if it is complete. A complete (i.e., A-133 compliant) audit contains the following components:

- Auditor's opinion on the presentation of financial statements and schedule of expenditures of Federal awards;
- Financial statements;
- Schedule of expenditures of Federal awards;
- Auditor's report on compliance;
- Auditor's report on internal controls;
- Schedule of findings and questioned costs;



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- Summary schedule of prior audit findings; and
- Corrective action plan, if findings identified.

3.3.2 Complete IPA audit review

Clearinghouse only forwards audit reports containing findings.

If the audit is complete, the Federal Audit Clearinghouse will notify the cognizant or oversight agency that a complete audit report was received by posting the audit information to their website at <http://www.harvester.census.gov/sac/dissem/accessoptions.html>. **For those audit reports containing findings, the Clearinghouse will forward a copy of the audit report package to the cognizant or oversight agency. The cognizant or oversight agency will conduct a quality control review on those audits received from the Clearinghouse.**

Assign unique identifier to each finding

Each audit finding that pertains to a HUD program should be assigned a unique identifier. For example, if 98CA143 represents the Karuk Tribe IHA audit for fiscal year 1998, 98CA143: 6 could be used to identify finding #6 from that audit. The GE Specialist uses the finding identifier when entering a finding in the *audit tracking log* or when describing a specific finding in correspondence with the recipient.

Follow IPA audit review checklist

If ONAP is the cognizant or oversight agency, the GE Specialist should use the *IPA audit review checklist* as a guide for determining the audit's compliance with the SAA and OMB A-133. The GE Specialist answers each audit review question in the *checklist* and enters observations in the "Notes and Comments" field. The GE Specialist uses the last page of the *checklist* to note if the audit is compliant, to summarize the rationale for this determination, and to list audit findings.

The GE Specialist should be alert for indications of noncompliance with HUD program regulations and weaknesses in the operations of the recipient. If indications of problems are found, further review is warranted to determine the extent of the deficiency.

The best places to look for indications of problems are in the auditor's written opinion, notes to the financial statement, findings, required supplemental information, or letters to management. Often these areas

Tool: IPA audit review checklist



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will contain information relating to weaknesses, irregularities, or instances of noncompliance in the operations of the program participant.

Weaknesses or questionable practices provide opportunities for many types of abuse to occur. Left uncorrected, the chances for fraud, waste, or mismanagement increase. At times this information is obvious, but sometimes the GE Specialist must analyze the accounts or accompanying schedules. What follows are some warning signs that a problem exists or that further analysis is necessary. Since certain warning signs will not be applicable to all HUD programs, the GE Specialist must exercise judgment when making an analysis.

- Reports with qualified, adverse, or no opinions
- Weaknesses in internal, administrative, or accounting controls
- Poor or improper procurement practices or procedures not followed
- Costs questioned because of a lack of documentation
- Inadequate accounting records
- Unusual or significant changes in assets or liabilities
- Large accounts receivable balances
- Negative cash flow
- Unusual expenses or payments to identity-of-interest firms or related parties

Compare the balance sheets for the previous and current year. Significant changes in accounts or line items between years are also warning signs. Determine why the changes exist. Look especially for changes in:

- Accounts receivable
- Asset accounts
- Liabilities and surplus

If certain expenses appear to be excessive, then compare the amount to the expenses of similar program participants or to amounts reported in prior years.

Review supporting schedules and verify that beginning balances agree with the previous years ending balances.

The GE Specialist should obtain an explanation of each discrepancy from the IPA and/or the recipient. It is important to determine whether



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questionable items, balances, transactions, or procedures are appropriate and within program regulations and requirements. Discrepancies may occur in situations where an IPA is unfamiliar with HUD programs and may not report departures from regulations and requirements appropriately. If there are numerous discrepancies, the reviewer also should check to ensure that the IPA is (or works for) a certified public accountant or is (or works for) a public accountant licensed on or before December 31, 1970. Occasionally, program participants try to hide problems by engaging an unqualified IPA.

If the GE Specialist is concerned about the integrity of the auditor or auditing firm then these issues should be discussed with the GE Division Director for possible actions such as debarment or limited denial of participation.

If the GE Specialist believes that an additional audit should be conducted, then they should inform the GE Division Director who will inform the recipient. Recipient cost for commissioning an additional audit requested by ONAP is an allowable expense.

3.3.3 Evaluate recipient's corrective action plan

Recipients are required to submit a corrective action plan that will address all findings cited in the audit report (A-133, .320(c)(4)). If the recipient did not agree with the audit findings or believes corrective action is not required, then the recipient's corrective action plan should cite reasons. The GE Specialist should review the recipient's corrective action plan to determine whether the corrective actions are appropriate and responsive to the audit findings.

3.3.4 Notify recipient of audit review results

Issue compliance letter

If the audit is in compliance and the corrective action plan is responsive to the findings, the GE Specialist prepares a letter for signature by the GE Division Director that confirms compliance and acknowledges acceptance of the plan. The GE Specialist may use the *CAP acceptance letter* template.

*Tools: CAP acceptance letter,
CAP request letter*



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Request revised corrective action plan

If the recipient's corrective action plan is inadequate, then the GE Specialist should use the *CAP request letter* template to request a corrective action plan that is responsive to all findings. The GE Specialist should refer to findings using the same identifiers and descriptions entered in the *audit tracking log* and provide suggestions for an acceptable corrective action plan. Recipients must submit a responsive corrective action plan within 30 days of receiving their *CAP request letter*. For this reason, the GE Specialist should send the letter certified mail.

Implement management decision

If the recipient fails to submit a responsive corrective action plan within the 30-day time period, ONAP will issue a management decision, which outlines corrective actions that the recipient must take. The GE Specialist uses the *management decision letter* template to list all audit findings (finding numbers and descriptions), identify required corrective actions, and supply target dates. The GE Division Director reviews, revises if necessary, and signs the letter. The GE Specialist should transfer the management decisions to the *audit tracking log*.

If the recipient fails to comment on the management decision within 45 days, the GE Specialist should discuss the situation with the GE Division Director. If the GE Specialist and GE Division Director believe that a sanction action should be initiated (*Part 85 or the regulations at 24 CFR 1000 or 1003*), the GE Division Director should request that the Administrator convene an Enforcement Panel.

Deficient administrative capacity

If the GE Specialist believes that the audit report reveals a serious problem with the recipient's administrative capacity, the Area ONAP management team should develop specific plans for intervention.

3.3.5 Monitor recipient's progress and update overall risk rating

The GE Specialist should transfer all findings, corrective actions, management decisions, and target dates to the *audit tracking log*. The GE Specialist should monitor and document the recipient's progress in taking corrective actions and keep the GM staff informed in case technical

Tool: management decision letter

The AREA ONAP management team is comprised of the GE & GM Division Directors and the Administrator



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assistance is needed to close findings. The recipient has 1 year to close out all management decisions. The GE Division should update the *audit tracking log* and *risk assessment workbook* with status updates and finding closure dates.

On occasion, circumstances or events occur that may delay the completion of the corrective action plan. See Audits Management System Handbook, HUD Handbook 2000.06 Rev-3, for procedures to address this issue.

Review
Federal
Agency
Acceptance
Letter

3.4 Review Cognizant or Oversight Agency acceptance letter

3.4.1 Document receipt of acceptance letter

The GE Specialist uses the *Federal agency acceptance letter checklist* to verify that the recipient submitted all normal components of the audit.

Assign unique identifier to each finding

Each audit finding should be assigned a unique identifier. The finding identifier can follow the format described for IPA audit findings in section 1.3.2. The GE Specialist must transfer the findings, action plans, and target dates to the *audit tracking log*.

3.4.2 Evaluate recipient's corrective action plan

The GE Specialist is responsible for tracking findings cited in the cognizant or oversight acceptance letter and corrective actions taken by the recipient. Follow procedures outlined in section 3.3.3.

Request revised corrective action plan

If the recipient's corrective action plan is inadequate, then the GE Specialist should use the *CAP request letter* template to request a corrective action plan that is responsive to all findings. The GE Specialist should refer to findings using the same identifiers and descriptions entered in the *audit tracking log*. Recipients must submit a responsive corrective action plan within 30 days of receiving their *CAP request letter*. For this reason, the GE Specialist should send the letter certified mail.

***Tool: Federal Agency
acceptance letter checklist***



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Implement management decision

If the recipient fails to submit a responsive corrective action plan within the 30-day time period, ONAP will issue a management decision, which outlines corrective actions that the recipient must take. The GE Specialist uses the *management decision letter* template to list all audit findings (finding numbers and descriptions), identify required corrective actions, and supply target dates. The GE Division Director reviews, revises if necessary, and signs the letter. The GE Specialist should transfer the management decisions to the *audit tracking log*.

If the recipient fails to comment on the management decision within 45 days, the GE Specialist should discuss the situation with the GE Division Director. If the GE Specialist and GE Division Director believe that a sanction should be initiated (*Part 85 or the regulations at 24 CFR §§1000 or 1003*), the GE Division Director should request that the Administrator convene an Enforcement Panel.

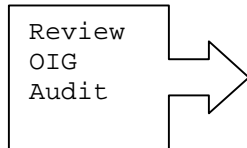
Deficient administrative capacity

If the GE Specialist believes that the audit report reveals a serious problem with the recipient's administrative capacity, the Area ONAP management team should develop specific plans for intervention.

3.4.3 Monitor recipient's progress and update overall risk rating

The GE Specialist should transfer all findings, corrective actions, and target dates to the *audit tracking log*. The GE Specialist should monitor and document the recipient's progress in taking corrective actions and keep the GM staff informed in case technical assistance is needed to close findings. The recipient has 1 year to close out all management decisions. The GE Specialist should update the *audit tracking log* and *risk assessment workbook* with status updates and finding closure dates.

On occasion, circumstances or events occur that may delay the completion of the corrective action plan. See HUD Handbook 2000.06 Rev-3 for procedures to address this issue.



Tool: OIG audit tracking log

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3.5 Review OIG audit report

3.5.1 Update Area ONAP tools

The GE Specialist enters OIG audit findings and recommendations and in the *OIG audit tracking log* and/or the *audit tracking log* and update the *risk assessment workbook* to reflect the results of the OIG audit.

OIG findings identification

Each OIG audit finding has been assigned a unique identifier; the GE Specialist should use the finding identifiers when entering a finding in the *audit tracking log* or when describing a specific finding in correspondence with the recipient or OIG.

3.5.2 Request a corrective action plan

The GE Specialist must contact the recipient within 15 calendar days after the OIG audit report issue date to request a written description of the recipients corrective action plan for addressing the OIG findings. The letter to the recipient should list all OIG findings and recommendations and request that the recipient respond in writing within 45 calendar days after the report issuance date. The letter is signed by the Action Official and should be sent certified mail. See the sample letter in the OIG Handbook.

3.5.3 Develop management decision

- A management decision consists of the following elements:
- Recommendation: Restate the recommendation to ensure the management decision includes all elements of the recommendation
- Current status: Describe progress to date and any shortcomings or problems
- Planned task: If recommended actions are not complete, describe the tasks that will lead to completion; descriptions should include who will take the action and how ONAP will monitor progress



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- Final action target date: If the recommended actions are not complete, provide a target date for final action

Refer to the Audits Management System Handbook for sample memos and procedures for developing management decisions (Appendix A8 - A12).

The GE Specialist may be asked to assist the Action Official in developing a management decisions memo for OIG approval. A management decision is finalized when OIG concurs with the Action Official's recommended actions. If the Action Official and the OIG cannot reach agreement on a management decision within 120 days of the audit issue date, then the management decision is referred to the Assistant Secretary for PIH and to the Headquarters OIG.

3.5.4 Report status

The Action Official must send a status report covering each recommendation to the issuing District Inspector General for Audit (DIGA) 60 days after the report is issued. A status report should include both actions taken by the recipient and actions taken by ONAP. See Appendix 6 of HUD Handbook 2000.06 Rev-3 for sample status reports.

By the 120th day after the audit was issued, the Action Official must submit a summary report to DIGA on management decisions. Management decisions should be finalized if possible by the 110th day after the audit was issued to ensure that management decisions are approved on or before the deadline imposed by the Audits Management System. Management decisions must be entered into Departmental Automated Audits Management System (DAAMS) by the 180th day of audit issue.

Departmental Automated Audits Management System (DAAMS)

DAAMS is HUD's official system to track the status of corrective actions prescribed by OIG audits. The data recorded in the system is available for HUD managers and is used by the Inspector General in the semiannual report to Congress.

Data from OIG audit reports recorded in DAAMS include:

- Identification of the Action Office (ONAP Area ONAP)



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- Description of the report's findings and recommendations
- Classification of each recommendation made by the report
- Due date for each required management decision
- Cost data for each recommendation

3.5.5 Track corrective actions and communications

The GE Specialist should track and document all recipient corrective actions outlined in the management decision using the *OIG audit tracking log*. Corrective actions should be completed not more than 1 year from the date the management decision was made. DAAMS should be updated as needed with all applicable actions and dates.

3.5.6 Close audit findings

When a corrective action is completed, the GE Specialist will prepare the certification package for the Action Official. The certification package consists of a Final Action Certification, a copy of the management decisions, and appropriate back-up documents to support closing the finding(s). Copies of the forms can be found in HUD Handbook 2000.06 Rev 3, Appendix A. The Action Official sends the certification package with accompanying memo to the Primary Audit Liaison Officer in the appropriate region.

For audits issued to recipients located west of the Mississippi River (regions 6, 7, 8, 9, and 10), the address is:

Western Primary Audit Liaison Officer
U.S. Department of Housing and Urban Development
P.O. Box 2905
1600 Throckmorton Street
Fort Worth, TX 76113-2905

For audits issued to recipients located east of the Mississippi River (regions 1, 2, 3, 4, and 5), the address is:

Eastern Primary Audit Liaison Officer
U.S. Department of Housing and Urban Development
Pennsylvania State Office
Wanamaker Building
100 Penn Square East



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Philadelphia, PA 19107-3380

3.6 Outputs of the Audit Review Process

The audit review process should generate the following outputs that will be used as inputs to the risk assessment and monitoring processes and other office functions:

- Letters to recipients
- Corrective action plans
- Management decisions

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Chapter Four -- Risk Assessment Process Guidelines

This chapter provides ONAP staff with guidelines for completing the risk assessment process for HUD grant recipients. It includes the following sections:

- Objectives and overview of the risk assessment process – 4.1
- Review recipient grant(s) – 4.2
- Rate recipient risk –4.3
- Create draft Area ONAP monitoring plan –4.3
- Create national monitoring plan 4.4

Tools and Templates

- Risk assessment factor overview
- Risk assessment workbook (the workbook)
- Risk assessment summary

(Background tools and templates are to be found in the Appendix of this Guidebook.)

4.1 Objectives and Overview of the Process

The objectives of the risk assessment process, with respect to exercising ONAP's public trust responsibilities, are as follows:

- Identify recipients whose grants or projects have a higher risk of implementation problems or failure or have the potential for significant adverse impact on the federal investment
- Develop recommendations on the types of technical assistance that may be needed by specific recipients
- Use recipient risk ratings to develop Area ONAP monitoring plans, the national monitoring plan, and monitoring strategies for individual recipients

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- Allocate ONAP monitoring resources to recipients with the highest risk ratings
- The establishment or validation of recipient risk will be used to identify those recipients whose grants or projects have a higher risk of implementation problems or failure so that limited HUD resources can be more effectively and efficiently focused on monitoring and the provision of technical assistance.
- As discussed below, the annual deployment of HUD GE resources for recipient monitoring will take into consideration the potential for significant adverse impact on the federal investment, as measured by annual grant amount, in addition to recipient risk. The frequency of monitoring of a recipient, i.e., how often it will be monitored over time, will also be directly related to annual grant amount.

4.1.1 Key assumptions

The risk assessment method to evaluating grant recipients is based on three assumptions:

- Grant recipients vary in their administrative capacity to undertake and manage their grants
- ONAP resources (time and travel funds) should be allocated to monitoring those grant recipients at highest risk of failure
- Grant recipients where the management capacity is weakest are at highest risk of failure

4.1.2 Approach used in rating of risk

Each Area ONAP can determine which approach they prefer to use in evaluating grants and recipients, either on a continuous basis or annually. Whichever approach is chosen, all GE Specialists in the office should follow it. At the time of the office review, the Area ONAP will apprise the Denver Program Office of the approach chosen.

Under the first approach, the GE Specialist would evaluate and analyze available information on a grant recipient on a continuous basis throughout the year. Periodically (at least quarterly), the GE Specialist will validate risk scores for each grant recipient by a systematic analysis, which is described below. The other approach an Area ONAP may



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determine to use is to evaluate and analyze the available information on an annual basis, concurrently with the Overall Performance Assessment.

4.1.3 Systematic rating of risk

To evaluate grants and recipients requires that the GE Specialist analyze available information on a grant recipient using the approach that the Area ONAP selected, as explained above. The GE Specialist will validate risk scores for each grant recipient by a systematic analysis of all written documentation related to a recipient and its grant(s) and ONAP staff members' knowledge of the recipient's current and past performance.

This systematic analysis produces an overall risk rating. The primary tool that guides GE Specialists through the risk assessment process is the *risk assessment workbook*. The *risk assessment workbook* is built on 13 risk factors developed by the GE project team. Simply put, the risk assessment process takes place when GE Specialists rate the recipient's level of risk on each of the 13 applicable factors and enters a risk value (a numerical rating) on each factor into the *workbook*. The *workbook* then calculates the overall risk rating for that grant recipient.

Under the first approach, *risk assessment workbooks* will be updated throughout the year as new information related to the 13 risk factors becomes available to ONAP GE Specialists. For example, if ONAP receives valid complaints about a recipient's performance, the risk factor on third-party observations will be reviewed and updated as needed. An advantage to this approach is that regular updates to the *risk assessment workbooks* will make the annual preparation of each Area ONAP monitoring plan less labor intensive over time. If the second approach is used, the GE Specialist will update the *risk assessment workbook* at the time the Overall Performance Assessment is conducted. Information that is received throughout the year would then be maintained in the recipient file to be evaluated during the Overall Performance Assessment process.

In June 1999, *risk assessment workbooks* were prepared for the first time for all HUD grant recipients with open grants at that time. This first set of ratings serves as a baseline for future ratings of the same grant recipients. All new grant recipients will need to have new *workbooks* prepared. Once created, however, there will be no need to start a new

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workbook on that recipient. It will continue to be used and updated, as needed.

4.1.4 Risk assessment and technical assistance

The risk assessment process may reveal issues and problems that suggest that technical assistance is needed. Therefore, GE Division will develop recommendations on what types of technical assistance are likely to be helpful to the recipient and might reduce the risk rating. GE staff members are not responsible for providing formal technical assistance to grants recipients.


4.1.5 Risk assessment and monitoring

- The Denver Program Office provides a funding list of all grant recipients from the last funding cycle. These grant recipients will be divided into three categories:
- Those grant recipients whose total amount awarded in the last funding cycle was over \$10 million;
- Those recipients whose total grant award is between \$300,000 and \$10 million; and
- Those recipients who were awarded HUD grants that totaled less than \$300,000 during the last funding cycle.
- The GE Specialist, in consultation with the GE Director, will adjust the classification for a particular grant recipient, when the classification is the result of being skewed by the recipient's receipt of an exceptionally large grant during the latest funding cycle.
- Those recipients who receive annual grants in excess of \$10 million will be monitored on site annually, unless no significant findings were established during the last review and their risk assessment score is 70 or less. If this is the case, they will be monitored at least once every 3 years.
- Those grant recipients who receive annual grants totaling between \$300,000 and \$10 million, will be monitored on site every 3 years, unless no significant findings were developed during the last review and their risk assessment score is 70 or less. If this is the case, they will be monitored at least once every 5 years.

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- Those grant recipients who receive annual grants totaling less than \$300,000 will be selected for on-site monitoring on the basis of a random sample to be selected from all recipients in this category. The Director of the Area ONAP GE Division and the Director of the Office of Grants Evaluation (Denver Program Office) will determine the size of this sample based on the projected availability of GE resources. No recipient in this category will be monitored more frequently than once every 3 years unless extraordinary circumstances require a greater frequency. If selected, a risk assessment will be completed or validated for the recipient for use in developing a Monitoring Strategy.
- Each Area ONAP GE Division will ensure that their *risk assessment workbooks* are up to date in June of each year to prepare the Area ONAP and national monitoring plans. In July of each year, Area ONAP GE Division Directors will prepare draft Area ONAP monitoring plans for submission to the Program Office GE Director. The Program Office GE Director will consolidate and rank all Area ONAP monitoring plans and will work with the Area ONAP GE Division Directors to create a national monitoring plan. The GE Division Directors and Program Office GE staff will review and revise the national monitoring plan periodically over the year to reflect changes in recipient risk.

Review
Recipient
Grants



4.2 Review Recipient Grant(s)

4.2.1 Review the risk assessment factor overview and the risk assessment workbook

Tools: risk assessment factor overview, risk assessment workbook

The *risk assessment factor overview* provides definitions of the risk factors, a description of their intent, impacts (factor weights), and general guidelines on how to interpret the statements in the *workbooks*.

The GE Specialist should review the intent and questions for all factors in the *risk assessment workbook*. The *risk assessment workbook* is used to rate the recipient's level of risk on each factor and to calculate the recipient's overall risk. The *workbook* also provides space to record the GE Specialist's notes that show their rationale for each assessment and suggestions for technical assistance.



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4.2.2 Identify and review grant(s) to be assessed

Each GE Specialist will evaluate their assigned group of grant recipients. The GE Specialist will review all grants funded by HUD for each recipient assigned and will assemble and review all available documents associated with each recipient's open grants.

4.2.3 Assemble and review risk assessment documents

For each recipient, the GE Specialist should assemble and review the following documents:

- LOCCS Drawdown Reports
- Indian Housing Plans
- Independent Fiscal Audits
- Office of the Inspector General Audits
- Annual Performance Reports
- Annual Status Reports
- SF 272 and SF 272-I
- Minority Business Enterprise Reports
- Citizen/Community Complaints
- Correspondence
- Media Reports
- Enforcement Actions
- Monitoring Reports
- Environmental Review Reports
- Litigation
- Contractor Complaints
- Other Agency Findings or Issues

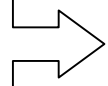
4.2.4 Discuss recipient with other ONAP staff

The GE Specialist should discuss the recipient with other ONAP staff members who have relevant knowledge of the recipient's performance

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and capabilities. The GE Specialist should request specific examples and evidence and must document those discussions by taking careful notes of the date(s), staff involved, and issues covered. This documentation could play an important role in justifying risk ratings and other ONAP actions.

Rate
Recipient
Risk



4.3 Risk assessment workbook

The GE Specialist completes the identifying information called for in the top lines of the *risk assessment workbook*. These include the recipient's name, relevant programs (grants assessed), the date of the assessment, and the GE Specialist's name. If the GE Specialist is revising existing workbooks, be sure to review and update this identifying information, as appropriate.

4.3.1 Enter ratings and assessment notes for all risk factors

Follow the instructions in the *workbook* for each factor. The GE Specialist must enter a risk value for every factor. In general, the higher the value, then the higher the level of risk. Enter the assigned risk value in the top-most cell in the column titled "Assigned Level of Risk." Do not enter any values in the column headed "Factor Risk Rating." This will be calculated automatically.

The *workbook* uses the following values:

- Low level of risk: 1–3 points
- Moderate level of risk: 4–7 points
- High level of risk: 8–10 points

Most risk factors allow the GE Specialist to assign a value somewhere in the ranges noted above. For those factors, the GE Specialist should use judgment within that range. The exception is that some risk factors require the assignment of a specific value (e.g., factors 1 and 10).

Review the data sources listed for each factor, and select the risk level that most closely matches the characteristics of the recipient and its grant performance. It is not necessary for a recipient to satisfy all bullets in a risk level. The GE Specialist uses judgment to select a factor risk level that most closely matches the recipient or its grant performance.



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If a factor does not apply to the recipient being evaluated, then enter a value of zero in the "Assigned Level of Risk" column for those factors. For example, if the recipient has not received IHBG funds, factors 3 and 11–13 will not apply to that recipient. Or, if the recipient has received IHBG funds, but has no 1937 Housing Act units, factors 12 and 13 will not apply to the recipient. In both instances, a risk value of zero should be entered in the "Assigned Level of Risk" column for those factors.

The GE Specialist writes the rationale for each risk factor rating in the "Assessment Notes" column of the *workbook*. Be specific in describing findings, concerns, and comments because this information will be used to develop the monitoring strategy for the recipient and will support any technical assistance recommendations made to GM staff.

4.3.2 Risk assessment workbook totals

The next step is for the GE Specialist to complete the *risk assessment workbook* by completing the "totals" page. First, verify that the column "Actual Risk Score" is filled in. This column represents the sum of the 13 factor risk ratings and will be calculated automatically. The "Overall Risk Rating" column also will be calculated automatically.

Select and circle the appropriate score total based on the "Recipient Type":

- IHBG recipient (sum of factors 1–13)
- IHBG recipient/no 1937 Act units (sum of factors 1–11)
- Non-IHBG recipients (sum of factors 1–9)

4.3.3 Recommend technical assistance, if applicable

Carefully review the assessment notes for each factor to develop recommendations for technical assistance, if necessary. Technical assistance recommendations should be entered on the "actions" page of the *workbook*.

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4.3.4 Recommend how each recipient should be monitored

Based on the validated risk rating, the GE Specialist proposes on-site or remote monitoring for each recipient and enters this choice on the “actions” page. In general, on-site monitoring is considered necessary if:

- The recipient has received total annual HUD funds greater than or equal to \$10 million
- Overall risk rating is 70 or greater (this rating may change over time)
- No HUD on-site visit has occurred in 5 years or more (the GE Specialist should consult the *monitoring log* chart for an up-to-date record of all on-site visits, and the dates of the next required maintenance visit)

In general, all other recipients are candidates for remote monitoring.

The GE Specialist may consider using remote monitoring for recipients with scores greater than 70. Such an exception might be made if, for example, monitoring involves issues that can be tracked by using documents submitted by the recipient or if the GE Specialist has proposed technical assistance that is likely to reduce the risk.

4.3.5 Estimate costs for on-site monitoring, if applicable

Enter an estimate of the hours and travel costs for an on-site visit on the “actions” page of the *workbook*. Consider the number of days that ONAP staff will spend on site and the types of staff needed to conduct the monitoring (including contractors).

4.3.6 Review workbook with GE Division Director

The GE Specialist reviews all draft *risk assessment workbooks* with the GE Division Director to validate the ratings and to discuss both technical assistance and monitoring recommendations. The GE Specialist will make any revisions to the *workbook* requested by the Division Director, who is responsible for the overall consistency of Area ONAP risk ratings and monitoring types and costs.

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4.3.7 *Submit completed workbooks*

All completed *workbooks* should be submitted to the GE Program Assistant. The GE Program Assistant consolidates all recipient ratings for the Area ONAP.

Create
Draft Area
ONAP
Monitoring
Plan

4.4 *Create Draft Area ONAP Monitoring Plan*

4.4.1 *Record individual risk assessments*

The GE Program Assistant will assemble all Area ONAP *risk assessment workbooks* in order to do the following:

- Transfer recipient names, overall risk rating, monitoring type, and monitoring costs from all *workbooks* onto the *risk assessment summary* sheet.
- Sort all recipients on the *summary* sheet by overall risk rating, from high risk to low risk.

4.4.2 *Schedule monitoring*

- The GE Division Director decides which quarter of the fiscal year a recipient should be monitored and enters this information on the *summary* sheet. In general, this decision is influenced by possible travel difficulties due to weather conditions in the recipient's location and the availability of travel funds throughout the fiscal year. Beyond these primary considerations, the GE Division Director may schedule higher risk recipients for monitoring earlier in the year. Since remote monitoring tends not to be as urgent, the GE Division Director may schedule this activity to occur later in the fiscal year.

4.4.3 *Review and approve the Area ONAP monitoring plan*

The Area ONAP management team will review the *risk assessment workbooks* and *summary* sheet in order to complete the Area ONAP monitoring plan. The team will discuss and agree to both the monitoring plan and the proposals for technical assistance that emerged during the risk assessment process. The Administrator should resolve any

*Tool: risk assessment
summary*

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difficulties (differences in approach, anticipated resource shortages) at this time.

4.4.4 Submit Area ONAP monitoring plan

A complete and approved *summary* sheet is the draft Area ONAP monitoring plan. If the Area ONAP management team anticipates the Area ONAP will be unable to execute the plan as submitted (owing to resource shortages, for example), the GE Division Director should explicitly describe the concerns in a cover memorandum to the Denver Program Office. The GE Division Director transmits the draft Area ONAP monitoring plan to the Denver Program Office GE Director electronically.

Create
National
Monitoring
Plan



4.5 Create National Monitoring Plan

The Program Office GE Director consolidates all draft Area ONAP monitoring plans and ranks all ONAP recipients from high to low by overall risk rating.

The Denver Program Office GE Director will create a national monitoring plan that ranks recipients by risk and allocates travel funds for on-site monitoring on this basis. The Denver Program Office GE Director transmits the national monitoring plan to the Deputy Assistant Secretary and each Area ONAP GE Division Director.

After the total amount of travel funds available for the fiscal year is known, the Program Office GE Director and the Area ONAP GE Division Directors may need to make adjustments to the national and Area ONAP monitoring plans.

The national monitoring plan must be made available to recipients and the general public as soon as feasible. Each Area ONAP Division Director must make certain that hard copies of the plan are available at the Area ONAP. The Office of Information Services at the Program Office advertises the availability of the national monitoring plan on ONAP's web page.

The Denver Program Office GE Director may convene periodic meetings of Area ONAP GE Directors to discuss recent monitoring results and corresponding changes in overall risk ratings and to reallocate monitoring



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resources, if necessary. Revising a recipient's overall risk rating upward may require the national monitoring plan to be updated to provide additional resources for monitoring. Conversely, a downward revision in a recipient's overall risk rating may reduce the resources needed for monitoring.

All updates to the national monitoring plan will be disseminated by the Denver Program Office to the Area ONAP, recipients, and the general public by using the same procedure of posting the plan on ONAP's web page..



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Chapter Five -- Monitoring Process Guidelines

This chapter provides ONAP staff with guidelines for monitoring HUD recipients. It includes the following sections:

- Objectives and overview of the process – 4.1
- Create a recipient monitoring strategy – 4.2
- Conduct an on-site monitoring visit – 4.3
- Conduct remote monitoring – 4.4
- Create a monitoring report (draft and final) – 4.5
- Track recipient actions on findings and recommendations – 4.6
- Create summary monitoring reports – 4.7
- Outputs of the monitoring process – 4.8

Background, Tools and Templates

- Monitoring Strategy Worksheet and Statement
- Monitoring IHBG checklist
- Supplement to Monitoring Process Guidelines – Monitoring IHP Certifications
- Subrecipient monitoring checklist
- On-site visit notification letter
- Monitoring reports – Content and Considerations – NAHASDA Guidance 2000-14
- Transmittal letter draft monitoring report – IHBG



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- Draft monitoring report format – IHBG
- Transmittal letter final monitoring report – IHBG
- Transmittal letter draft monitoring report – ICDBG
- Sample draft monitoring report format – ICDBG
- Transmittal letter final monitoring report – ICDBG
- Monitoring log

(Background tools and templates are to be found in the Appendix of this Guidebook.)

5.1 Objectives and Overview of the Process

The monitoring process is intended to help ONAP fulfill its public trust responsibilities by ensuring that HUD grants are implemented in a timely manner and in compliance with all applicable requirements. Specific objectives of the monitoring process include:

- Collecting data from grant recipients that will help HUD assess recipient risk based on more complete information on recipient performance
- Validating and/or refining technical assistance needs as defined in the risk assessment process
- Identifying additional technical assistance needs
- Identifying and initiating HUD actions that will reinforce, improve, supplement, and correct recipient performance
- Identifying and analyzing patterns of recipient activity that indicate superior, satisfactory, and deficient performance, which then can be used to improve HUD programs and increase overall recipient success rates

Grant Programs Covered

Monitoring plays a key role in maintaining the integrity of the following programs:



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- Indian HOME Program (IHOME)
- Drug Elimination Program
- Rural Housing and Economic Development Grant
- Economic Development/Supportive Services/ROSS/TOP
- Open grants from the U.S. Housing Act of 1937

The IHBG program is HUD's preeminent program in Indian Country. The monitoring process guidelines are based on and adhere to the monitoring standards and procedures that govern that program. For additional information on the IHBG monitoring process, consult §§1000.522, 1000.526 and 1000.528. In those instances where the program regulations for non-IHBG programs (e.g., ICDBG) establish actions or requirements that differ from those found in part 1000, actions and requirements are specifically noted in the guidelines.

5.1.1 Recipient and Beneficiary Tribes-monitoring responsibilities

IHBG recipients may be tribes or tribally designated housing entities (TDHEs). TDHEs are required to report to and be monitored by the beneficiary tribes. Every recipient of IHBG funding is responsible for monitoring its grant activities, monitoring any subrecipients, ensuring compliance with applicable Federal requirements, and monitoring its performance goals under the IHP. Recipient self-monitoring should include an evaluation of its performance in accordance with performance objectives and measures (see §1000.502). A NAHASDA Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook has been developed (May 2000) and is available for distribution to recipients. Note: Although encouraged, recipient self-monitoring is not a regulatory requirement for non-IHBG programs.

Subrecipient monitoring

Within the IHBG and ICDBG programs, subrecipients may be a private or public non-profit agency, authority or organization, or under limited circumstances (see §1003.201(o)) for-profit entities that have a contract, memorandum of agreement, or memorandum of understanding with the recipient to undertake eligible activities. Recipients are required to



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monitor all their subrecipients to ensure compliance with written contracts or memoranda.

5.1.2 ONAP monitoring — On-site and remote

An overall risk rating for each grant recipient that receives \$300,000 or more annually in HUD assistance is established or validated following the procedures in the Risk Assessment Chapter of this Guidebook. For those recipients that receive less than \$300,000 annually and which are selected to be monitored, based on a random sample, a *risk assessment workbook* will be completed or validated as an aid to preparing a monitoring strategy. As stated in Risk Assessment Chapter, the following criteria guide the decisions on which recipients will be monitored:

- Those recipients that receive annual grants in excess of \$10 million in HUD funds will be monitored on site annually, unless no significant findings were developed during the last review and risk assessment score is 70 or less. If this is the case, they will be monitored on site at least once every three years.
- Those recipients that receive annual grants totaling between \$300,000 and \$10 million in HUD funds will be reviewed on site every three years, unless no significant findings were developed during the last review and risk assessment score is 70 or less. If this is the case, they will be monitored at least once every five years.
- Those recipients that receive less than \$300,000 in annual grants will be selected for on-site monitoring on the basis of a random sample of all recipients in this category. Each year, the Director of the Office of Grants Evaluation will determine the size of this sample based on the project availability of GE resources. No recipient in this category will be monitored more frequently than once every three years unless extraordinary circumstances require a greater frequency.

GE Specialists may recommend using remote monitoring for recipients in the second tier above. Such an exception could be approved by the Director of the Area ONAP GE Division if, for example, monitoring involves issues that can be tracked by using documents submitted by the recipient or if the GE Specialist has proposed technical assistance likely to reduce the risk.



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5.2 Create a Recipient Monitoring Strategy

Background

A recipient monitoring strategy is the detailed written plan created by a GE Specialist for monitoring a specific grant recipient. GE Specialists will be responsible for creating monitoring strategies for the same grant recipients for whom they completed risk assessments. Given the limited frequency that most recipients will be monitored, it is imperative that monitoring is well planned and executed. The *Monitoring Strategy Worksheet and Strategy Statement* (or an equivalent document) in the Appendix to this Guidebook must be completed by the GE Specialist and concurred in by the GE Division Director.

During the risk assessment process, the GE Specialist recommends how each recipient shall be monitored after rating the recipient's risk . At that time, the AO Management team makes a preliminary decision on how each recipient will be monitored. These decisions are summarized and documented in the AO monitoring plan .

5.2.1 Review decisions in the AO monitoring plan

The final AO monitoring plan summarizes decisions made about planned monitoring for each recipient (on-site or remote), the schedule for that monitoring, and anticipated costs. Before creating the recipient monitoring strategy, the GE Specialist may want to review those preliminary decisions with the GE Division Director. This review will be used to validate or revise earlier decisions if new information on the recipient was received after the AO monitoring plan was prepared.

5.2.2 Assemble and review relevant tools

The GE Specialist will refer to the *risk assessment workbook*, the *monitoring log*, and the *monitoring checklist* when creating a monitoring strategy.

Risk assessment workbook

Use the *risk assessment workbook* to review the issues identified during the Overall Performance Assessment and risk assessment. Pay particular attention to the "Assessment Notes" for each high risk factor score.



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Monitoring log

Use the *monitoring log* to review notes from previous monitoring activities.

Monitoring checklist (and subrecipient monitoring checklist)

*Tools: monitoring checklist,
subrecipient monitoring
checklist*

The *monitoring checklist* is the GE specialist's primary guide for planning and conducting on-site and remote monitoring of HUD grants recipients. Use the *monitoring checklist* (and *subrecipient monitoring checklist*, if applicable) to determine what data to collect, what questions to ask, and what evidence to gather. A careful review of the *checklist* will help the GE specialist gauge the type of monitoring needed to explore fully those issues identified during the annual assessment and risk assessment.

The *checklist* identifies the following 19 topics that might be covered by a recipient monitoring strategy and provides examples of specific questions that the GE Specialist should use to guide the gathering of recipient performance data on each topic. The first 12 of the 19 topics are identical to 12 of the 13 risk factors in the *risk assessment workbook*. The last seven of the 19 topics appear only in this checklist.

1. Planned controls
2. Complexity of planned activities
3. Stability of environment
4. Timely progress
5. Third-party observations
6. Fiscal and internal controls (required)
7. Administration of programs
8. Reporting
9. Quality, completeness, and clarity of performance objectives
10. Recipient self-monitoring and monitoring of subrecipients
11. Planned Preservation of 1937 Housing Act units
12. Preservation of 1937 Housing Act units



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13. Environmental review (required)
14. Procurement/contract administration (required)
15. Indian preference and non-discrimination (required)
16. Labor standards (required)
17. Relocation
18. Real property acquisition
19. Lead-based paint

5.2.3 Create a custom recipient monitoring checklist for each recipient

The *monitoring checklist* is designed to serve as a comprehensive list of all the possible topics that might be covered in a monitoring strategy for any HUD grant recipient in Indian Country. The GE Specialist should, in general, stay within this list of monitoring topics to help ONAP ensure consistency in its monitoring activities.

Because not every monitoring topic is relevant to every recipient and not every question must be asked to gather the information needed about a recipient, the GE Specialist will need to select from the list of topics and questions necessary for a specific recipient. These are the basic judgments that a GE Specialist must make when creating a recipient monitoring strategy.

Customize the tool

The GE Specialist can customize the checklist by checking off or highlighting those questions that will be used for the specific monitoring strategy. Another approach to creating a custom checklist is to delete questions not applicable to a recipient. GE Division Directors will determine how the monitoring strategy documents will be prepared in their Area ONAP.



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5.2.4 Staff the monitoring strategy

The GE Specialist must identify the types of skills and number of people needed to conduct the monitoring for each recipient. For example, if the most serious issues that emerged from the risk assessment process of a specific recipient were related to financial management and controls, then the GE Specialist would plan to include ONAP staff who have a solid background in this field on the monitoring team. If other ONAP staff assist the GE Specialist in conducting the monitoring, the GE Specialist serves as the coordinator and primary point of contact for the monitoring team.

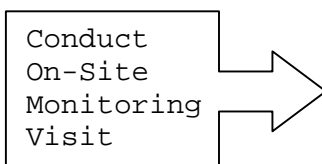
5.2.5 Review and approve the recipient monitoring strategy

The GE Division Director is responsible for ensuring that each recipient monitoring strategy focuses on the recipient's higher risk practices and activities and that it is consistent with the AO monitoring plan. This review and approval process may occur during development of the strategy by the GE Specialist or after the GE Specialist has developed the strategy.

5.2.6 Disseminate recipient monitoring strategy documents

Each GE Division Director will make hard copies of the final monitoring strategy documents available at the AO. ONAP's Office of Information Services will advertise the availability of the monitoring strategy documents on its web page.

5.3 Conduct On-Site Monitoring Visit



The primary purpose of an on-site monitoring visit is to collect information about a recipient's performance and capabilities that cannot be ascertained from the documents normally submitted to HUD. ONAP uses the information gathered during those visits to develop a more complete picture of how effectively the recipient is managing the grant funds, implementing its plans, and providing help to the intended program beneficiaries.



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5.3.1 Schedule the on-site visit with recipient

The GE Specialist usually contacts the grant recipient by phone to establish a mutually convenient date for an on-site visit. When possible, select dates when all key players can be present for the entry and exit conferences and all who need to be interviewed are available.

5.3.2 Notify recipient of planned on-site visit

The GE Specialist sends a letter notifying the grant recipient and beneficiary tribes (if applicable) of an upcoming on-site visit at least 30 days before the scheduled visit (§1000.522). Prior written notice will not be required in emergency situations or when advance notification may not be feasible. When such exceptions occur, the GE Division Director should inform the Program Office GE staff.

Tool: on-site visit notification letter

The GE Specialist may use the *on-site visit notification letter* as a template. Notification letters should always include the following elements:

- HUD grant(s) to be monitored
- Name of GE Specialist and other ONAP staff conducting the monitoring visit
- Date of visit and of the entry conference
- Specific individuals who should be invited to the entry conference, including representatives of beneficiary tribes
- Recipient staff to be interviewed during on-site visit
- Subrecipient staff who should be available during the on-site visit
- Program beneficiaries to be visited during on-site visit

5.3.3 Assemble and review documents

The GE Specialist should review the following documents:

- Overall Performance Assessment
- Annual Performance Reports or other grant program reports



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- IHPs or grant applications
- Audit reports
- Grant funds drawdown records (LOCCS)
- Previous monitoring report
- Any environmental review documents
- Correspondence
- Public comment records

If documents are missing from the AO files, then the GE Specialist should request the documents from the recipient or from other sources, as appropriate.

5.3.4 Discuss recipient with Grants Management staff

The GE Specialist should discuss the recipient with GM staff members who have relevant knowledge of the recipient's performance and capabilities. The GE Specialist should probe for specific examples and evidence and must document those discussions by taking careful notes of the date(s), staff involved, and issues covered. This documentation could play an important role in justifying monitoring decisions and other ONAP actions.

5.3.5 Conduct the on-site visit

Entry conference

On arrival the GE Specialist should convene an entry conference to do the following:

- Introduce and explain the role of all HUD staff in attendance
- Discuss the focus of the monitoring
- Outline any assistance needed



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- Explain the role of all parties, including beneficiary tribe(s), in a monitoring visit
- Review logistics of the visit

Data collection

The GE Specialist conducts interviews, examines documents, and observes activities. Those methods are used to collect data that will answer the questions selected from the *monitoring checklist* for this recipient's monitoring strategy.

As the data are collected, the GE Specialist will note observations, findings, concerns, and recommended corrective actions in the *checklist*. The GE Specialist should provide as much detail as possible, because the *checklist* serves as primary documentation of the on-site visit.

Preliminary analysis and conclusions: deficiencies

The term, **deficiencies**, refers to any findings or concerns related to recipient or subrecipient performance. A **finding** is a statement, supported by evidence, of recipient non-compliance with any statutory or regulatory requirement. ONAP must formally report all findings and track and document all recipient corrective actions.

A **concern** is a statement that identifies potential problems. ONAP is not required to formally report concerns; however, whenever possible, the GE Specialist should identify concerns early and suggest changes in practice that the recipient could make that would improve its performance.

When monitoring IHBG programs, whenever the GE Specialist finds statutory or regulatory noncompliance with NAHASDA, ONAP must review the specific circumstances to determine whether the noncompliance is substantial. The following text, excerpted from §1000.534, defines **substantial noncompliance**:

Substantial
Noncompliance

“Noncompliance is substantial if:

- The noncompliance has a material effect on the recipient meeting its major goals and objectives as described in its Indian Housing Plan;*
- The noncompliance represents a material pattern or practice of activities constituting willful noncompliance with a particular provision of*



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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 waste, fraud, or abuse.”*

In all cases where the GE Specialist believes that the deficiencies observed represent apparent substantial noncompliance, the GE Division Director should be consulted immediately. Ultimately, the Deputy Assistant Secretary (DAS) makes the determination of substantial noncompliance based on evidence submitted by the Area ONAP.

If ICDBG programs are being monitored, refer to §1003.701 for a description of appropriate procedures and remedies.

Preliminary analysis and conclusions: recommendations

The GE Specialist's recommendations will fall into the following three categories:

Technical assistance is an appropriate recommendation when the GE Division Director concludes that the deficiencies are due to weak administrative capacity and/or lack of knowledge. In such cases, the GE Specialist must brief the GM Division Director and staff who will define and provide the necessary technical assistance.

A **GE intervention** is appropriate when an immediate remedial action on the part of the recipient will resolve the deficiency. For example, if a GE Specialist finds no documentation for the rejection of several competitive bids in a major procurement but then learns through discussions that there were valid reasons for the rejections, then the GE Specialist could recommend that the recipient create the necessary documentation and thus resolve the finding. Even though a GE intervention may take place while the monitoring team is on site, it should be documented in the monitoring report as a finding, even if it were resolved during the visit. This is essential so that ONAP can identify patterns in recipient performance over time.

An **enforcement action** may be initiated when the GE Division Director finds apparent substantial noncompliance that represents a willful pattern



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or practice. In such cases, the Administrator convenes an Enforcement Panel to verify apparent substantial noncompliance and to recommend to the DAS that an enforcement action be initiated. The GE Specialist provides the Enforcement Panel and the DAS with all supporting documentation needed for their deliberations.

The following chart summarizes which recommendations are appropriate for each type of deficiency.

Deficiency	ONAP Recommendations/Actions
Concerns	Suggest remedial actions
Findings Noncompliance (including apparent substantial noncompliance)	Recommend specific corrective actions Offer technical assistance
Findings Apparent willful substantial noncompliance	Convene an Enforcement Panel

Conduct exit conference

The GE Specialist should be prepared to discuss both major and minor issues (all findings and concerns) during the exit conference and, if possible, to provide guidance to the recipient about corrective actions. This will require that the team do a preliminary analysis of the data collected while they are still on site and it may also require some discussions with the AO management team prior to the exit conference.

The GE Specialist should conduct an exit conference to discuss preliminary conclusions. All those invited to the entry conference should be invited to the exit conference. The exit conference should cover both positive and negative observations, suggest possible corrective actions, and outline the next steps in the process.

The GE Specialist notifies exit conference attendees that a draft monitoring report will be prepared and issued 30 days after completion of



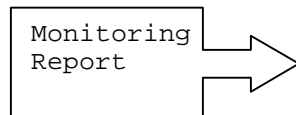
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the review by ONAP and that the recipient and beneficiary tribes will have an opportunity to comment on the draft report.

5.4 Conduct Remote Monitoring

The GE Specialist conducts remote monitoring by reviewing documentation already on hand and requesting additional documents from the recipient that will shed light on its grant activities. Some of the steps involved parallel on-site monitoring. For example, before conducting remote monitoring, the GE Specialist will do the following:

- Create a custom recipient monitoring checklist
- Discuss the recipient monitoring strategy with GE Division Director
- Discuss the recipient with GM staff
- Remote monitoring requires the GE Specialist to identify documents or other information that can be obtained without an on-site visit that may shed light on specific recipient activities viewed as high risk. The GE Specialist then analyzes the documents provided, identifies any deficiencies, and recommends corrective actions.



5.5 Create Monitoring Report

The GE Specialist is responsible for creating a draft report and a final report for each recipient monitored. (For IHBG, see 24 CFR Part 1000, Subpart F.) The monitoring report is an objective assessment of recipient performance that highlights both the strengths and weaknesses in the recipient's practices and programs. In addition to identifying findings and recommending corrective actions, the report may identify concerns and offer suggestions to improve performance.

5.5.1 Create draft monitoring report

ONAP must issue a draft report to the recipient within 30 days of completing its monitoring. Generally, the completion of monitoring corresponds to the completion of the on-site visit. However, if the AO were to request additional information from the recipient or if the information obtained were to require an in-depth analysis, monitoring is not considered complete until the analysis is finished.



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The monitoring report takes the form of a letter to the recipient from the GE Division Director. This approach provides recipients with an avenue for appeal to the AO Administrator if the recipients object to the GE Division's finding and conclusions.

*Tools: transmittal draft
monitoring report, sample draft
monitoring report format*

Content

The GE Specialist should use the letter template and the sample draft monitoring report letter provided in electronic form (*transmittal draft monitoring report and sample draft monitoring report format*). Every monitoring report should include the following information:

- Recipient practices and activities monitored
- A brief description of the monitoring method used (on-site or remote), the material reviewed, interviews conducted, and the dates and the names of AO staff who participated in the monitoring
- A description of the recipient's strengths in managing and administering HUD-funded activities (this should include the identification of any observed or emergent "best practices")
- A description of all findings and recommended actions to address those findings
- A description of concerns and suggestions on how the recipient might address those concerns
- A schedule of target dates for completing the recommended actions and, if possible, the identification of specific milestones for measuring the implementation of the recommended actions
- A notice that the recipient has 30 calendar days to comment on the draft monitoring report and that ONAP will consider revising the draft report, if appropriate
- The name and telephone number of the GE Specialist who can respond to any questions or comments
- A guideline on how to document objections to and comments on the draft report (recipient comments must be submitted in writing to the GE Division Director, and recipient comments must cite specific findings or compliance schedules and provide supporting documentation)

If applicable, the GE Specialist should include in the report any actions taken by the Enforcement Panel on issues of apparent substantial



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noncompliance and any technical assistance recommendations that require the recipient's immediate action.

- The AO management team may wish to review draft monitoring reports before they are sent to recipients. Ideally, the GM Division Director should always concur on the draft report. However, the GE Division Director ultimately decides on the content of the draft monitoring report.

5.5.2 Solicit recipient comments on draft report

The GE Specialist sends the draft monitoring report to the recipient by certified mail and retains the certified mail receipt. This establishes the delivery date of the report, which is used as the start date of the recipient's 30-day comment period. The GE Specialist must also send a copy of the draft report to beneficiary tribes, if applicable.

5.5.3 Prepare final monitoring report

The final monitoring report replaces the draft monitoring report. Therefore, all deficiencies cited in the draft and not resolved during the 30-day comment period will appear in the final monitoring report.

If the GE Division receives comments from the recipient within the 30-day comment period, these are forwarded to the GE Specialist, who considers those comments and documentation in preparing the final monitoring report. The GE Specialist should revise the draft monitoring report only if the recipient were to submit convincing comments and documentation. The GE Specialist should discuss any revisions to the draft report with the GE Division Director before completing the final monitoring report.

If the GE Division has not received comments from the recipient within the 30-day comment period, then the GE Specialist need make no changes to the draft in preparing the final monitoring report.

The GE Specialist should use the letter template as provided in electronic form (*transmittal final monitoring report*) and include the following information:

- Acknowledgment of recipient comments and documentation, if applicable

*Tool: transmittal final
monitoring report*



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- Summary of recipient comments and documentation with reference to how the draft report was modified, if applicable
- Congratulations to the recipient on successes in implementing HUD grants, as applicable
- Summarize findings and concerns uncovered during monitoring and provide recommendations, as applicable
- Offer suggestions to improve program management
- Provide the name and telephone number of the GE Specialist if the recipient were to have any questions or comments

The Area ONAP management team may wish to review the final monitoring reports before they are sent to recipients. Ideally, the GM Division Director should always concur on the draft report. However, the GE Division Director will ultimately decide on the content of the final monitoring report.

5.5.4 Send final monitoring report to the recipient

The GE Specialist sends the final monitoring report to the recipient and all beneficiary tribes. The GE Division Director will make all recipient comments and final monitoring reports available for public review at the AO. ONAP's Office of Information Services will advertise the availability of the comments and final monitoring reports on its web page.

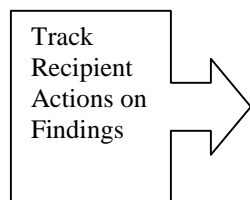
5.6 Track Recipient Actions on Findings

Update the risk assessment workbook and monitoring log

On the basis of conclusions reached during the monitoring process, the GE Specialist should update the individual risk factor ratings in the *risk assessment workbook*, if appropriate. This revision will produce a revised overall risk rating, which will become the new basis for planned monitoring.

The GE Specialist enters all findings and target dates for corrective actions from the final monitoring report into the *monitoring log*.

The GE Specialist is responsible for tracking the recipient's compliance with recommended actions according to the target dates cited in the final monitoring report. The basic task associated with follow-up monitoring is



Tool: monitoring log



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to review documentation submitted by the recipient that establishes compliance with the recommended actions and target dates and either confirming compliance or referring the case for other action by ONAP.

5.6.1 Confirm compliance provide overall status report

When the GE Specialist determines that a finding has been addressed, the Specialist sends a letter to the recipient indicating that the specific finding has been resolved satisfactorily. This letter also should provide an overall status report on all the corrective actions recommended in the final monitoring report, citing actions taken and completed and restating any remaining findings still to be resolved with their target dates. (Refer to the Sanctions Chapter of this Guidebook, for the *Compliance Confirmation letter* template which may be also be used.)

5.6.2 Refer issues of noncompliance

All issues of apparent substantial noncompliance that represent a willful pattern are referred by the GE Division Director to the Enforcement Panel, which reviews the evidence of noncompliance and makes recommendations to the DAS. (See the Sanctions Chapter of this Guidebook, for a detailed description of the enforcement process.)

5.6.3 Update the monitoring log

The GE Specialist conducts on-going monitoring of higher risk recipients and updates the *monitoring log* by entering status updates and dates of closure. The GE Specialist should retain all documented evidence of compliance and non-compliance by higher risk recipients for future reference.

5.7 Create Summary Monitoring Reports



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5.7.1 Update the Area ONAP monitoring log

The Program Assistant will maintain the *Area ONAP monitoring log* for the GE Division Director. GE Specialists must provide input for this summary of all monitoring activities in each Area ONAP.

5.7.2 Update the Area ONAP significant issues list

Once a month, each GE Division Director will update the Area ONAP significant issues list, which provides a selective summary of open issues and actions taken over the previous month. The significant issues list serves as a progress report on recipients whose activities are under scrutiny. The GE Division Director submits the Area ONAP significant issues list to the Program Office GE Director by the end of the first week of each month.

5.7.3 Create national summary

The Program Office GE staff will consolidate the Area ONAP significant issues lists and forward the national summary all Area ONAP Administrators and the DAS.

5.8 Outputs of the Monitoring Process

The monitoring process should generate the following outputs (some are inputs to the enforcement process):

- Final monitoring report
- Referrals to other ONAP staff, HUD offices, or other agencies
- Letters/status reports on recipient actions
- AO significant issues list
- AO monitoring summary
- National monitoring summary

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Chapter Six -- Sanctions Process Guidelines

This chapter provides ONAP staff with procedures to follow in circumstances when recipients fail to take action to address noncompliance with HUD requirements. It includes the following sections:

- Objectives and overview of the sanctions process
- Enforcement actions
- “High Risk” designations pursuant to 24 C.F.R. §85.12
- Limited denial of participation (LDP) actions, debarments, and suspensions*

* Note: Section 6.4 includes a discussion of actions, which may be taken under the provisions of 24 CFR part 24 -- Government Debarment and Suspension. However, since these actions (in other than very extraordinary circumstances) would be specifically directed at individuals for mal or misfeasance and not at recipients of assistance (tribes, TDHEs), they are treated as a separate class of sanctions. Therefore, the discussion in this chapter other than in that section – unless specifically indicated – will only address policies and procedures for recipient failure to address identified areas of noncompliance.

Background, Tools and Templates

- November 12, 1999, Memorandum from DAS – Procedure for taking action under Section 401(a) of NAHASDA
- February 18, 2000, Enforcement Protocol, Addendum 1 (ONAP) Letter of Warning for delinquent APRs
- January 18, 2001, NAHASDA Guidance No. 2001-07 – Use of 24 CFR Part 85.12 “High Risk” Determination
- Notice of Intent/Offer of Informal Meeting for delinquent APRs
- Imposition of Sanction Letter for delinquent APRs

(Background tools and templates are to be found in the Appendix of this Guidebook.)



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6.1 Objectives and Overview of the Process

The imposition of sanctions is the ultimate tool available to HUD to protect the public trust. The principal objective of the sanctions process, with respect to exercising public trust responsibilities, is to address the willful failure of a recipient to correct noncompliance with statutory or regulatory requirements identified by HUD monitoring and oversight (see § 1000.530 for the IHBG program and § 1003.701 for the ICDBG program). It may, however, also be necessary and appropriate to take sanctions if the recipient is unable to address or correct noncompliance because it lacks the administrative capacity to do so. In other words, HUD may take sanctions if a recipient will not or cannot implement the corrective or remedial actions requested or recommended by ONAP (or other recipient identified acceptable actions) in a timely manner.

For the IHBG program, ONAP may impose those sanctions described in §1000.532 or §1000.538 depending on the nature of the noncompliance – non-substantial or substantial. As established in the November 12, 1999, memorandum from the ONAP DAS, the imposition (or removal) of the sanctions provided in §1000.532 and a declaration of substantial noncompliance and the imposition (or removal) of the sanctions provided in §1000.538 can only be made by the DAS.

For the ICDBG program, there is no definition in the program regulations for substantial noncompliance. The distinction made between the sanctions available at §1003.702 and §1003.703 is not related to the nature of the noncompliance but to which entity or person within HUD may take the action. The sanctions available in §1003.702 may be taken by the Area ONAP; the authority to take those in §1003.703 have been delegated by the Secretary to the DAS and have not been further delegated or redelegated. The ICDBG Program is not discussed in the November 12, 1999, memorandum.

For grant programs other than IHBG or ICDBG, e.g., Rural Housing and Economic Development, unless program regulations are developed which specifically address enforcement or sanctions, the provisions of 24 CFR §85.43 Enforcement, as referenced in the program grant agreement, will be implemented in a manner consistent with intent and following the process and procedures in the IHBG program regulations, i.e., part 1000, subpart F.

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Under the very limited circumstances described below in Section 6.3, a High Risk determination or designation under the provisions of 24 CFR §85.12 may be made and imposition of risk-specific conditions or restrictions on future grants may be done. This may be the most appropriate sanction procedure to use for an IHBG or ICDBG recipient which fails to take appropriate and timely action to address a finding of noncompliance. An Area ONAP Administrator may take these actions without DAS approval.

The key to effectively imposing sanctions is timely, thorough, and accurate documentation by the GE Specialist. In general, grants evaluation processes are intended to help GE Specialists detect and document deficiencies early so that recipients have ample opportunities to correct them. However, if recipients fail to take appropriate corrective actions in a timely manner, ONAP will rely on its documentation to explain and justify its sanctions, and to support legal actions (if necessary).

6.1.1 Various Roles in the Sanctions Process

The role of the GE Specialist

As explained above, timely, thorough, and accurate documentation is required to explain and justify any sanctions, and to support legal actions (if necessary). In coordination with the GE Division Director, the GE Specialist makes the recommendation of actions required to address recipient failure to take corrective actions, including engaging the Enforcement Center.

The role of the Enforcement Panel

The role of the Enforcement Panel is to:

- review the facts surrounding the finding(s) of noncompliance and review actions taken by the GE Division to effect compliance
- review actions, if any, taken by the recipient to address the identified noncompliance
- review the cause(s) of the noncompliance identified by the GE Division



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- affirm the recommendation of the GE Specialist or identify additional actions to be taken by the Area ONAP to remedy or otherwise address the recipient's failure to address the noncompliance.

(The Enforcement Panel is representative of both Area ONAP Divisions (see 6.1.2 below) and it must concur in or affirm recommendations for all proposed sanction actions including High Risk designations, LDPs, debarments and suspensions).

A sanction is a serious matter that can have significant impact on the recipient, the beneficiary tribe (if a TDHE is the recipient), its constituents and the resources of the ONAP. Recommended actions by the Area ONAP must be consistent with those taken in similar situations within the ONAP's jurisdiction. Before such an action is taken, it is essential that both the GE and GM Divisions and the Administrator provide input to the decision and are aware of written and/or verbal commitments Area ONAP staff may have made, i.e., providing technical assistance.

If the Enforcement Panel verifies that the finding of noncompliance was not addressed or was insufficiently addressed by the recipient, it may recommend a specific sanction for consideration and final determination by the Area ONAP or DAS, as appropriate, or it may direct the Area ONAP to take additional actions, which if unsuccessful, will lead to a recommendation of a sanction.

The role of the Denver Program Office - Office of Grants Evaluation

The Denver Program Office - Office of Grants Evaluation, is assigned the responsibility for coordinating enforcement actions (those listed under §§1000.532 and 538 for IHBG; §1003.703 for ICDBG; and §85.43 for other grant programs) with the Area ONAP, the Enforcement Center, the Office of General Counsel (OGC), and the DAS. Included in this responsibility is the obligation to review all proposed enforcement actions for consistency between ONAPs, tracking of enforcement actions through imposition, reporting on status of imposed sanctions, and communication with and between all parties.

As noted above, under the IHBG program, authority to declare a substantial noncompliance under §1000.534 or to impose and to remove sanctions under §1000.532 or §1000.538 has been reserved by the DAS. Also as noted above, the DAS has retained the authority to impose



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sanctions under §1003.703 for the ICDBG program and those under §85.43 for other grant programs.

The role of the HUD Enforcement Center

The HUD Enforcement Center supports all Area ONAPs by providing advice and guidance on enforcement strategies. These guidelines are based on the Enforcement Protocol developed by ONAP and the HUD Enforcement Center, which outlines the roles and responsibilities of the Enforcement Center in assisting ONAP to resolve instances of failure by a recipient to address findings of noncompliance involving IHBG and ICDBG funds. The Protocol, dated February 18, 2000, is very similar to that used by ONAP in the past for handling enforcement actions.

The Enforcement Center serves as HUD counsel for hearings under 24 CFR Part 26 and when it is necessary to refer potential civil actions to the Attorney General for filing in Federal courts. Since any enforcement action may result in litigation, counsel for the Enforcement Center reviews all relevant documents and correspondence with the recipient before a substantial noncompliance under IHBG is declared or before any sanctions are imposed upon a recipient's grant programs under §1000.532 or 538 (IHBG), §1003.703 (ICDBG) or §85.43 (other grant programs). (As noted above, for purposes of implementing sanctions listed in the IHBG regulations, a declaration of substantial noncompliance is required only if the sanctions sought are those listed in §1000.538).

Substantial noncompliance exists if there is:

- **material effect on recipient meetings goals and objectives**
- **material pattern or practice of willful noncompliance**
- **material amount of NAHASDA funds obligated or expended;**
- **substantial risk of fraud, waste, or abuse**

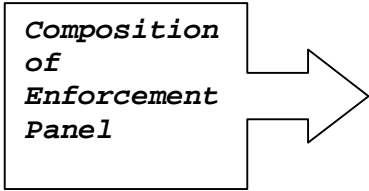
The Area ONAP and/or the Denver Program Office may utilize the Enforcement Center's expertise throughout the sanctions process.

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6.1.2 Responsibilities

GE Division Director

***Composition
of
Enforcement
Panel***



The GE Division Director convenes an Enforcement Panel. Members of the Enforcement Panel must include the Administrator, Area ONAP counsel, GE Division Director, and GM Division Director and may include, as appropriate, Area ONAP staff, representatives from the Program Office, and Office of Inspector General (OIG). The GE Division Director will serve as the Panel facilitator. The Administrator makes the final decision on the disposition of the case within the Area ONAP based upon input from the entire Panel.

GE Specialist

The GE Specialist assembles all available documentation that supports the assessment of failure on the part of a recipient to address findings of noncompliance in a timely manner for review by members of the Panel. Documentation should include, as appropriate, correspondence, internal memoranda and notes, monitoring reports, responses from the recipient, overall performance assessments, audits and audit reviews, annual performance reports and reviews, corrective action plans, management decisions, environmental reviews, and third-party observations. In addition, the GE Specialist will prepare recommendations of sanctions to be taken for consideration by the Panel. For IHBG, if the recommended sanctions include those listed in §1000.538, the GE Specialist must also provide evidence or documentation that the noncompliance that has not been addressed meets the regulatory requirements for substantial noncompliance (§1000.534). The GE Specialist will assure copies of all documents are prepared for each member of the Panel.

Enforcement Panel

The Panel reviews the evidence to determine if the actions taken by the Area ONAP: were appropriate given the substance of the noncompliance identified; were taken in compliance with the procedural requirements of the regulations, specifically §1000.528 (which by ONAP policy applies to ICDBG and other grant programs in addition to IHBG); and, included, if appropriate, provision or offer of technical assistance. The GE Specialist may be asked to collect additional documentation before the Panel makes its decision. While additional evidence is being gathered, the Panel may discuss other findings where sufficient documentation already exists.



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The Panel will review any information provided by the recipient to determine if it has adequately addressed the noncompliance by taking the corrective or remedial action requested by the Area ONAP. The Panel could also determine that even though an action taken by a recipient to address the noncompliance is not that which was recommended, it may be adequate. If it is determined that the recipient has taken adequate actions, the Panel will recommend that the GE Division Director transmit a determination of compliance to the recipient. If the Panel does not make such a determination, the Panel will proceed to the next step.

For the IHBG program, the Panel will review the documentation assembled by the GE Specialist to determine if the performance problem, which has not been adequately addressed, would meet the regulatory requirements for substantial noncompliance (§1000.534). If such a finding can be made, the Panel will prepare a recommendation (that will accompany any proposed sanction recommendations) for the DAS that a declaration of substantial noncompliance be made.

In order to recommend the appropriate action to be taken to address the recipient's failure to adequately address a finding of noncompliance, the Panel will review the documentation gathered by the GE Specialist and interview the specialist in an attempt to ascertain the cause or causes. It may be determined that the most appropriate step to be taken would be the recommendation of additional corrective actions rather than sanctions.

If it is determined that failure to adequately address a compliance problem is due to ineffective administrative capacity of the recipient, it is possible that the most appropriate action is the provision of technical assistance by ONAP or a third party rather than the imposition of a sanction. However, if a recipient's ineffective administrative capacity exposes HUD funds to substantial risk of fraud, waste or abuse, the Panel should recommend a sanction.

Measurements of administrative capacity:

- *history of satisfactory performance*
- *financial stability*
- *acceptable management systems*
- *acceptable policies and procedures*
- *compliance with previous awards*



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➤ *experienced employees*

The Panel will recommend to the Administrator the sanctions determined to be appropriate for the noncompliance issues.

The GE Division Director shall prepare, or cause to prepare, a summary of the decisions and recommendations made by the Panel.

NOTE: In cases where the recipient noncompliance represents a possible criminal violation, the GE Division Director must consult the local Office of the Inspector General (OIG) and Office of Regional Counsel (ORC). If representatives of these offices participate in Panel deliberations, then no additional consultation is needed.

Denver Program Office

The Denver Program Office is responsible for facilitating the review of the recommendations with the Enforcement Center and the OGC, including the Area ONAP in all relevant discussions. When the document package is received from the Area ONAP recommending actions to be taken, the Denver Program Office - Office of Grants Evaluation will review the documents to assure the package is complete and will provide copies to the Enforcement Center and the Headquarters Program counsel (OGC) for review and action.

The Denver Program Office is also responsible for tracking the progress of the enforcement action through the review and approval process and for assuring the Area ONAP is regularly informed of the status. Once the draft Notice of Intent/Offer of Informal Meeting is concurred on by the Enforcement Center, the Denver Program Office will obtain the approval of the DAS to go forward with the letter.

The Denver Program Office will notify other Area ONAPs of impending enforcement actions and other impending sanctions. The purpose is to guide other Area ONAPs in processing enforcement actions with similar circumstances of noncompliance.

Enforcement Center

The primary function of the Enforcement Center in enforcement actions is to represent ONAP and to ensure the actions taken by ONAP are legally supportable and appropriately documented. If, in the opinion of the Enforcement Center counsel, the actions proposed or the documentation developed would not be upheld in an administrative or judicial review, the



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Enforcement Center counsel will provide advice and assistance to the Area ONAP and the Denver Program Office as to what actions are appropriate.

If the Enforcement Center counsel believes the actions proposed are appropriate and the documentation adequate, the counsel will provide the Denver Program Office with the approved draft *Notice of Intent/Offer of Informal Meeting*, with any revisions made. From the time the letter of intent to take action is sent by the Area ONAP to the recipient until the recipient's hearing rights are completed, the Enforcement Center counsel assumes the lead role in the review of documents sent by the ONAP or received from the recipient and is responsible for representing the Department in administrative or judicial review proceedings.

Program regulations at §§ 1000.538(d) and 1003.703(b) authorize HUD to refer issues of noncompliance to the U.S. Attorney General with a recommendation that an appropriate civil action be instituted.

6.2 Enforcement Actions

The provisions of subpart F of part 1000 are consistent with and reflect the government-to-government relationship established by NAHASDA and should be used to address IHBG recipient performance deficiencies unless the limited circumstances under section 4.3 High Risk Designations apply. For more detailed information on the IHBG enforcement process, consult 24 CFR §§1000.522-28, 1000.532, and 1000.538.

Under the IHBG program in 24 CFR §§1000.532 and 1000.538, the sanctions include:

- Adjust, reduce or withdraw future grant amounts (Note: P.L. 106-569 amended these sanctions to include only the adjustment of future grant amounts – the regulations will be rewritten to reflect the change.)
- Terminate payments to the recipient
- Reduce payments under an existing grant
- Limit the availability of payments for existing grants
- Provide a replacement TDHE
- Refer the matter to the Attorney General
- Other appropriate actions in accordance with reviews and audits (Note: This option was deleted in P.L. 106-569 and the regulations will be changed to reflect this.)



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Note: To implement an action listed under §1000.538, it is necessary that a declaration of substantial noncompliance be made.

Under the ICDBG program, under §1003.702 the Area ONAP may reduce or withdraw grants; under §1003.703, the DAS may terminate grants, reduce grants by an amount which was not expended in accordance with part 1003, limit availability of funds to project or activities not affected by failure to comply with part 1003, or, if appropriate, refer the matter to the Attorney General.

Under grant programs other than IHBG or ICDBG, under §85.43, the Area ONAP may temporarily withhold cash payments, disallow all or part of the cost of the activity, wholly or partly suspend or terminate the current grant award, withhold further awards, or take other remedies that may be legally available.

6.2.1 Referral to the Denver Program Office – Office of Grants Evaluation

If the Enforcement Panel recommends imposing sanctions under §§1000.532/538; 1000.703; or 85.43, the GE Specialist prepares a compilation of documents supporting the recommendation for submission to the Denver Program Office. Only one package is necessary to be submitted, which include the following documents:

- a chronology of pertinent actions/documents;
- copies of all communication with the recipient regarding or related to the findings;
- recommendations for enforcement actions to be imposed (summary of Enforcement Panel recommendations);
- recommendation that a determination of substantial noncompliance be made if sanctions under §1000.538 are recommended;
- the *monitoring log*, if appropriate (found in the appendicle to this Guidebook);
- the *audit tracking log*, if appropriate (found in the Appendix to the Guidebook); and,



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- a draft *Notice of Intent to Impose Sanctions/Offer for Informal Meeting letter* to the recipient (per §1000.532(b)).

The Area ONAP GE staff is encouraged to discuss the pending referral to the Headquarters Office with the Denver Program Office while the documents package is being compiled to assure the package is complete and that the Denver Program Office is fully aware of the circumstances of the case.

6.2.2 Process for Imposing Enforcement Action Sanctions

The process for imposing such sanctions under the IHBG program (§1000.532 or 538) is summarized below. Sanctions under §1000.538 affect current grants. With the exception of those sanctions available to the Area ONAP under §1003.702 for the ICDBG program, similar processes will be followed for ONAP's other grant programs. The specific modifications to these procedures, e.g., formats for notices, for non-IHBG programs will be provided by the Denver Program Office as needed by the Area ONAP's.

Notify the recipient of actions HUD intends to take and offer an informal meeting – *Notice of Intent/Offer of Informal Meeting letter template or delinquent APR Notice of Intent/Offer of Informal Meeting letter template*. In most cases, this letter will be drafted by the GE Specialist. However, it will be left up to the Area ONAP's discretion, based on the circumstances and /or relationship with the Area ONAP counsel, whether to utilize the Area ONAP counsel's assistance in drafting this document. The draft will then be reviewed and ONAP counsel's assistance in drafting this document. The draft will then be reviewed and concurred with by the Denver Program Office, the Enforcement Center, and the OGC; approved by the DAS; and then signed and issued by the Area ONAP. Section 1000.532(b) provides for the opportunity for an informal meeting between the recipient and the Area ONAP to resolve the deficiency(s) before the imposition of sanctions. Section 1000.538 does not require that HUD provide the opportunity for such an informal meeting. However, to remain consistent with the process under §1000.532 and because it is reasonable to provide the opportunity to a to resolve issues in an informal setting, the informal meeting is included as ONAP policy under this process. The regulation does not specify a time for the informal meeting, but a 30 calendar-day period to request the meeting from the date of the Notice of Intent is reasonable under most circumstances. The informal



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meeting should be scheduled for a time acceptable to both the recipient and the Area ONAP.

At the conclusion of the informal meeting, if one is held, the GE Specialist may summarize the discussions of the informal meeting in a letter to the recipient. Also, the Area ONAP prepares a memorandum to the Denver Program Office, detailing the discussions and results of the meeting and its recommendations on the next steps to be taken. The Denver Program Office will convene a telephone conference with the Area ONAP, the Enforcement Center, and the OGC, if appropriate, to discuss the appropriate steps to be taken.

If the Area ONAP believes that the informal meeting resulted or concluded with an identification of the actions to be taken and a commitment to take the actions to resolve the deficiencies, the Area ONAP, the Enforcement Center, and the OGC, if appropriate, to discuss the appropriate steps to be taken.

If the Area ONAP believes that the informal meeting resulted or concluded with an identification of the actions to be taken and a commitment to take the actions to resolve the deficiencies, the Area ONAP, through the Denver Program Office, may recommend a suspension of proposed enforcement actions to the DAS. If the DAS agrees, the GE Division Director will track the recipient's progress in taking the agreed upon actions and will provide the Denver Program Office with quarterly status reports until all identified deficiencies are resolved (*monitoring findings log and/or audit tracking log*).

If the recipient does not ask for an informal meeting or the informal meeting fails to resolve the deficiency, a letter is sent to the recipient stating the actions HUD is taking and providing notification of the formal hearing of rights under §1000.540 (see 6.2.4). (Please note: for delinquent APRs, the *Imposition of Sanctions letter template* will be used.) For §1000.532 sanctions, the HUD action is effective the date of the notification. Whereas under §1000.538, the HUD action is not effective until after the hearing, or until 30 days after the date of the notification, whichever is later. However, HUD can suspend payments to the recipient pending a hearing and final decision. (NOTE: P.L. 106-569 amends this to state that HUD can limit the availability of payments to programs, projects, or activities not affected by the noncompliance prior to conducting a hearing if the noncompliance would result in a continued unlawful expenditure of funds. The regulations will be changed to reflect this.) This letter is drafted by the Enforcement Center counsel; concurred



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with by the Area ONAP and Denver Program Office; and signed and issued by the DAS. However, the Area ONAP drafts the Imposition of Sanctions letter for delinquent APRs, and the Enforcement Center concurs in the letter.

If there is a request for a formal hearing, the Enforcement Center manages the process with the assistance of the Area ONAP and Denver Program Office. Under §1000.532, reallocation of funds withdrawn from the recipient cannot be accomplished until 15 days after the hearing. If there is no request for a formal hearing, the sanctions are imposed and the management is retained by the Area ONAP.

If it is determined that the recipient must take corrective actions in order to resolve the deficiency(s), it is important that the corrective actions be appropriate for the performance problem identified. This will require that the GE Specialist, with the Enforcement Panel's concurrence, determine the most appropriate way to address the deficiency and what documentation would need to be submitted by the recipient in order to verify that the action had been taken, thus, enabling the sanction to be removed.

Recipient Hearing Process

A recipient may request a hearing under the provisions of §1000.540 within 30 days of the date of the notification letter of a pending enforcement action.

A hearing is presided over by an administrative law judge under procedures specified in 24 CFR Part 26. ONAP staff should expect that they would need to devote a substantial amount of their time to briefings and coordination with the Enforcement Center during a hearing process. Typical cases last for several months. The Enforcement Center counsel represents ONAP in the hearing process.

***Document
status of the
case***

6.2.3 Document Status of the Case

Confirm recipient compliance with required corrective actions/removal of sanctions

Certain of the sanctions imposed may provide that the sanction will be removed if the recipient takes identified corrective actions within a specified timeframe. In such situations, once the actions are taken the GE Specialist will prepare a letter for the DAS' signature that confirms



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compliance with corrective actions and removes the sanction. The GE Specialist may use the *Compliance Confirmation/Removal of Sanctions letter* template. The letter will be routed through the GE Division Director, the Program Office, the OGC and the Enforcement Center for concurrence. The GE Specialist updates the *monitoring log and or audit tracking log* with regular status reports and when compliance is confirmed and sanction removed. **Note:** for sanctions imposed by the Area ONAP for ICDBG recipients under §1003.702, the Administrator would sign the letter.

Report progress monthly using the Significant Issues List

The GE Division Director updates the Significant Issues List monthly with current information on recipient compliance with, and completion of, enforcement actions. The Denver Program Office - Office of Grants Evaluation will consolidate the Significant Issues Lists from all Area ONAPs to analyze trends in performance deficiencies and to ensure consistency of enforcement actions across Area ONAPs.

6.3 High Risk Designations

The authority of §85.12 may only be invoked when the Area ONAP believes a recipient's deficient performance meets the requirements of §85.12(a) and the performance problems:

- have only recently been discovered and the timely issuance of a grant award precludes the use of part 1000, subpart F process and procedures; or
- have been identified in a draft or final report but the recipient has not had adequate opportunity to implement corrective or remedial actions prior to the timely issuance of a grant award.

The use of the process and procedures discussed under Section 6.2 is the preferred approach.

Special conditions and/or restrictions can only be placed on future grants and usually should not be repeated for subsequent grants. These guidelines govern the IHBG and ICDBG programs. The Area ONAP may determine a recipient is high risk (and remove such designation) without the prior concurrence of the DAS or review by the Enforcement Center; however such action may only be taken with the concurrence of the Area ONAP Enforcement Panel.

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The special conditions and/or restrictions that the Area ONAP may impose must be risk-specific and are:

- payment on a reimbursement basis
- withholding authority to proceed to the next phase
- requiring additional, more detailed financial reports
- additional project monitoring
- requiring the recipient to obtain technical or management assistance
- establishing additional prior approvals.

6.3.1 Responsibilities

GE Specialist

Prior to award of a grant, the GE Specialist will gather all relevant information and, in coordination with the GE Division Director, make the recommendation to the Enforcement Panel of a High Risk designation and the actions required to bring a recipient into compliance and to remove the high risk designation. The special conditions and/or restrictions must correspond to the high risk condition and be included in the award. This will require that the GE Specialist, with the Enforcement Panel's concurrence, determine the most appropriate way to address the deficiency and what documentation would need to be submitted by the recipient in order to verify that the action had been taken, thus, enabling the high risk designation to be removed.

The GE Specialist is responsible for keeping the appropriate GM Specialist informed throughout the process of the intended action. The GE Specialist must notify the recipient in writing, as early as possible, of the high-risk designation and impending actions.

Enforcement Panel

The Enforcement Panel must review the recommended high-risk designation, the actions recommended by the GE Specialist to address the conditions, which support such a designation, and it must concur in these matters or provide viable options for the Area ONAP to pursue.



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GE Director

On a monthly basis, the GE Director is responsible for reporting all high-risk designations to the Denver Program Office on the Significant Issues *List* for inclusion in its report to the DAS.

6.4 Limited Denials of Participation, Debarments and Suspensions (24 CFR part 24 sanctions)

A “Limited Denial of Participation” (LDP) is an action that immediately excludes or restricts a person from participating in HUD program(s) within a defined geographic area. A “Debarment” is an action taken to exclude a person from participating in covered transactions. A “Suspension” is an action taken that immediately excludes a person from participating in covered transactions for a temporary period, pending completion of an investigation and such legal, debarment, or Program Fraud Civil Remedies Act proceeding as may ensue.

6.4.1 Responsibilities

Prior to initiating either an LDP, debarment, or suspension, the GE Specialist should consult with its local counsel to ensure that the action is appropriate and that the proper procedures are followed.

If an LDP is issued, a sanctioned party has a right to informal consultation with ONAP and a right to a hearing. The GE Director must refer suspensions and debarments through the Regional Counsel’s Office to the Enforcement Center for action. The causes for LDPs, debarments, and suspensions are listed at 24 CFR Part 24. The GE Director should also advise the Program Office – Office of Grants Evaluation of any such actions taken.

The Denver Program Office will notify other Area ONAPs of impending LDPs, debarments, and suspensions. The purpose is to alert the Area ONAPs of potential spillover effects among their recipients. For example, a recipient staff member issued a LDP by an Area ONAP may attempt to join the staff of a recipient in a different office’s jurisdiction



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REPORTING REQUIREMENTS OTHER HUD PROGRAMS

The requirements for IHBG and ICDBG are addressed in the text of the chapter. The requirements for the other programs are as follows.

Drug Elimination

Reporting requirements for recipients of these grants are set forth in §761.35 Periodic Grantee Reports and are as follows:

Semi-annual (nonconstruction) performance reports per 24 CFR 85.40(b)(1) and (2) that address performance against the grant plan must be submitted by 7/31 and 1/31.

A Final Performance Report that meets the requirements of 24 CFR 85.50(b) must be submitted within 90 days of the termination of the grant agreement.

Semi-annual Financial Status Reports (SF 269A) must be submitted by 7/31 and 1/31. A Final Financial Status Report (SF 269A) must be submitted within 90 days of the termination of the grant agreement.

Indian HOME

Reporting requirements for recipients of these grants are addressed in §954.506 and 507. Specifically:

- ▶ Each recipient must submit management reports on its program in such format and at such time as HUD may prescribe. (HUD has not prescribed any reporting requirements or formats for these reports.)
- ▶ Semi-Annual Performance Reports must be submitted at such times as HUD may prescribe and must contain the elements listed in §954.506(b)(2)(i)-(iv). A SF 269A Financial Status Report must accompany the performance reports.
- ▶ A Project Completion Report must be submitted within 120 days of the final drawdown request.

Economic Development/Supportive Services

There are no regulatory reporting requirements for the following programs:

- ▶ Resident Opportunities and Self-Sufficiency
- ▶ Tenant Opportunity Program
- ▶ Section 8 Housing Assistance Payments Program



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Rural Housing and Economic Development Grant Program

Each recipient must submit a progress report every six months after the effective date of the grant agreement. The progress reports must conform to the requirements of 24 CFR §85.40 and contain the information required under §85.40(b)(2).



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ADMINISTRATIVE CAPACITY DETERMINATIONS

BACKGROUND: Evaluating an IHBG recipient's administrative capacity is part of the ONAP's oversight responsibilities under NAHASDA and program regulations at 24 CFR Part §1000. This oversight responsibility generally arises in the (1) ongoing administrative capacity assessment and (3) investment capacity assessment.

Section 1000.6 provides that IHBG recipients must have the administrative capacity to undertake the proposed affordable housing activities. This capacity includes adequate internal control systems necessary to administer these activities effectively without waste, fraud, or mismanagement.

Additionally, a recipient must demonstrate, according to §1000.58, that it has the administrative capacity and controls to responsibly manage the investment of IHBG funds. Determinations of administrative capacity for investing IHBG funds according to §1000.58 are addressed in Notice PIH 99-4 (TDHEs), Administrative Requirements for Investing Indian Housing Block Grant Funds and are beyond the scope of this guidance.

DEFINITION AND STANDARDS: An administrative capacity assessment measures the effectiveness of a recipient's ability to implement the affordable housing activities developed in its IHP according to the requirements of NAHASDA and 24 CFR Part 1000. Administrative capacity can be demonstrated by: a history of satisfactory performance, financial stability, financial management systems that meet the requirements of Part 85, managerial policies and procedures that meet the requirements of Part 1000, compliance with previous awards, experienced employees and the organizational structure, development and operating policies and systems, and experience that minimizes the potential for fraud, waste, and mismanagement. The following basic requirements of §1000.26 and related systems will be evaluated in making a determination regarding a recipient's administrative capacity to undertake the IHBG program:

History of satisfactory performance - A recipient's record shows acceptable compliance and performance in implementing prior ONAP, other Federal, tribal, and other similar programs. The following compliance areas are of particular importance in the IHBG program:

- Indian Preference (§1000.48 -.54)
- Labor standards (§1000.16)
- Environmental clearance (§1000.18 -.24, 24 CFR Part 58)



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- Lead based paint (§1000.40, 24 CFR Part 35, Residential Lead-Based Paint Hazard Reduction Act of 1992)
- Accessibility (§1000.12, 24 CFR Part 8, Section 504 of the Rehabilitation Act of 1973)
- Flood Insurance (§1000.38)
- Financially stable - Previous programs have been effectively administered in a manner that has maintained the recipient's financial stability to implement the proposed IHBG program activities. If the recipient is an Indian Housing Authority, the amount and trends in the recipient's operating reserves may be evaluated in relationship to the anticipated IHBG amount.
- Acceptable management systems (§85.20) - At a minimum, financial management systems are in place that meet the following standards:
 - Financial reporting (§§85.20, 85.41)
 - Accounting records (§§85.20, 85.32, 85.33)
 - Internal controls (§85.20)
 - Allowable costs (§§85.20, 85.22, OMB Circular A-87)
 - Source documentation (§85.20)
 - Cash management (§§85.12, 85.20, 85.21)
 - Records retention (§1000.552)
 - Budget controls (§85.20)
- Development and Operating policies - Managerial and operational systems are in place that meet the following standards of the IHBG program:
 - Admissions and Occupancy (§§1000.104 -.110, 1000.120, 1000.124 -.156, NAHASDA §102(c)(5)(c))
 - Management and Personnel (OMB Circular A-87)
 - Maintenance (NAHASDA Sec. 102 (c)(5)(e) and 203 (e))
 - Travel (OMB Circular A-87)
 - Procurement (§§85.36, 85.35, 1000.26)
 - Real property acquisition (§1000.14, 49 CFR Part 24)
 - Relocation (§1000.14, 49 CFR Part 24)
 - Conflict of interest (§§1000.30-.36, 85.36)



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- Audit (OMB Circular A-133, §§85.26, 1000.544-550) - Independent public accountant audits of the recipient's financial statements, program compliance, and internal controls have been submitted on time and any findings have been resolved according to established time frames.
- Is Otherwise Responsible - Any other information that is pertinent to the recipient's capacity to manage its IHBG program effectively according to the program requirements may be evaluated as part of the overall assessment.

Administrative capacity determinations are a vital management tool and an integral part of ONAP's oversight responsibilities and efforts to promote excellence in the IHBG program management in partnership with Tribes and TDHEs. Besides minimizing the potential for fraud, waste and mismanagement, ONAP's goal in evaluating administrative capacity is to establish a framework that will initiate proactive technical assistance and capacity building efforts. These initiatives include the development of capacity building strategies, targeting of technical assistance contracts, ONAP resource allocation, provision of technical assistance, and partnering with other recipients to improve capacity.

PROCEDURES: The administrative capacity assessment is an on-going process based on a number of remote and on-site indicators of capacity and performance. It will be completed at least annually as part of the overall assessment process. However, an assessment may be completed or updated at any time based on new information. Determinations of administrative capacity will be based on ONAP's cumulative knowledge of a recipient's capacity, performance, and compliance with the IHBG program requirements. An Indian Housing Authority's past designation as "high risk" for the 1937 Act programs cannot be used to determine administrative capacity of new recipients. Current audit reports or other information concerning financial management systems could provide a basis for determining administrative capacity. The following information will be evaluated in making these determinations:

- Independent public accountant's (IPA) audit reports,
- ONAP or other agency monitoring reviews,
- HUD's Office of Inspector General (OIG) audits and investigations
- Recipient internal reviews,
- ONAP's risk assessments, and
- Letter Of Credit Communication System (LOCCS) reports and activity.

New recipients that ONAP has no prior performance history or experience with will be assumed to have administrative capacity. However, ONAP will use any available performance information about the recipient that is applicable to the new recipient's



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capacity to effectively manage the IHBG program. For example, a recipient's IPA audit report may indicate a lack of financial management systems and internal controls. ONAP can use this information as a component of a recipient's administrative capacity to manage the IHBG program.

Any additional concerns about the capacity of a new recipient can be addressed by requesting information about the recipient's organizational structure, operating policies and systems, and prior experience. According to §1000.28, new recipients that are self-governance tribes may certify that they have the requisite administrative requirements, standards, and systems of §1000.26. However, based on a review or other available information, if it is determined that they lack administrative capacity, ONAP may impose grant conditions or exercise other administrative remedies for self-governance tribes. If a determination is made that a new recipient lacks administrative capacity, appropriate special conditions or restrictions may be imposed on the grant award according to §85.12 in accordance with the policies in this guidebook, and as indicated below.

If a determination is made that a recipient lacks administrative capacity to manage its IHBG program, ONAP will, in coordination with the recipient, undertake appropriate actions to address the problem as described in subpart F of the program regulations, the Sanctions Chapter of this guidebook, and technical assistance policies.

OVERALL PERFORMANCE ASSESSMENT SCHEDULE

GE Division Director: _____

Schedule Period: _____

Recipient (List Alphabetically)	Due Dates of Annual Reports, or other performance or status reports, as applicable						Date of Scheduled Overall Assessment Report	Notes and Comments *
	IHBG: APR	ICDBG: ASER	PIHDEP Grant	ED/SS ROSS Grant	IHOME Grant	RH&ED Grant		

* Please identify other HUD-funded programs in the "Notes and Comments" field.

OVERALL PERFORMANCE ASSESSMENT DOCUMENT CHECKLIST

Recipient: _____
 Grant(s) Assessed: _____
 Assessment Period: _____
 Assessment Date(s): _____
 GE Specialist: _____

No.	Document	Notes and Comments
1	Results of APR review	
2	Results of ASER review	
	Results of other program (e.g. RH&ED) report review	
3	Monitoring report and monitoring log	
4	LOCCS report and SF 272I report	
5	Individual audit reports and compliance reviews; audit log	
6	OIG reports	
7	Enforcement action reports	
8	Third-party information (specify)	

OVERALL PERFORMANCE ASSESSMENT QUESTIONS

Recipient: _____
 Programs : _____
 Annual Assessment Date: _____
 GE Specialist: _____

Documents and Questions	Yes	No	Notes and Comments
LOCCS Reports and HUD 272 I			
Is LOCCS drawdown information consistent with that reported on periodic financial reports?			
Are the frequency and amount of funds drawn down consistent with implementation schedules and other available information?			
Are HUD 272 I reports submitted in a timely manner?			
Are HUD 272 I reports accurate?			
Annual Audits Reports and Logs; Compliance Reviews			
Does the current report contain significant financial or program findings?			
Is the recipient addressing the findings in a timely manner?			
Has the report been issued on a timely basis?			
Have any other compliance reviews been done?			
Did these reviews contain any significant findings or concerns?			
Monitoring Reports and Logs			
Do monitoring reports contain findings that have not been resolved?			
Do these findings exhibit a pattern of waste, fraud, or abuse?			
Did on-site monitoring visits or remote monitoring cover all high-risk factors?			
Does it appear that the recipient has a mechanism to effectively resolve findings?			
How long has a finding been open, and is this an appropriate length of time?			
Have the findings been shared with all appropriate authorities?			

Documents and Questions	Yes	No	Notes and Comments
Do the findings have clear public trust implications?			
OIG Findings			
Is there an on-going review by the Office of Audit?			
Do the findings or preliminary findings (if known) necessitate action by ONAP?			
Is ONAP maintaining close coordination with the Office of Audit?			
Does the Office of Investigation have a criminal investigation under way?			
Is there an evident trend of waste, fraud, or abuse?			
Do the OIG findings suggest the need for an on-site monitoring visit by ONAP?			
Have the OIG findings been shared with tribal leadership (when appropriate) for corrective action?			
Is criminal conviction information being used for enforcement action?			
Enforcement Actions and other Sanctions			
Has ONAP taken administrative enforcement actions or other sanctions?			
What sanctions for which programs?			
Has the recipient complied with the terms of the enforcement actions or other sanctions?			
If a criminal indictment or conviction has occurred, has the Area ONAP obtained a copy of the appropriate court documents to support a suspension/debarment?			
Beneficiary and other Third-Party Complaints			
Have complaints been received that demonstrate possible waste, fraud, or abuse?			
Has each complainant been contacted to elicit additional information? If so, is this information documented?			
Does the complaint information relate to the theft of funds that require immediate ONAP action?			
Do the complaints warrant an on-site visit by ONAP?			
Has an appropriate referral to audit or investigative authorities been made?			
Can a trend be detected that may jeopardize program integrity (e.g., a series of related complaints over time)?			

Documents and Questions	Yes	No	Notes and Comments
Media Reports			
Have media sources identified issues that warrant immediate ONAP examination?			
Does media information confirm information from other sources?			
Does the media provide source information that requires follow up by ONAP?			
Other Agency Findings or Issues			
Does the recipient receive funding from other public agencies based on existent needs?			
Have any findings of waste, fraud, or abuse been demonstrated in other programs?			
If individuals have been involved in the misuse of non-HUD programs, have those officials any relationship with or involvement in housing or community development programs?			
Are there any on-going federal criminal investigations by the Federal Bureau of Investigation, the Department of Justice, or any other Executive Branch agency?			
Have criminal prosecutions on non-HUD related matters resulted in agency suspensions or debarments?			

OVERALL PERFORMANCE ASSESSMENT LETTER FORMAT

[DATE]

[ADDRESS]

Dear [TRIBAL CHAIRPERSON OR TDHE CHAIRPERSON]:

Subject: Overall Performance Assessment Report
Program(s) Number(s)

This letter is to inform you that we have completed the overall assessment of your tribe's (organization's) performance under the identified programs. This assessment was initiated upon the receipt of your [Annual Performance Report (APR)] [Annual Status and Evaluation Report (ASER)] [identify other program performance or status report]. The conclusions of this assessment are as follows.

[I. APR Review Comments

We have completed our review of the APR for your Indian Housing Block Grant(s). During the review we identified performance deficiencies and have included recommendations to improve your performance.

Part I - Reporting on the One-Year Indian Housing Plan

[DESCRIBE DEFICIENCY(S) AND PROVIDE RECOMMENDATIONS. IF NONE, DELETE THIS SECTION]

Table I - Sources of Funds

[DESCRIBE DEFICIENCY(S) AND PROVIDE RECOMMENDATIONS. IF NONE, DELETE THIS SECTION]

Table II - Uses of Funds

[DESCRIBE DEFICIENCY(S) AND PROVIDE RECOMMENDATIONS. IF NONE, DELETE THIS SECTION]

Part II - Reporting on Program Year Accomplishments

[DESCRIBE DEFICIENCY(S) AND PROVIDE RECOMMENDATIONS. IF NONE, DELETE THIS SECTION]

Section A - Monitoring

[DESCRIBE DEFICIENCY(S) AND PROVIDE RECOMMENDATIONS. IF NONE, DELETE THIS SECTION]

Table III - Inspection of Assisted Housing

[DESCRIBE DEFICIENCY(S) AND PROVIDE RECOMMENDATIONS. IF NONE, DELETE THIS SECTION]

Section B - Audits

[DESCRIBE DEFICIENCY(S) AND PROVIDE RECOMMENDATIONS. IF NONE, DELETE THIS SECTION]

Section C - Public Accountability

[DESCRIBE DEFICIENCY(S) AND PROVIDE RECOMMENDATIONS. IF NONE, DELETE THIS SECTION]

[We have completed our review of your Annual Status and Evaluation Report (ASER) for your ICDBG Program(s) [performance or status report for other program] and have the following comments and recommendation(s).]

II. We have completed our review of other reports, documents, data and other information available to our office which is related to your tribe's (organization's) performance under your open HUD assisted programs and provide the results of this review and related analysis.

A. Audits and Compliance Reviews

[DESCRIBE STATUS OF AUDIT OR COMPLIANCE REVIEWS (other than monitoring) FOR ASSISTED PROGRAMS. ARE THEY BEING COMPLETED IN A TIMELY MANNER; ARE FINDINGS BEING ADDRESSED IN A TIMELY MANNER - IS SATISFACTORY PROGRESS BEING MADE ON A CORRECTIVE ACTION PLAN]

B. HUD Monitoring of Assisted Programs

[DESCRIBE RECENT MONITORING HISTORY FOR ASSISTED PROGRAMS (dates, on-site /off-site, overall conclusions, etc.) ANY OUTSTANDING FINDINGS AND REMEDIAL OR CORRECTIVE ACTIONS AND DATES FOR COMPLIANCE]

C. OIG Reports

[IF APPLICABLE, DESCRIBE STATUS, CONCLUSIONS AND ANY OUTSTANDING ISSUES FOR ANY SUCH REPORTS]

D. Financial Status Reports

[DESCRIBE STATUS OF FINANCIAL REPORTS, E.G., HUD 272-I AND OTHERS -ARE THEY ACCURATE AND ARE THEY BEING SUBMITTED IN TIMELY MANNER]

E. Enforcement Actions and other Sanctions

[DESCRIBE THE STATUS OF ANY ENFORCEMENT ACTIONS OF OTHER SANCTIONS TAKEN AGAINST THE RECIPIENT]

Best Practices and Program Successes

The Office of Native American Programs congratulates you on bringing innovation to your HUD-assisted programs. These "best practices" can serve as examples for other recipients of assistance. In particular, we commend you on the following:

[INSERT A SUMMARY PARAGRAPH ON EACH BEST PRACTICE]

or

The Office of Native American Programs congratulates you on the following particularly successful project or activity

[INSERT SUMMARY PARAGRAPH ON SUCH PROJECT SPECIFICALLY IDENTIFYING THE BASIS FOR ITS RECOGNITION, E.G., COST LESS THAN BUDGETED, FINISHED SOONER THAN ESTIMATED, ETC.]

Your Tribe's (Organization's) participation in HUD assisted programs is appreciated. If you or your staff wishes to discuss any of the items contained in this letter, please feel free to contact [NAME AND PHONE # OF GE SPECIALIST]

Sincerely,

Grants Evaluation Division Director

cc: TRIBE if applicable



APR REMINDER LETTER FORMAT

[Date]

[Recipient Name & Address]

Dear :

SUBJECT: Notification of Submission Requirements
Annual Performance Report (APR) due: _____
Reporting Period: _____
Indian Housing Block Grant Number(s): _____

As a recipient of funds under the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996, you are required to review progress made to complete the goals and objectives listed in your approved Indian Housing Plan (IHP) and to submit an Annual Performance Report (APR) to HUD within 60 days of the end of your program year. You may request an extension to this submission date. This request must be submitted prior to the APR due date, must include an acceptable justification for the extension, and can be for a maximum of 30 days.

The requirement to submit an APR serves several purposes:

- Self monitoring increases your ability to assess progress made towards accomplishing the goals and objectives listed in your IHP,
- By allowing the citizens in your Indian area to review the APR, you are notifying them of progress made in the reporting period, and
- The APR provides HUD with information needed to effectively monitor progress and compliance with program requirements.

Submission of the APR may be accomplished by one of the following methods:

1. Prepare and mail HUD form HUD-52735-A to the Area ONAP. A copy of the form can be found on the Internet at <http://www.hudclips.Org/>. Recipients who do not have access to the Internet may request a copy of this form from the Area ONAP.
2. Use a template of the draft APR. This form can be downloaded from the Internet as follows:
 - Go to the NAHASDA Homepage: <http://www-domino.hud.gov.ihp/newhome.nsf?>
 - Click on "Template Download"
 - Choose and click either the on-line package or diskette package versions of the form



- Save the file and retrieve to complete the required information
- Save the completed file and make a copy to submit to the Area ONAP via the Internet or attach to an e-mail message addressed to a Grants Evaluation Specialist in the Area ONAP.

In the event that you do not submit an APR within 60 days of the end of your program year or do not request and receive an extension, we will ask that you submit documentation for any subsequent draw down of funds through the Line of Credit Control System (LOCCS). This documentation may include copies of billing documents, a copy of your contract register, copies of your project expenditure register, staffing documentation, etc. In other words, we will require information to substantiate that the Indian Housing Block Grant funds you are requesting will be used to implement the goals and objectives of your IHP and that the activities you are conducting are in compliance with statutory and regulatory requirements. This requirement will be discontinued at the time your delinquent APR is received by the Area ONAP and found to be fully responsive.

If you need any assistance or have questions with regards to the completion of the APR, please contact [insert GES name], Grants Evaluation Specialist, at _____.

Sincerely,

[insert GE Director name]
Director
Grants Evaluation



APR EXTENSION REQUEST LETTER FORMAT

[Date]

[Recipient Name & Address]

Dear :

SUBJECT: Annual Performance Report Extension Request

This is in response to your [insert date of letter] request to extend the due date for the Annual Performance Review (APR) for the period ending _____ . Based on your justified request, the due date for the submission of the APR is extended to _____ .

We request that the APR be submitted on form HUD-52735-A with a diskette copy. This form can be downloaded from the Internet as follows:

- Go to the NAHASDA Homepage: <http://www-domino.hud.gov/ihp/newhome.nsf?>
- Click "Template Download"
- Chose and Click either the on-line package or diskette package versions of the form
- Save the file and retrieve to complete the required information
- Save the completed file and make a copy to submit to HUD

Please ensure that a copy of your latest fiscal audit is submitted with your APR and that citizens in your area of jurisdiction have sufficient time to comment on the APR before submission.

If you have any questions, please contact [insert GES name] at _____ .

Sincerely,

[insert GE Director's name]
Director
Grants Evaluation



SAMPLE PAST DUE NOTICE/LETTER OF WARNING

[Date]

[Recipient Name & Address]

Dear :

SUBJECT: **Past Due Notice/Letter of Warning**
Annual Performance Report (APR)
Indian Housing Block Grant(s) #_____

This is to notify you that an Annual Performance Report (APR) covering the reporting period [*insert reporting period*] for the subject Indian Housing Block Grant(s) (IHBG) is delinquent. In our letter dated [*insert date of APR Reminder Letter*], we notified you that an APR was due to the [*insert ONAP Office*] on or before [*insert due date*] for the subject Indian Housing Block Grant(s) (IHBG). As of this date, we have not received the APR as required by the regulation at 24 CFR §1000.514. This constitutes a formal Letter of Warning pursuant to §1000.530(a)(1).

The APR provides critical information regarding the recipient's activities, as described in 24 CFR §1000.512. Since this information has not been provided, it will be necessary for HUD to review your payment requests through the Line of Credit Control System (LOCCS) before funds can be disbursed. Therefore, before requesting funds from LOCCS, you must submit the LOCCS Payment Voucher, form HUD-50080-IHBG, with supporting documentation for the disbursement. Fax transmissions will be accepted unless indicated otherwise. Examples of supporting documentation may include:

- contracts or contract register,
- invoices or check register, and
- payrolls.

This will enable us to verify that the IHBG funds you are requesting will be used for eligible activities to implement the goals and objectives of your Indian Housing Plan and that the activities you are conducting are in compliance with statutory and regulatory requirements. The requirement will be discontinued when your APR is received and is found to be complete and accurate.

As a grant recipient, you are responsible for ensuring compliance with all NAHASDA requirements. In accordance with 24 CFR §1000.530, if you fail to address this identified problem, HUD may impose sanctions as prescribed in §§1000.532 or 1000.538. Section 1000.532 authorizes HUD to adjust your future grant funds. Upon HUD's determination that you failed to comply substantially with any provision of NAHASDA, §1000.538 authorizes HUD to terminate, reduce, or limit grant payments, or replace the recipient.

[*insert if prior APRs are also delinquent:*

"Please note that the Tribe has also never submitted APRs for the periods ending _____. Only the Tables for these prior APRs need to be submitted at this time. The Tables include Table I - Sources of Funds, Table II - Uses of Funds, and Table III - Inspection of Assisted Housing."]



If we do not receive a complete and accurate APR for the reporting period ending [insert reporting period ending date] [insert if prior APRs also delinquent: "and Tables for the APR reporting periods ending _____"] within 30 days from the date of this letter, we will consider taking the necessary actions pursuant to §§1000.532 and/or 1000.538 to enforce this statutory requirement. In accordance with these regulatory provisions, you will be provided with an opportunity for an informal meeting, and if the issue remains unresolved, you will be provided with the opportunity for a hearing.

We look forward to receipt of your APR and hope that you are able to respond to this matter as soon as possible. If we may provide you with any assistance or you have questions on this matter, please contact [insert GES name], Grants Evaluation Specialist, at _____.

Sincerely,

[insert GE Director's name]
Director
Grants Evaluation Division

[insert if Tribe is not the recipient:
"cc:
_____ Tribe"]



APR RECEIPT LETTER FORMAT

[DATE]

[ADDRESS]

Dear [TRIBAL CHAIRMAN or TDHE Chairman]

Subject: Receipt of Annual Performance Report

This letter confirms that the Office of Native American Programs received your Annual Performance Report on [DATE RECEIVED]. Our preliminary review indicates that the report is complete. You will be notified no later than [DATE RECEIVED PLUS 60 DAYS] if we have any recommendations regarding the report or your performance under the Indian Housing Block Grant program.

Please note that during our review additional information may be requested in accordance with the requirements of the Native American Housing Assistance and Self-Determination Act (24 CFR Part 1000).

The [TRIBE OR TDHE]'s participation in the Indian Housing Block Grant program is appreciated. If you or your staff have any questions or comments, please feel free to contact [NAME AND PHONE NUMBER OF GE SPECIALIST].

Sincerely,

Grants Evaluation Division Director

cc: [TRIBE] (if applicable)



APR RECEIPT AND INFORMATION REQUEST FORMAT

[DATE]

[ADDRESS]

Dear [TRIBAL CHAIRMAN or TDHE CHAIRMAN]

Subject: Request for information on your Annual Performance Report

This letter confirms that the Office of Native American Programs received your Annual Performance Report (APR) on [DATE RECEIVED]. Our preliminary review indicates that the APR does not contain all required information. We request that you provide the following:

___ Cover Sheet

[DESCRIBE ADDITIONAL INFORMATION NEEDED]

___ Part I – Reporting on the One-Year Indian Housing Plan

[DESCRIBE ADDITIONAL INFORMATION NEEDED]

___ Table I – Sources of Funds

[DESCRIBE ADDITIONAL INFORMATION NEEDED]

___ Table II – Uses of Funds

[DESCRIBE ADDITIONAL INFORMATION NEEDED]

___ Part II – Reporting on Program Year Accomplishments

___ Part A – Monitoring

[DESCRIBE ADDITIONAL INFORMATION NEEDED]

___ Table III – Periodic Monitoring of Assisted Units

[DESCRIBE ADDITIONAL INFORMATION NEEDED]

___ Part F – Audits

[DESCRIBE ADDITIONAL INFORMATION NEEDED]



____ Part C – Citizen Comments
[DESCRIBE ADDITIONAL INFORMATION NEEDED]

____ Part D – Jobs Created by NAHASDA
[DESCRIBE ADDITIONAL INFORMATION NEEDED]

The information requested is needed to complete our review of the APR. Please submit the requested information to my attention within the next 15 days.

The [TRIBE OR TDHE]'s participation in the Indian Housing Block Grant program is appreciated. If you or your staff have any questions or comments, please feel free to contact [NAME AND PHONE NUMBER OF GE SPECIALIST].

Sincerely,

Grants Evaluation Division Director

cc: [TRIBE] (if applicable)



APR ADDITIONAL INFORMATION SECOND REQUEST FORMAT

[DATE]

[ADDRESS]

Dear [TRIBAL CHAIRMAN]:

Subject: Second request for additional information on your Annual Performance Report

On [DATE OF INITIAL REQUEST LETTER], I notified you that your recently submitted Annual Performance Report (APR) was incomplete and I requested that you submit additional information. A copy of the letter is attached.

As of this date I have not received the requested information. According to 24 CFR 100.524(d), recipients of Indian Housing Block Grants are required to submit an accurate APR within 60 days after completion of the program year.

Please submit the requested information to my attention within the next 15 days. If this information is not submitted within the required time frame, your APR will be determined incomplete and noncompliant.

If you or your staff have any questions or comments, please feel free to contact [NAME AND PHONE NUMBER OF GE SPECIALIST].

Sincerely,

Grants Evaluation Division Director

cc: [TRIBE] (if applicable)

Attachment: Copy of first information request letter

AUDIT TRACKING LOG

Recipient:	TDHE Yes/No	Fiscal Year Ending	Audit Due Date*	Fiscal Year End of Last Audit Rec'd	Audit Req Yes/No	ONAP is Cognizant Agency		DOI is Cognizant Agency			Date Management Decisions Made	Is Audit Compliant ?	Date Management Decisions Cleared	Latest Audit Sent to REAC	Grants Evaluation Specialist	Notes and Comments
						Audit Receipt Date and Identifier	Date Review Completed	DOI Acceptance Letter Receipt Date and Identifier	Findings							

OIG AUDIT TRACKING LOG

Recipient:	Action Official	Date OIG Audit Received	Audit Issuance Date	OIG Audit Identifier	Findings and Recommendation Identifiers	15-Day Request for Written Description of Corrective Action	60-Day Status Report Due to DIGA	110-Day Management Decisions Finalized	120-Day Summary Report Due to Management Decisions	180-Day Management Decisions Entered into DAAMS	Closure Due Date	Notes and Comments



AUDIT DELINQUENT LETTER FORMAT

[DATE]

[ADDRESS]

Dear [TDHE EXECUTIVE DIRECTOR]:

Subject: Delinquent Audit Report

This letter confirms that the Office of Native American Programs (ONAP) has not received an audit for the period [AUDIT FISCAL YEAR]. Grant recipients expending more than \$300,000 in Federal funds in a fiscal year are required to submit a complete audit conducted by an independent public auditor within 9 months of the end of your fiscal year (Office of Management and Budget Circular A-133). A complete report package must be submitted to the Federal Audit Clearinghouse at Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN, 47132. Also a data collection form (Form SF-SAC) must be submitted to the Audit Clearinghouse.

A complete audit report package contains:

- Auditor's report on the financial statements
- Financial statements
- Schedule of expenditures of federal awards
- Auditor's report on compliance
- Auditor's report on internal controls
- Schedule of findings and questioned costs
- Summary schedule of prior audit findings
- Corrective action plan, if applicable



Also please submit a copy of your complete audit report to my attention within the next 30 days. If you or your independent public auditor have any questions or comments please feel free to contact [NAME AND PHONE NUMBER OF GE SPECIALIST].

Sincerely,

Grants Evaluation Division Director

cc: [TRIBE

IPA AUDIT REVIEW CHECKLIST

Recipient: _____
 IPA Audit Report Identifier: _____
 HUD Grant(s) Audited: _____

 IPA Audit Period: _____
 Date(s) of IPA Audit Review: _____
 GE Specialist: _____

No.	Audit Items (As stipulated in Single Audit Act and OMB A-133)	Yes	No	Notes and Comments
1	Was the audit report submitted in a timely manner (within 9 months of fiscal year beginning on or after 6/30/98)?			
2	Does audit cover at least \$300,000 in federal award expenditures?			
3	Are you aware of any documented concerns with the auditor/auditing firm (LDP, debarment, not licensed in the state, etc.)?			
4	Were two copies of the audit report submitted to the Area ONAP?			
5	Is any additional action with other federal agencies required?			
6	If an expanded audit was requested, does the report reflect the expanded scope?			
7	Is funding information on HUD awards accurate?			
8	Is funding information of programs/projects in progress correct?			
9	Is there any concern with draw down of funds, i.e., are they timely, do they match need, etc.?			

10	Is the reporting package complete? Does it contain: Financial statements?			
•	Do the notes to the financial statements describe the auditee's significant accounting policies?			
•	Do the financial statements include all active HUD grants?			
•	At a minimum, do the financial statements include a balance sheet and a statement of income and expenses?			
•	Schedule of Expenditures of Federal Awards: If the auditee is a pass-through entity, does the Schedule of			

	Expenditures of Federal Awards identify the total amount provided to subrecipients from each federal program?		
	Are the Catalog of Federal Domestic Assistance (CFDA) numbers included on the Schedule of Expenditures of Federal Awards and are they correct? CFDA #s can be obtained on: http://www.HUD.gov/cfda/cfda.html		
•	Is each individual federal program listed on the Schedule of Expenditures of Federal Awards?		
	Summary schedule of prior audit findings?		
•	Does the summary schedule include all findings that have not previously been closed and the status of all findings from the most recent prior audit?		
•	For prior audit findings that have not been corrected, does the Summary Schedule describe the planned corrective action and any partial corrective action taken?		
•	If the corrective action taken is significantly different than the previously reported in a corrective action plan or a HUD management decision, does the schedule provide an explanation?		
	If the auditee believes that prior audit findings are no longer valid or require no further action, are the reasons described in the Schedule?		
	Does the Auditor's report(s) contain?		
•	An opinion or disclaimer of opinion on the financial statements?		
•	An opinion as to whether the financial statements of the federal program are presented fairly in all material respects in conformity with the stated accounting policies?		
•	A report on internal controls related to the federal program?		
•	Does the report on internal control include the financial statements and major programs?		
•	Does the report on internal control describe the scope of testing and the results of the tests?		
•	Does the report on internal control refer to the Schedule of Findings and Questioned Costs, if applicable?		
•	Does each reported internal control finding describe the issues completely?		
•	Report on compliance with laws, regulations, and the provisions of contracts or grant agreements?		
•			
•	If the auditor's opinion is qualified or adverse or if there is a disclaimer		

	of opinion, is there a sufficient explanation?			
	Does the summary of the auditor's results include the following:			
•	The type of report the auditor issued on the financial statements of the auditee?			
•	Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses?			
•	A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee?			
•	Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses?			
•	The type of report the auditor issued on compliance for major programs?			
•	A statement as to whether the audit disclosed any audit findings, which the auditor is required to report under .510(a)?			
•	An indication of major programs?			
•	The dollar threshold used to distinguish between Type A and Type B programs?			
	Does the schedule of findings and questioned costs contain:			
	Findings relating to the financial statements which are required to be reported in accordance with Generally Accepted Government Auditing Standards (GAGAS)?			
	Findings related to internal control or compliance issues?			
	Do the findings and questioned costs for HUD awards include audit findings as defined in section .510?			
	Was a Corrective Action Plan (CAP) required?			
	Was one submitted?			
	Does the CAP correctly address the findings? Does it describe who is responsible for the proposed corrective actions and establish a time frame for closing the findings?			
	Can any findings be closed based on corrective action already taken?			
11	If the audit is incomplete or not in compliance with SAA and OMB A-133:			
	Auditor is advised of deficiencies?			
	Other affected federal agencies and federal law enforcement officials have been notified of irregularities or illegal acts?			
	Additional audits indicated?			

	Coordination of management decisions for audit findings that affect federal programs is indicated?		
	Are any referrals to OIG, HQ, Tribe, or other entity in order?		
	Are Sanctions per Part 85 or the regulations at 24 CFR 1000 to be considered for this recipient?		
	Does the audit report indicate a change in recipient's administrative capacity/capability?		
12	Are there any programs/projects that can be closed out?		
13	Other issues? Please describe.		
Is the audit compliant?		Yes	No

Rationale for Determination of Compliance/Non-compliance:

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List of Findings:

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CAP REQUEST FORMAT LETTER

[DATE]

[ADDRESS]

Dear [TDHE EXECUTIVE DIRECTOR]:

Subject: Request for Corrective Action Plan

The Office of Native American Programs thanks you for submitting a copy of your most recent fiscal audit. Staff from Grants Evaluation Division have completed a careful review of your audit report and have determined that there are findings requiring your immediate attention.

Findings identified in your audit include:

[NUMBER EACH FINDING AND DESCRIBE]

You are required to submit a corrective action plan as stipulated by paragraph .320, Section C of OMB Circular A-133. The corrective action plan must include:

- A description of the action you will take to resolve each finding
- The name of the person responsible for resolving each finding
- A target date for resolving each finding

The processing of your audit report at this time does not preclude ONAP from taking administrative action should subsequent information disclose that such actions are warranted. Further, ONAP reserves the right to take administrative action if the corrective action plan is not submitted or is unresponsive to the findings listed above.

This matter requires your immediate attention. It is important that you submit the requested corrective action plan to my office within the next 30 days.

If you or your independent public auditor have any questions or comments please feel free to contact [NAME AND PHONE NUMBER OF GE SPECIALIST].

Sincerely,

Grants Evaluation Division Director

cc: [TRIBE]

cc: [RECIPIENT AUDITOR]

CAP ACCEPTANCE FORMAT LETTER

[DATE]

[ADDRESS]

Dear [TDHE EXECUTIVE DIRECTOR]:

Subject: Audit and Corrective Action Plan

The Office of Native American Programs (ONAP) thanks you for submitting a corrective action plan in response to the findings identified in your most recent fiscal audit. The corrective action plan is acceptable and we look forward to the timely resolution of the findings. Your auditor should be advised of our acceptance of the plan.

ONAP will monitor your progress in resolving all findings within the target dates. You should submit documentation to me that demonstrates progress in implementing and completing the corrective actions.

In the event we determine that corrective actions are not being implemented and completed according to the target dates, ONAP is authorized to initiate additional actions to cure outstanding findings.

If you have any questions or comments please feel free to contact [NAME AND PHONE NUMBER OF GE SPECIALIST].

Sincerely,

Grants Evaluation Division Director

cc: [TRIBE]

FEDERAL AGENCY ACCEPTANCE LETTER CHECKLIST

Recipient: _____
 Federal Agency Acceptance Letter Identifier: _____
 HUD Grant(s) Audited: _____
 IPA Audit Period: _____
 Date(s) of Acceptance Letter Review: _____
 GE Specialist: _____

No.	Audit Items (As stipulated in OMB Circular A-133)	Yes	No	Notes and Comments
1	Did the recipient submit an IPA audit to the Federal Agency within the required time frame?			
2	Did the Federal Agency determine that the audit is in compliance with OMB Circular A-133?			
3	Are there any findings relating to HUD programs?			
4	Was a Corrective Action Plan (CAP) required?			
	Was one submitted?			
	Does it describe who is responsible for the proposed corrective actions and establish a time frame for closing the findings?			
	Does the CAP correctly address the findings?			
	Has recipient satisfactorily resolved the findings?			
5	Are management decisions closed-out within one year?			
6	Are there any programs/projects that can be closed out?			
7	Are there any documented concerns with the auditor/auditing firm (LDP, debarment, not licensed in the state, etc.)?			
8	Additional audits indicated?			
9	Are Sanctions per Part 85 or the regulations at 24 CFR 1000 to be considered for this recipient?			
10	Does the audit report indicate a change in recipient's administrative capacity/capability?			

MANAGEMENT DECISION FORMAT LETTER

[DATE]

[ADDRESS]

Dear [TRIBAL CHAIRMAN or TDHE Executive Director]:

Subject: Management Decision

In a letter dated [DATE OF CAP REQUEST LETTER], the Office of Native American Programs (ONAP) requested that you submit a corrective plan within 30 days to address the findings listed in the letter. As of this date, we have received no response. [**Alternative to last sentence:** On [CAP RECEIPT DATE], ONAP received your corrective action plan and subsequently determined that it was not fully responsive to the audit findings.]

This letter constitutes the management decision in accordance with Section .405 of OMB Circular A-133. To facilitate resolution of the identified deficiencies, ONAP has summarized the required corrective actions and established target dates for the findings.

Finding Number [AUDIT FINDING NUMBER]: [FINDING NAME] [FINDING DESCRIPTION]
[CORRECTIVE ACTION DESCRIPTION AND TARGET DATE]

The [TRIBE OR TDHE] should submit documentation to verify completion of the corrective actions for the above findings. If the [TRIBE OR TDHE] is unable to meet an established target date, it should submit a written request justifying an extension prior to the target date. All corrective actions should be completed within established target dates to avoid the imposition of remedies listed at 24 CFR 1000.538.

If there are any questions on the actions necessary to address the audit findings, please contact [NAME AND PHONE NUMBER OF GE SPECIALIST].

Sincerely,

Grants Evaluation Division Director

[Cc: If TDHE copy the Tribal Chairperson and Chairperson of TDHE Board of Commissioners]

RISK ASSESSMENT FACTOR OVERVIEW

1. Potential Financial Exposure

Factor Intent:

Factor Impact: High

What is the recipient's total amount of unspent funds? The larger the amount, the higher the risk.

General Guidelines:

- Assign 1 for low level of risk
- Assign 3 for moderate level of risk
- Assign 8 for high level of risk
- Assign 10 for very high level of risk

2. Planned Controls

Factor Intent:

Factor Impact: Medium

What internal controls are planned by the recipient to manage the projects proposed in a timely and responsible manner? The fewer the controls, the higher the risk.

General Guidelines:

- None

3. COMPLEXITY OF PLANNED ACTIVITIES

Factor Intent:

Factor Impact: Medium

Does the recipient have experience, or has the recipient clearly described how it will obtain the skills needed to implement all the activities planned? The less the experience, the higher the risk.

The larger number of subrecipients or partners, the higher the risk.

Note: In cases where the data sources used do not identify the recipient's use of force accounts, the determination will be based on HUD knowledge of such information.

4. Stability of Environment

Factor Intent:

Factor Impact: Medium

Is there frequent staff turnover? Does the program employ experienced staff? Do tribal officials interfere with the recipient's daily operations?

General Guidelines:

- If there is no documentation of a problem, then assign 1 for the risk value.
- New recipients should be considered high risk; assign 8 for the risk value.

5. Timely Progress

Factor Intent:

Factor Impact: Medium

Has the recipient attained its performance objectives according to its implementation schedule?

The greater the schedule slippage, the higher the risk.

Note: General time frames for completing grant activities:

- 2 years: PIHDEP, EDSS
- 3 years: ESG, Modernization/Comp. Grant, ICDBG
- 5 years: IHBG, IHOME, TOP
- 6 years: 1937 Housing Act Development

6. Third-Party Observations

Factor Intent:

Factor Impact: Low

Does the recipient respond to valid complaints in a timely manner? The larger the number of unaddressed valid complaints, the higher the risk.

General Guidelines:

- If there is no evidence of complaints, then assign 1 for the risk value.

7. Fiscal and Internal Controls

Factor Intent:

Factor Impact: High

Does the recipient use appropriate financial and internal controls to safeguard public funds?

The fewer the controls and the higher the number of outstanding audit findings, the higher the risk.

General Guidelines:

- If the recipient does not meet A-133 threshold, then assign 5 for the risk value.
- Even if the threshold is met, assign 5 for the risk value to a new TDHE with no audit received/due during the assessment period.
- If audit report has qualified opinions or if no opinion is rendered, then assign 10 for the risk value.

8. Administration of Programs

Factor Intent:

Factor Impact: High

Does the recipient have unresolved findings from previous monitoring visits? The larger the number or the more serious the nature of unresolved findings, the higher the risk.

General Guidelines:

- If the recipient is new, then assign 5 for the risk value.
- Results of any monitoring visit over 2 years ago should not be taken into consideration unless unresolved findings remain from such visit.

9. Reporting

Factor Intent:

Factor Impact: Medium

Does the recipient have systems in place to provide timely and accurate reports? The later the reports and the larger the number of required corrections, the higher the risk.

General Guidelines:

- Rate each program individually and enter the value for the highest risk program.

10. Quality, Completeness, and Clarity of Performance Objectives

Factor Intent:

Factor Impact: Medium

Has the recipient proposed performance objectives that are clear, reasonable, and linked to planned expenditures? The weaker the performance objectives, the higher the risk.

General Guidelines:

- Assign 0 (zero) if no IHBG
- Assign 1 for low level of risk
- Assign 5 for moderate level of risk
- Assign 10 for high level of risk

11. Recipient Self-Monitoring and Monitoring of Subrecipients

Factor Intent:

Factor Impact: High

Does the recipient monitor its own activities and those of its subrecipients, and does the recipient implement its corrective actions? The less the monitoring and the greater the delay in adopting corrective actions, the higher the risk.

General Guidelines:

- None

12. Planned Preservation of 1937 Housing Act Units

Factor Intent:

Factor Impact: Medium

Does the recipient have comprehensive plans for managing its 1937 Act housing units including the inspection, protection, and maintenance of the structures? The lower the planned maintenance, the higher the risk.

General Guidelines:

- Assign 0 (zero) if no 1937 Act units

13. Preservation of 1937 Housing Act Units

Factor Intent:

Factor Impact: High

Does the recipient complete its planned inspections, and are its 1937 Act units in good condition? The fewer the number of inspections and the poorer the housing conditions, the higher the risk.

General Guidelines:

- Assign 0 (zero) if no 1937 Act units
- If there is no first-hand knowledge or documented evidence on unit condition or quality, then assign 5 for the risk value.
- If inspections are being performed, then adjust default risk value up or down depending on the actual number of inspections.

RISK ASSESSMENT WORKBOOK

Recipient: _____ **GE Specialist:** _____
HUD Grants: _____ **Date:** _____

Low Level of Risk: 1-3 Moderate Level of Risk: 4-7 High Level of Risk: 8-10

1. Potential Financial Exposure

Factor Intent: What is the recipient's total amount of undisbursed funds? The larger the amount, the higher the risk.
Factor Impact: High

Data Source(s)	Level of Risk - General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
LOCCS General Guidelines: * Assign 1 for low level of risk * Assign 3 for moderate level of risk * Assign 8 for high level of risk * Assign 10 for high level of risk Low: * Total unspent grant funds <\$500K (1 point) Moderate: * Total unspent grant funds \$500K - \$3 million (3 points) High: * Total unspent grant funds \$3 million - \$5 million (8 points) Very High: * Total unspent grant funds over \$5 million (10 points)			3		0

2. Planned Controls

Factor Intent: What internal controls are planned by the recipient to manage the projects proposed in a timely and responsible manner? The fewer the controls, the higher the risk.

Factor Impact:
Medium

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
<p>IHP one year plan performance objectives, approved grants.</p>	<p>Level of Risk- General Guidelines & Definitions</p> <p>Low:</p> <ul style="list-style-type: none"> * IHP objectives show an adequate system for monitoring implementation of activities, including budget controls and timely completion of individual activity components. * Recipient provided comprehensive information documenting its experience and ability to manage and administer the proposed projects in a timely and responsible manner. <p>Moderate:</p> <ul style="list-style-type: none"> * IHP objectives show an adequate system for monitoring implementation actions, but these objectives do not clearly define and describe recipient responsibilities. * Recipient lacks necessary experience or demonstrated capability, but has named a third party with the necessary experience and abilities to administer grant. <p>High:</p> <ul style="list-style-type: none"> * IHP objectives make no reference to monitoring implementation actions. * Recipient has no direct experience in managing the types of projects proposed and has only marginally established its abilities to manage and administer the proposed projects. 		2		0

3. Complexity of Planned Activities

Factor Intent: Does the recipient have experience or has it clearly described how it will obtain the skills needed to implement all the activities planned?

The less experience, the higher the risk. The larger number of subrecipients or partners, the higher the risk.

Factor Impact:
Medium

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
<p>IHP, approved grant, list of standard activities, correspondence</p> <p>NOTE: In cases where the data sources used do not identify the recipient's use of force accounts, the determination will be based on HUD knowledge of such information.</p> <p>Low:</p> <ul style="list-style-type: none"> * Modest number of planned activities. * Recipient has successful experience in completing the number and type of planned activities. * Subrecipients have demonstrated abilities in implementing projects. * Recipient does not use force account. <p>Moderate:</p> <ul style="list-style-type: none"> * Modest number of planned activities but recipient is inexperienced in implementing planned activities. * Increased number of planned activities over previous years but recipient has successful experience in implementing similar activities. * Subrecipients have limited capability to implement activities planned. * Recipient uses force account and has successful experience. <p>High:</p> <ul style="list-style-type: none"> * Significant number of planned activities (or) complex activities planned. * Recipient has no successful experience implementing the types of activities planned. * Subrecipients named have no demonstrated capability to implement activities planned. * Recipient uses force account but has little or no experience. 			2		0

4. Stability of Environment

Factor Intent: Is there frequent staff turnover? Does the program employ experienced staff? Do tribal officials interfere with the recipient's daily operations?

Factor Impact:
Medium

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
<p>IHP monitoring visits, routine contacts with recipient, correspondence, media coverage</p>	<p>Level of Risk- General Guidelines & Definitions</p> <p>General Guidelines: * If there is no documentation of a problem, assign 1 for the risk value. * New recipients should be considered high risk, assign 8 for the risk value.</p> <p>Low: * Experienced staff employed by the program or satisfactory subrecipient(s) or third party. * Tribal officials monitor program without undue interference.</p> <p>Moderate: * Program staff has some experience but periodic turnover. * Tribal officials occasionally interfere in the daily operation of the program.</p> <p>High: * Frequent staff turnover. * Tribal officials regularly interfere in the daily operations of the program.</p>		2		0

5. Timely Progress

Factor Intent: Has the recipient attained its performance objectives according to its implementation schedule?
 The greater the schedule slippage, the higher the risk.
Factor Impact:
 Medium

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
APR, ASR, other program status reports, implementation schedule, grant files	<p style="text-align: center;"><i>Level of Risk- General Guidelines & Definitions</i></p> <p>NOTE: General timeframes for completing grant activities. * 2 years: PIHDEF, EDSS * 3 years: ESG, Modernization/Comp. Grant, ICDBG * 5 years: IHBG, IHOME, TOP * 6 years: 1937 Housing Act Development</p> <p>Low: * At least 90% of IHBG performance objectives are met. * Discretionary grants are completed and closed in a timely manner; implementation is on-schedule, including, drawdown of funds. * Fund requisition history indicates all planned activities will be completed within the time frames prescribed for the program.</p> <p>Moderate: * Between 70 and 90% of IHBG performance objectives are met. * Discretionary grants are completed but not closed in a timely manner; implementation is not more than 90 days behind schedule, including drawdown of funds. * Fund requisition history indicates all planned activities are behind schedule but could be completed within months of the time frames prescribed for the program.</p> <p>High: * Less than 70% of IHBG performance objectives are met. * Discretionary grants are not completed and closed in a timely manner; implementation is more than 90 days behind schedule. * Fund requisition history indicates delays in completing planned activities of more than 6 months behind time frames prescribed for the program.</p>		2		0

6. Third-Party Observations

Factor Intent: Does the recipient respond to valid complaints in a timely manner? The larger the number of unaddressed valid complaints, the higher the risk.

Factor Impact:
Low

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
Congressional/ media coverage, phone calls, correspondence	<p>General Guidelines: * If there is no evidence of complaints, assign a 1 for the risk value.</p> <p>Low: * No substantiated complaints received or complaints determined to be unfounded.</p> <p>Moderate: * Complaints received were insignificant and/or were resolved in a timely manner by the recipient.</p> <p>High: * Substantiated complaints are significant and/or the recipient does not promptly resolve issues.</p>		1		0

7. Fiscal and Internal Controls

Factor Intent: Does the recipient use appropriate financial and internal controls to safeguard public funds? The fewer the controls and the higher the number of outstanding audit findings, the higher the risk.

Factor Impact:
High

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
Audits, OIG reviews, APR, correspondence	<p>Level of Risk- General Guidelines & Definitions</p> <p>General Guidelines:</p> <ul style="list-style-type: none"> * If the recipient does not meet the A-133 threshold, assign a 5 for the risk value. * Even if the threshold is met, assign a 5 for the risk value to a new TDHE with no audit due/received during the assessment period. * If audit report has qualified opinions or if no opinion is rendered, assign a 10 for the risk value. <p>Low:</p> <ul style="list-style-type: none"> * Recipient submits audits on time. * Adequate financial systems and internal controls to assure funds are safeguarded. * No significant outstanding findings (or) recipient has submitted a plan to resolve them and is performing within its plan. <p>Moderate:</p> <ul style="list-style-type: none"> * Recipient submits audits on time. * Significant findings but recipient has submitted plan to resolve them. * Recipient is working to ensure that systems will be in place to safeguard funds. <p>* Recipient does not meet the A-133 threshold for audits.</p> <p>High:</p> <ul style="list-style-type: none"> * Audits are delinquent. * No adequate financial or internal controls. * Recipient has open significant findings and does not have a plan to correct (or) is not performing under the plan. * Independent auditor has expressed an adverse opinion (or) was unable to give an opinion. 		3		0

8. Administration of Programs

Factor Intent: Does the recipient have unresolved findings from previous monitoring visits?

The larger the number or the more serious the nature of unresolved findings, the higher the risk.

Factor Impact:
High

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
<p>Monitoring reports, correspondence, litigation, contractor complaints</p> <p>General Guidelines: * If the recipient is new, assign a 5 for the risk value. * Results of any monitoring visit over 2 years ago should not be taken into consideration unless unresolved findings remain from such visit.</p> <p>Low: * No significant findings resulted from last monitoring effort. * Findings were or are being addressed within the timeline established by the recipient.</p> <p>Moderate: * Significant findings resulted from the last monitoring effort, but all findings were or are being addressed within the timeline established by the recipient.</p> <p>High: * Significant findings resulted from the last monitoring effort and the recipient is not addressing the findings in a reasonable timeline. * Recipient has been found in significant non-compliance or designated high risk under par 85.12.</p>			3		0

9. Reporting

Factor Intent: Does the recipient have systems in place to provide timely and accurate reports?

The later the reports and the larger the number of required corrections, the higher the risk.

Factor Impact:
Medium

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
<p>SF 272, SF 272i, APR, development cost statement, ICDBG, ASR, MBE reports</p> <p>General Guidelines: *Rate each program individually, and enter the value for the highest risk program.</p> <p>Low: * Reports are consistently submitted in a timely manner. * Reports are accurately prepared and usually consistent with other available information (e.g., LOCCS).</p> <p>Moderate: * Reports have been late on a few occasions. * Reports are generally accurately prepared and usually consistent with other available information and have been corrected if not.</p> <p>High: * Reports are consistently late or not submitted. * Reports usually require corrections to be consistent with other available information.</p>			2		0

10. Quality, Completeness and Clarity of Performance Objectives

Factor Intent: Has the recipient proposed performance objectives that are clear, reasonable, and linked to planned expenditures? The weaker the performance objectives, the higher the risk.

Factor Impact:
Medium

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
IHP	<p>General Guidelines:</p> <ul style="list-style-type: none"> * Assign 0 (zero) if no IHBG * Assign 1 for low level of risk * Assign 5 for moderate level of risk * Assign 10 for high level of risk <p>Low: (Assign a 1 for the risk value)</p> <ul style="list-style-type: none"> * Performance objectives provide sufficient information to link them to the 5- and 1-year objectives and objectives are written clearly enough to determine recipient plans. Reasonable timelines for completing all activities can be linked to planned expenditures. <p>Moderate: (Assign a 5 for the risk value)</p> <ul style="list-style-type: none"> * Performance objectives provide sufficient information to link them to the 5- and 1-year objectives; however, they are not clearly written or do not provide reasonable timelines for completing activities or activities cannot be linked to planned expenditures. <p>High: (Assign a 10 for the risk value)</p> <ul style="list-style-type: none"> * Performance objectives cannot be clearly linked to 5- and 1-year objectives. They are not clearly written or do not provide timelines for completing the activities within a reasonable time or activities cannot be linked to planned expenditures. 		2		0

11. Recipient Self-Monitoring and Monitoring of Subrecipients

Factor Intent: Does the recipient monitor its own activities and those of its subrecipients and does the recipient implement its corrective actions? The less the monitoring and the greater the delay in adopting corrective actions, the higher the risk.

Factor Impact:
High

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
APR	<p>Low: * During the reporting period, recipient has monitored all activities that it has undertaken and those undertaken by any subrecipients. * Results have been reported and have been made available to public. All identified corrective actions have been implemented.</p> <p>Moderate: * During the reporting period, recipient has monitored all activities it has undertaken and those undertaken by any subrecipients, although the results of the monitoring activity are not fully described and it is unclear if corrective actions have been completely implemented.</p> <p>High: * The recipient has not monitored all activities or, if monitored, none of the corrective actions have been implemented.</p>		3		0

12. Planned Preservation of 1937

Housing Act Units

Factor Intent: Does the recipient have comprehensive plans for managing its 1937 Act housing units, including the inspection, protection, and maintenance of the structures? The lower the planned maintenance, the higher the risk.

Factor Impact:
Medium

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
IHP	<p>General Guidelines: *Assign 0 (zero) if no 1937 Act units.</p> <p>Low: * Recipient has identified specific actions it will take and resources it will use to protect and maintain 1937 Housing Act units it owns.</p> <p>Moderate: * Recipient has addressed its responsibilities to protect and maintain 1937 Housing Act units it owns but has not identified specific actions it will take and/or the resources it will use are not clearly determined.</p> <p>High: * Recipient has not addressed its responsibilities to these units or has identified actions and resources which are clearly inadequate to meet its responsibility.</p>		2		0

13. Preservation of 1937 Housing Act Units

Factor Intent: Does the recipient complete its planned inspections, and are its 1937 Housing Act units in good condition?
 The fewer number of inspections and the poorer the housing conditions, the higher the risk.
Factor Impact:
 High

Data Source(s)	Level of Risk- General Guidelines & Definitions	Assessment Notes	Factor Value (1-3)	Assigned Level of Risk	Factor Risk Rating
APR, monitoring reports, audits, staff knowledge	<p>Level of Risk- General Guidelines & Definitions</p> <p>General Guidelines:</p> <ul style="list-style-type: none"> * Assign 0 (zero) if no 1937 Housing Act units. * If there is no first-hand knowledge or documented evidence on unit condition or quality, assign a 5 for the risk value. * If inspections are being performed, adjust default risk value up or down depending on the actual number of inspections. <p>Low:</p> <ul style="list-style-type: none"> * Recipient documents that units are well maintained and in good condition. * Documentation that ALL units have been inspected. * Inspection results were clear, unambiguous and were made available to the public. <p>Moderate:</p> <ul style="list-style-type: none"> * If inspection has not been documented, assign a 5 for the risk value. * Documentation that units are in fair condition. * Documentation that a MAJORITY of units were inspected. * Inspection results are not clear but some action has been taken to cure maintenance problems. <p>High:</p> <ul style="list-style-type: none"> * Documentation that units are in poor condition. * Documentation that a MINORITY of units were inspected. * No inspection results were documented nor any action taken to cure maintenance problems. 		3		0

MONITORING STRATEGY WORKSHEET AND STATEMENT

The worksheet is a tool to be used to develop a coherent, comprehensive monitoring strategy for an identified recipient.

RECIPIENT _____

TOOL/DOCUMENT REVIEWED And COMMENTS

1. Risk Assessment Workbook

Programs

Factors (list those rated moderate and high with scores)

2. Audit Reports

3. Monitoring Log/Previous Monitoring Report

4. Environmental Records

5. Correspondence

6. LOCCS Records

7. Public comment/Complaint records

MONITORING AREAS

Indicate those areas to be reviewed based on results of risk assessment and review of other relevant documents and information. Specify program/project if review will not cover all open grants.

1. Planned controls

2. Complexity of Planned Activities

3. Stability of Environment

4. Timely Progress

5. Third-Party Observations

6. Fiscal and Internal Controls

7. Administration of Programs

8. Reporting

9. Quality, completeness and clarity of performance objectives

10. Recipient self-monitoring and monitoring of subrecipients

11. Planned preservation of 1937 Housing Act units

12. Preservation of 1937 Housing Act units

Required Monitoring Areas

If any required area will not be reviewed, indicate the basis for such determination

Environmental review

Procurement/contract administration

Fiscal and Internal Controls

Indian Preference and non-discrimination

Labor standards

Optional Monitoring Areas (as applicable)

IHP Certifications

Relocation

Real property acquisition

Lead-based paint

On site (remote) monitoring will focus on the following areas:

This review will take place during _____. In addition to the GE Specialist the following staff persons will be needed for the review:

The following special conditions or considerations apply to this review:

GE SPECIALIST/DATE

GE DIVISION DIRECTOR/DATE

MONITORING IHBG CHECKLIST

RECIPIENT MONITORING CHECKLIST	
Recipient:	Total HUD Funds Awarded by Program:
HUD Grants Monitored:	Total Undisbursed HUD Funds by Program:
Subrecipient(s) Monitored:	GE Specialist:
On-Site or Remote Monitoring:	Scheduled Monitoring Date(s):

Potential Financial Exposure:	
<i>Total HUD grant amounts by program type</i>	
<i>Total undisbursed HUD grants by program type</i>	
<i>Percentage of undisbursed HUD grants by program type and total</i>	

1. Planned Controls

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Does recipient have an adequate system for monitoring implementation of activities, including budget controls and timely completion of each activity?</p> <p>B. Does this documentation show that monitoring responsibilities are clearly described and adhered to by recipient staff?</p> <p>C. Does the recipient provide documentation on its experience and ability to manage and administer HUD grants in a timely and responsible manner?</p> <p>D. Does the recipient use a third party to administer any of its HUD grants?</p> <p>E. Is there evidence that the third party demonstrates the necessary capabilities and capacities to administer and monitor HUD grants in a timely and responsible manner?</p> <p>Develop additional questions as necessary.</p>	

2. Complexity of Planned Activities

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Organizational Capacity</p> <ol style="list-style-type: none"> 1. Has the recipient established an administrative and organizational capacity that corresponds with the plan? 2. If the recipient uses force account, has it demonstrated successful experience? 3. Is the recipient's staffing adequate to support the activities described in the plan? Is this also true for any subrecipients? <p>B. Model Housing Activities</p> <ol style="list-style-type: none"> 1. Did the recipient set forth model activities within the IHP? 2. If yes, have the activities been implemented, and at what cost? 3. Did the recipient identify the program beneficiaries of these activities? 	

<p>General</p> <p>Develop additional questions as necessary.</p>	
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3. Stability of Environment

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Is there evidence of frequent staff turnover?</p> <p>B. Do tribal officials monitor HUD grants without undue interference?</p> <p>C. Is there evidence that tribal officials interfere in the daily operations of HUD grants?</p> <p>Develop additional questions as necessary.</p>	

4. Timely Progress

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Five Year Indian Housing Plan</p> <p><i>Goals and Objectives</i></p> <p>Has the recipient made progress in addressing the goals and objectives contained in the 5-year plan?</p> <p>If there were any quantitative goals and objectives, have they been met? If not, why?</p> <p>B. One-Year Indian Housing Plan</p> <p><i>Goals and Objectives</i></p> <p>(All quantifiable goals and objectives should be reviewed for implementation)</p> <p>1. Has the recipient achieved with IHBG funds what was stated in the 1-year plan?</p> <p>2. If the goal was to assist a specific number of low-income families, has this been accomplished?</p> <p><i>Statement of Needs</i></p> <p>3. Has the estimate for low-income families remained the same?</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>4. If it has changed, explain the overall impact on the plan.</p> <p>5. Has the estimate for all families in the jurisdiction changed?</p> <p>6. If YES, explain the impact a change in estimate will have on the plan.</p> <p style="text-align: center;"><i>Financial Resources</i></p> <p>7. Did the recipient have the financial resources stated in the plan available?</p> <p>8. Did the recipient use these resources? If yes, please explain how.</p> <p style="text-align: center;"><i>Affordable Housing Resources</i></p> <p>Characteristics of Housing Market</p> <p>9. Does available data conform with, or at least not contradict, the recipient's description of the housing market?</p> <p>(To a large extent, the determinations necessary to respond to this question will be based upon a review of data; for example, BIA or other federal or state agencies that may be done before the visit.</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>The availability of such data will vary considerably by recipient.)</p> <p style="text-align: center;"><i>Coordination of Government Agencies</i></p> <p>10. Has the recipient coordinated the implementation of NAHASDA activities with other governmental agencies?</p> <p style="text-align: center;"><i>Manner of Addressing Housing Needs</i></p> <p>11. Has the recipient taken specific actions to address the identified housing needs? If YES, explain what actions have been taken:</p> <p style="text-align: center;"><i>Homeownership and Rental Programs</i></p> <p>12. Has the TDHE implemented homeownership and rental programs as described in the plan?</p> <p style="text-align: center;"><i>Other Types of Housing Assistance</i></p> <p>13. Has the recipient provided other forms of housing assistance as described in the plan?</p> <p style="text-align: center;"><i>Coordination with Welfare Agencies</i></p> <p>14. Has the TDHE initiated partnerships and/or contacts with welfare agencies? If yes, describe outcome of those contacts or partnerships.</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p data-bbox="316 409 349 661"><i>Housing to be Demolished or Disposed</i></p> <p data-bbox="365 472 446 871">15. Has the recipient demolished or disposed of any housing as stated in its plan?</p> <p data-bbox="503 651 576 871">16. If demolition or disposition has occurred, what were the actual costs incurred?</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>Locality within which the affordable housing is being provided? If no, please explain why.</p> <p style="text-align: center;"><i>Implementation Schedule</i></p> <p>22. Has the recipient implemented the affordable housing activities in accordance with time frames established in the IHP?</p> <p><i>C. Discretionary Grants</i></p> <p>1. Are discretionary grants completed and closed in a timely manner?</p> <p>2. Is implementation on schedule, including fund drawdowns?</p> <p>General</p> <p>Develop additional questions as necessary.</p>	

5. *Third-Party Observations*

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Are there any substantiated complaints against the recipient?</p> <p>B. If YES, has the recipient acted promptly to resolve the complaints?</p> <p>C. Do substantiated complaints require the involvement of ONAP or other Federal agencies?</p> <p>Develop additional questions as necessary.</p>	

6. Fiscal and Internal Controls

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Draw downs</p> <p>Note: Under the provisions of 24 CFR 1000.56, a recipient may include in its IHP a request for a method of payment of IHBG funds which could allow it to request and receive grant funds in advance of need for payment to meet the financial obligations of the program. The investment of any funds received in advance of need is addressed in 24 CFR 1000.58.</p> <ol style="list-style-type: none"> 1. Has the recipient demonstrated to the satisfaction of HUD that it qualifies for the method of payment requested per the requirements of Section 1000.56? 2. If yes, describe the method of payment approved by HUD. 3. If the answer to 1 is YES, has the recipient drawn down funds in advance of need? 4. If the answer is YES, how have these funds been invested? Describe. (See below regarding the review of investment practices.) 5. If the answer to 3 is NO, has the recipient made an unauthorized drawdown of funds in advance of need? 	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>6. If the recipient did not qualify to request and receive funds in advance of need, does the release of the check for payment of program costs occur within 3 days of the deposit of funds?</p> <p>7. Has the recipient been required to remit funds to HUD because of excessive drawdowns?</p> <p>8. Are Request Vouchers for payment</p> <ul style="list-style-type: none"> ➤ Prepared? ➤ Accurate? ➤ Documented? <p>B. Accounting of Records</p> <p>1. Do the recipient's accounting records adequately identify the source and application of funds provided in the following areas?</p> <ul style="list-style-type: none"> ➤ Obligations ➤ Unobligated balances ➤ Assets ➤ Liabilities ➤ Outlays/expenditures 	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>➤ Income</p> <p>➤ Subrecipient awards or obligations</p> <p>➤</p> <p>2. Are cash receipts/cash disbursement journals current?</p> <p>3. Does the recipient reconcile its bank statements in a timely manner?</p> <p>4. Are there no discrepancies noted in bank reconciliations?</p> <p>5. If discrepancies exist, does the recipient investigate and resolve them?</p> <p style="text-align: center;"><i>C. Internal Controls/Cash Management</i></p> <p>Cash Receipts</p> <p>1. Has there been a change in staff handling cash transactions within the last 6 months?</p> <p>2. If staff has been replaced, were appropriate security measures taken regarding former employee(s) (e.g., LOCCS authority, safe</p>	

<i>Issues/Questions & Responses</i> combinations)?	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>3. If cash receipts process is computerized, is system security adequate?</p> <p>4. Is there adequate separation of responsibility in the receipt, recording, and deposit of cash receipts?</p> <p>5. Are all checks restrictively endorsed (e.g., “For deposit only”)?</p> <p>6. Are cash funds secured?</p> <p>7. Are all funds deposited at least weekly?</p> <p>8. Are cash receipts deposited intact?</p> <p>9. Does the recipient use and issue pre-numbered cash receipts in numerical order?</p> <p>10. Are any of the cash receipts missing?</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>11. Are there any erasures or alterations on deposit slips.</p> <p>12. Is there any employee IOU notes or personal checks (exclusive of cash receipts for legitimate housing payments)?</p> <p>Cash Disbursements</p> <p>13. If the recipient realizes “program income”, is this income disbursed on affordable housing activities or invested properly?</p> <p>14. Is there adequate separation of duties in the authorization, recording, and payment of cash disbursements?</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>17. Are there any missing, voided, or altered checks?</p> <p>18. If authorized, do petty cash and/or change fund(s) reflect what is on the general ledger?</p> <p>19. Are cash counts done randomly by recipient with documented regularity?</p> <p>20. Do the on-site cash counts of petty cash and/or change fund show any discrepancies?</p> <p style="text-align: center;"><i>D. Budget Control</i></p> <p>1. Do recipient accounting records allow and provide for the comparison of actual expenditures with budgeted amounts for each grant?</p> <p>2. Is there evidence that the recipient periodically (at least once a quarter) compares actual to budgeted expenditures?</p> <p>3. Do accounting records include tracking of expended/unexpended and obligated/unobligated balances?</p> <p>4. Are program budgets revised and approved, when necessary,</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>in accordance with program requirements?</p> <p><i>E. Investments/Banking</i></p> <ol style="list-style-type: none"> 1. Does the recipient hold IHBG funds in one or more accounts separate from its other funds? 2. Are these accounts insured by an agency or instrumentality of the United States or fully collateralized to ensure protection of the funds even in the event of bank failure? 3. Are each of these accounts subject to an agreement in a form prescribed by HUD sufficient to allow HUD to exercise its rights under 24 CFR 1000.60? 4. Is cash in excess of immediate need identified and invested? 5. Are funds invested in instruments or obligations that meet the requirements of 24 CFR 1000.58(a)? <p><i>F. Costs, Allowability, and Reasonableness</i></p> <ol style="list-style-type: none"> 1. Is an audit required under the Single Audit Act as regulated by OMB Circular A-133? (Recipient expends in excess of \$300,000 	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>of federal funds annually.)</p> <p>2. If required, has the audit been completed within the time frames set forth in OMB Circular A-133?</p> <p>3. Has the cognizant/oversight agency approved/accepted the audit?</p> <p>4. Has the recipient provided HUD with a copy of its latest required audit with its Annual Performance Report?</p> <p>5. Have any audit deficiencies identified in the report related to the IHBG program been adequately addressed within the prescribed time period?</p> <p>6. If a TDHE is the recipient, has the TDHE provided the grant beneficiary tribe with a copy of its latest audit?</p> <p>7. Does a spot check of the following cost items reveal any instances where the expenditures were not necessary or reasonable for proper and efficient administration of the program:</p> <ul style="list-style-type: none"> ➤ Salaries and related costs? ➤ Administrative service contracts (e.g., legal, accounting, audit, 	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>consulting and travel expenditures)?</p> <ul style="list-style-type: none"> ➤ Other administrative costs? <p>8. Does a review of program expenditures reveal any unallowable costs as identified in attachment A or B of OMB Circular A-87, including:</p> <ul style="list-style-type: none"> ➤ Entertainment? ➤ Contributions and donations? ➤ Fines and penalties? ➤ General governmental expenditures including salary and expenses of the chief executive officer of the recipient? ➤ Bad debts ➤ Other (please specify) <p>9. Have any costs related to political activities been charged to the IHBG program?</p> <p>10. Are costs charged to the IHBG program after subtraction of all applicable credits?</p> <p>11. Are costs charged to the IHBG program not allocable to or included as a cost of any other federally-financed program in either the current or a prior period?</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>12. Are indirect costs charged to the IHBG program supported by an approved indirect cost proposal/cost allocation plan?</p> <p>13. Does a review of the personnel roster of staff being paid from IHBG resources reveal any instances of personnel being paid from, but not working on, program activities?</p> <p>14. Does the percentage of IHBG funds charged to the IHBG program appear to be consistent with the percentage included in the IHP?</p> <p>15. Does a review of program activities confirm that IHBG funds were spent or obligated for activities that are affordable housing activities as defined in Section 202 of the Act?</p> <p>General</p> <p>Develop additional questions as necessary.</p>	

7. *Administration of Programs*

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Did the last monitoring report identify any findings or concerns?</p> <p>B. If YES, is there evidence that the findings have been or are being addressed in the timeline established by the recipient?</p> <p>Develop additional questions as necessary.</p>	

8. Reporting

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Required reports: HUD 272-I - Federal Cash Transaction Report (quarterly) and SF 269a - Financial Status Report (annually)</p> <ol style="list-style-type: none"> 1. Are they accurate? 2. Are they current? 3. Do they provide complete disclosure? 4. Are they submitted in a timely manner? <p>B. Has the recipient been locked out of LOCCS because of late reporting?</p> <p>Develop additional questions as necessary.</p>	

9. Quality, Completeness and Clarity of Performance Objectives

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Mission Statement (5-Year Plan)</p> <p>1. Is the recipient fully addressing the language of the mission statement and are low-income families in the jurisdiction of the tribe being served?</p> <p>B. Characteristics of Housing Market (1-Year Plan)</p> <p>1. Does available data conform with, or at least not contradict, the recipient's description of the housing market? (To a large extent, the determinations necessary to respond to this question will be based upon a review of data; for example, BIA or other federal or state agencies that may be done before the visit. The availability of such data will vary considerably by recipient.)</p> <p>C. Activities and Expenditures</p> <p>1. Is there evidence that the 5- and 1-year activities are linked to actual expenditures?</p> <p>2. Is there evidence that the timelines for 5- and 1-year activities are reasonable and feasible?</p>	

<p>General</p> <p>Develop additional questions as necessary.</p>	
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10. Recipient Self-Monitoring and Monitoring of Subrecipients

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Recipient Self Monitoring</p> <ol style="list-style-type: none"> 1. Has the recipient conducted self-monitoring as required by §1000.520? 2. If completed, did the recipient's self monitoring identify programmatic concerns? 3. If the answer to 2 is yes, did the recipient undertake corrective actions? 4. If completed, did the recipient's self monitoring identify compliance concerns? 5. If the answer to 4 is yes, did the recipient take appropriate corrective actions? 6. If the recipient is a TDHE, did it submit the results of its self monitoring to the beneficiary tribe? 7. Did the recipient establish performance objectives? 	

<p>(Since the establishment of such objectives is not required, only recommended by the regulations, a NO answer does not have to be addressed below.)</p> <p>8. If performance objectives were established, did the recipient's self monitoring include an evaluation of its performance in meeting these objectives?</p> <p>B. Monitoring of Subrecipients</p> <p>1. Guide for Use at the Recipient Level</p> <p>(a) Was there a defined scope of services for the project?</p> <p>(b) Was there a budget established for the project?</p> <p>(c) Does there exist a written agreement with each subrecipient?</p> <p>(d) Does the contract or agreement clearly address or establish</p> <p>(i) Statement of work</p> <p>(ii) Operating budget</p> <p>(iii) Performance schedule</p> <p>(iv) Types of information to be kept and frequency and content of</p>	
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<p>reports to be submitted</p> <ul style="list-style-type: none"> (v) How program income will be handled (vi) Audit requirements (vii) Applicability of uniform administrative requirements (viii) Conflict of interest (ix) Labor standards (x) Debarred, suspended or ineligible contractors (xi) Other program requirements <p>(e) Does the recipient monitor subrecipients on site</p> <p>(f) How frequently does on-site monitoring occur?</p> <p>(g) When was the last visit?</p> <p>(h) Was the subrecipient provided with written results of the review?</p> <p>(i) Did the recipient follow up on any findings to assure that corrective measures or actions were taken?</p>	
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	<p>(j) Has the recipient assigned responsibility for monitoring to specific individuals?</p> <p>(k) Are these individuals familiar with the operation of each assigned project?</p> <p>(l) To whom do these individuals report and how frequently?</p> <p>(m) How does the recipient verify actual beneficiaries of the project?</p> <p>(n) Is the subrecipient required to submit supporting documentation for payment?</p> <p>(o) Does the recipient review payment requests for reasonableness of cost?</p> <p>(p) Does the performance seem reasonable and consistent with the terms of the contract?</p> <p>2. Guide for Use at the Subrecipient Level</p> <p>(a) Is the subrecipient familiar with the eligibility and program requirements necessary for program operation?</p>
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	<p>(b) Are the financial records kept in accordance with 24 CFR §85.20(b)?</p> <p>(c) Is performance consistent with the terms of the contract?</p> <p>(d) Are the record keeping requirements of the program regulations being followed?</p> <p>(e) Is there sufficient information collected to provide accurate data for any reports required by the grantee?</p> <p>(f) Where there is program income, are the procedures used for reporting and using it consistent with the terms of the program requirements, (i.e., PIH 2001-14 for IHBG)?</p> <p>(g) Has the subrecipient contracted out any of the work under the project?</p> <p>(h) Are the procedures (including Indian Preference) used by the subrecipient for procurement consistent with the terms of the agreement?</p> <p>(i) Are subrecipient's indirect costs, if any, charged to the IHBG program supported by an indirect cost proposal or cost allocation</p>
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plan? General Develop additional questions as necessary.	
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11. Planned Preservation of 1937 Housing Act Units

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Adequate Funding for the Preservation 1937 Act Housing Units</p> <p>Has the recipient allocated adequate NAHASDA funding to ensure the proper maintenance and operation of 1937 Act Housing units?</p> <p>(To determine whether adequate IHBG funds have been allocated to maintain and sustain 1937 Act housing stock, a review of past Comp Grant, CIAP, and subsidy funding levels would be an appropriate pre-monitoring activity. In addition, a review of the IHBG formula grant funds awarded based on Current Assisted Stock (CAS) would provide a benchmark or threshold from which local funding allocations could be analyzed.)</p> <p>B. Planning for the Preservation of 1937 Act Housing Units</p> <p>Does the recipient have comprehensive plans for managing its 1937 Act housing units, including the inspection, protection, and maintenance of the structures?</p> <p>Develop additional questions as necessary.</p>	

12. Preservation of 1937 Housing Act Units

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Unit Inspections</p> <ol style="list-style-type: none"> 1. Is there documented evidence that the recipient has inspected its 1937 Housing Act units? 2. If YES, what percentage of units have been inspected to date? 3. How many and what percentage of units are scheduled for inspection? <p>B. Unit Quality</p> <ol style="list-style-type: none"> 1. Has the recipient documented that its units are in good, fair, or poor condition? 2. Has the recipient documented that its units are maintained on a routine basis? 3. Is there evidence of a maintenance work-order backlog? If YES, how many? 	

<p>4. Is there a schedule for reducing the maintenance work-order backlog? General Develop additional questions as necessary.</p>	
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Additional Monitoring Factor

13. Environmental Reviews

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Tribe Environmental Reviews</p> <p>If the tribe assumed environmental review responsibilities, the following questions should be addressed/areas reviewed.</p> <ol style="list-style-type: none"> 1. Is there a separate Environmental Review Record (ERR) for each project? 2. Was the current HUD-recommended format (or equivalent) used for the ERR? 3. Does each ERR contain the following: <ol style="list-style-type: none"> (a) Project description including, when applicable, geographic boundaries and all related HUD or non-HUD funded activities proposed (b) Written determinations in those cases in which the recipient claims that projects or activities are "exempt" under §58.34 or "categorically excluded" under §58.35 	

	<p>(c) Finding of No Significant Impact (FONSI) (If a negative response is based on the fact that the recipient found that a significant impact may occur, please go to number 7 to continue the review.)</p> <p>(d) Copy of published Notice of FONSI or of a Combined Notice</p> <p>(e) Copy of published Notice of Intent to Request a Release of Funds (NOI/RROF) or a Combined Notice of FONSI and NOI/RROF</p> <p>(f) Form HUD 7015.15, Request for Release of Funds and Certification</p> <p>(g) Form HUD 7015.16, Notice of Removal of Grant Conditions, signed and dated by HUD, indicating that at least 15 days were allowed for objections</p> <p>4. Do recipient's records show that</p> <p>(a) With the exception of exempt activities, no grant funds were obligated or spent prior to the receipt of the HUD 7015.16 (or the date specified in the HUD 7015.16, if earlier).</p> <p>(b) With the exception of categorically excluded activities</p>
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determined to be exempt under the provisions of §58.34(a)(12), no physical development activities began prior to the receipt of the HUD 7015.16 (or the date specified in the HUD 7015.16, if earlier).

(c) Identify the source of the information used to answer 4(a) and 4(b). _____

5. Completeness of Statutory Checklist

(a) Is there evidence that the federal laws and authorities listed at §58.5 have been specifically addressed for all activities except for those classified as exempt under §58.34?

(b) Were recognized authoritative sources used to support the conclusions reached?

6. If mitigating measures are required, are they included in the ERR as part of the actions pertaining to the environmental review?

7. Environmental Impact Statements. If the finding was that the release of funds may significantly impact the human environment and an Environmental Impact Statement (EIS) was required, does the ERR contain:

	<p>(a) Copy of a published Notice of Intent to prepare an EIS?</p> <p>(b) Evidence that a copy of such notice was sent to the local news media; interested individuals and groups; and local, state, and federal agencies, including the Headquarters and appropriate regional office of the EPA?</p> <p>(c) A draft EIS?</p> <p>(d) A supplemental draft EIS, if necessary?</p> <p>(e) Evidence that copies of the draft EIS were sent to the EPA, other federal agencies, state and local agencies, any entity designated by a state pursuant to E.O. 12372, and interested individuals and groups?</p> <p>(f) A final EIS?</p> <p>(g) A final supplemental EIS, if necessary?</p> <p>(h) Evidence that the comments were responded to in the final EIS?</p> <p>(i) Evidence that the draft and final EISs were filed for <i>Federal Register</i> publication with the EPA for the required time periods</p>
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before the recipient submitted the RROF?

B. HUD Environmental Reviews

If the tribe declined to assume environmental review responsibilities, the following questions should be addressed/areas reviewed. Pursuant to the requirements of 24 CFR §50.3(h) and consistent with its assurance of compliance with these requirements, did the tribe (or TDHE)

1. Either supply HUD with all available, relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR part 50 or prepare for an Environmental Assessment for HUD review and evaluation?
2. (If applicable) Carry out mitigating measures required by HUD as a consequence of its review?
3. (If applicable) Select an alternative property rather than carry out mitigating measures?
4. Not acquire, rehabilitate, convert, lease, repair or construct property, nor commit local funds for these program activities with respect to any eligible property until HUD approval of the property was received?

General

Develop additional questions as necessary.	
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Additional Monitoring Factor

14. Procurement/Contract Administration

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Small Purchases</p> <p>Can the recipient document receipt of an adequate number of price or rate quotations from qualified sources for procurements of \$100,000 or less?</p> <p>B. Competitive Sealed Bids (Formal Advertising)</p> <ol style="list-style-type: none"> 1. Did the recipient receive at least two responsive bids from responsible bidders for each procurement transaction? 2. Did the procurement lend itself to a firm, fixed price contract, and could selection of the successful bidder be made principally on the basis of price? 3. Did the recipient advertise the Invitation For Bid (IFB) in a publication of general circulation? 4. Were bids solicited from an adequate number of potential bidders? 	

<p>5. Did the IFB, including specifications and pertinent attachments, clearly define the items or services needed in order for the bidders to properly respond to the invitation?</p> <p>6. Did the IFB include wage determination schedules, payroll submission requirements, and other necessary bid elements?</p> <p>7. Were all bids opened publicly at the time and place stated in the IFB?</p> <p>8. Was the contract awarded to the lowest responsive and responsible bidder?</p> <p>C. Competitive Proposals</p> <p>1. Was this procurement method used only when conditions were not appropriate for the use of competitive sealed bids?</p> <p>2. Did the Request for Proposals (RFP) state clearly and accurately the technical requirements for the goods or services to be procured?</p> <p>3. Were the proposals solicited from an adequate number of qualified sources, consistent with the nature of the procurement?</p>	
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<p>4. Did the recipient publicize the RFP and honor reasonable requests by parties to compete to the maximum extent practicable?</p> <p>5. Did the RFP identify all significant evaluation factors, including price or cost where required, and their relative importance?</p> <p>6. Did the recipient</p> <p>(a) Conduct technical evaluations of submitted proposals?</p> <p>(b) Determine responsible offerors from such evaluations?</p> <p>(c) As necessary, conduct negotiations, written or oral, for final contract award?</p> <p>(d) Make awards to the most responsive and responsible offerors whose proposals would be most advantageous to the recipient after price and other factors were considered?</p> <p>7. If proposals involving architectural/engineering professional services were evaluated with respect to factors other than price, did the recipient document the basis for negotiation of fair and reasonable compensation?</p>	
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	<p>D. Noncompetitive Proposals</p> <ol style="list-style-type: none"> 1. Can the recipient show that another method of procurement (small purchases, sealed bids, or competitive proposals) was not feasible because the item was only available from a single source, a public exigency or emergency was of such urgency to not permit use of competitive solicitation or, after solicitation of a number of sources, competition was determined inadequate? 2. If the answer to D1 is NO, was approval given by HUD for use of this method? <p>E. General Provisions/Procedures</p> <ol style="list-style-type: none"> 1. Is the recipient ensuring that its awards are not made to any party that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the covered transaction consistent with the requirements of 24 CFR part 24? 2. Was there a rationale in the file for: <ol style="list-style-type: none"> (a) The selection of the method of procurement? (b) The selection of contract type? (c) Contractor selection or rejection? (d) The basis for the cost or price of the contract?
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	<p>3. Is contract pricing always based on a method other than the "cost-plus-a-percentage-of-cost" method?</p> <p>4. Are procurement procedures in place that ensure</p> <p>(a) Purchase orders and contracts are signed by an authorized program official?</p> <p>(b) Items delivered and paid for are consistent with the items contained in the corresponding purchase order and/or contract?</p> <p>(c) Timely payment of vendors occurs once requested orders have been delivered, inspected, and accepted and payment of the vendor has been approved?</p> <p>(d) A cost or price analysis is performed in connection with every procurement action, including contract modifications?</p> <p>(e) Were the contract provisions listed in 24 CFR 85.36(i) appropriately included in the grant assisted contracts?</p> <p>(f) Does the recipient have a written code of conduct governing employees, officers, or agents engaged in the award and administration of contracts supported by grant funds?</p> <p>(g) Can the recipient document a system of contract administration for determining the adequacy of contractor performance?</p> <p>(h) If applicable, can the recipient show that its subrecipients are required to follow applicable procurement policies and</p>
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<p>procedures in the administration of their contracts and purchase orders?</p> <p>F. Bonding and Insurance</p> <ol style="list-style-type: none"> 1. If contracts have been awarded for construction or facility improvements under the grant program(s), did the recipient <ol style="list-style-type: none"> (a) Follow its own requirements relating to bid guarantees, performance bonds, and payment bonds for construction contracts or subcontracts valued at or below \$100,000? (b) Meet the minimum federal requirements for bid guarantees, performance bonds and payment bonds (24 CFR §85.36(h)) or the alternatives set forth in §1000.26(a)(12) for construction contracts or subcontracts valued above \$100,000? <p>G. Contracting With Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms</p> <ol style="list-style-type: none"> 1. Is the recipient taking affirmative steps to use small, minority-owned, and women-owned businesses in grant funded contracts such as <ol style="list-style-type: none"> (a) Such businesses on solicitation lists whenever they are potential sources? (b) Ensuring that such businesses, when identified, are solicited whenever they are potential sources? (c) Dividing procurement requirements, when economically 	
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feasible, into smaller tasks or quantities to permit maximum participation by such businesses?

(d) Requiring prime contractors when subcontracts are let, to take affirmative steps to select small, minority-owned, and women-owned businesses in grant-funded contracts?

2. If the recipient is not taking the steps identified in the question above, list the actions the recipient is taking to meet 24 CFR §85.36(e) requirements that affirmative steps be taken to assure use of small, minority-owned, and women-owned businesses when possible.

H. Requirements Under Section 3 of the Housing and Urban Development Act of 1968.

1. Has the recipient attempted, to the greatest extent feasible and consistent with Indian Preference requirements, to award contracts for work to be performed under the programs to business concerns that provide economic opportunities to low- and very low- income persons who are residents of housing or who live in the metropolitan or non-metropolitan count in which the programs are undertaken?

General

Develop additional questions as necessary.

Additional Monitoring Factor

15. Indian Preference and Non-Discrimination

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>NON-DISCRIMINATION RESERVED UNTIL LEGAL OPINION PROVIDED</p> <ol style="list-style-type: none"> 1. Has the recipient required contractors and subcontractors to comply with E.O. 11246, as amended by E.O. 11375 and supplemented by DOL Regulations 24 CFR Part 60 (applicable to contracts and subcontracts in excess of \$10,000)? 2. In the administration of its IHBG program, has the recipient provided, to the maximum extent feasible, hiring preference and training opportunities to Indians and Alaska Natives? 3. Has the recipient required contractors and subcontractors to comply with Section 7(b) of P.L. 93-638? 4. Have any complaints been filed with the recipient based on the provision of Indian Preference in employment, training, procurement, or the provision of program benefits? 5. If complaints have been filed, were the procedures for addressing these complaints consistent with the requirements of 	

<p>§1000.54?</p> <p>A. Indian Preference in Procurement</p> <p>1. Small Purchase</p> <p>Did the recipient provide, to the greatest extent feasible, Indian Preference in the award of the contract? Identify the procurement transactions reviewed.</p> <p>Describe the method or process used by the recipient to provide preference, or attach a copy of the recipient's procedures.</p> <p>2. Competitive Sealed Bids</p> <p>(a) Identify the procurement transactions reviewed and the process or method used by the recipient to meet regulatory requirements:</p> <p>(i) IFB was limited to Indian-owned firms</p> <p>(ii) A two-stage preference was used</p> <p>(iii) Recipient used a HUD-approved method of providing preference. Identify date of HUD approval and method approved.</p> <p>(b) Did the recipient identify the method to be used to provide</p>	
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Indian Preference in the IFB?

- (c) If the method of providing preference resulted in bids from fewer than two qualified entities, did the recipient either:
 - (i) Rebid the contract by using any of the methods identified in 2(a) above?
 - (ii) Rebid the contract without limiting the IFB to Indian entities?
 - (iii) Request HUD approval to award the contract (if one approvable bid was received)?

3. Competitive Negotiation (RFP)

- (a) Identify the procurement transactions reviewed and the process the recipient used to meet regulatory requirements:
 - (i) The RFP was limited to Indian-owned firms
 - (ii) A two-stage preference was used
 - (iii) Recipient used a HUD-approved method of providing preference. Identify date of HUD approval and method approved
- (b) Did the recipient identify the manner or method to be used to provide Indian Preference in the RFP?

<p>(c) If the method of providing preference resulted in fewer than two qualified Indian entities submitting proposals, did the recipient either</p> <ul style="list-style-type: none"> (i) Re-advertise the RFP by using any of the methods identified in 3(a)? (ii) Re-advertise the RFP without limiting it to Indian entities? (iii) If one approvable proposal was received, request HUD approval? <p>General</p> <p>Develop additional questions as necessary.</p>	
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Additional Monitoring Factor

16. Labor Standards

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Assessment of Grantee Labor Standards Administration</p> <ol style="list-style-type: none"> 1. Does the recipient have designated staff to ensure compliance with labor standards requirements? 2. Does the recipient maintain the following documents or information? <ol style="list-style-type: none"> (a) Labor standards enforcement files for each construction project (b) Construction start dates (c) Contract award dates (d) Contract bid specifications with labor standards provisions (e) Pre-construction conference minutes (optional) (f) Records pertaining to violations and wage restitution (if applicable) (g) Apprentice/trainee registration records (as needed) 	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>(h) Records of employee interviews</p> <p>(i) Certified payrolls maintained by the project</p> <p>(j) Evidence of certified payroll review</p> <p>3. Does the recipient submit semi-annual Labor Standards Enforcement Reports to HUD Office of Labor Relations?</p> <p>B. Labor Standards Compliance, Individual Construction Contract</p> <p>1. Contract Components</p> <p>Are the following elements included in each contract being reviewed?</p> <p>(a) Project number designation</p> <p>(b) Name of contractor</p> <p>(c) Description of work</p> <p>(d) Bid opening date</p> <p>(e) Contract award date</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>(f) Contract amount</p> <p>(g) Start of construction date</p> <p>2. Contract Documents</p> <p>Are the following documents included in the contract file?</p> <p>(a) Proper wage decision in contract/specifications</p> <p>(b) Labor standards provisions in the contract/specifications</p> <p>(c) Evidence of contractor eligibility verification</p> <p>(d) Additional classifications and wage rates processed as needed</p> <p>3. Payroll Review</p> <p>(a) Are payrolls submitted in a timely manner?</p> <p>(b) Are payrolls signed by employer or authorized representative?</p> <p>(c) Are discrepancies/violations noted?</p> <p>(d) Is there evidence of payroll review?</p> <p>(e) Are discrepancies/violations followed through to full resolution?</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>4. Employee Interviews</p> <p>(a) Were employee interviews conducted by the recipient?</p> <p>(b) Were a representative number of trades and workers covered?</p> <p>Note: On-site interviews may be targeted to specific trades or contracts for investigative purposes. A record to the file should be made when such targeting of resources results in fewer (or no) interviews on contracts where no violations are suspected.</p> <p>5. Investigations and Enforcement</p> <p>(a) Are worker complaints handled and resolved in a timely manner and investigations conducted where appropriate?</p> <p>(b) Are escrow accounts established and funds withheld to cover labor standards violations?</p> <p>(c) Are enforcement reports submitted to HUD where underpayments total \$1,000 or more?</p> <p>General</p> <p>Develop additional questions as necessary.</p>	

Optional Monitoring Factor (Depending on Recipient)

17. Relocation

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Temporary Relocation</p> <p>This term applies to <i>residential tenants and homebuyers</i> who will not be required to move permanently as a result of the program but who must move temporarily for the project to proceed. A random sample of case files should be reviewed.</p> <ol style="list-style-type: none"> 1. Were the tenants or homebuyers reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation? 2. Were appropriate advisory services provided including advance <i>written</i> notice of: <ol style="list-style-type: none"> (a) Date and approximate duration of the relocation (b) Location of the dwelling to be made available for the temporary period (c) Terms and conditions under which the tenant may occupy an acceptable dwelling in the building/complex/project after the completion of repairs 	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>B. Permanent Displacement</p> <p>Persons who move permanently (or move their personal property) from real property as a direct result of rehabilitation, demolition, or acquisition for an IHBG-assisted program are considered “displaced.”</p> <p>Persons include residential occupants (families and individuals) and nonresidential occupants (businesses, non-profit organizations, and farms).</p> <ol style="list-style-type: none"> 1. Does the recipient have an up-to-date copy of the Department Of Transportation regulations, 49 CFR part 24? 2. Does the recipient have records identifying all residential occupants by name, number of members, gross income, rent and utility costs, and apartment size (if applicable) and other entities occupying the property on the date of initiation of negotiations to acquire the real property? 3. Number of Residential Occupants: 4. Number of Nonresidential Occupants: 	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>C. Records on Displacements</p> <p>A random sample of household and nonresidential case files should be reviewed. Identify the case files reviewed.</p> <p>For each file reviewed, is there</p> <ol style="list-style-type: none"> 1. A copy of a timely notice of general information? 2. A copy of a timely notice of eligibility for relocation assistance? 3. Copy of the 90-day advance notice of date by which the move is required? 4. A copy of the 30-day advance notice of the specific date the move is required? 5. A record of personal contacts and advisory services provided? 6. If applicable, referral to comparable replacement dwelling on which the upper limit of the replacement housing payment was based? 	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>7. If applicable, evidence of referrals to comparable (affordable) replacement housing?</p> <p>8. If applicable, evidence that the tenant received cash or equivalent replacement housing assistance?</p> <p>9. A copy of an approved claim for, and evidence of receipt of, payment of moving expenses?</p> <p>D. Records on Persons Not Displaced</p> <p>Persons not required to move by the assisted activity. A random sample of case files should be reviewed.</p> <p>1. For each case file reviewed is there a copy of a timely notice explaining that the person would not be displaced and would be provided a suitable (affordable) unit in the property after rehabilitation?</p> <p>2. Is there an acceptable explanation for each case where the after rehabilitation rent exceeds 30% of income/old rent standard?</p> <p>3. Is there an acceptable explanation of the cause of the move of any person who permanently relocated but was not displaced by</p>	

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>the program?</p> <p>General</p> <p>Develop additional questions as necessary.</p>	

Optional Monitoring Factor (Depending on Recipient)

18. Real Property Acquisition

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
<p>A. Did the recipient obtain an appraisal of the property from a qualified appraiser?</p> <p>B. Prior to discussing the purchase price with the owner, did the recipient inform the owner:</p> <ol style="list-style-type: none"> 1. That the amount it believes to be the fair market value of the property is based on the appraisal? 2. That it will be unable to acquire the property if negotiations fail to result in an amicable agreement? <p>C. If the acquisition payment exceeded the fair market value established for the property, did the recipient request and receive HUD approval of the proposed acquisition price prior to making a firm commitment to purchase?</p> <p>General</p> <p>Develop additional questions as necessary.</p>	

Optional Monitoring Factor (Depending on Recipient)

19. Lead-Based Paint

<i>Issues/Questions & Responses</i>	<i>Findings/Concerns/Possible Corrective Actions</i>
LEAD BASED PAINT RESERVED PENDING DEVELOPMENT OF CHECKLIST BASED ON NEW REGULATIONS	

Monitoring Findings and Concerns:

SUPPLEMENT TO MONITORING PROCESS GUIDELINES – MONITORING IHP CERTIFICATIONS

The IHP includes various required certifications, although certain of these certifications are activity specific and would not be required of all recipients. These certifications are based upon statutory requirements, and with one exception (insurance coverage), are related to the development and implementation of various policies by the recipient related to its IHBG funded affordable housing activities. Question 20 in Monitoring Checklist No. Five - Monitoring Progress -is the only reference in the checklists to compliance with IHP certifications. The purpose of this supplement is to assist the GE Specialist by identifying the basis and the nature of these certifications.

It is to be noted that:

1. In some instances, the statutory language, which is the basis of the certification, is more complete and explicit than in others. When this is the case, recipient responsibilities are better defined. Where the statutory language is more vague or general, it is entirely possible that a recipient's policy would meet the letter of the law, but was in need of improvement to make it more complete, understandable, etc. When such a situation is discovered during monitoring, a concern should be raised in the monitoring report and a referral for technical assistance may be appropriate.
2. There may be regulatory language which explains or supplements the statutory language which formed the basis of the certification.
3. As indicated above, certain certifications will only be applicable based upon the nature of IHBG Program activities. The applicability of the various certifications should become apparent when the IHP(s) are reviewed as part of pre-monitoring preparation.

CERTIFICATIONS

1. **Insurance Coverage** (Section 203(c)) Adequate insurance coverage must be maintained for housing units that are owned and operated **or** assisted with IHBG funds. The language of this section is supplemented by that found in §§1000.136 and 138 of the Program regulations.

2. **Rent and Homebuyer Payments** - (Section 203(a)(1)) Each recipient must develop written policies governing rents and homebuyer payments charged for dwelling units assisted with IHBG funds. Section 203(a)(2) requires that the rent or homebuyer payment

for a unit assisted with IHBG funds occupied by a low-income family may not exceed 30% of the adjusted income of the family. Adjusted income is defined in Section 4 of NAHASDA. Sections 1000.124-132 of the Program regulations further define and supplement the statutory language.

3. Eligibility - (Section 203(d)). Each recipient must develop a written policy which contains a description of who qualifies for assistance under its IHBG Program. Sections 1000.104, 106, 110, and 120 of the Program regulations supplement statutory eligibility language found in section 201(b) of the Act.

4. Admissions - (Section 203(d)). Each recipient must develop a written policy which describes who may occupy homes assisted with IHBG funds. Rental housing must be made available to families who are low income at the time of initial occupancy, per section 205(a)(1)(A). Homeownership housing must be made available to families who are low income at the time of purchase, per section 205(a)(1)(B). Section 1000.146 of the Program regulations supplement statutory language.

5. Tenant Selection - (Section 207(b)). Each recipient must develop a tenant selection policy. This policy establishes criteria for including families on the waiting list and for selecting families from the waiting list. This policy may be part of the admissions policy or may be a separate policy. Tenant selection must be consistent with the low-income purpose of NAHASDA, per section 207(b)(1). A waiting list is required by section 207(b)(3)(A). Those rejected for inclusion on the waiting list must be promptly informed of the reasons, per section 207(b)(3)(B).

6. Occupancy - (Section 203(d)). Each recipient must develop a written occupancy policy which establishes requirements for continued occupancy and grounds for termination of a lease. This policy must be consistent with the lease requirements in section 207 of the Act.

7. Management and Maintenance - (Section 203 (e)). Each recipient must develop written policies which define responsibilities of homebuyers, tenants, and the tribe/TDHE for maintenance of units assisted with IHBG funds.

SUBRECIPIENT MONITORING CHECKLIST

Recipient: _____

Total Subrecipient Funds: \$ _____

Total Undisbursed Funds: \$ _____

Subrecipient: _____

Fiscal Year Monitored: _____

Programs Monitored: _____

GE Specialist: _____

Date: _____

On-Site or Remote Review: _____

<i>Subrecipient Checklist</i>	<i>Yes</i>	<i>No</i>	<i>Unknown</i>	<i>Is Supporting Documentation Acceptable?</i>		<i>Documents Reviewed</i>
				<i>Yes</i>	<i>No</i>	
1. Is there a written contract or Memorandum of Understanding/Agreement?						
2. Is there a performance-based subcontract?						
3. Are subrecipient responsibilities clearly defined?						
4. Are performance objectives clear, reasonable, and linked to actual expenditures?						
5. Are the measurable goals attained and documented?						

<i>Subrecipient Checklist</i>	<i>Yes</i>	<i>No</i>	<i>Unknown</i>	<i>Is Supporting Documentation Acceptable?</i>		<i>Documents Reviewed</i>
				<i>Yes</i>	<i>No</i>	
6. Is there evidence of monitoring by the recipient?						
7. Are there adequate financial systems and internal controls to assure funds are safeguarded?						
8. Is a subrecipient audit required?						
9. Has a subrecipient audit been submitted?						
10. Does the subrecipient submit reporting documents?						
11. Is there evidence of subrecipient noncompliance?						
12. Is there evidence of subrecipient waste, fraud, and/or abuse?						
13. Are there no substantiated complaints against the subrecipient, or are the complaints found to be unwarranted?						
14. Refer for further investigation?	<i>Yes</i>	<i>No</i>	<i>Rationale:</i>			
15. Referral date:						

Findings and Concerns:

ON-SITE VISIT NOTIFICATION LETTER

[ADDRESS]

Dear *[TRIBAL CHAIRPERSON OR TDHE CHAIRPERSON]*:

Subject: On-site Monitoring of HUD Assisted Programs

The Office of Native American Programs (ONAP) has scheduled an on-site review of your programs funded by the U.S. Department of Housing and Urban Development (HUD). The purposes of the monitoring are to:

- Fulfill public trust responsibilities by ensuring that HUD grants are implemented in a timely manner and in compliance with all applicable requirements
- Identify trends that indicate superior, satisfactory, or deficient performance
- Develop and implement actions to reinforce, improve, correct, or supplement recipient performance as appropriate
- Identify and validate technical assistance needs

Based on our conversations with your staff, we have tentatively scheduled this review for *[DATE OF ON-SITE VISIT]*. We will contact you in the near future to confirm those dates. The information below will give you a clear understanding about the upcoming monitoring review.

- ONAP staff to conduct the monitoring.

[LIST ALL ONAP STAFF.]

- HUD grant(s) to be monitored

[LIST HUD GRANT(S) TO BE MONITORED]

Staff ONAP would like to interview.

[IDENTIFY RECIPIENT STAFF TO BE INTERVIEWED BY NAME, IF KNOWN.]

- Subrecipients (if applicable) ONAP would like to interview

[IDENTIFY SUBRECIPIENTS TO BE INTERVIEWED BY NAME, IF KNOWN.]

In preparation for our on-site visit, please identify some beneficiaries of your HUD assisted program(s) with whom we can meet and interview.

This monitoring visit is an excellent opportunity for ONAP to learn about any actual or emerging best practices you have accomplished. It also enables ONAP to identify any program weaknesses and to develop a plan for maximizing your performance.

Please contact me at *[NAME AND PHONE NUMBER OF GE SPECIALIST]* if you have any questions or comments.

Sincerely,

Grants Evaluation Specialist

cc: Tribe (if applicable)

**MONITORING REPORTS – CONTENT AND CONSIDERATIONS –
NAHASDA GUIDANCE 2000-14**

This guidance supplements that provided in Section 5.5 - **Create Monitoring Report**. Since these reports are public information, they need to be written in a manner that facilitates public understanding of the procedures, process, and outcome. The content of monitoring reports should include or address, as appropriate:

1. Identification of programs and projects monitored by grant number.

Instead of stating, as example, Indian Housing Block Grant Program, the specific IHBG program or programs (or other HUD programs) should be identified by grant number.

2. Dates of the review
3. HUD staff involved in the review and the identification of the lead HUD reviewer, if applicable
4. Local officials and staff who participated identified by name and title/function.

Under certain circumstances, the individuals that attended the exit conference may be different than those who actually were involved in the review, e.g., the tribal chairperson or TDHE chairperson may not have been directly involved, but was present at the exit conference. In such a circumstance, particular attention should be given to correctly identifying the role or part the person played in the process.

5. Areas monitored for each project monitored.

Certain of these areas are an aspect of the risk assessment-based written monitoring strategy that must be prepared for each recipient prior to monitoring. In addition to such areas, there are required monitoring areas -- environmental review, procurement/contract administration, Indian preference and non-discrimination, and labor standards (paragraph 3.2.2, Chapter 3). It is also recommended that IHP certifications be monitored during the first monitoring visit made to IHBG recipients (unless, of course, the recipient has previously provided documentation which demonstrated that the policy or process included or addressed required characteristics and had been established, adopted if required, and implemented. Another attachment to Chapter 3 addresses the monitoring of these certifications.

6. A description of the process or procedure used to monitor compliance in each area.

For example, if the area being reviewed was environmental, the report would identify the ERRs (environmental review records) which were reviewed; if the area was procurement/contract administration, recipient procurement policies reviewed and the procurement transactions and documentation reviewed should be identified.

7. The conclusions reached by the reviewer for each area monitored.

a. A conclusion could be a deficiency (a finding or a concern), an observation of compliance, or observation of best practice or success.

A conclusion should be stated for each area monitored for each program/project monitored. If the status of a project is that there has not been any activity that would have triggered certain compliance requirements (e.g., There has not been any procurement activity and therefore nothing to review under the area of procurement/contract administration.) it is still necessary to address a required area in the report. The conclusion in such a situation would be the observation that the review concluded that the recipient had not undertaken procurement or contract administration activities during the period monitored.

b. A finding is made if the deficiency discovered or negative conclusion reached is recipient noncompliance with a statutory or regulatory requirement.

For each finding, the specific statutory or regulatory requirement should be explicitly identified. (If you cannot identify such a requirement, the deficiency is not a finding but may be a concern.) If the language of the statutory or regulatory paragraph or section is relatively short, it should be stated verbatim; if not, it may be summarized.

To the extent possible, noted examples of noncompliance in a specific monitoring area, which are symptomatic or indicative of a more general problem, should not each be identified as the finding; the underlying or more general problem should be. As an example, a review of recipient procurement may find deficiencies in awarding contracts in excess of \$100,000 without formal competition and a failure to do cost or price analyses for planned procurements. If these deficiencies are due to the fact that the recipient does not have a procurement policy/procedure which provides for these elements, as required by 24 CFR §85.36, the finding would be the inadequacy of the recipient's procurement policy/procedure and these specific deficiencies could be used as examples of inadequacies. If these deficiencies were the result of the recipient's failure to competently administer an acceptable local policy, the finding would, of course, not be the inadequacy of the policy but the failure to administer/manage the policy.

The remedial or corrective action recommended to address or resolve a finding should be designed to: prevent a continuance of the deficiency; mitigate or ameliorate any adverse consequence or effect of the deficiency; and prevent the recurrence of the same or similar deficiency.

The final report should, of course, explicitly indicate that the recipient has specific target dates or timeframes for completion of recommended corrective or remedial actions. The target dates established should take into consideration practical aspects of implementing the action and the significance of the deficiency. Since the recipient will have been made aware of the deficiency during the exit conference, it is reasonable to assume that approximately 60 days will have elapsed since the recipient knew of the problem and the issuance of the final monitoring report. Given length of this time span, it is unlikely that it would be necessary to establish a target date later than 30 days after the issuance of the final report. Extraordinary circumstances may, however, warrant or require that this date be set further in the future. At the time of the issuance of the draft report, we will not know the specific date of the final report since it is not clear when the recipient's comments, if any, on the draft will be received. It is, therefore, appropriate to include in the draft report language which indicates that specific dates for the completion of corrective or remedial actions for findings not satisfactorily resolved by recipient response to the draft will be established in the final report. It should also be noted that, unless warranted by extraordinary circumstances, these dates would be no later than 30 days after the issuance of that report.

c. Concerns are deficiencies which do not represent noncompliance with the law or regulations. It is not required that recommended or suggested actions be identified for each concern.

It is, however, logical and appropriate that if we are noting a concern, we should offer suggestions as to what action or actions could be taken to address the concern and to identify technical assistance that may be available. Certain concerns, if not promptly or completely addressed by a recipient, could lead to future noncompliance, i.e., findings.

8. A description of the exit conference.

This should include the date, attendees, and a statement regarding the discussion of the tentative conclusions reached during the review.

9. If the recipient is a TDHE, a copy of the draft and final reports must be sent to the Chairperson of the beneficiary tribe.

As indicated in Chapter 3, beneficiary tribes are to be provided the opportunity to be involved in the monitoring process. They are provided notification of upcoming monitoring and are invited to participate. They are also provided a copy of the draft report and are invited to comment. Similarly, they are provided with a copy of the final report. In addition to the fact that resolution of findings may require the direct involvement of the tribe, beneficiary tribes have a regulatory responsibility [§1000.502(b)] for TDHE oversight.

10. The final report should include a summary of recipient comments, if any, for every deficiency included in the draft report and the effect of the comment, e.g., “it was adequate/inadequate to resolve the finding because...”.

Some Area ONAPs have included recipient comments as highlighted sections of the final report which is a very effective way to provide the information. We must remember, however, that the final report is a public document. It must be written in such a way that interested members of the public can understand it and it must be, to the extent practicable, a stand-alone document.

11. Tone of report

Finally, while it is not a specific element or component, it is important that the tone of the report be positive and recognize those areas in which the recipient is doing a good job or has shown significant improvement, as well as any area of deficiency. To the maximum extent possible, deficient performance should be placed in perspective. This is not to indicate that the existence or effect of deficiencies can be overlooked or minimized. We must remember, however, that one of the principal objectives of ONAP is the establishment and maintenance of productive working relationships with our recipients so that we may best assist them in meeting the needs of their communities for affordable housing and community development. Positive reinforcement of successful performance is a proven tool in meeting this objective.

**TRANSMITAL LETTER DRAFT MONITORING REPORT FORMAT—
IHBG PROGRAM**

Honorable (Mr./Ms)_____

Chairperson (Executive Director)

_____Reservation (Housing Authority)

Dear Chairperson(Mr./Ms)_____:

SUBJECT: Draft Monitoring Report for Indian Housing Block Grant Programs

According to 24 CFR §§1000.528 and .530, a draft monitoring report is enclosed that discusses the performance accomplishments and deficiencies, if any, identified during our review. It also provides recommended corrective actions to address findings and suggestions to address any concerns. Target completion dates for recommended corrective actions will be established in the final report. Please review the draft report and provide any comments or additional information on the draft findings and concerns or the recommended corrective actions and suggestions. Any comments or information should be submitted within 30 days from the receipt of this draft report.

If any comments, additional information, or supporting documentation are received, HUD will evaluate this material and determine if any modifications or revisions should be made to the report before being issued in final form. According to 24 CFR §1000.528, the final report will be issued within 30 days of receipt of your comments on the draft. The final report will include or incorporate any comments received. (A copy of this draft report has been provided to the tribe).

We would like to thank you and your staff for the assistance provided to the HUD team during the review. Our office looks forward to working with you and providing technical assistance to correct or address the identified deficiencies. If you have any questions, please contact

_____.

Sincerely,

Director

Grants Evaluation Division

Enclosure

(cc: _____ (tribe))

**SAMPLE DRAFT MONITORING REPORT FORMAT – IHBG
PROGRAM**

(Recipient)

Draft Monitoring Report

(date)

On _____, the _____ Office of Native American Programs (ONAP) conducted an on-site performance review of the identified Indian Housing Block Grant (IHBG) programs being implemented by the _____. The purpose of the review was to fulfill HUD's statutory obligation under Section 405 of the Native American Housing Assistance and Self-Determination Act (NAHASDA), to review the performance of an IHBG recipient's compliance with the requirements of NAHASDA. It was designed to evaluate your performance in: complying with your Indian Housing Plans (IHP); implementing eligible activities in a timely manner; submitting accurate Annual Performance Reports (APR); and carrying out your programs in accordance with the requirements and primary objectives of NAHASDA, the IHBG program regulations (24 CFR Part 1000), and other applicable laws and authorities. The performance measures at 24 CFR §1000.524 were used to conduct the performance review.

The IHBG programs reviewed were:

The areas reviewed for these programs were:

Environmental Review

Procurement and Contract Administration

Labor Standards

Indian Preference and Non-Discrimination

Preservation of 1937 Housing Act Units

Recipient Self-Monitoring

Indian Housing Plan (IHP) Certifications

Financial and Management

Financial Reporting

Indian Housing Plan (IHP) Compliance

HUD staff who did the review were:

An entrance conference was held on _____ with the following tribal/TDHE officials and staff:

The following tribal (TDHE) staff were consulted with or interviewed as part of the review:

An exit conference was held on _____ with the following tribal (TDHE) officials and staff:

SUMMARY

The review identified several significant accomplishments, as well as a total of ___ findings and ___ concerns, which are explained fully below. A finding is a deficiency in program performance that represents a violation of a statutory or regulatory requirement. Corrective actions must be taken to address a finding. A concern is a deficiency in program performance that does not constitute a violation of a statutory or regulatory requirement. We have, however, provided suggestions to address these concerns so that you can avoid either a reoccurrence of the problems or ensure that these problems do not develop into something more serious. While you are not required to address the identified concerns, we urge you to do so. The results of our review are as follows.

Significant Accomplishments

(List & describe)

Environmental Review

The program regulations at 24 CFR §1000.20(b) state that if a tribe assumes environmental review responsibilities for IHBG program activities, HUD's environmental review and clearance requirements in 24 CFR Part 58 apply. The program regulations at 24 CFR §1000.20(b)(3) also state that funds may not be committed to a grant activity or project before the completion of the environmental review and approval of the request for release of funds, except as allowed under 24 CFR Part 58. These procedures are designed to ensure that a recipient does not limit itself to a particular

course of action prior to satisfactorily addressing all applicable environmental considerations that may impact the design and construction of a facility or project.

OR

The program regulations at 24 CFR 1000.20(a) state that if a tribe declines to assume environmental review responsibilities for IHBG program activities, HUD will perform the review according to the provisions of 24 CFR Part 50. In this section, the program regulations state that a HUD review must be completed for any assisted activity not excluded from review under the provisions of 24 CFR §50.19(b) before a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds to such activities. These procedures are designed to ensure that a recipient does not limit itself to a particular course of action prior to all applicable environmental considerations that may impact the design and construction of a facility or project.

During the review, the following documents, information, or procedures were viewed or inspected:

The following conclusions were reached as a result of the review:

Procurement and Contract Administration

The procurement requirements of 24 CFR §85.36, which are referenced as applicable in the program regulations at 24 CFR §1000.26(a)(11), identify the basic procurement requirements that must be followed during the purchase of supplies, equipment, other property, and services using IHBG funds. There are four basic methods of procurement: small purchase procedures, sealed bids (formal advertising), competitive proposals, and noncompetitive proposals. The type and estimated cost of supplies, equipment, other property, and services being sought typically determines the procurement method used. Procurement by noncompetitive proposals is only permissible when it is not possible to use the other methods of procurement and when one of the circumstances listed in 24 CFR §85.36(d)(4) applies, such as an emergency. The recipient is also required (under 24 CFR §85.36(f)) to perform a cost or price analysis in connection with every procurement action, including contract modifications. The requirements of 24 CFR 85.36(b)(9) require that grantees will maintain records sufficient to detail the significant history of a procurement. These records should include the: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

During the review, the following documents, information, or procedures were viewed or inspected:

The following conclusions were reached as a result of the review:

Labor Standards

The program regulations at 24 CFR §1000.16 reference the requirements set forth in Section 104(b) of NAHASDA. This section requires that any contract or agreement for assistance, sale, or lease pursuant to the Act contain a provision requiring that all laborers and mechanics employed in the development of the affordable housing projects be paid wage rates not less than those prevailing in the locality as determined by the Department of Labor pursuant to the Davis-Bacon Act. This section also requires that all architects, technical engineers, draftsmen, and technicians employed in such development and all maintenance laborers and mechanics employed in the operation of this housing be paid wage rates not less than those prevailing in the locality as determined or adopted by HUD. Pursuant to these requirements you agreed to comply with a number of statutes, regulations, and related requirements as a condition for receipt of Federal funds, including, but not limited to: Davis-Bacon Act (40 U.S.C. 276a - 276a-5); the Contract Work Hours and Safety Standards Act (40 USC §327-333); the Copeland Act (40 USC §276c); Regulatory Provisions of the U.S. Secretary of Labor (29 CFR Parts 1, 3 and 5); and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs. Advice and direction was provided to all tribes and tribally designated housing entities (TDHEs) in NAHASDA Guidance No. 98-17.

During the review, the following documents, information, or procedures were viewed or inspected:

The following conclusions were reached as a result of the review:

Indian Preference and Non-Discrimination

The program regulations at 24 CFR §1000.50 require that, to the greatest extent feasible, recipients give preference and opportunities for training and employment to Indians in connection with IHBG grant administration. In addition, §1000.52 requires that to the greatest extent feasible, recipients give preference in the award of contracts to Indian organizations and Indian-owned economic enterprises. Also, the following nondiscrimination requirements are applicable:

- The Age Discrimination Act of 1975 (42 U.S.C.6101-6107)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
- The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968)

During the review, the following documents, information, or procedures were viewed or inspected:

The following conclusions were reached as a result of the review:

Preservation of 1937 Housing Act Units

Section 102(c)(4)(D) of NAHASDA requires the recipient to identify the manner in which it will protect and maintain the viability of its owned and operated housing inventory which was developed under a contract between HUD and an Indian housing authority pursuant to the United States Housing Act of 1937 (USHA). It is also required under Section 203(a)(2)(b) of NAHASDA, that recipients of IHBG funds who own or operate housing developed under the 1937 Housing Act shall provide for the continued maintenance and efficient operation of such housing.

During the review, the following documents, information, or procedures were viewed or inspected:

The following conclusions were reached as a result of the review:

Recipient Self-Monitoring

The IHBG program regulations at 24 CFR §1000.502(a) require that the recipient establish an effective system to monitor its grant activities, ensure compliance with applicable Federal requirements, and monitor its IHP performance goals. In accordance with 24 CFR §1000.502(b), if the grant recipient is a TDHE, the grant beneficiary, the tribe, is also responsible for monitoring IHBG compliance requirements by requiring the TDHE to prepare periodic progress reports including the annual compliance assessment, performance, and audit reports.

During the review, the following documents, information, or procedures were viewed or inspected:

The following conclusions were reached as a result of the review:

Indian Housing Plan (IHP) Certifications of Compliance

Section 102(c)(5) of NAHASDA requires the submission of a Certification of Compliance related to the following IHBG program requirements:

- Compliance with Title II of the Civil Rights Act of 1968
- Maintenance of adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under NAHASDA (pursuant to Section 203(c) of the Act as supplemented by 24 CFR §§1000.136, 138 and 140).

Establishment of policies to govern:

- The eligibility for assistance of families (pursuant to the Sections 203(d) and 201(b) of the Act as supplemented by 24 CFR §§1000.104, 106 and 120)
- The admission of families (pursuant to Sections 205(a)(1)(A) and (B) of the Act as supplemented by 24 CFR §1000.146)
- The continued occupancy of families (pursuant to Sections 203(d) and 207 of the Act)
- Rents or homebuyer payments including the method by which these rents or homebuyer payments are determined (pursuant to Sections 203(a)(1) and (2) of the Act as supplemented by 24 CFR §1000.124-132), and
- The management and maintenance of housing units assisted (pursuant to Section 203(e) of the Act).

During the review, the following documents, information, or procedures were viewed or inspected:

The following conclusions were reached as a result of the review:

Financial and Fiscal Management

The program regulations at 24 CFR §1000.26(a) reference the applicability of 24 CFR §85.21 and OMB requirements as set forth in Circular A-87 and the applicability of the audit requirements of OMB Circular A-133 as referenced in §1000.544. The scope of the performance review for financial and fiscal management included funds drawn down, accounting records, internal controls, cash management, budget control, audits, and investments (*only include if recipient approved for investments*).

During the review, the following documents, information, or procedures were viewed or inspected:

The following conclusions were reached as a result of the review:

Financial Reporting

The program regulations at 24 CFR §1000.26(a) reference the applicability of 24 CFR §85.20(b)(1) which requires accurate, current, and complete disclosure of the financial results of financially-assisted activities. Reporting requirements are addressed in NAHASDA Guidance No. 98-04. The Letter of Credit Control System (LOCCS) requires semi-annual reports for certain 1937 Housing Act grants, as well quarterly reports for NAHASDA grants. When progress reports are not submitted as required, LOCCS does not allow funds to be disbursed.

During the review, the following documents, information, or procedures were viewed or inspected:

The following conclusions were reached as a result of the review:

Indian Housing Plan Compliance

The purpose of this portion of the review is to determine the recipient's compliance with the goals and objectives outlined in its 5-year and 1-year IHPs,

including the timely implementation of these activities. The review is done in accordance with the IHBG performance measures outlined at 24 CFR §1000.524. The accuracy and completeness of your Annual Performance Report (APR) submissions were also evaluated as part of this review.

During the review, the following documents, information, or procedures were viewed or inspected:

The following conclusions were reached as a result of the review:

***TRANSMITTAL LETTER FINAL MONITORING REPORT – IHBG
PROGRAM***

[ADDRESS]

Dear [TRIBAL CHAIRMAN or TDHE CHAIRMAN]:

Subject: Final monitoring report on HUD-assisted programs

On [DATE DRAFT REPORT RECEIVED BY TRIBE OR TDHE], the tribe received the draft monitoring report prepared by our office covering grant programs administered by the [TRIBE OR TDHE]. We have completed the final monitoring report.

The [TRIBE OR TDHE]'s comments and documentation regarding findings and concerns contained in the draft report (copy enclosed) have been included in the final report as follows:

[SUMMARIZE COMMENTS/DOCUMENTATION PROVIDED BY THE RECIPIENT. SPECIFY IF AND HOW THE DRAFT REPORT WAS MODIFIED BASED UPON COMMENTS/DOCUMENTATION RECEIVED.]

Alternate third sentence of first paragraph

No comments were received from the tribe during the 30-day comment period specified in the draft report letter.

Monitoring of the following programs administered by the [TRIBE OR TDHE] has been completed.

[LIST EACH PROGRAM ADMINISTERED BY THE TRIBE OR TDHE, AS APPROPRIATE.]

Program Successes: We wish to congratulate the [TRIBE OR TDHE] on the following program successes we identified during monitoring.

[SUMMARIZE PROGRAM SUCCESSES AND BEST PRACTICES IDENTIFIED DURING MONITORING.]

Findings: During monitoring, ONAP tentatively identified findings, which were discussed at the exit conference on [DATE] and is providing recommended actions intended to resolve the findings with target dates for their completion. For your information we are summarizing the findings, recommended actions, and target dates below.

[SUMMARIZE EACH FINDING AND PROPOSED RECOMMENDED ACTIONS AND TARGET DATES.]

Concerns: During monitoring, ONAP tentatively identified concerns that were discussed at the exit conference on [DATE] and is providing suggested steps you may wish to take to improve your performance. For your information, we are summarizing the concerns and suggestions below.

[LIST ITEMS THAT THE ONAP DOES NOT CONSIDER AS SIGNIFICANT BUT MAY ASSIST THE RECIPIENT TO IMPROVE PROGRAM MANAGEMENT.]

This final monitoring report is considered public information and will be provided to interested parties upon request.

The tribe's participation in HUD grant programs is appreciated. If you or your staff wish to discuss any of the items contained in this report, please feel free to contact [NAME AND PHONE NUMBER OF THE GE SPECIALIST]

Sincerely,

GE Division Director

cc: Tribe (if applicable)

Enclosure: Monitoring Report

TRANSMITTAL LETTER DRAFT MONITORING REPORT FORMAT – ICDBG PROGRAM

Honorable (Mr./Ms)_____

Chairperson

Dear Chairperson (Mr./Ms)_____:

SUBJECT: Draft Monitoring Report for Indian Community Development Block Grant Program – Program Number B -

A draft monitoring report is enclosed which discusses the performance accomplishments and deficiencies, if any, identified during our recent review. It also includes recommended corrective actions to address findings and suggestions to address any concerns. Target completion dates for the recommended corrective actions will be established in the final report. Please review this draft report and provide any comments or additional information on the draft findings and concerns or the recommended corrective actions and suggestions. Your comments or information should be submitted within 30 days from the receipt of this draft report.

If any comments, additional information, or supporting documentation are received, HUD will evaluate this material and determine if any modifications or revisions should be made to the report before it is issued in final form. In accordance with HUD policy, the final report will be issued within 30 days from the receipt from you of any comments or information on the draft. The final report will include or incorporate any comments received.

We would like to thank you and your staff for the assistance provided to the HUD team during the review. Our office looks forward to working with you and providing technical assistance to correct or address the identified deficiencies. If you have any questions, please contact

_____.

Sincerely,

Director

Grants Evaluation Division

Enclosure

DRAFT MONITORING REPORT – ICDBG PROGRAM

(date)

On _____, the _____ Office of Native American Programs (ONAP) conducted an on-site performance review of the identified Indian Community Development Block Grant (ICDBG) program being implemented by the _____. The purpose of the review was to fulfill HUD's regulatory obligation under Section 1003.700 of the program regulations for the ICDBG Program to review the performance of an ICDBG recipient for compliance with: the requirements of the Housing and Community Development Act of 1974, as amended; the program regulations (24 CFR part 1003); the grant agreement; and, other applicable laws and regulations. In addition, this regulatory section obligates HUD to determine if a recipient has carried out program activities substantially as described in its approved application and if it has made substantial progress in implementing its program.

The ICDBG programs reviewed were:

The areas reviewed for these programs were:

Environmental Review

Procurement and Contract Administration

Indian Preference and Non-Discrimination

Financial and Fiscal Management

Financial Reporting

Compliance with Approved Application

Program Progress

HUD staff that did the review were:

An entrance conference was held on _____ with the following tribal officials and staff:

The following tribal staff were consulted with or interviewed as part of the review:

An exit conference was held on _____ with the following tribal officials and staff:

SUMMARY

The review identified several significant accomplishments as well as a total of _ findings and _ concerns, which are explained fully below. A finding is a deficiency in program performance that represents a violation of a statutory or regulatory requirement. Corrective actions must be taken to address a finding. A concern is a deficiency in program performance that does not constitute a violation of a statutory or regulatory requirement. We have, however, provided suggestions to address these concerns so that you can avoid either a reoccurrence of the problems or ensure that these problems do not develop into something more serious. While you are not required to address the identified concerns, we urge you to do so. The results of our review are as follows.

Significant Accomplishments

(List & describe)

Environmental Review

The program regulations at §1003.605 state HUD's environmental review and clearance requirements in 24 CFR Part 58 apply. These procedures are designed to ensure that a recipient does not limit itself to a particular course of action prior to satisfactorily addressing all applicable environmental considerations that may impact the design and construction of a facility or project.

During the review, the following documents, information, or procedures were viewed or inspected.

The following conclusions were reached as a result of the review.

Procurement and Contract Administration

The procurement requirements of 24 CFR §85.36 that are referenced as applicable (and somewhat modified) in the program regulations at §1003.501(a)(13), identify the basic procurement requirements that must be followed during the purchase of supplies, equipment, other property, and services using ICDBG funds. There are four basic methods of procurement; small purchase procedures; sealed bids (formal advertising); competitive proposals; and, noncompetitive proposals. The type and estimated cost of supplies, equipment, other property, and services being sought typically determines the procurement method used. Procurement by noncompetitive proposals is only permissible when it is not possible to use the other methods of procurement and when one of the circumstances listed in 24 CFR §85.36(d)(4) applies, such as an emergency. The recipient is also required (under 24 CFR §85.36(f)) to perform a cost or price analysis in connection with every procurement action, including contract modifications. The requirements of 24 CFR 85.36(9) require that grantees will maintain records sufficient to detail the significant history of a procurement. These records should include the: rationale for the method of procurement; selection of contract type; contractor selection or rejection; and, the basis for the contract price.

During the review, the following documents, information, or procedures were viewed or inspected.

The following conclusions were reached as a result of the review.

Indian Preference and Non-Discrimination

The program regulations at §1003.510 require that, to the greatest extent feasible, recipients give preference and opportunities for training and employment to Indians in connection with ICDBG grant administration. In addition, this section requires that to the greatest extent feasible, recipients give preference in the award of contracts to Indian organizations and Indian-owned economic enterprises. Also, the following nondiscrimination requirements are applicable:

- The Age Discrimination Act of 1975 (42 U.S.C.6101-6107)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
- The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968)

During the review, the following documents, information, or procedures were viewed or inspected.

The following conclusions were reached as a result of the review.

Financial and Fiscal Management

The program regulations at §1003.501 reference the applicability of 24 CFR 85.21 and OMB requirements as set forth in Circular A-87 and the audit requirements of OMB Circular A-133. The scope of the performance review for financial and fiscal management included funds draw down, accounting records, internal controls, cash management, budget control, and audits.

During the review, the following documents, information, or procedures were viewed or inspected.

The following conclusions were reached as a result of the review.

Financial Reporting

The program regulations at §1003.501 reference the applicability of 24 CFR 85.20 that requires in paragraph (b)(2) accurate, current, and complete disclosure of the financial results of financially assisted activities. When financial reports are not submitted as in a timely manner as required, LOCCS does not allow funds to be disbursed.

During the review, the following documents, information, or procedures were viewed or inspected.

The following conclusions were reached as a result of the review.

Compliance with Approved Application

The application that was approved by HUD included the following project or activity

During the review, the following documents, information, or procedures were viewed or inspected


The following conclusions were reached as a result of the review.

Program Progress

Each recipient of ICDBG assistance is required to submit a HUD 4125- Implementation Schedule as part of its application for assistance. This schedule becomes part of agreement between the recipient and HUD. An Implementation Schedule may be revised for good cause, but HUD must approve any such revision.

During the review, the following documents, information, or procedures were viewed or inspected.

The following conclusions were reached as a result of the review.



TRANSMITTAL FINAL MONITORING REPORT – ICDBG PROGRAMG

[ADDRESS]

Dear [TRIBAL CHAIRMAN]:

Subject: Final Monitoring Report on Indian Community Development Block Grant (ICDBG)
Program – Program No. B-

On [DATE DRAFT REPORT RECEIVED BY TRIBE], the tribe received the draft monitoring report prepared by our office covering grant programs administered by the [TRIBE]. We have completed the final monitoring report.

The [TRIBE]'s comments and documentation regarding findings and concerns contained in the draft report have been included in the final report as follows:

[SUMMARIZE COMMENTS/DOCUMENTATION PROVIDED BY THE RECIPIENT. SPECIFY IF AND HOW THE DRAFT REPORT WAS MODIFIED BASED UPON COMMENTS/DOCUMENTATION RECEIVED.]

Alternate Third sentence of first paragraph

No comments were received from the tribe during the 30-day comment period specified in the draft report letter.

Monitoring of the following programs administered by the [TRIBE] has been completed.

[LIST EACH PROGRAM ADMINISTERED BY THE TRIBE.]

Program Successes: We wish to congratulate the [TRIBE] on the following program successes we identified during monitoring.

[SUMMARIZE PROGRAM SUCCESSES AND BEST PRACTICES IDENTIFIED DURING MONITORING.]

Findings: During monitoring, ONAP tentatively identified findings, which were discussed at the exit conference on [DATE] and is providing recommended actions intended to resolve with target dates for their completion. For your information we are summarizing the findings, recommended actions, and target dates below.

[SUMMARIZE EACH FINDING AND PROPOSED RECOMMENDED ACTIONS AND TARGET DATES.]

Concerns: During monitoring, ONAP tentatively identified concerns that were discussed at the exit conference on [DATE] and is providing suggested steps you may wish to take to improve your performance. For your information we are summarizing the concerns and suggestions below.

[LIST ITEMS THAT THE ONAP DOES NOT CONSIDER AS SIGNIFICANT BUT MAY ASSIST THE RECIPIENT TO IMPROVE PROGRAM MANAGEMENT.]

This final monitoring report is considered public information and will be provided to interested parties upon request.

The tribe's participation in the ICDBG program is appreciated. If you or your staff wishes to discuss any of the items contained in this report, please feel free to contact [NAME AND PHONE NUMBER OF THE GE SPECIALIST]

Sincerely,

GE Division Director

Enclosure: Final Monitoring Report

MONITORING LOG

ENTITY	RE- MOTE	FIELD VISIT ENDED	DRAFT REPORT ISSUED	REPLY DUE	REPLY REC.	FINAL REPORT ISSUED	FINDINGS	TARGET DUE DATE	DATE CLOSED	DAYS LATE	GES	COMMENTS
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***FEBRUARY 18, 2000, ENFORCEMENT PROTOCOL, ADDENDUM 1 (ONAP)
LETTER OF WARNING FOR DELINQUENT APRs***

February 18, 2000

MEMORANDUM FOR: Harold Lucas, Assistant Secretary, Public and Indian Housing, P

FROM: Edward J. Kraus, Director, Enforcement Center, V

SUBJECT: Enforcement Protocol, Addendum 1

This memorandum provides additional definition to the Enforcement Protocol signed by Kevin E. Marchman on March 11, 1998, between the Enforcement Center (EC) and the Office of Public and Indian Housing. This addendum provides the protocol for programs administered by the Office of Native American Programs (ONAP).

ONAP has an organizational structure that is unique within the Department. In addition to a Headquarters office in Washington, DC, it also maintains a Program Office in Denver, Colorado. The six ONAP field offices are located in Chicago, Oklahoma City, Denver, Phoenix, Seattle, and Anchorage. The Phoenix office has a small office outstationed from it in Albuquerque, New Mexico.

ONAP administers four basic programs. Under NAHASDA, 25 U.S.C. §4101, et seq., ONAP administers the Indian Housing Block Grant program (IHBG) and the Title VI Loan Guarantee program. Pursuant to the Housing and Community Development Act of 1974, as amended, 42 U.S.C. §5301, et seq., ONAP administers the Indian Community Development Block Grant program (ICDBG). Finally, pursuant to the authority provided in the section 184 of the Housing and Community Development Act of 1992, 12 U.S.C. 1715z-13a, ONAP administers the Loan Guarantees for Indian Housing (Section 184 program). The programs of ONAP, and particularly the new Indian Housing Block Grant program, are designed to take into account the issues and concerns particular to Indian country. It is for these reasons that an addendum is needed that addresses ONAP.

The agreed upon protocol is as follows:

- For the NAHASDA program and the ICDBG program, the Area ONAPs target “high risk” grantees for monitoring and oversight of program execution and performance.
- Area ONAPs work with grantees to resolve performance problems identified through program monitoring and through audits as uncovered in their annual audits (Single Audit Act and A-133, revised) (as applicable) or any other reliable relevant information. Performance problems can include violation of HUD agreements, statutes and regulations, such as ineligible and/or undocumented expenditures, mismanagement, or poor accounting systems. See 24 C.F.R. §1000.524 and 24 C.F.R. §1003.700.
- Each Area ONAP consults on potential criminal violations with their local Office of Inspector General (OIG).

- The Area ONAP staff may take any of the corrective actions listed in 24 C.F.R. §1000.530 and 24 C.F.R. §1003.701.
- If Area ONAP staff are unable to resolve and/or correct performance problems with the grantee participant, the matter is referred to the Program Office for review. The Program Office reviews the findings, consults with the OIG, OGC, and the EC, as necessary, to develop a strategy to resolve outstanding issues with the grantee or program participant.
- If the Program Office determines that the imposition of sanctions pursuant to 24 C.F.R. §1000.532, 24 C.F.R. §1000.538, or 24 C.F.R. §1003.703 (ICDBG) is warranted it will refer the matter to the Enforcement Center for review.
- The Program Office ONAP will provide a referral list to the Deputy Assistant Secretary (DAS). Final determination regarding referrals to the EC resides with the DAS.
- A referral to the EC may be made if ONAP determines that an action under 24 C.F.R. §1000.532, 24 C.F.R. §1000.538, or 24 C.F.R. §1003.703 (ICDBG) is required to resolve performance problems.

NOTE: A number of enforcement actions are available to the ONAP under the IHBG program in 24 C.F.R. §1000.532 and §1000.538 such as: reduction in grant funds; withholding of payment; suspension or termination of current award; or withholding of future awards. Under the ICDBG program, HUD may reduce, terminate or limit the availability of ICDBG funds provided to the grantee. In addition, if appropriate, the EC may refer potential civil actions to the Attorney General for filing in federal courts. Suspensions and debarments may also be available depending on the program and noncompliance at issue.

- If it is determined that a referral should be made to the EC, the Program Office will make the referral, and will keep the Area ONAP involved and informed. The referral shall include not only proposed enforcement actions and a brief summary of the bases for the proposed actions but also copies of all documents relevant to the issues.
- Upon referral to the EC, the Area ONAP may notify the tribe/TDHE that it has been referred to the EC for review.
- Prior to the initiation of the enforcement process by the EC, the referral may be returned to ONAP. For instance, this might occur if the issue has been resolved and therefore, the reason for referral no longer exists.
- Due Diligence: The EC will review the relevant files with the appropriate ONAP staff, collect additional relevant information to ensure that the enforcement action file is complete, current and accurate, and supportive of an enforcement action.
- The Program Office shall designate its staff and Area ONAP staff to work with the EC on an as needed basis. The EC will update the Program Office on a regular basis of any changes or progress. The Program Office will keep the Area ONAP and the DAS informed of the status.
- In cases of potential criminal and/or civil violations, the EC will consult with (and refer to) either the OIG or DOJ for appropriate action.

- The EC will be responsible for handling cases requiring administrative action on projects which have been referred to it by the Program Office.
- Upon conclusion of the enforcement action, the EC will return the responsibility to ONAP for continued responsibility and follow-up. This will be the responsibility of the Area ONAP.

For single family loan guarantee programs under the Section 184 program administered by the ONAP:

- The ONAP will retain responsibility for processing foreclosures and assignments. The EC will be responsible for handling any applicable administrative enforcement actions such as suspension, debarment or civil money penalties. In cases of potential criminal and/or civil violations (such as False Claims Act violations), the EC will consult with (and refer to) either the OIG or DOJ for appropriate action.

The Enforcement Center stands ready to assist ONAP, in Headquarters and in the field, to provide enforcement services for its programs. Further, staff from the EC will be available to provide joint training on the protocol for ONAP field staff if deemed necessary and appropriate. The protocol established in this memorandum between the Departmental Enforcement Center and the Office of Native American Programs is agreed to by:

/s/ Harold Lucas

Harold Lucas

Assistant Secretary

Public and Indian Housing

3-9-00

Date

/s/ Edward J. Kraus

Edward J. Kraus

Director

Enforcement Center

2-16-2000

Date

**NOVEMBER 12, 1999, MEMORANDUM FROM DAS – PROCEDURE FOR
TAKING ACTION UNDER SECTION 401(A) OF NAHASDA**

November 12, 1999

MEMORANDUM FOR: ONAP Administrators

/s/ Jacqueline Johnson

FROM: Jacqueline Johnson, Deputy Assistant Secretary for Native American Programs, PI

SUBJECT: Procedure for taking action under Section 401(a) of NAHASDA

Section 401(a) of the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) authorizes the Secretary, upon finding of substantial noncompliance with the provision of the Act, to:

- 1) terminate payments under the Act to the recipient;
- 2) reduce payments under the Act to the recipient by an amount equal to the amount of such payments that were not expended in accordance with the Act;
- 3) limit the availability of payments under the Act to programs, projects, or activities not affected by such failure to comply; or
- 4) provide a replacement tribally designated housing entity (TDHE) for the recipient.

Regulations implementing this authority are at 24 CFR part 1000, subpart F, specifically §1000.528 through §1000.542.

Generally, it is the position of the Department that if a grant recipient's performance is sufficiently woeful to consider the imposition of remedies similar to those authorized at Sec 401(a), the final decision is made at not less than the Deputy Assistant Secretary (DAS) level of authority. With the exception of the authority to provide for a replacement TDHE which has not been redelegated by the Assistant Secretary, the delegation of authority for Indian programs published in the Federal Register on October 2, 1998, is not specific regarding the retention by the DAS of the authority to impose these remedies. The delegation of authority is being reviewed and will be amended to clarify this authority has been redelegated only to the DAS.

Pending the publication of a revision to the delegation of authority, by this memorandum I am establishing the procedure that a declaration of substantial noncompliance under §1000.534 or the imposition and removal of remedies under §1000.532 or §1000.538 can only be made by the DAS for Native American Programs or higher authority. The Area ONAP remains responsible for administering grants including working with grant recipients to address performance problems and initiating the imposition of authorized remedies, as appropriate.

If, after being given the reasonable opportunity, the grant recipient fails to adequately address and correct performance problems (see §1000.532), the Area Office is responsible for creating a file containing a copy of all correspondence and documents relating to the proposed action, a draft letter of warning to the recipient for the signature of the Administrator (see §1000.532(b)), and a draft letter imposing the remedies for the signature of the DAS. This file is to be provided to the Denver Program Grants Evaluation Director (hereafter referred to as DPO) who is responsible for coordinating the review of remedies with the Office of General Counsel (OGC) and the Enforcement Center (EC).

After review and concurrence by the OGC, the EC and the DAS, the Area Office will be authorized to issue the letter or warning. If, per the provisions of §1000.534(b), the grant recipient requests an informal hearing with the Area Office, a memorandum summarizing the results of the informal hearing is to be provided to the DPO. The DPO will facilitate the final review of the proposed action with OGC and the EC and will provide the file to the DAS for final action. The DPO will be responsible for coordinating any actions related to a request for formal hearing by the grant recipient with the Area Office and the EC.

The Area Office will be responsible for managing imposed remedies and for assisting the grant recipient in addressing its performance problems. When a grant recipient's performance improves sufficiently to warrant removal of an imposed remedy, the Area Office, working with DPO, will prepare the appropriate letter for the DAS and provide supporting documentation for the action.



NAHASDA GUIDANCE

National Office of Native American Programs

NAHASDA GUIDANCE 01-07 ONAP

No. 2001-07
January 18, 2001

TO: All Offices of Native American Programs
/s/
FROM: Jacqueline Johnson, Deputy Assistant Secretary, PN
TOPIC: High Risk Determination
SUBJECT: Use of 24 CFR Part 85.12 "High Risk" Determination

By memorandum dated July 7, 1998, I imposed the requirement that my concurrence be obtained before an Area ONAP could declare a grant recipient "high risk" and impose appropriate grant conditions. The purpose of this Guidance is to: (1) discuss and clearly establish the appropriate use of §85.12 authority; and, (2) withdraw the requirement for DAS concurrence before an Area ONAP may determine a grant recipient is "high risk". Additionally, I am affirming that the policy communicated by this Guidance applies to all grant programs administered by ONAP.

The Native American Housing Assistance and Self Determination Act of 1996, as amended, and the program regulations developed to implement the Indian Housing Block Grant (IHBG) program significantly modify the agency-recipient relationship typical of grant programs administered by the Department. The statute and the rule explicitly acknowledge that, in addition to this usual relationship, there is also a government-to-government relationship between tribal recipients and the Department. Inherent in this expanded relationship is a greater responsibility for the Department to communicate with recipients and to provide them latitude in the design and management of their programs. When program deficiencies occur, there is an obligation for the Department to provide adequate notice of needed corrective actions and an opportunity for discussion before the imposition of grant limitations/sanctions.

IHBG regulations at 24 CFR 1000.26(a)(1) authorize the imposition of special grant or subgrant conditions for high risk grantees under the authority of 24 CFR 85.12. Subpart F of part 1000 provides for reporting, review, and imposition of sanctions. Specifically, notice of program deficiencies and recommended corrective actions is contained in §1000.530(a); actions that may be taken if a recipient fails to address performance problems are found at §1000.530(b).

The authority provided by §85.12 overlaps with the authority specified in part 1000, subpart F. However, since the provisions of part 1000, subpart F establish requirements and procedures which are more consistent with a government-to-government relationship, they must be used to the greatest extent practical to address recipient performance deficiencies instead of the authority provided under

§85.12. The authority of §85.12 should only be invoked when the Area ONAP believes a recipient's deficient performance meets the requirements of §85.12(a) and the performance problems:

- ONAPs**
- have only been recently discovered and the timely issuance of a grant award precludes the use of part 1000, subpart F process and procedures; or
 - have been identified in a draft or final report (§§1000.528/530) but the recipient has not had adequate opportunity to implement corrective or remedial actions prior to the timely issuance of a grant award.

Given these restrictions on its use, it would be unusual if a recipient is repeatedly determined “high risk” under §85.12.

As I have indicated above, the use of the authority provided by §85.12 for those grant programs other than IHBG shall be consistent with that established for IHBG. In practice this means that for these programs, the authority provided under §85.12 should only be used in the circumstances described above. In other circumstances, if the program regulations address the requirements for actions and procedures to be taken regarding deficient recipient performance, e.g., ICDBG at §§1003.701-703, these requirements should be followed. Regarding other grant programs, e.g., Rural Housing and Economic Development, if program regulations do not exist or do not address these requirements, the requirements of 24 CFR 85.43 Enforcement as referenced in the program grant agreement shall be implemented following the process and procedures in part 1000, subpart F.

It is not my intent to inhibit an Area ONAP’s ability to protect the Federal interest in the administration of its programs. Rather, I want to emphasize the importance of using the appropriate authorities in light of the special relationship we have with Indian tribes. It is expected that Area ONAPs will: provide timely notice of performance problems; work with recipients (to the extent possible) to address these problems; and implement appropriate remedial actions when a recipient fails to address them .

Please note that although my concurrence in imposing grant conditions will no longer be required, I continue to be interested in knowing which recipients are experiencing administrative capacity difficulties. To keep me informed, a listing of recipients designated “high risk” under §85.12 is to be included on the monthly Significant Issues Listing already being provided by each Area ONAP.

If there are any questions or if an Area ONAP is having difficulty implementing this policy, additional guidance can be obtained through the Program Office - Office of Grants Evaluation.

FILING: File a copy of this Guidance in the Grants Evaluation Guidebook, Enforcement Chapter Appendices.

SAMPLE NOTICE OF INTENT – DELINQUENT APR

[Date]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

[Insert Recipient Name & Address]

Dear [insert recipient name]:

SUBJECT: Notice of Intent/Offer of Informal Meeting

This is to notify you that HUD intends to impose sanctions under the Indian Housing Block Grant (IHBG) Program as authorized at 24 CFR §§1000.532 and 1000.538 because the [insert recipient name] failed to submit the Annual Performance Report (APR) for its IHBG(s) for the reporting period [insert reporting period].

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), under section 404, requires grant recipients to annually review their performance and to submit a report to HUD describing the conclusions of the review. The IHBG program regulations at 24 CFR §1000.514 require submission of the report within 60 days of the end of the recipient's program year. This report is referred to as the APR.

The [insert recipient name] received [insert #] grants under NAHASDA, [insert grant numbers], for which an APR was due on [insert due date]. [Insert if extension granted: "The Tribe (or TDHE) requested and this Office approved a 30-day extension on _____; however, the APR was never submitted."] Pursuant to 24 CFR §1000.530(a)(1), on [insert date of Letter of Warning], HUD issued a letter of warning that notified you that the APR was past due and that future payment requests through the Line of Credit Control System (LOCCS) would require you to submit the LOCCS Payment Voucher, Form HUD-50080-IHBG, with detailed supporting documentation, each time you made a payment request. Also, you were advised that if the APR was not received within 30 days of the date of that letter, HUD would consider taking the necessary actions to enforce this statutory requirement. As of this date, the APR has not been received in this Office.

[Insert if appropriate: "The letter of warning also informed you that the Tribe did not submit APRs for the periods _____."]

We have determined under 24 CFR §1000.530(b) that [insert recipient name] failed to address this performance problem. The sanctions HUD intends to impose are:

- Under the adjustment authority of §1000.532(a), the [insert recipient name] will not receive any amount of its next NAHASDA grant; and
- Under the authority of §1000.538(a)(3), HUD will limit the availability of payments to the [insert recipient name] on current grants.

These sanctions will remain in effect until the complete and accurate APR for the reporting period ending [*insert reporting period ending date*] [*insert if appropriate: "and tables for the APR reporting periods ending _____"*] is/are received in this Office. [*insert if appropriate: "The tables include Table I - Sources of Funds, Table II - Uses of Funds, and Table III - Inspection of Assisted Housing."*]

It is our strongest desire not to impose these sanctions. As an effort to resolve this deficiency and in accordance with the provisions at §1000.532(b), you are hereby provided the opportunity to request, within 30 days of the date of this letter, an informal meeting with us to discuss the issue.

If you have questions regarding this letter, please contact [*insert GES name*], Grants Evaluation Specialist, at [*insert phone number*].

Sincerely,

[*insert Administrator's name*]
Administrator

[*Note: insert if Tribe is not recipient:*

"cc:
_____ Tribe"]

SAMPLE IMPOSITION OF SANCTIONS

[Date]

[Recipient Name & Address]

Dear :

We are regretfully notifying you that HUD is imposing sanctions on [insert grant #s] because you failed to submit the Annual Performance Report (APR) for the period _____. Sanctions are authorized in the Indian Housing Block Grant (IHBG) program by 24 CFR §§1000.532 and 1000.538. You have a right to request a hearing. We are also immediately suspending payments under your IHBG.

Grant recipients are required by the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) section 404 to annually review their progress on their Indian Housing Plan and report the review results to the Office of Native American Programs (ONAP). The format for this report is the APR and is due within 60 days of the end of your program year.

Your program year ended _____; therefore, the APR was due on _____, for all open grants. *[Insert if appropriate: "On _____, you requested and were granted an extension on submission of the APR until _____."]* On [insert Past Due Notice/Letter of Warning date], you were notified by letter that your APR was delinquent and you needed to submit documentation for all payment requests from your Line of Credit and that if a complete and accurate APR was not received within 15 days, ONAP would begin sanctions for your noncompliance with this statutory and regulatory requirement. *[Insert if prior APRs also delinquent: "You were also informed in that letters that your APR(s) for the period(s) ending _____ was/were also delinquent."]*

The letter from [insert FONAP Administrator's name] dated [insert date of Notice of Intent/Offer of Informal Meeting], notified you of our intent to impose sanctions and offered you an opportunity for an informal meeting before we imposed sanctions.

[Insert additional information, including information on correspondence to/from recipient specific to recipient.]

The IHBG recipient, [i.e., the Indian tribe or the tribally designated housing entity (TDHE)], bears the responsibility for program compliance. See §1000.502(a).

The importance of the submission of an APR to HUD cannot be overstated. First, submission of an APR is a statutory and regulatory requirement. NAHASDA, Section 404, 25 U.S.C. 4164; §1000.512. Second, the APR assists HUD in evaluating a recipient's performance and in identifying technical assistance needs of the recipient. The APR is also important to a tribe because it reports on the progress made

towards meeting tribal housing objectives and objectives from tribal members and other interested parties. Given its importance, the timely submission of an accurate APR is included as one of the performance measures that the recipient must meet as a condition for compliance with NAHASDA. §1000.524.

The failure to submit an APR also strongly suggests that a recipient may not have the required administrative capacity to properly administer its IHBG program. See §1000.6. The APR, therefore, not only provides HUD with insight into the recipient's past performance but also may inform HUD whether the recipient has the continuing capacity to carry out its activities in a timely manner. In short, the APR can provide important information with regard to a recipient's past and future performance.

Therefore, HUD has determined that [insert recipient name]'s failure to submit its APR constitutes substantial noncompliance as defined in §1000.534(d).

The failure to submit an APR also indicates that [insert recipient name] does not have the continuing capacity to carry out its activities in a timely manner, as provided at §1000.6.

Accordingly, as authorized by §1000.538(a)(3), HUD intends to limit the availability of payments under NAHASDA. Because your failure to submit an APR affects all NAHASDA projects, programs and activities, all IHBG funds will be limited. This sanction will continue until a complete and accurate APR for the program year ending _____, [insert if prior APRs also delinquent: "as well as Tables for your _____ APRs,"] is/are received. [insert for prior delinquent APRs: "The Tables include Table I - Sources of Funds, Table II - Uses of Funds, and Table III - Inspection of Assisted Housing."] HUD is also suspending payments under your grants, effective immediately, under the authority of §1000.538(b).

Furthermore, HUD has determined that under the adjustment authority of §1000.532(a), the [insert recipient name] will not receive any amount of its Fiscal Year ____ IHBG grant. The program regulations at §1000.6 specify that IHBG recipients must have the administrative capacity to undertake affordable housing activities. By virtue of the above determination of substantial noncompliance with NAHASDA, HUD has determined that [insert recipient name] does not have the required administrative capacity. This sanction will also continue until a complete and accurate APR is received.

If you disagree with HUD's determination that you have failed to substantially comply with this program requirement, then you have a right to a hearing before an Administrative Law Judge. The hearing would be conducted in accordance with §1000.540 and Part 26, Subpart B. If you want a hearing, you must submit a request within 30 days of the date of this letter. You must submit an original and two copies of your request for a hearing to the Docket Clerk, HUD, Departmental Enforcement Center, Portals Building, 1250 Maryland Ave., S.W., Suite 200, Washington, D.C. 20024.

If you have any questions, please direct them to
_____, Administrator for the _____ Office of Native
American Programs, at _____.

Very sincerely yours,

[insert name of DAS]
Deputy Assistant Secretary
for Native American Programs

[Note: add if Tribe is not recipient:

cc:

_____ Tribe]