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## Report 2014

Beginning September 22, 2014 through September 26, 2014, the Southern Plains Office of Native American Programs (**CIA**) conducted an on-site monitoring review of the Indian Housing Block Grant (IHBG) program, the Native American Housing Block Grant program (NAHBG - formula) funded with the American Recovery and Reinvestment Act of 2009 (ARRA). Since ARRA provided additional funding under the auspices of NAHASDA, the regulations governing the IHBG program also apply to the NAHBG program. See the attached Appendix for a description of the pertinent IHBG statutory and regulatory requirements.

The scope of review covered activities for the time period July 1, 2011 through current for the following programs:

- IHBG Programs:

The scope of review covered activities for the time period of July 1, 2011 up to date of grant closeout for the following program:

- NAHBG (formula) Program:

The areas reviewed for these

programs include:

- Organization and Structure
- **IHP** and APR Compliance
- Eligibility, Admissions and Occupancy
- Maintenance and Inspections
- Environmental Review Compliance
- Lead Based Paint
- Relocation and Real Property Acquisition
- Labor Standards
- Procurement and Contract Administration
- Financial and Fiscal Management
- Self-Monitoring
- Program Administration of NAHBG/ARRA Compliance

The following staff representing the ATHA were consulted or interviewed as part of the review:



A summary meeting was held on September 26, 2014, at the ATHA with the following officials in attendance:

A formal exit teleconference will be scheduled upon the ATHA's receipt of the Draft Monitoring Report.

### Summary of Findings and Concerns

The review of the IHBG and ARRA programs identified 18 findings and two (2) concerns. 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. See the Appendix to this report for a description of the statutory and regulatory requirements associated with each monitoring area.

A concern is a deficiency in program performance that does not constitute a violation of a statutory or regulatory requirement. While it is not required that concerns be addressed, doing so can avoid a reoccurrence of the problems or ensure that these problems do not develop into something more serious.

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## INDIAN HOUSING BLOCK GRANT (IHBG)

The purpose of the review was to fulfill the U.S. Department of Housing and Urban Development's (HUD) statutory obligation under Section 405 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), to review the performance of an IHBG recipient's compliance with the requirements of NAHASDA.

The review was designed to evaluate the ATHA's performance in complying with the approved Indian Housing Plans (IHP); implementation of eligible affordable housing activities in a timely manner; submission of accurate Annual Performance Reports (APR) and carrying out its programs in accordance with the requirements and primary objectives of NAHASDA, the IHBG program regulations at 24 CFR Part 1000, and other applicable laws and authorities. The performance measures at 24 CFR § 1000.524 were used to conduct the monitoring review. See the attached Appendix for a description of the pertinent IHBG statutory and regulatory requirements.

The following IHBG numbers were reviewed:

- 111H4001100
- 551H4001100

The areas reviewed under the IHBG programs include:

- Organization and Structure
- IHP and APR Compliance
- Eligibility, Admissions and Occupancy
- Environmental Review Compliance
- Lead Based Paint Compliance
- Maintenance and Inspections
- Relocation and Real Property Acquisition
- Labor Standards
- Relocation and Real Property Acquisition
- Procurement and Contract Administration
- Indian Preference in Procurement and Contracting
- Financial and Fiscal Management
- Self-Monitoring
- Program Administration of NAHBG



## Organization and Structure

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

- Policies and Procedures
- Resolutions
- Board Minutes
- Stability of environment
- Local Cooperation Agreements

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

The ATHA was notified of the on-site monitoring review on numerous occasions via letters, calls and email. Specifically, On-site Performance Monitoring Review notification letters were issued June 2, 2014 and July 21, 2014. In these letters, specific information was identified that would either need to be available to **CIA** staff upon their arrival or provided prior to the review. The review had been rescheduled at the request of ATHA to afford the ATHA time to hire an Executive Director. Lastly, **CIA** staff had a pre-monitoring teleconference with ATHA staff Tuesday, September 11, 2014 to discuss the on-site review and the need for the documentation to be available upon **CIA** staff's arrival or provided prior to the review. **CIA** staff followed up in emails.

Upon **CIA** staff's arrival at the ATHA, a very limited amount of information was provided and key information was not made available for review as documented throughout this report. In many instances, ATHA staff was not cooperative in providing requested information. In other instances, some staff were simply so new that they did not understand the requirements of the IHBG nor what was being requested of them. **CIA** staff repeatedly made daily attempts to obtain documentation and worked with ATHA staff to help guide them into providing the necessary information for **CIA** to conduct its programmatic review, but this only had limited success.

Our review disclosed that the organizational structure and related systems of internal control have been compromised by the inability to develop and oversee an effective organization and to address housing issues in a timely fashion. The lack of adequate oversight by the BOC, the lack of experienced and trained staff, and the lack of management capacity resulted in a system that was inadequate to ensure that the ATHA operated its housing program in accordance with all Federal requirements. Further, our review disclosed that there is a lack of communication and coordination between the Tribe and the ATHA and the Tribe was not fulfilling its obligation as the grant beneficiary to monitor the housing authority, as it's tribally designated housing entity.

As a result of the lack of information/documentation being available or provided, **CIA** was unable to verify that an administrative system is in place to ensure compliance with NAHASDA and other applicable regulations. This is documented throughout this report. This lack of understanding and inability to provide requested information is a serious

performance deficiency which compels **CIA** to assume the ATHA is noncompliant in most program areas, if not all.

Due to the lack of required information available for review, **CIA** questions the administrative capability of the ATHA and questions the entire grant award for the last two grant years.

There is one (1) finding for this portion of the review.

#### Finding 2014-IHBG-01: Lack of Administrative Capacity

Condition: Due to lack of oversight by the BOC and the Tribe and the newness of staff, the ATHA was unprepared for the **CIA** monitoring review and was not responsive to the requests made by **CIA**. The ATHA must maintain stability in order to maintain compliance with the IHBG and ARRA programs. Additionally, following numerous attempts both verbally and written, **CIA** was not provided requested documentation to establish compliance with financial standards, participant eligibility, lead based paint requirements, procurement, relocation requirements, environmental review requirements, etc.

Criteria: IHBG recipients are responsible for the development and implementation of housing assistance programs that meet HUD's performance measures in compliance with Section 403(c) of NAHASDA, and as supplemented by 24 CFR § 1000.524.

IHBG regulations at 24 CFR § 1000.6 state that IHBG recipients must have the administrative capacity to undertake the affordable housing activities proposed, including the systems of internal control necessary to administer these activities effectively without fraud, waste, or mismanagement.

Administrative capacity measures a recipient's ability to effectively undertake the affordable housing activities in its IHP in accordance with the requirements of NAHASDA and 24 CFR part 1000. Administrative capacity can be demonstrated by a history of satisfactory performance, financial stability, management systems which meet the requirements of 24 CFR part 85, policies and procedures that meet the requirements of 24 CFR part 1000, compliance with previous awards, experienced employees, and existence and maintenance of an organizational structure.

Cause and Effect: The ATHA did not provide the necessary and required documents prior to or during our on-site monitoring visit September 22-26, 2014 as requested so that **CIA** could confirm compliance with NAHASDA requirements. Due to the lack of documentation provided, **CIA** cannot verify that internal controls for compliance are in effect and questions the administrative capacity.

Questioned Costs: \$2,293,624.00

Recommended Corrective Actions: To address this finding, the ATHA should:

1. Immediately cease the obligation or expenditure of NAHASDA or local funds on the covered activities identified as noncompliant.

2. Identify a staff person responsible for working with **CIA** to resolve the findings identified throughout this report with oversight from the BOC to ensure the findings are resolved timely.
3. Obtain training for ATHA staff and ATHA Board members that cover their roles and responsibilities in providing proper control and oversight of the ATHA's operations.
4. Formally adopt a protocol or process on how the BOC will obtain the information necessary to successfully exercise its control and oversight of ATHA and its Executive Director in areas such as:
  - a. Project time schedules –approve all project schedules and any amendments
  - b. Budgets -approve all budgets and budget line item changes
  - c. Personnel Management of the Executive Director, in accordance with ATHA policies and employment contract, including performance appraisals
  - d. Board Policies –have Director certify that all policies are complied with annually
  - e. Contracts -Board approves all agreements, contracts, RFP's and other ATHA's obligations
  - f. Complaints and Grievances –review to ensure they are addressed timely and fairly
  - g. Vacancies and Waiting Lists –review to ensure timeliness of rentals
  - h. Self-monitoring annual assessment of the ATHA activities and the tribe's responsibilities for monitoring the ATHA, in addition to the ATHA correcting and taking timely action on noted deficiencies in the self-monitoring report.

#### Annual Performance Report and Indian Housing Plan Compliance - IHBG

During the review, the following documents, information, or procedures were requested to be reviewed for compliance:

- Revenue/Expenditure Reports that reconciled to APRs (no documents provided)
- PYE 6/30/2012 and 6/30/2013 APRs

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

**CIA** was not provided the necessary financial documentation to confirm compliance with affordable housing activities identified in the PYE 6/30/12 and 6/30/13 IHP/APRs.

#### Finding 2014-IHBG-02: Non Compliance with APR Reporting and Financial Requirements

Condition: Revenue/Expenditure reports were not provided to **CIA** while on-site as requested in order to verify whether the Annual Performance Reports of the recipient are accurate.

Criteria: Program regulations at 24 CFR § 1000.520 require an Annual Performance Report to be submitted to determine whether the recipient 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; has complied with the IHP of the grant beneficiary; and whether the APR of the recipient is accurate. Due to the ATHA not providing the requested documentation, **CIA** was unable to determine if the APR reflected accurately IHBG accomplishments.

Cause and Effect: **CIA** was unable to verify the accuracy of the APR due to a lack of cooperation from the ATHA staff in providing the financial reports pertaining to HUD grants. The effect is the ATHA may not be tracing the funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable regulations.

Questioned Costs: \$2,293,624.00

Recommended Corrective Actions: To address this finding, the ATHA should provide the following information for **CIA** review:

1. Provide to **CIA** Revenue/Expenditure Reports during for FYE 6/30/2012 and 6/30/2013, and current for all grants under review that correlate to the reported expenditures for all reported affordable housing activities in the PYE 6/30/2012 and PYE 6/30/2013 APRs; or
2. Provide corrected APRs for PYE 6/30/2012 and PYE 6/30/2013 with corresponding Revenue/Expenditure Reports.

#### Formula Current Assisted Stock

During the review, the following documents, information, or procedures were reviewed for compliance:

- 2013 APR
- 2013 Formula Assisted Stock records

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

There is a data discrepancy between the reported units in the APR and the number of units maintained by the IHBG Formula Customer Service Center.

Finding 2014-IHBG-03: Non-compliance with reporting Formula Current Assisted Stock units

Condition: Based on our review, the ATHA has not accurately reported the correct number of units to the formula center which indicated that the ATHA has more 1937 Act units than they really have under management.

Criteria: Per 24 CFR § 1000.315, a recipient shall report changes to information related to the IHBG formula on the Formula Response Form, including corrections to the number of Formula Current Assisted Stock (FCAS), during the time period required by HUD. Per 24 CFR § 1000.319, a recipient is responsible for verifying and reporting changes to their FCAS to ensure that data used for the IHBG Formula are accurate.

Cause and Effect: The ATHA has not been reconciling their FCAS units between their reports and the IHBG formula reports. As FCAS is part of the formula, the effect may result in overpayment.

Questioned Costs: To be determined by the IHBG Formula Center.

Recommended Corrective Actions: To address this finding, the ATHA should provide the following information for **CIA** review:

1. Reconcile the inventory of the FCAS units to the Formula Response Form and correct the numbers to reflect the "actual" number of 1937 Act units under management.
2. Provide the results to the Formula Center and ensure the units are reported correctly in the next Annual Performance Report.

#### Eligibility, Admissions and Occupancy

During the review, the following documents, information, programs or procedures were requested to be reviewed for compliance:

- Waiting Lists and Participants for NAHASDA Program
- Waiting Lists and Participants for Mutual Help Program
- Waiting Lists and Participants for Down Payment Assistance Program
- Waiting Lists and Participants for Lease to Own Program
- Waiting Lists and Participants for Low Rental Housing Program
- Waiting Lists and Participants for Acquisition/New Home Ownership Program
- Waiting Lists and Participants for Homeownership/Rehab Program
- Waiting Lists and Participants for Emergency Shelter Program
- Policies and Procedures
- Low Rental Housing Program Admission and Occupancy Policies and/or Procedures
- Lease with Option to Purchase Program Admission and Occupancy Policies and/or Procedures
- Mutual Help Program Admission and Occupancy Policies and/or Procedures
- Down Payment Assistance Program Policies and/or Procedures

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

**CIA** staff requested participants and waiting lists information while onsite but the information requested was not provided for **CIA** staff to pull a sampling for compliance; subsequently, information was received from ATHA on November 21" but is without merit

because **CIA** is unable to pull a sampling of participant files and/or meet with the **ANY** HA staff.

HUD could not determine how families were selected from the applicant list. Subsequently, the eligibility of families assisted could not be determined.

There are two (2) findings for this portion of the review.

#### Finding 2014-IHBG-04: Non Compliance with Eligibility, Admissions and Occupancy Requirements

Condition: During the on-site monitoring visit, **CIA** requested ATHA to provide admissions and occupancy records to review. The requested participants and waiting lists were not provided for **CIA** to select a sampling of records to review for compliance after repeated requests in addition to emails dated September 23, 2014 and September 26, 2014 depicting all information needed to complete HUD's review. -

Criteria: IHBG recipients are required to comply with Section 201(b)(1) of NAHASDA and 24 CFR §1000.104(a) to ensure that, except in special circumstances, assistance provided with NAHASDA funds is limited to low-income Indian families. Section 203(d) of NAHASDA further requires that each recipient develop written policies governing the eligibility, admission, and occupancy of families assisted with NAHASDA funds. Section 102(c)(5) of NAHASDA requires the recipient provide a certification that program policies are in effect to govern the implementation and operation of their NAHASDA program. Section 207(b) of NAHASDA requires the owner or manager of affordable rental housing assisted with grant amounts provided under the Act to adopt and utilize written tenant selection policies and criteria that are consistent with the purpose of providing housing for low-income families; are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease; and provide for the selection of tenants from a written waiting list in accordance with the policies and goals set forth in the Indian housing plan, and the prompt notification in writing to any rejected applicant.

Cause and Effect: **CIA** was informed that due to staff turnover the ATHA has not trained new staff on this requirement and did not display capacity to maintain waiting lists. ATHA presented **CIA** with a combined waiting list for Lease Rent, Lease Purchase, Mutual Help and Rehabilitation on September 25, 2014, an hour prior to the **CIA** Team departing for the day, but with no participant lists. On September 26, 2014, during the Summary Exit Conference, a ATHA representative handed over copies of the participant list. This restricted **CIA**'s ability to request and review files while on site. In conclusion, HUD was unable to determine ATHA's compliance for the placement of families into units/programs thereby creating an environment of potential conflict of interest and preferential treatment to certain applicants and not ensuring that all applicants are placed in units in an equitable manner.

Questioned Costs: \$2,293,624.00

Recommended Corrective Actions: To address this finding, the ATHA should provide the following information for **CIA** review:

1. Provide **CIA** with a copy of the unit and/or participant listing of all ATHA programs assisted with IHBG funds. Once received, **CIA** will provide ATHA with a sampling of files selected for further review. The ATHA files will need to contain documented eligibility for each of the families assisted with IliBG funds ensure eligibility records and other appropriate documents are included in each participant file and are properly verified and processed in accordance with NAHASDA program requirements and applicable ATHA Admissions, Eligibility and Occupancy Policies and procedures. Provide complete files to **CIA**.
2. Submit a certification signed by the Appropriate Official that all admissions, eligibility and occupancy files are complete. The certification should also include a statement that all future participants will be properly determined eligible and files appropriately documented prior to admissions to ATHA's housing assistance programs.
3. Ensure that ATHA staff assigned the admissions and occupancy responsibilities are provided training in the responsibilities and requirements for completion of admissions and occupancy activities in compliance with Section 201(b)(1) of NAHASDA, 24 CFR §1000.104 (a), and ATHA's Admissions, Eligibility and Occupancy Policy and procedures. Please provide documentation to **CIA** identifying the dates of the training, a certification that the individual(s) successfully complete the identified training and a copy of the training certificate of completion.

#### Finding 2014-IHBG-05: Failure to Maintain Required Waiting Lists

Condition: During the on-site review, the requested participants and waiting lists were not provided timely for **CIA** to select a sampling of records to review for compliance. ATHA staff appeared unaware of program requirements when **CIA** staff requested the participants and waiting lists of all NAHASDA programs. Consequently, **CIA** was unable to determine how selections were made, review the applicant files to demonstrate that ATHA selected the applicants from a waiting list, or that ATHA followed their selection policies.

Criteria: Section 207(b) of NAHASDA requires the owner or manager of affordable rental housing assisted with grant amounts provided under the Act to adopt and utilize written tenant selection policies and criteria that are consistent with the purpose of providing housing for low-income families; are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease; and provide for the selection of tenants from a written waiting list in accordance with the policies and goals set forth in the Indian housing plan, and the prompt notification in writing to any rejected applicant.

Cause and Effect: Selection criteria in the policies indicate that applicants for housing shall be based on preference and the date and time of the applications; i.e.: in the Low Rent Housing policy it states consult the waiting list to select the next prospective tenant and in the Mutual

Help Policy, it states each eligible applicant's name will be placed on the pre-application waiting list based on date and time of receipt. We could not determine that ATHA had taken into consideration any of the criteria identified in their policies when making selections based on unable to select participant files to review.

**Questioned Costs:** \$2,293,624.00

**Recommended Corrective Actions:** To address this finding, the ATHA should provide the following information for **CIA** review:

1. Provide **CIA** with waiting and participant lists for each of ATHA programs assisted with JHBG funds. Once received, **CIA** will provide ATHA with a sampling of files selected for further review.
2. Provide documentation to **CIA**, which illustrates that the process used by ATHA to select eligible program participants, is in compliance with NAHASDA requirements and ATHA's policies and procedures.
3. Provide documentation to **CIA** that ATHA has updated all waiting lists. Provide a certification from the Appropriate Official that ATHA will maintain all waiting lists in accordance with ATHA's policies and procedures.
4. Develop and implement internal control procedures to ensure that staff follows ATHA's policies and procedures when maintaining waiting lists for each type of assistance provided. Please provide a copy of the internal control procedures to **CIA**.

### **Maintenance and Inspection - IHBG**

During the review, the following documents, information or procedures were requested to be reviewed for compliance:

- Program Participants and Waiting Lists (not provided)
- Policies and Procedures

Incomplete documentation was supplied within the unit file and ERR to adequately address the ARRA issue. However, reviewers extrapolated information from the files and noted the following:

ADDRESS	INSPECTION REPORT DATES
File A	9/18/07; 4/17/09; 10/06/10; 12/13/06 These records were reviewed, but, are outside the scope of this review. No Inspection Reports Provided.
File G	No Inspection Reports Provided
File I	No Inspection Reports Provided

There is one (1) finding for this portion of the review.

## Finding 2014-IHBG-06: Non-Compliance with Maintenance of 1937 Housing Act Units

Condition: The requested participants and waiting lists were not provided in sufficient time for **CIA** to select a sampling of records to review for compliance; however, based on the review of homes rehabbed through ARRA, we were able to review a minimal amount of files. ATHA staff appeared to be unaware of the inspection requirement. Consequently, **CIA** was unable to select files and determine whether the files contained maintenance inspection reports and if the annual inspections were current.

Criteria: Section 102(b)(2)(A)(v) of NAHASDA requires that a recipient identify the manner in which it will protect and maintain the viability of its housing inventory which was developed under a contract between HUD and an Indian housing authority (IHA) pursuant to the authority of the United States Housing Act of 1937. In addition, Section 203(b) of NAHASDA states that recipients of IHBG funds who owns or operates housing developed or operated pursuant to the United States Housing Act of 1937 shall provide for the continued maintenance and efficient operation of such housing.

Cause and Effect: **CIA** was unable to randomly select participants' files to review for compliance; however, based on the ARRA rehab files it appears the ATHA is not following their inspection policy and NAHASDA requirements for inspections/maintenance. The ARRA Maintenance and Inspections were not supplied for two of the three requested addresses and therefore not reviewed. Lack of inspections can result in the lack of maintenance on the homes under management and result in more costly repairs to both the Housing Authority and the homebuyers.

Question Costs: \$2,293,624.00.

Recommended Corrective Actions: To address this finding, the ATHA should provide the following information for **CIA** review:

1. Provide **CIA** a copy of a compliant Maintenance/Inspection policy/procedure.
2. Provide **CIA** with unit listing of all 1937 Act and NAHASDA units owned and operated and under management by ATHA. Once received, **CIA** will provide ATHA with a sampling of files selected for further review.

### Environmental Review Compliance

During the review, the following documents, information or procedures were reviewed for compliance:

- Environmental assessment for **ANY** Plaza Court Project
- Environmental assessment for Boone School Project

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

"Both of these environmental assessments were signed by the Chairman of the Board of Commissioners. It was not documented in the file that the Tribe had delegated the authority to anyone to sign on the Tribe's behalf.

There is one (1) finding for this portion of the review.

**Finding 2014-IHBG-07: Non-Compliance with Environmental Review Requirements**

**Condition:** The Environmental Review Assessment for the Boone School Project (**Apache** Community Center) and the Environmental Assessment for **ANY** Plaza Courts Development was signed by the Housing Authority Board Chairman as the Responsible Entity.

**Criteria:** 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 Tribe is the Responsible Entity and must sign as the Responsible Entity or delegate in writing someone to sign on their behalf.

**Cause and Effect:** There is no documentation that the Tribe delegated the Housing Authority Chairman of the Board to sign as the Responsible Entity for either of the Environmental Assessments. The signature on the required statutory worksheet is that of the Housing Authority Chairman of the Board. The effect is that the Environmental Assessment may not be valid for either project without the appropriate signature.

**Questioned Costs:** To be determined.

**Recommended Corrective Actions:** To address this finding, the ATHA should provide the following information for **CIA** review:

1. Provide documentation that the Tribe delegated the Housing Authority Chairman of the Board to sign as the Responsible Entity for both projects; or
2. Provide environmental assessments with the signature of the Responsible Entity.

**Lead-Based Paint Compliance - IHBG**

During the review, the following documents, information or procedures were requested to be reviewed for compliance:

- Program Participants and Waiting Lists (not provided)

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

**CIA** staff requested participants and waiting lists information while onsite but the requests were not provided to **CIA** so that a sampling could be pulled for compliance; subsequently, information was received from ATHA on November 21" but is without merit because **CIA** was unable to pull a sampling of participant files or meet with the ATHA staff during the on-site review.

There is one (1) finding for the portion of the review.

**Finding 2014-IHBG-08: Unable to confirm Lead Based Paint compliance**

**Condition:** Unable to randomly select files to demonstrate whether units were not built prior to 1978, and do not have painted surfaces that exceed maximum tolerable levels of lead.

**Criteria:** IHBG recipients are subject to 24 CFR § 1000.40, which require compliance with lead based paint requirements in accordance with 24 CFR § 35 Subpart H. The ATHA is required to provide a lead hazard information pamphlet in accordance with 24 CFR § 35.130 to each family who is residing units built prior to 1978. In addition, if children under the age of six reside in the unit, the ATHA must ensure that lead paint inspections are completed in units built prior to 1978. If lead paint inspections indicate that in any unit built prior to 1978 exceed the tolerable limits of lead based paint, remediation must occur to reduce the amounts of accessible lead based paint to below tolerable limits. No later than 15 days after remediation, the ATHA must provide the occupying family that the project is complete in accordance with 24 § 35.125(b)(2).

All supporting documentation must be retained for at least three years after the unit is no longer managed by the ATHA.

**Cause and Effect:** The requested participants and waiting lists were not provided for **CIA** staff to pull a sampling of records for compliance. **CIA** was unable to determine whether the ATHA's files contained the applicable documents and support that families including those with children under the age of six years old are not at risk of exposure to elevated lead levels, which can have a detrimental impact on the health, and development of children.

**Questioned Costs:** To be Determined.

**Recommended Corrective Actions:** To address this finding, the ATHA should provide the following information for **CIA** review:

1. Develop policies and/or procedures to ensure that it completes and maintains the required lead based paint documentation. Please provide a copy of the policy/procedure to **CIA**.
  2. Complete an inventory of the managed units for project based assistance. Determine which (if any) units are subject to lead based requirements. Where necessary,
-

complete all actions necessary to bring units built prior to 1978 into compliance with lead based paint requirements.

3. Provide **CIA** with a summary of all units; include the age of the units, ages of occupants, status of dissemination of required literature/correspondence, status/result of required testing, and status/result of remediation. **CIA** will select a testing sampling and request documentation for specific units to demonstrate that the sampled unit complies with lead based paint requirements.

### Relocation and Real Property Acquisition

During the review, the following documents, information or procedures were reviewed for compliance:

- Displacement/Relocation Policy as signed by the Board Chairman and Executive Director in December of 2002
- All four participants files who were relocated between 2011 and the review date

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

The Housing Authority has a policy in place that appears to meet the requirements for relocation of displaced persons and the acquisition of real property. There was no adopting resolution with the policy. There were signatures of the BOC Chairman and the Executive Director on the back page of the policy dated 12/10/2002.

The **CIA** reviewer was unable to determine whether any acquisition of real property had taken place during the scope of the review due to lack of information available.

There is one (1) finding for this portion of the review.

#### Finding 2014-IHBG-09: Non Compliance with Displacement/Relocation Policy

Condition: The Housing Authority provided relocation files that showed four participants had been temporarily relocated to allow access to their property by the ATHA for rehabilitation. There was insufficient documentation in the file to determine that ATHA provided the appropriate level of assistance in these relocations according to their relocation policy.

Criteria: The program regulations at 24 CFR § 1000.14 discuss the requirements when temporarily relocating persons classified as displaced using IHBG funds. The regulation contains provisions for notice requirements; timing of notices; availability of replacement units; relocation assistance; information on replacement dwellings, where necessary; provision for evictions; minimizing hardships; and provision for counseling. In addition, the regulation requires reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily-occupied housing and any increase in monthly housing costs. ATHA Displacement /Relocation policy states that in accordance with the requirements of the Uniform Relocation Act at 49 CFR part 24

and NAHASDA Regulations at 24 CFR § 1000.14, the recipient shall maintain records in sufficient detail to demonstrate compliance with this section.

**Cause and Effect:** The Housing Authority either did not administer the relocation requirements or was not aware of them. The files did not show that appropriate advisory services were provided to the participants as required, including notifications regarding the relocation assistance available, nor any documentation of any eligible out of pocket expenditures paid to any participant in connection with their relocation; and no provision of an appeals process for the participant in the event that they disagreed with the determination of the Housing Authority's offer of relocation services. The effect that this violation had was that program participants were not reimbursed for costs incurred while temporarily relocated, which caused an undue hardship for the participants.

**Questioned Costs:** To be determined.

**Recommended Corrective Actions:** To address this finding, the ATHA should provide to **CIA** the following information for the span of this review:

1. The Housing Authority should review its Displacement/Relocation policy and provide training to staff on relocation requirements and the activities that may require relocation assistance. It is recommend that the Program Policies in which real property acquisition or relocation apply, reference the applicable policy for the benefit of the staff and/or program participants.
2. The Housing Authority should provide a list of all relocations done from 2011 through the end of the review. **CIA** will request a sampling to review for compliance with the relocation process.
3. Submit a certification signed by the Appropriate Official that the ATHA will follow their policy for all future participants who meet the requirements for relocation assistance.

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### **Labor Standards**

During the review, the following documents, information or procedures were requested to be reviewed for compliance:

- no documents provided due lack of cooperation from ATHA staff

No determination was able to be made regarding whether ATHA uses Davis-Bacon or Tribally Designated Wage Rates since no staff interview was able to be held.

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

**CIA** Staff spoke to the Finance Specialist on Tuesday 9/23/14 to request a time to interview him and request documents and that would allow us to review the contract/labor processes of the Housing Authority. He indicated he was not available but would make time later in the week. **CIA** staff again requested a meeting on 9/24/14 and indicated the urgency with the week passing quickly. Basically, the Finance Specialist was unavailable all week. Due to the lack of assistance by the ATHA staff, **CIA** staff were unable to obtain contracts /payroll documentation related to methods of paying labor to determine if the Housing Authority is in compliance.

There is one ( 1) finding for this portion of the review.

**Finding 2014-IHBG-10: Non Compliance with Federal Labor Standards**

**Condition:** The **ANY** Housing Authority Finance Specialist was unable to meet with **CIA** Staff all week to provide documents or disclose how labor is handled at the Housing Authority. They did not provide any payroll or contract documentation.

**Criteria:** The purpose of the Labor Standards limited review is to determine whether the recipient has carried out its labor standards responsibilities. Recipients are required to comply with program regulations at 24 CFR §1000.16, Section 104(b)(1) of NAHASDA to ensure that laborers and mechanics employed in development such as construction and rehabilitation of affordable housing projects are paid no less than prevailing wages pursuant to the Davis-Bacon Act (Davis Bacon wages). Recipients may utilize tribally determined prevailing wage rates in lieu of Davis Bacon and/or HUD wages. Section 104(b)(3) of NAHASDA applies to the Indian Housing Block Grant (IHBG) and the Native American Housing Block Grant (NAHBG formula and competitive under the Recovery Act) programs.

ONAP is only authorized to make findings pertaining to Tribally Determined Wage Rates and cannot make findings on issues involving Davis-Bacon Wage Rates as that is the responsibility of the U.S. Department of Labor.

**Cause and Effect:** Without the ability to view contracts and payroll records or speak with appropriate staff, it is impossible to determine if the ATHA is compliant in Labor Standards.

**Recommended Corrective Actions:** To address this finding, the ATHA should provide to **CIA** the following information for the span of this review:

1. Provide a copy of the Tribal Law or Regulation that establishes Tribally Designated Wage Rates or provide a statement that the Housing Authority uses Davis-Bacon Wage Rates.
2. Provide a list of payroll and labor contracts from July 1, 2011 through current. **CIA** may request other documents when it has been determined how the labor is classified.

## Procurement and Contract Administration

During the review, the following documents, information, or procedures were requested to review for compliance:

- Procurement Policy reviewed
- 10 Procurement files from micro purchases were from 2011 through review date were requested but not obtained
- List of invoices for micro purchase from 2011 through review date were reviewed
- Financial reports detailing procurements over \$5,000 which were initiated in FYs June 30, 2012 and June 30, 2013 through current for the IHBG and NAHBG grants. Details should include dates, vendors, amounts and check numbers or transaction numbers (not provided)

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

**CIA** staff requested numerous times to speak with the Finance Specialist to obtain a list of small purchases, sealed bids, competitive proposals and noncompetitive proposals. He was unavailable to **CIA** staff all week to provide information. The Executive Director was advised that **CIA** staff was unable to interview the Finance Specialist and to request documents needed for the review. She responded that she would be unable to help since she had just started as E.D. in July.

The Executive Director referred **CIA** to the Housing Authority Procurement Specialist who handles the micro purchases. She was able to provide a list of micro purchase invoices for review but did not handle larger procurement and contracting. The Finance Specialist was the person responsible for the larger purchases, bids and contracts. He was present during the week of the review and **CIA** representatives made repeated requests to speak with him as detailed above about ATHA's procurement practices and to obtain additional information regarding the files **CIA** was provided in addition to a computerized listing of purchase orders. These repeated attempts for meetings went unaddressed. Therefore, micro purchases invoices were all that could be reviewed.

There is one (1) finding for this portion of the review.

### Finding 2014-IHBG-11: Non Compliance with Procurement Policy and Procedure

Condition: The Housing Authority made purchases that were shown on a computerized list of micro purchase purchase orders that appeared to be ineligible costs. This could not be confirmed due to the fact that the files requested were not provided by ATHA staff after repeated requests to the Finance Specialist .

Criteria: 24 CFR 85.36 – Procurement. (b) Procurement Standards. (9) Grantees will maintain records sufficient to detail the significant history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejections, and the basis for the contract price.

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Additionally, ATHA procurement policy states that in accordance with 24 CPR § 1000.552, all financial and programmatic records, supporting documents, and statistical records are required to be retained for a period of three years after the completion of the action and resolution of all issues which arise from it or until the end of the regular 3- year period, whichever is later. A separate file for each procurement activity shall be maintained for quick reference and/or review.

Cause and Effect: The Housing Authority staff and Board were aware of the impending HUD review and information had been requested months in advance of **CIA**'s arrival. No information that was requested was sent previous to the review and very little provided after the review began. The effect is that the staff did not provide the **CIA** staff with source documentation to demonstrate the appropriate level of procurement had been conducted, that they have in place a procurement system and that ineligible costs were not paid from federal funds.

Questioned Costs: \$2,293,624.00

Recommended Corrective Actions: To address this finding, the ATHA should provide to **CIA** the following information for the span of this review:

1. Financial reports detailing procurements over \$5,000 which were initiated in FY's June 30, 2012 and June 30, 2013 through current (September 26, 2014) for the IHBG grants 11IH4001100 and 55IH4001100. Details should include dates, vendors, amounts and check numbers or transaction numbers. **CIA** will provide to ATHA a sample listing requesting supporting documentation be provided for review.
2. Provide certificates to **CIA** that show Finance Specialist and Procurement Specialist have been to training for NAHASDA procurement practices since the review.
3. ATHA will provide a certification from the authorized official ensuring implementation of the above corrective actions and that ATHA will comply with 24 CPR §85.36 and all applicable procurement policies and requirements for future procurement transactions.

### Indian Preference in Procurement and Contracting

During the review, the following documents, information or procedures were requested:

- Procurement Policy was viewed
  - Procurement documents related to sealed bids, competitive proposals and noncompetitive proposals were requested but not provided
-

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

**CIA** staff were unable to access the records of bid solicitations, advertisements and executed contracts to determine the compliance status of Indian preference in procurement and contracting due to Finance Specialist being unavailable all week. The unavailable Finance Specialist presented significant problems throughout the week since he was one of the two senior staff persons at ATHA. The review had been rescheduled at the request of ATHA to hire an Executive Director but she was so new that she was able to provide only an organizational chart. The documents needed in this review had been provided to an auditor for a required A-133 Audit and to a consultant for a required Self-Monitoring Evaluation. **CIA** questions why this information could not be provided to HUD during the on-site review.

There is one (1) finding for this portion of the review.

Finding 2014-IHBG-12: Non Compliance with Indian Preference in Procurement and Contracting

Condition: Due to the fact that procurement documents and contracts were unavailable to **CIA** staff, it could not be determined that the Indian preference requirement was being met.

Criteria: Program regulations cited at 24 CFR §1000.48, §1000.50, §1000.52 and §1000.54 require that, to the greatest extent feasible, recipients give preference and opportunities for training and employment to Indians in connection with IHBG grant administration. Furthermore, 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.

Cause and Effect: The Housing Authority staff and Board were aware of the impending HUD review and information had been requested months in advance of **CIA**'s arrival. No information was sent previous to the review as requested and very little provided after the review began. The effect is that the staff did not provide the **CIA** Staff with source documentation to demonstrate the effectiveness of their procurement systems and compliance with Indian Preference regulations when expending NAHASDA funds.

Questioned Costs: \$2,293,624.00

Recommended Corrective Actions: To address this finding, the ATHA should provide the following information for **CIA** review:

1. Financial reports detailing procurements over \$5,000 which were initiated in FY's June 30, 2012 and June 30, 2013 through current (September 26, 2014) for the IHBG grant. Details should include dates, vendors, amounts and check numbers or transaction numbers. **CIA** will provide to ATHA a sample listing requesting supporting documentation be provided for review.
2. Provide copies of advertisements or solicitations for bids during the time period above. **CIA** will pull a sample listing and provide to ATHA requesting documentation be provided for review.

3. Provide copies of contracts executed during the time period listed above. **CIA** will provide to ATHA a sample listing requesting supporting documentation be provided for review.
4. Ensure future procurement activities comply with Indian Preference requirements as stated above. In addition, ATHA will provide a certification from the authorized official ensuring implementation of the above corrective actions and that ATHA will comply with 24 CFR §85.36 and all applicable procurement policies and Indian Preference requirements for future procurement transactions.

### Financial and Fiscal Management

During the review, the following documents, information, or procedures were requested to be reviewed for compliance:

- Chart of Accounts (not provided)
- List of financial reports available from your system (not provided)
- An aging schedule, by unit, for tenant accounts receivable over the past twelve months (not provided)
- Copies of any internal audits of HUD programs (not provided)
- Copies of the two most recent bank statements along with any related reconciliation documentation (not provided)
- Indirect cost rate proposal and the cognizant/oversight agency letter of approval (if applicable) (not provided)
- Cost Allocation Plan (if applicable) (not provided)
- List of all sub-recipients (if applicable) and a sample sub-recipient agreement (not provided)
- Revenue/Expenditure Reports during the period of July 1, 2011 through current for all grants under review, specifically 08SH4001100, 11IH4001100 and 55IH4001100 (not provided)
- Investment Registers (if applicable) (not provided)
- Trial Balance (not provided)

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

During our review we determined that financial information was made available for the ATHA auditor and the ATHA self-monitoring contractor, however; not made available to **CIA** for review. The inability to test internal controls compels **CIA** to assume the required financial systems are not in compliance with applicable regulations.

Discussions with the Executive Director indicate the ATHA's accounting firm was unavailable during our review period.

There is one (1) finding for this portion of the review.

Finding IHBG-2014-13: Lack of Adequate Financial Management and Internal Control Systems

Condition: Due to the requested financial documents not being made available to **CIA** staff, it could not be determined that the ATHA maintains a financial accounting system as required by NAHASDA or that the records are compliant.

Criteria: 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. Additionally, program regulations at 24 CFR § 85.20(b)(2) require fiscal control and accounting procedures sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

Cause and Effect: The Housing Authority staff and Board were aware of the impending HUD review and information had been requested months in advance of **CIA**'s arrival. No information was sent previous to the review as requested and very little provided after the review began. The effect is that the staff did not provide the **CIA** Staff with source documentation to demonstrate the effectiveness of their financial systems when expending NAHASDA funds.

Questioned Costs: \$2,293,624.00

Recommended Corrective Actions: To address this finding, the ATHA should provide the following information for **CIA** review:

1. Develop and/or revise written policy and procedures to include steps to ensure that current, accurate, and complete information is recorded in the accounting system. Please provide a copy of the procedures to **CIA**.
2. Set up budgetary information in the accounting system so that actual expenditures may be compared with budgeted amounts for JHBG 11IH4001100 and 55IH4001100 as required by 24 CFR §85.20(b)(4). Please provide copies of the established budgets to **CIA**.
3. Provide to **CIA** the ATHA General Ledger for FYE 6/30/12 and 6/30/13. From this, **CIA** will request a sampling of expenditures to be reviewed for eligibility.
4. Identify and repay all unallowable costs charged to JHBG 11IH4001100 and 55IH4001100. Provide **CIA** a breakdown of the total costs expended on the ineligible items. Repayment of ineligible IHBG expenditures may be made from non-federal funds or by voluntarily reducing an existing or future JHBG or provide a copy of the adjusting entry(s) to **CIA** that substantiate that the IHBG program has been reimbursed with non-program funds.
5. Submit to **CIA** a certification signed by the Board of Commissioners that demonstrates all program costs charged to the housing program are in compliance

with 2 CFR Part 225 (formerly OMB Circular A-87). Include a statement in the certification that ensures all future program costs will be appropriately verified and processed in accordance with 2 CFR Part 225 requirements prior to disbursements from the IHBG program funds.

6. Submit an opinion from a Certified Public Accountant that the ATHA has taken the corrective actions identified above and that they have developed and implemented procedures that result in a financial management system that is in compliance with the following:
  - a. Financial reporting (24 CFR §§85.20 and 85.41)
  - b. Accounting records (24 CFR §§85.20, 85.32 and 85.33)
  - c. Internal control (24 CFR §85.20)
  - d. Allowable costs (24 CFR §85.20 and 85.22, and OMB Circular A-87 which has been relocated to 24 CFR §225)
  - e. Source documentation (24 CFR §85.20)
  - f. Cash Management (24 CFR §§85.12, 85.20 and 85.21)
  - g. Records retention (24 CFR §1000.552)
  - h. Budget control (24 CFR §85.20 (4))

### **Self-Monitoring**

During the review, the following documents, information, or procedures were requested to be reviewed for compliance

- Self-Monitoring Policy
- Self-Monitoring Assessment for the period July 1, 2013-June 30, 2014

### **Finding 2014-IHBG-14: Not taking corrective actions on identified programmatic concerns identified during the course of self-monitoring**

**Condition:** The ATHA self-monitoring contractor provided **CIA** a copy of the self-monitoring assessment because the ATHA was unable to locate a copy. The on-site review revealed that the ATHA is conducting its annual self-monitoring assessment; however, there was no evidence that corrective actions have been taken to address the programmatic concerns identified.

**Criteria:** In accordance with section 403(b) of NAHASDA and the program regulations at 24 CFR § 1000.508, recipients are to take corrective actions when its annual self-monitoring assessment identifies programmatic concerns. These actions may include, but are not limited to, one or more of the following actions: (a) depending upon the nature of the concern, the recipient may obtain additional training or technical assistance from HUD, other Indian tribes or TDHEs, or other entities; (b) the recipient may develop and/or revise policies, or ensure that existing policies are better enforced; (c) the recipient may take appropriate administrative action to remedy the situation; and (d) the recipient may refer the concern to an auditor or to HUD for additional corrective action.

**Cause and Effect:** There is not a process in place to address the deficiencies identified and to follow-up to ensure that corrective actions are taken. Not addressing the concerns can result in findings through auditing and monitoring review.

**Questioned Costs:** \$2,293,624.00

**Recommended Corrective Actions:** To address this finding, the ATHA should provide the following information for **CIA** review:

1. Identify a staff person responsible for working with the BOC to resolve the deficiencies identified throughout the Self-Monitoring Assessment.
2. Evidence that the Self-Monitoring Assessment is being provided to the Tribe for review.

## NATIVE AMERICAN HOUSING BLOCK GRANT (NAHBG)

### ARRA Compliance

**CIA's** review was limited to the ATHA's Grant Number 08SH4001100 that was funded through American Recovery and Reinvestment Act's (ARRA) Formula funding. The grant amount was \$492,124.00. **CIA** staff reviewed the progress of ARRA funded projects as presented in the IHP Amendment, procurement of projects, environmental review protocol and ARRA reporting procedures with key officials and staff.

The 08SH4001100 project funded the following activities:

- Operating and Maintenance
- Modernization and Repair of 35 Rental Units and 22 Mutual Help Units
- Planning and Administration
- Model Activity -Rental Maintenance
- Crime Prevention and Safety on Colorado/Moran Streets.

The following specific documents were requested: NAHASDA procurement procedures and documents, participant files, and Environmental Review Records with lead-based paint.

The financial, job creation and program activities reporting was completed via [federalreporting.gov](http://federalreporting.gov). The NEPA environmental reporting requirements were also completed and submitted in accordance with the RAMPS (Recovery and Management Performance System) procedures. The final information provided in both reports met the requirements of the ARRA statutes.

However, it should be noted that the following letters and/or Letters of Warnings (LOWs) were issued for failure to comply with reporting requirements:

DATE OF LETTER	NON COMPLIANCE
October 26, 2009	Late HUD 272-1
January 25, 2010	Late HUD 272-1
May 18, 2010	Past Due Notice, Letter of Warning, Late Section 1512 <a href="http://Federalreporting.gov">Federalreporting.gov</a>
July 19, 2010	Rescinding of Past Due Notice/Letter of Warning

ARRA required funding milestones to be met. The following were the statutory dates:

- Date Funds Available in LOCCS: 05/11/2009
- Date 100% of the Funds Must Be Obligated: 05/11/2009
- Date 50% of Funds Expended: 05/11/2011
- Date 100% of Funds Expended: 05/11/2012.

LOCCs disclosed drawdowns totaling \$246,062.000 through May 11, 2011. This was 59% which slightly exceeded the requirement of 50% of funds to be expended by 5/11/2011. A financial reconciliation could not be done due to the lack of financial records provided during the on-site review.

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

The files sampled indicate the units were rehabilitated. However, all documents requested were not available for review. The files were not kept in an organized manner. Appropriate documentation was not included in the files that were reviewed. The ARRA projects were not well managed in accordance with ATHA Policies.

The findings, or concerns, for this area of the review are contained in the Program Administration of NAHBG/ARRA Compliance Section of this document.

There are two (2) findings for this portion of the review.

**Finding 2014-ARRA-01: Non Compliance with ARRA Expenditure and Financial Management Standards**

**Condition:** ARRA required the expenditures of grant funds by statutory dates. These dates were not negotiable and grounds for funds to be recaptured. The review of financial records is essential to ensuring that this mandate was met within the prescribed parameters.

**Criteria:** 24 CFR §1000.26 and 24 CFR Part 85.20. ARRA was an amendment to the 08 Indian Housing Plan and under the authority of NAHA, SDA regulations. ONAP Program Guidance No. 2009-05, May 27, 2009, provided direction on expenditure requirements.

**Cause and Effect:** Because financial records were not supplied and therefore not reviewed, **CIA** was not able to verify and/or confirm that expenditure requirements were met.

**Questioned Costs:** \$492,124.00

**Recommended Corrective Actions:** To address this finding, the ATHA should provide the following information for **CIA**'s review:

1. Provide ARRA financial records for expenditures, including bank statements and ledgers to be reviewed by **CIA**. Financial records should be from July 1, 2011 through August 21, 2014.
2. Upon receipt, **CIA** will request a sampling of files be provided for further review.

**Concern 2014-ARRA-01: ARRA Reporting Requirements not done timely**

**Condition:** The failure to provide timely reporting shows a lack of management oversight and control. These conclusions are reinforced by the findings of the other areas that were examined

where failure to provide management oversight and control resulted in poor execution of the grant.

**Cause and Effect:** ARRA was an amendment to the 08 Indian Housing Plan and under the authority of NAHASDA regulations. PIH Notice No. 2009-09 September 30, 2009 provided guidance on reporting requirements. Because ATHA submitted late reports and a Letter of Warning was Issued, reporting requirements were not met in a timely manner.

**Suggested Actions:** ATHA staff should attend training on grant reporting requirements to ensure that future reporting requirements are met in a timely manner.

### **Environmental Review - ARRA**

The ATHA elected 24 CFR Part 58 and therefore assumes responsibility to comply with NEPA Standards. During the review, the following Environmental Review Record documents and information were requested:

- File A
- File B
- File C
- File D
- File E
- File F
- File G
- File **H**
- File **I**
- File J
- File K
- File **L**
- File M
- File N
- File O
- File **P**

On Friday, September 26, the ERRs were received but not reviewed. Copies of the ERRs were received in the **CIA** Office on October 16, 2014 and received as part of this DMR. The ERR of the below reference addresses, as samples, were reviewed for compliance:

- File A
- File G
- File I

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

**Concern 2014-ARRA-02: Environmental Review Records**

**Condition:** Multiple ERRs were provided with no indication of a change that required the additional ERR. Each of the ERRs was determined to be for exempt activities. For example, the ERR for File A contained separate ERs dated 04/09/210, 05/2012010, and 10/1412010. These ERs were for exempt activities and did not indicate a change or a statement as to why the ER was being repeated.

**Cause and Effect:** This may cause an undue strain on limited internal resources and duplication of effort. The effect is an over burdensome workload for the staff.

**Suggested Actions:** Key personnel should attend Environmental Review Training courses. This includes key personnel who either conduct, review, or are affected by the ERR, including procurement and Force Account managers. Additionally, Environmental personnel should work closely with the Force Account Manager to ensure that the appropriate ERR is developed for the planned work so that work that is done in a phased approach (or over time) does not trigger an additional review.

**Eligibility, Admissions and Occupancy -ARRA**

During the review, program policies and participant files from the Housing Rehabilitation/Development program funded by ARRA were requested for compliance. A list of ARRA procurement actions was provided while on-site. During the on-site review, a random selection of addresses from this listing was requested for review. The records were not supplied and therefore could not be reviewed. Multiple requests were made for these records. The final request was made on Thursday during the on-site review. ERR and Unit records were received on Friday morning, but, the participant files were not provided. Additionally, the participant files were not included with the hard copies received on October 16, 2014. Participant records were requested for the following addresses:

- File A
- File B
- File C
- File D
- File E
- File F
- File G
- File H
- File I
- File J
- File K
- File L
- File M

- File N
- File O
- File P

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

**Finding 2014-ARRA-02: Non Compliance with Eligibility, Admissions and Occupancy - ARRA**

**Condition:** Records were requested but not provided; therefore, not reviewed.

**Criteria:** ARRA was an amendment to the 08 Indian Housing Plan and under the authority of NAHASDA regulations. As such 24 CFR Part §1000.104 establishes eligibility requirements for affordable housing activities.

**Cause and Effect:** Because the Eligibility, Admissions, and Occupancy records were not supplied and therefore not reviewed, **CIA** was not able to verify and/or confirm that families met the eligibility requirements for participation in the program.

**Questioned Costs:** \$492,124.00

**Recommended Corrective Actions:** To address this finding, the ATHA should provide the following information for **CIA** review:

1. Submit the Eligibility, Admissions, and Occupancy records of all families who occupied the following addresses between July 1, 2011 and August 21, 2014, (ARRA Close Out Date):

- File A
- File B
- File C
- File D
- File E
- File F
- File G
- File H
- File I
- File J
- File K
- File L
- File M
- File N
- File O
- File P

2. Upon completion of our review, further information may be requested/required.

### Procurement and Contract Administration -ARRA

During the review, the following documents, information, or procedures were reviewed for compliance.

- Procurement Policy
- Contract Files

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

Finding 2014-ARRA-03: Non compliance with Procurement Requirements

Condition: A total of 120 ARRA procurement orders for the ARRA Moderate Repair and Rehabilitation program were selected for review. A review of the files evidenced the ATHA housing division did not follow PIH Notice 2013-22 or the Tribe's adopted Procurement Policy and the methodologies contained therein for the procurement of goods and services.

Specifically, a recipient may not break down requirements of a purchase, such as through bid splitting, in order to create a micro-purchase to avoid competition and Indian preference requirements that would otherwise apply to the purchase. Of the 120 procurement actions 42 were with a single vendor (Smith & Sons) and another nine (9) was with another vendor, Glidewell Heating and Air. An analysis of these actions revealed the scope of repairs for several residences being divided into multiple contracts to the same contractor to stay below the micro-purchase threshold. As an example, on June 15, 22, 2011 and July 11 and 27, 2011, the contractor submitted payment requests on four (4) separate contracts for work performed to replace HVAC units totaling \$17,915.13.

Criteria: 24 CFR § 1000.26 requires recipients comply with the standards and requirements of 24 CFR part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." 24 CFR §1000.26 (11) (i) General, Section 85.36 of this title, "Procurement," except paragraph (a), subject to paragraphs (a)(11)(ii) and (a)(11)(iii) of this section." 24 CFR §1000.26 (11)(a)(iii) stipulates that a recipient shall not be required to comply with § 85.36 of this title with respect to any procurement, using a grant provided under NAHASDA, of goods and services with a value of less than \$5,000.

In addition to the aforementioned regulatory citations, PIH Notice 2013-22 states "*24 CFR §85.36(b) requires that all IHBG recipients develop procurement procedures which conform to applicable Federal law and the standards identified in 24 CFR §85.36. Therefore, to properly implement the De Minimis Exemption, an IHBG grantee should include in its Procurement Policy a micro-purchase provision that allows the grantee to purchase goods or services with a value of less than \$5,000 without seeking competitive quotations or applying Indian preference. If the recipient chooses to engage in micro-purchasing, the recipient should ensure that its Procurement Policy contains language that clearly describes the method to be used, and the documentation to be maintained to support each micro-purchase.*" Furthermore, PIH Notice

goes on to state "A recipient may not break down requirements of a purchase, such as through bid splitting, in order to create a micro-purchase to avoid competition and Indian preference requirements that would otherwise apply to the purchase."

**Cause and Effect:** By failing to adhere to regulatory and procurement policy requirements, the grantee did not perform due diligence when procuring services with a cost exceeding the micro-purchase threshold. Splitting or dividing the procurement resulted in obtaining only a single quote thereby eliminating fair and open competition.

**Questioned Costs:** \$492,124.00

**Recommended Corrective Actions:** To address this finding, the ATHA should complete the following corrective actions:

1. The ATHA shall develop and implement a system for all future procurement actions, which will determine the total aggregate cost for each project and the appropriate procurement method to be used. If multiple projects have similar procurement actions, a procurement method should be identified to procure similar items.
2. This system shall track Total Development Costs (TDCs) in compliance with PIH Notice 2014-16, Dated June 19, 2014. This notice provides guidance per the requirement for the development and implementation of limits is found at 24 CPR §§1000.156 through 1000.162.
3. The ATHA shall provide the **CIA** with evidence the system has been developed and implemented, along with a certification from the appropriate official that the system will be utilized and all pertinent procurement regulations and policies will be adhered to going forward.

### Maintenance and Inspection - ARRA

During the review, the following documents, information or procedures were reviewed for compliance:

Incomplete documentation was supplied within the unit/participant file and ERR to adequately address this issue. However, the files noted the following:

ADDRESS	INSPECTION REPORT DATES
File A	9/18/07; 4/17/09; 10/06/10; 12/13/06 These records were reviewed, but, are outside the scope of this review. No Inspection Reports provided for the period of scope of the review.
File G	No Inspection Reports Provided
File I	No Inspection Reports Provided

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

Finding 2014-ARRA-03: Non Compliance with Maintenance and Inspection -ARRA

Condition: The following records for the scope of the review were not examined and therefore not reviewed:

- File A
- o File G
- File I

Criteria: Section 102(b)(2)(A)(v) 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. It is also required under Section 203(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.

Cause and Effect: Because the Maintenance and Inspection Reports were not supplied for two of the three requested addresses and therefore not reviewed, **CIA** was not able to verify and/or confirm that inspection requirements were met. However, Maintenance and Inspection records for File A, were provided but were outside the scope of the review.

Questioned Costs: \$492,124.00

Recommended Corrective Action: To address this finding, the ATHA should complete the following corrective actions:

1. ATHA must comply by submitting Maintenance and Inspection Records for:
  - a. File A
  - b. File B
  - c. File C
  - d. File D
  - e. File E
  - f. File F
  - g. File G
  - h. File H
  - i. File I
  - j. File J
  - k. File K
  - l. File L
  - m. File M
  - n. File N
  - o. File O
  - p. File P

2. Upon completion of our review, further information may be requested/required.

### Lead-Based Paint Compliance

During the review, the following documents, information, or procedures of unit inspection reports were reviewed for compliance:

Incomplete documentation was supplied within the Unit Records and ERR to adequately address this issue. However, the files noted the following:

ADDRESS	BUILD DATE	ERR WITH LBP	INSPECTION REPORT	OTHER COMMENTS
File A	1940	No	9/18/07 Failed, "LBP Inconclusive" and Mold found; 4/17/09 LBP "Not Applicable"; 10/06/10 LBP "Not Applicable, but paint indicated as "chipped"; 12/13/06 Mold Found	No records found of LBP testing; Original 04/13/1999 Appraisal stated "possibility of lead based paint.. should take steps required; 11/13/02 Mold abatement invoice
File G	Unknown	No	No Inspection Reports Provided	
File I	1950	No	No Inspection Reports Provided	

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

Finding 2014-ARRA-04: Non Compliance with Lead Base Paint Requirements -ARRA

Condition: The following records were not examined and therefore not reviewed:

- File G
- File I

Criteria: HUD's regulations at 24 CFR Part 35, subparts A, B, H, K, M and R of this title, implement the Lead Based Paint Poisoning Prevention Act (42 USC 4822-4846) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856).

Cause and Effect: Because the Lead Based Paint (LBP) records were not supplied for two of the three requested addresses and therefore not reviewed, **CIA** was not able to verify and/or confirm that LBP requirements were met.

However, File A, LBP was "inconclusive" as early as 1999 and again in 2007. In 2010, chipped paint was found upon inspection but no records were found for LBP testing.

**Questioned Costs:** \$492,124.00.

**Recommended Corrective Action:** To address this finding, the ATHA should provide the following information for **CIA** review:

1. Develop policies and/or procedures to ensure that it completes and maintains the required lead based paint documentation. Please provide a copy of the policy/procedure to **CIA**.
2. Complete an inventory of units assisted with ARRA Rehabilitation assistance funds. Determine which (if any) units are subject to lead based requirements. Where necessary, complete all actions necessary to bring units built prior to 1978 into compliance with lead based paint requirements. Provide **CIA** with a summary of all units; include the age of the units, ages of occupants, status of dissemination of required literature/correspondence, status/result of required testing, status/result of remediation. **CIA** will select a testing sampling and request documentation for specific units to demonstrate that the unit complies with lead based paint requirements.

### IHP and APR Compliance

The program regulations at 24 CFR § 1000.520 require that HUD determine whether the recipient has carried out the eligible activities outlined in the IHPs in a timely manner, has carried out the eligible activities and certifications in accordance with the requirements and the primary objectives of NAHASDA and other applicable laws, and has a continuing capacity to carry out the activities in a timely manner. The review is completed in accordance with the IHBG performance measures outlined at 24 CFR § 1000.524. Section I02(b)(2)(D) of NAHASDA requires the submission of a Certification of Compliance related to ensure compliance with Title II of the Civil Rights Act of 1968 (to the extent such title is applicable), and maintenance of adequate insurance coverage for housing units that are owned and operated or assisted with IHBG funds. The review also determines whether the recipient has established written policies for participant eligibility, admission, continued occupancy, rent or homebuyer payments, and housing. The accuracy and completeness of APR submissions are evaluated as part of this review, and the IHP performance goals and objectives and the accomplishments reported in the APR are also reviewed.

### ARRA Compliance

The American Recovery and Reinvestment Act (ARRA) was enacted on February 17, 2009, as Public Law 111-5, and provided funding for the Native American Housing Block Grant (NAHBG) program. The purpose of the review is to determine if the recipient:

- Complied with the requirements of the NAHBG regulations, the grant agreement, and other applicable laws and regulations;
- Carried out its activities substantially, as described in its application or amended Indian Housing Plan, as appropriate;
- Made substantial progress in carrying out its approved program; and
- A continuing capacity to carry out the approved activities in a timely manner.

Section 1512 of ARRA requires reports on the use of grant funds no later than the 10th day after the end of each calendar quarter (beginning the quarter ending September 30, 2009). In addition, under Section 1609 of the Recovery Act, recipients of ARRA funding that assume environmental review responsibilities, in accordance with 24 CFR Part § 58, must submit quarterly reports on the status of National Environmental Protection Act (NEPA) reviews.

For review purposes, the key milestones for ARRA recipients are the obligation of 100% of the funds within one year and the expenditure of 50% of the funds within two years and 100% within three years that funds became available.

### Environmental Review Compliance

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.

The regulation at § 58.38 requires that the responsible entity maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the "Environmental Review Record" (ERR), and shall be available for public review. The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decision making and actions pertaining to a particular project of a recipient.

### **Financial and Fiscal Management**

The program regulations at 24 CFR § 1000.26(a) reference the applicability of 24 CFR §§ 85.20(b) and 85.21 and OMB requirements as set forth in 2 CFR Part 225 (formerly known as OMB 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.

The program regulations at 24 CFR § 85.20(b)(2) require fiscal control and accounting procedures sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. In general, a compliant OMB Circular A-133 audit also assists HUD in making the determination that the recipient's IHBG funds have not been used in violation of the restrictions and prohibitions of NAHASDA, and the implementing regulations.

In addition, 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 Line 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.

NAHASDA recipients are required to submit the Federal Financial Report (SF425) and the APR. The SF425 is due from the recipient no later than 30 days following the end of the quarter. Regarding financial audits, the Single Audit Act and OMB Circular A-133 require that any non-federal entity that expends \$500,000 or more in federal funds in a fiscal year must have an annual audit conducted which meets the Generally Accepted Government Auditing Standards and that it comply with the requirements of OMB Circular A-133. Also, OMB Circular A-133 requires that the recipient submit the audit to the Federal Audit Clearinghouse within 30 days after receipt of the auditor's report, or nine months after the end of the audit period, whichever is earlier. The requirements are not considered met until the Federal Audit Clearinghouse has received and accepted the audit. The audit should cover all IHBG grants that were open at any time during the audit period. The regulations at 24 CFR § 1000.548 require that a copy of the

latest audit, compliant with OMB Circular A-133 requirements, be submitted to the Area ONAP at the same time it is submitted to the Federal Audit Clearinghouse.

### 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 the recipient 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 in NAHASDA Guidance No. 98-17.

ONAP is only authorized to make findings pertaining to Tribally Determined Wage Rates and cannot make findings on issues involving Davis-Bacon Wage Rates as that is the responsibility of the U.S. Department of Labor.

### Lead-Based Paint Compliance

Lead-based paint requirements apply to housing activities. HUD's regulations at 24 CFR Part 35, subparts A, B, H, K, M and R of this title, implement the Lead Based Paint Poisoning Prevention Act (42 USC 4822-4846) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856).

### Maintenance and Inspection

Section 102(b)(2)(A)(v) 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. It is also required under Section 203(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.

### Occupancy

IHBG recipients are required to comply with Section 201(b)(1) of NAHASDA and 24 CFR § 1000.104(a) to ensure that, except in special circumstances, assistance provided with NAHASDA funds is limited to low-income Indian families. Section 203(d) of NAHASDA further requires that each recipient develop written policies governing the eligibility, admission, and occupancy of families assisted with NAHASDA funds. Section 102(b)(2)(D)(iii) of NAHASDA requires the recipient provide a certification that eligibility, admission and occupancy program policies are in effect to govern the implementation and operation of its NAHASDA program. Activities reviewed include the application of income limits, procedures for determining eligibility, income verification, waiting list maintenance, inspections, and periodic recertification.

### Organization and Structure

The purpose of the review was to analyze those areas that are related to the overall administration and management of HUD-funded grants. IHBG recipients are responsible for the design and implementation of housing assistance programs that will meet housing assistance goals and comply with Sections 403(c) and 405 of the NAHASDA statute and the implementing regulations at § 1000.524.

### Procurement and Contract Administration

Program regulations at 24 CFR § 1000.26(a)(11) require recipients to comply with 24 CFR § 85.36 when procuring goods and services. The regulations at 24 CFR § 85.36(c) require that all procurement transactions be conducted in a manner providing full and open competition consistent with the standards set forth in § 85.36. The regulations at 24 CFR § 85.36(b)(9) also require the maintenance of procurement records sufficient to detail the significant history of a procurement. These records are to include, but are not necessarily limited to documentation of the rationale for: 1) the method of procurement (small purchase, sealed bid, competitive or noncompetitive proposals); 2) the selection of contract type; 3) the contractor selection or rejection; and 4) the basis for the contract price, including the cost or price analysis required by 24 CFR § 85.36(f). Additionally, for a cost to be allowable, under 2 CFR Part 225, it must be "necessary and reasonable" and conform to the program requirements. The regulations at 24 CFR § 85.36(b)(2) also require grantees have a contract administration system in place to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract or purchase orders.

HUD regulations, at 24 CFR § 85.36(b)(3), also require that grantees maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. The written code of conduct must contain a conflict of interest provision specifically prohibiting the grantee's employees, officers or agents from participating in the selection, or in the award or administration of a contract if a conflict of interest, whether real or apparent, would be involved. A conflict of interest arises when: (i) such an employee, officer or agent of the grantee, (ii) any member of his immediate family, (iii) his or her partner, or, (iv) an organization which employs, or is about to employ, any of the above, has a financial

or other interest in the firm selected for award. To the extent permitted by State and local law, this written code of conduct must also provide for penalties, sanctions or other disciplinary action for violations.

### **Relocation and Real Property Acquisition**

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Relocation Act) provides displaced persons with fair, equitable treatment and protection from disproportionate injury by projects designed to benefit the public as a whole. HUD was mandated to implement the Act in 1989. The Act applies to all federal or federally-assisted activities that result in the acquisition of real property or the displacement of persons or businesses. All NAHASDA recipients are required to develop Relocation and Real Property Acquisition Policies if the entity is involved in such activities.

Relocation can either be permanent or temporary – restrictions apply to both. Therefore, this monitoring plan covers both types. Grantees must be very careful to abide by all notification requirements to avoid complicated corrective actions. The Uniform Relocation Act applies to both the ICDBG and the IHBG programs.

### **Section 504 Accessibility Compliance**

HUD's regulations at 24 CFR Part 8 implement the requirements of Section 504 of the Rehabilitation Act of 1973. The purpose of Section 504 is ensure that no otherwise qualified individual with a handicap(s) shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any housing project funded with program funds.

ONAP is not authorized to make findings in this area because Section 504 compliance monitoring is the responsibility of HUD's Office of Fair Housing and Equal Opportunity. However, ONAP is authorized to identify concerns pertaining to a recipient's compliance with Section 504 requirements.

### **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.

**Subrecipient Agreements**

The purpose of this review is to determine the recipient's compliance with the applicable requirements of the federal program, as defined in 24 CFR Parts 84 and 85. In accordance with 24 CFR § 85.37(b), recipients may make awards and administer financial assistance (sub grants) to subrecipients that follow the provisions of 24 CFR § 85.37(b) and (c). The recipient is responsible to ensure that every subrecipient agreement, with certain exceptions as specified in 24 CFR § 85.37(c), includes a provision for compliance with 24 CFR Part 85. The recipient is also responsible to ensure that every subrecipient agreement includes any clauses required by Federal statute and executive orders and its implementing regulations, as well as ensure that subrecipients are aware of requirements imposed upon them by Federal statutes and regulations.