
AUDITS
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AUDITS
General

1. GENERAL

1.1 Purpose. The purpose of this manual is to provide policies and procedures necessary for the Bureau to establish and maintain a formal process for responding to audit reports which includes follow-up corrective action. This directive applies to audits performed by the Office of Inspector General (OIG), independent public accountants under cognizant assignments of the OIG, and the General Accounting Office (GAO).

1.2 Authority. This manual is issued pursuant to the provisions of the Inspector General Act of 1978 (92 Stat. 1101); The Single Audit Act of 1984 (Pub. L. 98-502); Office of Management and Budget (OMB) Circulars A-50, A-73 A-128, A-110 and A-123; the Supplemental Appropriations and Rescissions Act of 1980 (Pub. L. 96-304); Parts 360 and 361 of the Department Manual; 43 CFR Part 12 and authority delegated to the Assistant Secretary - Indian Affairs in accordance with 209 DM 8.

1.3 Policy. It is the policy of the Bureau of Indian Affairs to give prompt and objective consideration to the findings, recommendations, and suggestions contained in audit reports. All reports will be addressed in accordance with this policy by the offices responsible for the programs, functions, and activities addressed in the audit reports. All time constraints shall be consistent with legislative and/or Executive mandates and with Bureau requirements. Failure to implement and enforce standards of performance for audit resolution shall result in appropriate personnel actions.

1.4 References. The following information should be referenced when guidance is needed to process audit reports.

A. Inspector General Act of 1978. This Act establishes objectives to promote economy, efficiency, and effectiveness in the administration of programs and operations of the Department of the Interior; to prevent and detect waste, fraud, abuse, and mismanagement in such programs and operations; and to keep the Secretary and Congress informed about problems and deficiencies relating to the administration of such programs as well as the necessity for corrective actions.

B. Office of Management and Budget Circular A-50. This OMB Circular provides the policies and procedures for use by Executive Agencies when considering audit reports prepared by the organizations identified in 1.1 of this Manual. These OMB policies and procedures define and outline the follow-up and tracking required on audit recommendations. In accordance with this circular, the Bureau is expected to provide timely and objective consideration of and action on audit findings and recommendations within six months of issuance.

C. Office of Management and Budget Circular A-73. This circular sets forth policies to be followed during the conduct of an audit of Federal oper-

AUDITS

General

tions and programs. Its objectives are to promote improved audit practices, achieve more efficient use of audit staff, improve coordination of audits, and require the application of audit standards issued by the Comptroller General.

D. Single Audit Act Of 1984 (Pub. L. 98-502). This law establishes the audit requirements for State, local and Indian tribal governments that receive Federal assistance. It requires that financial and compliance audits of organizations receiving federal assistance be made by independent auditors on an entity-wide basis rather than on an individual grant or contract award basis.

E. Office of Management and Budget Circular A-128. This Circular is pursuant to Public Law, 98-502. It establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.

F. 43 CFR Part 12. This regulation defines the Department's responsibility for monitoring and implementing Public Law 98-502 and OMB Circular A-128.

G. Office of Management and Budget Circular A-123. This Circular sets the standards for internal controls and directs each Federal agency to review and update its present system of control, and provides for periodic reviews thereafter by entities not directly involved with the agency's business. It should be noted that internal audits are not a substitute for internal control responsibilities of Bureau programs and operations. Administrators shall continue to provide adequate organization, policy, day-to-day operating procedures and administrative reviews.

H. Departmental Manual Part 360, Departmental Audits. These instructions provide guidelines and procedures for implementing the duties and responsibilities for audits of programs and operations of the Department, as required by the Inspector General Act of 1978.

I. Departmental Manual Part 361, Audit Followup. This directive implements the provisions of OMB Circular A-50. It provides policies and procedures for use by Departmental organizations when responding to audit reports issued by the Inspector General.

1.5 Types of Audits

A. External Audits. These are audits of non-Bureau activities, such as non-federal programs conducted by governments, contractors, grantees, concessioners, and lessees. It also includes audits of revenue producing activities such as mineral leasing, timber sales, and other sources of income generated from public or trust lands. These reports are classified according to their purpose and include: Interim and Final Cost Audits; Indirect Cost Proposal

AUDITS
General

Audits; Preaward Audits; A-128 Attachment P Audits; Contractor Claims and Costs Incurred Audits; Post Award Audits; and Contract Price Proposal Audits. Further explanation and definition of the contractual audits may be found in Title 41 of the Code of Federal Regulations. Draft reports are not issued for external audits. The Bureau has 90 days to respond to the findings and recommendations contained in the external audit report.

B. Internal Audit Reports. These are audits of specific Bureau programs, activities, and functions conducted by the OIG to furnish information on the effectiveness, efficiency and economy of Bureau programs; to determine if programs are conducted in compliance with laws, regulations, and Department or Bureau policies, and to determine if financial operations are properly conducted. Internal reports are usually issued in two phases. The auditor usually issues a draft report for comments before issuing the final report. The Bureau is usually given 30 days to respond to a draft report. After the OIG reviews the Bureau's response to the draft audit report, the final audit report is issued. The final report reflects any corrections, revisions, additions and deletions provided in the Bureau's response. The Bureau has 60 days to respond to the findings and recommendations contained in the final audit report.

C. General Accounting Office (GAO) Audits. This is a special type of internal audit that is performed and issued by the GAO to the Department. The Bureau's role is normally to provide comments to the Department on issues that affect the Bureau and thereafter comply with the directions issued by the Department. Part 361 of the Department Manual fully outlines the audit process and responsibilities.

1.6 Definitions. The following definitions are applicable to Bureau audit reports.

A. Closed Audit. An audit is closed after the OIG informs the Bureau that it agrees that all findings and recommendations are implemented.

B. Collateral Respondent. The collateral respondent is an official who provides remarks to the lead respondent to address aspects of the audit for which it has responsibility.

C. Cognizant Audit Agency. The Federal agency that is assigned audit responsibility by the OMB for a particular recipient organization.

D. Implementation of Corrective Actions. The implementation of corrective actions occurs when the Bureau actually takes certain actions to resolve the audit.

AUDITS
General

E. Lead Respondent. The lead respondent is the official assigned primary responsibility to prepare the Bureau's response to the audit report. This individual is held accountable for providing a timely and comprehensive document that is prepared in the format outlined in Section 2 of this manual.

F. Resolved Audit. An audit is resolved after the OIG/PBA has reviewed the Bureau's audit response and has agreed with the Bureau that all findings and recommendations are adequately addressed. This does not necessarily mean that all actions taken to resolve the findings and recommendations have been completed, but only that the Bureau has agreed to take the action.

1.7 Responsibilities.

A. Assistant Secretary - Indian Affairs. The Assistant Secretary - Indian Affairs through the Bureau Audit Liaison Officer is responsible for Bureauwide audit policies and procedures.

B. Audit Liaison Officer. The Deputy to the Assistant Secretary - Indian Affairs (Operations) is the Bureau Audit Liaison Officer (ALO). The Audit Liaison Officer:

(1) Designates lead and collateral respondents for preparation of the Bureau's response to specific audit reports.

(2) Assures that the performance standards for all appropriate management officials contain factors that reflect accountability for resolving audit and implementing corrective action in accordance with the policy stated in 1.3 above.

(3) Provides semiannual reports to the Assistant Secretary - Policy, Budget and Administration on the status of all unresolved audit recommendations over six months old.

(4) Provides for periodic analysis of audit recommendations, resolution, and corrective action, to determine trends and problems, and to recommend solutions.

(5) Provides for periodic evaluations of whether the audit follow-up system results in efficient, prompt, and proper resolution and corrective action on audit recommendations.

C. Lead Respondent. The designated lead respondent:

(1) Secures comments from other organizations, as required.

(2) Prepares the Audit Response (see Section 2) and attaches the appropriate support documentation, e.g., Findings and Determinations and Bill for Collection.

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General

(3) Transmits the response for external audits directly to the OIG provided the report has not been referred to the Office of Policy, Budget and Administration for resolution. See Illustration 1 for a sample transmittal memorandum.

(4) Prepares the transmittal memorandum for signature of the Deputy to the Assistant Secretary - Indian Affairs (Operations) forwarding the audit response to the appropriate agency for all internal reports and for external reports that have been referred to the Office of Policy, Budget and Administration for resolution. See Illustration 2 for a sample memorandum.

(5) Ensures audits are answered by the dates established by the audit agency or the Audit Liaison Officer.

(6) Provides quarterly audit status reports by the last day of the quarter, beginning with September 30, 1986, (See Section 3.1A). Form BIA-1403 will be used to provide the data.

(7) Provides a semiannual report to the Audit Liaison Officer covering the status of all audits in the implementation phase, resolved but not closed (See Section 3.1B). Form BIA-1404 will be used for the report.

D. Collateral Respondent. The collateral respondent provides substantive and timely comments and supporting documentation to the lead respondent by the date established by the Audit Liaison Officer or lead respondent. If the collateral respondent is asked to provide input to specific findings and recommendations he/she will follow the instructions contained in Section 2. Negative responses are required if the collateral respondent has no input.

AUDITS
Response Procedures

2. RESPONSE PROCEDURES

2.1 Audit Response Form BIA-1402.

A. The Form BIA-1402 (See Illustration 5) is the document used to address audit recommendations contained in the report. For recommendations contained in Preaward Contracts Audits and all Contract Claim Audits see Section 2.2 below. The form must include a verbatim statement of each recommendation followed by a statement of concurrence or nonconcurrence.

(1) When the respondent concurs, the corrective action plan for each recommendation must be recorded. The response must contain a concise statement fully addressing each recommendation. The plan must include the name of the Bureau official responsible for implementation or certification, and the projected completion date. If the action has been completed, the form must reflect the action officer's name and the date the action was completed.

(2) When the respondent does not concur, the form must reflect the specific reasons for nonconcurrence and supporting documentation must be attached.

B. An example of a completed Form BIA-1402 is included in the illustration. Reproduction of Form BIA-1402 for local use is authorized.

C. Documentation. Supporting documentation is important and copies of any correspondence, form, or document pertinent to the audit should be attached to the audit response form as appropriate to clarify the response.

2.2 Response to Preaward Contract Audits and Cost Claim Audits. The response must include a copy of the agreement made between the contracting officer and the contractor. In addition, these reports must include copies of the negotiated memorandum or a notice that the claim has been withdrawn or submitted to the Board of Contract Appeals.

AUDITS
Reports

3. REPORTS

3.1 Reporting Requirement.

A. Unresolved Audit Report. This report is required of all designated lead respondents who have not received notification from the OIG or the Deputy to the Assistant Secretary - Indian Affairs (Operations) that the audit is resolved. The report must reflect the status of the audit as of the last day of each report quarter, beginning with the September 30, 1986 report. The report must be submitted to the Audit Liaison Officer on Form BIA-1403 (Illustration 3) no later than the fifth day after the end of the quarter. The reproduction of Form BIA-1403 for local use is authorized. An example of a completed report form is included in the Illustration.

B. Semiannual Audit Report. This is a status report of all audit findings, recommendations and proposed actions that have been accepted by OIG or PBA and Bureau management. The report must be submitted on Form BIA-1404 (see Illustration 4). A sample of a completed form is included in the Illustration. The report is due to the Audit Liaison Officer by April 1 and October 1 of each year. The report will be consolidated by the Audit Liaison Officer to provide the Office of Policy, Budget and Administration the Bureau's Semiannual Status Report.

SAMPLE

memorandum

DATE:

REPLY TO
ATTN OF:

SUBJECT: Response to Audit Report
Report No.

TO: Appropriate Regional OIG Office

This is in response to your (date of auditor's memorandum transmitting
audit for response) memorandum concerning the above cited audit.

The Bureau's response to the above cited audit is attached. I trust this
information will resolve the audit.

(Area Director's signature)

Attachments

Release 14-4, 9/26/86

QUARTERLY STATUS REPORT OF UNRESOLVED AUDITS

LEAD RESPONDENT: _____

DATE PREPARED: _____

REPORT TITLE	REPORT NUMBER	DATE ISSUED	ORIGINAL RESPONSE DUE DATE	REVISED DUE DATE	REASON AUDIT UNRESOLVED
DATE	TYPED NAME AND TITLE OF INITIATOR				SIGNATURE

List audits chronologically by type; internal reports first, followed by external.

QUARTERLY STATUS REPORT OF UNRESOLVED AUDITS
(continuation)

LEAD RESPONDENT: _____ INITIALS OF LEAD RESPONDENT: _____

DATE PREPARED: _____

REPORT TITLE	REPORT NUMBER	DATE ISSUED	ORIGINAL RESPONSE DUE DATE	REVISED DUE DATE	REASON AUDIT UNRESOLVED

List audits chronologically by type; internal reports first, followed by external.

QUARTERLY STATUS REPORT OF UNRESOLVED AUDITS

LEAD RESPONDENT: Portland Area Director

DATE PREPARED: 07-01-86

REPORT TITLE	REPORT NUMBER	DATE ISSUED	ORIGINAL RESPONSE DUE DATE	REVISED DUE DATE	REASON AUDIT UNRESOLVED
Selected Contracts	W-AP-BIA-999-83IA	4-10-86	N/A		The tribe held an election on 2-10-86. The results are being disputed in tribal court. A decision will be made by July 23, 1986. A response will be submitted by the new tribal government by August 30, 1986 on recommendation 2.2 regarding documentation of expenditures for the old age program. All other recommendations have been resolved.

DATE 7-3-85 TYPED NAME AND TITLE OF INITIATOR DON DRACKERT, Portland Area Director SIGNATURE *Don Drackert*

List audits chronologically by type; internal reports first, followed by external.

SEMIANNUAL STATUS REPORT

REPORTING OFFICE: _____ DATE PREPARED: _____

PERIOD OF REPORT: APRIL 1 _____ to SEPT. 30 _____

OCT. 1 _____ to MARCH 31 _____

DATE PREPARED: _____

NAME OF PREPARER: _____

AUDIT TITLE	AUDIT NUMBER	RECOMMENDATION NUMBER	STATUS CODE*

DATE _____ TYPED NAME AND TITLE OF REPORTING OFFICIAL _____ SIGNATURE _____

* STATUS CODES - Enter Applicable Codes

1. No Action initiated
 - A. Office intends to act, but has not started.
 - B. Office has not responded to request for information on implementation.
2. Action in progress
 - A. Office satisfied of adequate progress toward implementation.
 - B. Office reports that progress is delayed or action has occurred to prevent implementation.
3. Action Completed
 - A. Office verified completed action.
 - B. Office did not verify completed action.
4. Recommendation is no longer valid.

SEMIANNUAL STATUS REPORT
(Continuation)

REPORTING OFFICE: _____

DATE PREPARED: _____

PERIOD OF REPORT: APRIL 1 _____ to SEPT. 30 _____

NAME OF PREPARER: _____

OCT. 1 _____ to MARCH 31 _____

INITIALS OF REPORTING OFFICIAL: _____

AUDIT TITLE	AUDIT NUMBER	RECOMMENDATION NUMBER	STATUS CODE*

SEMIANNUAL STATUS REPORT

REPORTING OFFICE: Portland Area

DATE PREPARED: October 5, 1985

PERIOD OF REPORT: APRIL 1 to SEPT. 30

NAME OF PREPARER: Tom Corlette

OCT. 1 to MARCH 31

AUDIT TITLE	AUDIT NUMBER	RECOMMENDATION NUMBER	STATUS CODE*
Review of Procurement Activities - Portland Area Office	C-IA-BIA-29-84	1.1 1.2 1.3 2.1 2.2 3.1	2A 3A 2B 3B 3B 4

DATE 10-5-85 TYPED NAME AND TITLE OF RESPONDENT DON DRACKENT, Portland Area Director SIGNATURE *Tom Drackent*

* STATUS CODES - Enter Applicable Codes

1. No Action initiated
 - A. Office intends to act, but has not started.
 - B. Office has not responded to request for information on implementation.
2. Action in progress
 - A. Office satisfied that adequate progress toward implementation is being made.
 - B. Office reports that progress is delayed or action has occurred to prevent implementation.
3. Action Completed
 - A. Office verified completed action.
 - B. Office did not verify completed action.
4. Recommendation is no longer valid.

AUDIT RESPONSE FORM

AUDIT NUMBER: _____ DATE ISSUED: _____ NAME OF PREPARER: _____

AUDIT TITLE: _____ TITLE OF PREPARER: _____

DATE PREPARED: _____ Telephone Number: _____

F&D Required (Yes/No): _____ DATE F&D Issued: _____

\$\$ Amt. Questioned: _____ Number of _____

\$\$ Amt. Disallowed: _____ Recommendations _____

REC. NO.	AUDIT REPORT RECOMMENDATION (VERBATIM) / RESPONSE AND PROPOSED CORRECTIVE ACTION PLAN	INDIVIDUAL RESPONSIBLE DUE DATES	IMPLEMENTATION STATUS

DATE	TYPED NAME AND TITLE OF DESIGNATED RESPONDENT	SIGNATURE
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AUDIT RESPONSE FORM (continuation)

AUDIT NUMBER	DATE	INITIALS OF DESIGNATED RESPONDENT	
REC. NO.	AUDIT REPORT RECOMMENDATION (VERBATIM)/RESPONSE AND ACTION PLAN NO.	INDIVIDUAL RESPONSIBLE DUE DATE	IMPLEMENTATION STATUS

E X A M P L E

AUDIT RESPONSE FORM

AUDIT NUMBER: C-IA-BIA-29-84 DATE ISSUED: 1-01-85
 NAME OF PREPARER: Tom Corlette

AUDIT TITLE: Review of Procurement Activities -
 Portland Area office
 TITLE OF PREPARER: Audit Coordinator

DATE PREPARED: March 12, 1985

F&D Required (Yes/No): Yes Telephone Number: FTS 555-1212

\$\$ Amt. Questioned: \$ 8,200 Number of
 Recommendations

\$\$ Amt. Disallowed: \$22,950 DATE F&D ISSUED:
 DATE BFC ISSUED:

REC. NO.	AUDIT REPORT RECOMMENDATION (VERBATIM)/ RESPONSE AND PROPOSED CORRECTIVE ACTION PLAN	INDIVIDUAL RESPONSIBLE DUE DATES	IMPLEMENTATION STATUS
1.1	<p>All expenditure reports, including those now in the backlog, are processed and recorded as soon as possible. This, of course, implies that the results will then be reviewed and analyzed and that attempts will be made to immediately recover any excesses in the hands of the contractors.</p> <p>Bureau's response: Agree. The Area Branch of Finance has been working overtime to reduce the backlog which will be cleared by December 31, 1985</p>	<p>Charles Roger 12/31/85</p>	<p>On schedule.</p>
1.2	<p>All contracts and grants, including the 638 contracts, are closed out as soon as their final financial status is determined and properly settled.</p> <p>Bureau's Response: Agree. The Contracting/Grants Officer's Representatives keep track of contract/grant closing requirements. Most contractors/grantees now act timely to met their closing requirements. Attached is the Area issuance sent to all contractors on 2/1/85.</p>	<p>Stan Perrin</p>	

DATE: 3/15/85

TYPED NAME AND TITLE OF DESIGNATED RESPONDENT: DON DRACKERT, Portland Area Director

SIGNATURE: *Don Drackert*

E X A M P L E

AUDIT RESPONSE FORM (continuation)		INITIALS OF DESIGNATED RESPONDENT	
AUDIT NUMBER	DATE	D. D.	
REC. NO.	AUDIT REPORT RECOMMENDATION (VERBATIM)/RESPONSE AND ACTION PLAN	INDIVIDUAL RESPONSIBLE DUE DATE	
		IMPLEMENTATION STATUS	
C-IA-BIA-29-84	3/15/85		
1.3	<p>Assign and utilize adequate resources to perform the work necessary to record and complete the processing of current transactions and to eliminate the existing backlog of unrecorded documents.</p> <p>Bureau's Response: Agree. Insofar as internal limiting actions will permit. Our resources are limited. We anticipate this work to be completed. Attached is a copy of prepared Action Plan to use as work guide.</p> <p>Resolve Questioned Costs of \$8,2000.</p> <p>Bureau's Response: Agree. A Findings & Determinations (F&D) will be prepared by the Contracting Officer and Bill(s) for Collection (BFC's) issued if required by the F&D.</p> <p>Recover disallowed costs of \$22,960.</p> <p>Bureau's Response: <u>(Same as 2.1)</u></p> <p>The BIA should amend the P.L. 93-638 Regulations to enforce compliance of the said Act.</p> <p>Bureau's Response: Disagree. Procedures already exist in 25 CFR 271-277.</p>	<p>John Smith 6-31-85</p> <p>Joe Grable 4-31-85</p> <p>Joe Grable 4-31-85</p> <p>Not applicable</p>	<p>Delayed to 8-01-85. A severe flood has required relocation of staff and work area.</p> <p>On schedule.</p> <p>On schedule</p> <p>N/A</p>
2.1			
2.2			
3.1			



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

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MANAGEMENT
SECURITY ASSURANCE

August 29, 1997

Memorandum

To: All Holders of the Indian Affairs Manual

From: Deputy Assistant Secretary - Indian Affairs

Subject: Indian Affairs Manual Release 97-03: Part 5, Management Accountability and Chapters 1 and 2 of Part 40, Law Enforcement

This release of the Indian Affairs Manual contains four chapters of Part 5, Management Accountability. The first two chapters, Audits of Indian Affairs Operations and Single Audits, replace 14 BIAM, Audits, which is rescinded in its entirety. The other two chapters, Management Controls and Annual Assurance Statements are new material. Only editorial corrections were received in response to the exposure draft of this Part.

Also transmitted with this release are Chapters 1 and 2 of Part 40, Law Enforcement. The following changes are made to the Law Enforcement chapters which were issued July 29, 1997:

1. 40 IAM 1.2 (C). Corrects the address for the Office of Law Enforcement Services.
2. 40 IAM 1.4. Amends the last sentence to more closely mirror language contained in Law Enforcement regulations.
3. 40 IAM 2.18(B). Corrects a typographical error.
4. 40 IAM 2.19. Changes the time frame for submitting a written report on the Use of Force from "three hours of the officer's return to the police department" to "within 24 hours after the incident." Also added is a requirement that the supervisor comply with Departmental requirements on reporting the use of force. Those departmental requirements are proposed to be included in 90 IAM 1, which is currently out in exposure draft.

/s/ Michael J. Anderson
Deputy Assistant Secretary - Indian Affairs

ter, the Comptroller General shall, at the earliest practicable date, notify in writing—

“(1) the committee that reported such bill or resolution; and

“(2XA) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

“(B) the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

31 USC 7507

“§ 7507. Effective date; report

“(a) This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after December 31, 1984.

“(b) The Director, on or before May 1, 1987, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter.”.

(b) The provisions of this Act shall not diminish or otherwise affect the authority of the Tennessee Valley Authority to conduct its own audits of any matter involving funds disbursed by the Tennessee Valley Authority.

(c) The table of chapters for subtitle V of title 31, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

“73. Requirements for Single Audits 7501”.

Approved October 19, 1984.

Tennessee Valley Authority 31 USC 7501 note.

LEGISLATIVE HISTORY—S. 1510 (H.R. 4821):

HOUSE REPORT No. 98-708 accompanying H.R. 4821 (Comm. on Government Operations).

SENATE REPORT No. 98-234 (Comm. on Governmental Affairs)

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 2, considered and passed Senate.

Vol. 130 (1984): May 15, H.R. 4821 considered and passed House; S. 1510 amended, passed in lieu.

Oct. 3, Senate concurred in House amendments with amendments.

Oct. 4, House concurred in Senate amendments.

Filing Instructions:

Remove:

0 IAM 2, Index, Issued 07/29/97
14 BIAM, Audits
40 IAM 1, Authority and Responsibilities, Issued 07/29/97
40 IAM 2, Law Enforcement Standards, Issued 07/29/97

Insert:

0 IAM 2, Index (1 page)
5 IAM 1, Audits of Indian Affairs Operations (5 pages)
5 IAM 2, Single Audits (6 pages and 3 Illustrations)
5 IAM 3, Management Controls (5 pages)
5 IAM 4, Annual Assurance Statements (2 pages and 6 Illustrations)
40 IAM 1, Authority and Responsibilities (4 pages)
40 IAM 2, Law Enforcement Standards (4 pages)

IAE Surname File
IAE Reading File
IAE Denver Field Office

IAE:LRichardson/nl 8/26/97 S:\biaman\97-03

COMMENTS ON PART 5

NOTE: The following comments were received after the closing date and after the IAM had been put in the final clearance process. Although no changes were made to Part 5 as a result of these comments, the points raised are discussed below.

Comment

Response

Chapter 1: Audits of Indian Affairs Operations:

1.20 Audit Close Out: Clarification as to when an audit is resolved versus when it is closed should be provided. However, the Office of Inspector General does not routinely notify the agency when an audit is closed. This creates a problem when the audit files are to be properly disposed of. The General Records Schedule and the current 16 BIAM both indicate that the records can be disposed of when the audit is closed. Therefore, unless there is some notification as to when the audit is closed, the records cannot be disposed of. (This same comment was made with respect to section 2.14, Closure of Audits.)

An audit is resolved when the OIG and Indian Affairs agree upon the actions needed to implement any recommendations contained in the audit report. The OIG transfers responsibility for tracking implementation of audit recommendations to the Assistant Secretary - PMB. Neither of these offices employ the term close out: the OIG uses "resolution" and PMB "removes the audits from the tracking system."

With respect to the records system, The BIA records schedule is presently undergoing revision. We have advised the records officer that the OIG is the "office of record" for all audits which are issued in Interior. The BIA records schedule will be revised to reflect that the audits we receive are for working files only and that they may be disposed of.

Chapter 2, Single Audits

2.9 (B). It should be the responsibility of the awarding official to make the management decision on behalf of the Bureau of Indian Affairs, therefore, this section should be deleted. (This same comment was made with respect to 2.14(A)(1), Closure of Audits.)

A number of offices rely on the assistance of Audit and Evaluation in the resolution of Single Audits and the OIG has found the present practice to be appropriate. The decision still rests with the awarding official as to whether the ALO will act on behalf of the awarding official in this process.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, D.C. 20240

Memorandum

To: All Holders of the Indian Affairs Manual

From: Deputy Commissioner of Indian Affairs

Subject: Transmittal of Indian Affairs Manual Part 5, Management Accountability

This Indian Affairs Manual release includes chapters 1 through 5 of Part 5, Management Accountability. The release provides information and guidance in the following areas: (1) audits of BIA operations which are conducted by the Office of Inspector General or the General Accounting Office; (2) resolution of findings or questioned costs identified by certified public accountants who audit tribal grantees and contractors; (3) compliance with OMB Circular A-123, Management Accountability; (4) special requirements associated with tracking and correction of mission critical weaknesses; and (5) development and preparation of the annual assurance statement required by the *Federal Managers Financial Integrity Act*.

Chapters 1 and 2 replace 14 BIAM, Audits, which is rescinded in its entirety. Chapters 3, 4, and 5 are new material.

Deputy Commissioner of Indian Affairs

Filing Instructions:

Remove: 14 BIAM, Audits

Insert: 5 IAM, Management Accountability

- Chapter 1, Audits of Internal Operations
- Chapter 2, Audits of Contractors/Grantees
- Chapter 3, Management Controls
- Chapter 4, Mission Critical Weaknesses
- Chapter 5, Annual Assurance Statement

INDIAN AFFAIRS MANUAL

Part:	5	Management Accountability	
Chapter:	1	Audits of Indian Affairs Operations	Page 1

1.1 Purpose. The purpose of this chapter is to provide guidance on the development of audit plans, coordination of audit assignments, and resolution of audit findings for those audits of Indian Affairs operations conducted by the Office of Inspector General (OIG) or the General Accounting Office (GAO).

1.2 Authority.

- A. Title 5 U.S.C., Appendix, Inspector General Act (P.L. 95-452), as amended;
- B. Title 31 U.S.C. §§701-720, General Accounting Office; and
- C. Title 31 U.S.C. §§ 901-903, Chief Financial Officers Act.

1.3 Guidance.

A. Office of Management and Budget (OMB) Circulars:

- (1) A-50, Audit Followup; and
- (2) A-123, Management Accountability and Control.

B. Departmental Manual:

- (1) Part 360, Audit Policy; and
- (2) Part 361, Audit Followup.

1.4 Policy. It is the policy of Indian Affairs to work cooperatively with auditors; to give prompt and objective consideration to the findings and recommendations contained in audit reports; to follow through, if necessary, with appropriate corrective actions; and to report, as required, on all of the above.

1.5 Designation of Audit Liaison Officer. As required by 360 DM 1.4(C), the Director, Office of Audit and Evaluation, is designated as the Audit Liaison Officer for Indian Affairs.

1.6 Responsibilities.

A. All Senior Executives in Indian Affairs:

- (1) Contribute to the audit planning process;
- (2) Ensure that auditors have access to all documents, reports, and other information that may be requested during an audit of programs or activities within the Executive's area of responsibility;
- (3) Provide complete and timely responses to all assigned audit reports;
- (4) Ensure that plans prepared to implement audit recommendations will result in correction of identified deficiency and that such plans are reasonable in terms of personnel and financial resource requirements;

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(5) Establish responsibility for implementation of corrective actions and monitor progress toward accomplishment of such actions; and

(6) Report, when requested, on the status of corrective actions.

B. Audit Liaison Officer:

(1) Consolidates input from Indian Affairs' officials for the audit work plan;

(2) Coordinates and facilitates audit assignments;

(3) Provides assistance in responding to audit reports, formulating corrective action plans, implementing such plans, and reporting thereon;

(4) Establishes and maintains an automated system to provide management information on audit status; and

(5) Disseminates audit plans and audit reports throughout the organization.

1.7 Development of OIG Audit Workplan. Annually, the OIG provides an opportunity for Indian Affairs officials to identify audit objectives in order to promote efficiency and economy in Federal operations, and to ensure programs are operated in compliance with laws and regulations. Indian Affairs executives are encouraged to work with the OIG in the planning process to identify those audit areas which would provide information needed by management to improve operations. Requests may include:

A. Internal Audits which are audits of programs and activities operated directly by Indian Affairs;

B. Audits of Self-Determination Contractors/Grantees/Compactors which are audits of programs operated by a tribe or tribal organization through a contract, grant, or compact which supplement the audits performed under the Single Audit Act;

C. Audits of Commercial or Buy-Indian Contractors, such as:

(1) Preaward audits;

(2) Audits of contractor's claims resulting from change orders or requests for equitable adjustment;

(3) Audits of contract termination settlement proposals; or

(4) Audits of costs incurred under a cost reimbursable contract.

1.8 Distribution of the OIG Audit Workplan. Once the OIG has completed the Audit Workplan, copies are provided to the Audit Liaison Officer for distribution within Indian Affairs. While the workplan is subject to change, this publication provides initial notice as to the programs and activities scheduled for audit during the fiscal year.

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1.9 GAO. The GAO is the investigative arm of the Congress and is charged with examining all matters relating to the receipt and disbursement of public funds. The majority of GAO reviews are made in response to specific congressional requests.

A. GAO Surveys. GAO frequently uses questionnaires to collect data from a number of different departments. Generally, GAO relies on the information provided by the departments and does not independently verify the accuracy of the submitted data. These surveys result in reports to Congress, but do not include recommendations to the individual departments.

B. Other GAO Assignments are conducted as traditional audits and generally follow the processes outlined below.

1.10 Notification Letters. The initiation of an audit begins with a notification letter identifying the purpose and scope of the audit, and the sites the auditors intend to visit. OIG notification letters are sent to the Assistant Secretary - Indian Affairs while GAO letters are sent to the Director, Office of Financial Management, Department of the Interior. A copy is provided to the Audit Liaison Officer who notifies the appropriate Indian Affairs officials of the audit.

1.11 Entrance Conference. The auditors normally request an entrance conference to discuss the scope of the audit, to identify certain background material that may be of assistance in conducting the audit, and to provide an estimate of the duration of the audit.

1.12 Interim Briefings and Reports. Indian Affairs officials may be briefed during the course of the audit on the results to date, including tentative audit findings and recommendations. When there are significant findings of fraud or mismanagement, the auditors may issue a special report to management, prior to completion of the entire audit, so that management can take immediate action to correct the situation.

1.13 Exit Conference. Upon completion of the audit, an exit conference is held with appropriate Indian Affairs officials to provide an opportunity to discuss the tentative findings and recommendations. The auditors may provide a preliminary draft report prior to the exit conference or present an oral briefing of the results of the audit. The purpose of the exit conference is to ensure that the information in the draft report is accurate and complete and to provide management's initial comments on the tentative findings and recommendations. Every effort should be made to identify any and all areas of disagreement at this time.

1.14 Draft Audit Report. Subsequent to the exit conference, the auditors will issue a draft audit report.

A. OIG Draft Reports Without Recommendations do not require a formal response although Indian Affairs officials are provided an opportunity to submit comments.

B. OIG Draft Reports With Recommendations require a formal response from the Assistant Secretary - Indian Affairs within 45 days of release of the draft report.

C. GAO Surveys are usually provided directly to the office which supplied the data so that officials may ensure that GAO is accurately reporting the information as provided. The turn-around time is generally less than one week.

D. Other GAO Assignments for which Indian Affairs comments are requested require a response within 10 days. The comments may be provided orally or in writing and must be

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coordinated at the Departmental level. The ALO will work with the appropriate Indian Affairs executive(s) to determine whether oral or written comments should be provided.

1.15 Response to OIG Draft Audit Report. The response to the draft audit report is prepared in memorandum format for signature by the Assistant Secretary - Indian Affairs and should contain the following:

A. A general discussion in the same sequence of the audit report detailing any misstatements or areas of significant disagreement with the substance of the report and providing a context for the responses to the specific recommendations contained in the audit report.

B. The audit recommendations followed by the Indian Affairs' response to each. Each response should begin with one of the statements listed below followed by an explanation of the actions that Indian Affairs has taken or proposes to take in response to the recommendation.

- (1) The ["Bureau" or organization which is subject of audit] concurs.
- (2) The ["Bureau" or organization which is subject of audit] does not concur.
- (3) The ["Bureau" or organization which is subject of audit] partially concurs.

C. For any audit recommendation which has already been implemented, the response will provide documentation of such implementation.

D. For any audit recommendation with which Indian Affairs concurs that has not been implemented, the response is to specifically identify what action will be taken, the name and title of the individual(s) responsible for implementation, and the target date for completion of the implementing action(s).

E. For any classification of monetary amounts (Funds to be Put to Better Use or Potential Additional Revenues), the response should either indicate agreement, or it should provide the reasons for disputing the amounts so classified.

1.16 Final OIG Audit Report. The final audit report will include the auditor's reply to Indian Affairs comments and identify recommendations that are resolved and implemented; resolved, but not implemented; and unresolved. Unresolved issues are to be reconsidered by the Assistant Secretary - Indian Affairs, and a follow-up response is required.

1.17 Response to Final OIG Audit Report. If a response to a final audit report is required, the response should provide the information requested by the OIG in the report appendix entitled "Status of Audit Report Recommendations." The response is written in memorandum format for signature by the Assistant Secretary - Indian Affairs.

1.18 Audit Resolution. If any recommendations remain unresolved or there is disagreement between the OIG and Indian Affairs about the agency's management decision, the report will be referred to the Assistant Secretary - Policy, Management and Budget (PMB) to render a decision for the Department. Meetings generally provide the forum for reaching final decisions on unresolved recommendations. Formal notification of the Departmental decision is provided to the Assistant Secretary - Indian Affairs.

1.19 Audit Followup. Both OIG and GAO audits remain open until all agreed actions have been

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implemented. These audits are tracked in the office of the Assistant Secretary - PMB and regular reports on the status of implementation actions is required. Executives should strive to have all recommendations completely implemented within six months of the issuance of the final audit. Some particularly complex or costly implementation actions may be scheduled over longer periods of time. Should that be the case, executives should regularly review the planned actions to determine if changed circumstances warrant modifications to the initial plans. If changes are required, the executive should contact the ALO to arrange for discussions with the auditors.

1.20 Audit Close Out. As recommendations are implemented, the ALO is to be notified so that a report can be made to the Assistant Secretary - PMB.

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2.1 Purpose. The purpose of this chapter is to provide policies and procedures to be followed for resolution and close out of single audits.

2.2 Authority.

- A. Title 5 U.S.C., Appendix, Inspector General Act (P.L. 95-452), as amended;
- B. Title 25 U.S.C. §450 et seq., Indian Self-Determination and Education Assistance Act (P.L. 93-638), as amended;
- C. Title 25 U.S.C. §2501 et seq., Tribally Controlled School Grants;
- D. Title 31 U.S.C., Chapter 75, Requirements for Single Audits;
- E. Title 25 CFR, Part 900, Contracts under the Indian Self-Determination and Education Assistance Act; and
- F. Title 43 CFR, Part 12, Administrative and Audit Requirements and Cost Principles for Assistance Programs.

2.3 Guidance.

- A. Office of Management and Budget (OMB) Circulars:
 - (1) A-50, Audit Followup;
 - (2) A-102, Grants and Cooperative Agreements with State and Local Governments;
 - (3) A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;
 - (4) A-128, Audits of State and Local Governments (applies to audits for fiscal periods beginning on or before June 30, 1996); and
 - (5) A-133, Audits of States, Local Governments, and Non-Profit Organizations (applies to audits for fiscal periods beginning after June 30, 1996, and for prior periods for some tribal organizations which are organized as nonprofit organizations).
- B. Departmental Manual:
 - (1) Part 360, Departmental Audits; and
 - (2) Part 361, Audit Followup.
- C. Catalog of Federal Domestic Assistance

2.4 Policy. It is the policy of Indian Affairs to provide timely resolution of single audit reports; to provide technical assistance to grantees; and to report, as required, to other Departmental offices.

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2.5 Handbook. The "Single Audit Resolution Handbook" is available from:

Office of Audit and Evaluation 1849 C Street NW, Mail Stop 2559 MIB Washington, D.C. 20240 (202) 208-1916	or	Office of Audit and Evaluation P.O. Box 25007, D-119 Denver, CO 80225-0007 (303) 236-9787
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2.6 Training. The Office of Audit and Evaluation provides training for Federal, tribal, and school employees on the Single Audit process. Contact either of the offices above for additional information.

2.7 Definitions.

A. Awarding Officials include Contracting Officers; Education Line Officers; and others who have been delegated authority to award Self-Determination contracts, Self-Governance compacts, or other grant assistance on behalf of the Secretary.

B. Grantee, as used in this chapter, includes tribes, tribal organizations, tribal consortia, and school boards which receive funding from Indian Affairs under a Self-Determination contract or grant, a Self-Governance compact, or any other authorized grant program, such as the Indian Child Welfare Act or the Tribally Controlled Community Colleges Act.

C. Disallowed Cost means a questioned cost identified by the auditor that the awarding official determines should not have been charged to the Federal financial assistance program.

D. Federal Financial Assistance includes assistance that grantees receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, direct appropriations, and other assistance.

E. Findings and Determination (F&D) means an awarding official's written decision as to whether the audit findings have been addressed satisfactorily and whether questioned costs have been reinstated or disallowed.

F. Management Decision means the determination by an Indian Affairs official that actions taken, or proposed to be taken, by the grantee will correct the deficiencies cited in the audit.

G. Questioned Cost means a cost that is questioned by the auditor because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; a finding that, at the time of the audit, such cost is not supported by adequate documentation; or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable.

H. Reinstated Cost means a questioned cost that an Indian Affairs official has determined is an allowable charge to a Federal financial assistance program.

I. Resolved Audit means that the Office of Inspector General (OIG) has accepted the management decision concerning the audit findings.

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J. **Single Audit** means an audit of the grantee's financial statements and the Federal awards which is conducted by an independent audit organization pursuant to the Single Audit Act.

K. **Sustained Cost** is another term for a disallowed cost.

2.8 Responsibilities.

A. Audit Liaison Officer (ALO):

(1) Provides required reports to designated Departmental officials on the status of unresolved audits and uncollected audit debt;

(2) Provides assistance to awarding officials in resolving and closing single audits;

(3) Ensures that the Catalog of Federal Domestic Assistance contains current, accurate information for all Indian Affairs Federal financial assistance programs;

(4) Provides training and other technical assistance to grantees and to Federal employees as required or requested; and

(5) Establishes and maintains an automated tracking system to provide management information on the status of all single audits.

B. Director, Office of Self-Governance, Director, Office of Indian Education Programs, and Area Directors:

(1) Ensure timely resolution of single audits referred by the OIG; and

(2) Take appropriate action when audit findings indicate significant management problems or material weaknesses which put Federal resources in jeopardy, when disallowed costs have not been repaid, or when an audit has not been performed within the prescribed time;

C. Awarding Officials:

(1) Resolve single audit reports and prepare management decisions within 90 days of the date the audit was issued by the OIG;

(2) Determine allowability of questioned costs;

(3) Request that the Division of Accounting Management issue a bill for collection, if applicable;

(4) Offer to assist grantees in developing corrective action plans if there are findings of non-compliance or internal control weaknesses; and

(5) Identify issues requiring technical assistance and request such assistance.

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D. Chief, Division of Accounting Management:

- (1) Issues bills for collection and performs other required debt collection activities, as necessary, for audit related debt; and
- (2) Submits monthly report on audit-related debts to the ALO.

2.9 Audits Referred to Indian Affairs For Resolution.

A. Awarding Officials are to:

(1) Review available information provided in the grantee's response to the audit, or in contract or grant files, or in reports of on-site Indian Affairs' reviews, or any other relevant data to determine if the audit can be resolved with the information at hand. In some cases, the awarding official may be able to make determinations about questioned costs based on the grantee's response contained in the audit report.

(2) Request additional information if the audit lacks a response from the grantee or if the awarding official determines that other supporting material is required. The awarding official is to contact the grantee within fourteen (14) calendar days of receipt of the audit. The letter should request a response from the grantee within thirty (30) calendar days.

(3) Make a Management Decision. Failure of the grantee to provide documents supporting the expenditure of Federal funds for questioned items does not relieve the awarding official of the responsibility for issuing a management decision on the allowability of such questioned costs.

(a) If all questioned costs are reinstated and all findings are resolved, the awarding official will notify the OIG by memorandum, with copy to the grantee, and recommend that the audit be closed. If an F&D is issued, a copy should be provided to the OIG. As shown in Illustration 1, however, it is not necessary to prepare an F&D if there are no unresolved findings or disallowed costs.

(b) If some or all of the questioned costs are disallowed, the awarding official will issue a formal notice to the grantee, by certified mail, of the findings and determination and of the grantee's appeal rights under 25 CFR 2, 25 CFR 900, and 43 CFR 4 (Illustration 2). The OIG will be notified of the management decision by memorandum, attaching a copy of the F&D (Illustration 3). At the same time, a request to issue a Bill for Collection should be sent to the Division of Accounting Management.

B. The ALO, with the concurrence of the awarding official, may make a management decision on behalf of Indian Affairs when no costs are disallowed and when all findings have been satisfactorily addressed by the grantee. Copies of the ALO's memorandum to the OIG will be provided to the awarding official and to the grantee.

2.10 Collection of Disallowed Costs. Once the awarding official has determined that certain costs are disallowed, these amounts are debts owed by the grantee. The audit cannot be closed until final disposition of the debt. Depending upon the circumstances and the decision of the awarding official, audit related debt may be resolved:

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A. **By a payment from the grantee's general fund to the grantee's Federal funds** of the disallowed amount if the underlying award agreement is still open. In this case, no funds are remitted to the Bureau of Indian Affairs. The awarding official is to provide documentation of the financial transfer to the ALO.

B. **By payment from the grantee to the Bureau of Indian Affairs.** The check or money order will be immediately forwarded to the Division of Accounting Management with a field receipt identifying the amount as repayment of disallowed costs related to the specific audit, citing the contract or grant number, and identifying the fiscal year and program to which the funds should be credited.

2.11 Reinstatement of Previously Disallowed Costs. Subsequent to the awarding official's decision to disallow costs, the grantee may provide additional information which is sufficient for the awarding official to determine that some or all of the previously disallowed costs should be reinstated. In situations such as this, the awarding official should issue a revised F&D, provide a copy to the ALO, and request that the Division of Accounting Management revise or cancel the Bill for Collection as appropriate.

2.12 Compromise of Audit Related Debt.

A. **The Assistant Secretary - Indian Affairs** may reduce, forgive, or authorize the write-off of audit related debt when the total amount owed by the grantee is less than \$5,000. **Note: The \$5,000 limit includes all debt owed by the grantee to Indian Affairs, not just the amount owed under one audit.** A request to the Assistant Secretary should be submitted through the cognizant Area Director, Director, Office of Indian Education Programs, or Director, Office of Self-Governance. The request should include sufficient information concerning the financial resources of the grantee for the Assistant Secretary to render an informed decision. If the debt is reduced or forgiven, a copy of the decision memorandum should be provided immediately to the Division of Accounting Management.

B. **The Solicitor and Regional Solicitors** may reduce or forgive audit related debts when the total indebtedness of the grantee does not exceed \$100,000.

C. **The Department of Justice** has sole jurisdiction to compromise debts in excess of \$100,000.

2.13 Time Limitation. Disallowed costs may not be billed or collected if the F&D is issued more than 365 calendar days following receipt of the single audit by the OIG.

2.14 Closure of Audits.

A. **Audits With No Outstanding Disallowed Costs.** Management decisions on single audits are reviewed by the OIG. If the response is acceptable, the OIG provides notification to the official who made the management decision.

(1) If the ALO made the management decision, the OIG provides the awarding official with a copy of the memorandum to the ALO. The awarding official is to provide a copy to the grantee.

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(2) If the awarding official made the management decision, the OIG provides the ALO with a copy of the memorandum to the awarding official. The awarding official is to provide a copy of the OIG memorandum to the grantee.

B. Audits With Disallowed Costs. Resolved audits with outstanding disallowed costs are referred by the OIG to the Assistant Secretary - Policy, Management and Budget (PMB) for tracking of collection efforts.

(1) Documentation of collection, compromise, or reinstatement of disallowed costs must be provided to PMB through the ALO.

(2) PMB provides notification to the ALO that the audit has been closed and the ALO will forward that information to the awarding official.

C. Audits Lacking a Timely Management Decision. Single audits for which the awarding official has not made a management decision within 120 calendar days of issuance by the OIG are referred to PMB for resolution. The management decision memorandum for these audits must be sent through the ALO to PMB. If PMB determines the management decision to be acceptable, notification is provided to the ALO who will forward the information to the awarding official. If there are outstanding disallowed costs, the audit is tracked for collection as described above.

2.15 Unresolved Single Audits. While the responsibility for a determination regarding questioned costs rests with the awarding official, the resolution of compliance or internal control findings requires positive action on the part of the grantee. In a situation where the grantee fails to take action necessary to resolve material audit findings, the audit remains unresolved and the awarding official will offer technical assistance to the grantee. In serious situations, the awarding official may also consider the options of limiting drawdowns, contract declination, or contract reassumption as authorized in statute and regulations.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

June 30, 1997

Memorandum

To: Director, External Audits
Office of Inspector General

From: BIA Awarding Official

Subject: Single Audit of the New Tribe of Indians for the Fiscal Year Ended September 30, 1995,
Report No. 97-A-300.

The subject audit report, issued on April 10, 1997, contained 6 findings and questioned costs of \$22,000 for the Bureau of Indian Affairs to resolve.

I have reviewed the subject report and the Tribe's response included in the report. I have also reviewed the contract/grant files, discussed the findings with the grantee, and obtained documentation for the questioned costs. It is my determination that the findings are all resolved and that the questioned costs are allowable under the contract and are reinstated.

[If the determination is based on information other than that included in the audit report, include a response to each of the findings stating the basis for the determination.]

It is my recommendation that the subject audit should be closed.

cc: New Tribe of Indians
Audit Liaison Officer



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

June 30, 1997

Certified Mail - Return Receipt Requested

....., Chairperson
New Tribe of Indians
Atlanta, Georgia

Dear Chairperson:

Enclosed is a copy of the Findings and Determination which reflects a final decision of the Contracting Officer (or Awarding Official) with respect to the Single Audit Report on the New Tribe of Indians for the Fiscal Year Ended September 30, 1995 (Report No. 97-A-300 issued April 10, 1997).

You have a right to dispute any information contained in the Contracting Officer's final decision. Should you elect to file an appeal, the following appeal notice is hereby provided:

APPEAL NOTICE

This is a final decision of the Contracting Officer (or Awarding Official). You may appeal this decision to the Interior Board of Contract Appeals, 4015 Wilson Boulevard, Arlington, VA 22203. The Interior Board of Contract Appeals (IBCA) is the authorized representative of the Secretary of the Interior with jurisdiction to hear and determine appeals relating to contracts (or grants) made by any Bureau or Office of the Department of the Interior.

If you decide to appeal, you must mail or otherwise furnish a written notice of appeal to the IBCA within 90 days of receipt of this decision and provide a copy to the Contracting Officer (or Awarding Official) from whose decision the appeal is taken. The notice of appeal must indicate that an appeal is intended, reference this decision, and identify the contract number and the audit report number.

If you appeal to the IBCA, you may, solely at your election, proceed under the Board's small claims procedure for claims of \$50,000 or less or its accelerated procedure for claims of \$100,000 or less. Instead of appealing to the IBCA, you may bring an action directly in the U.S. Claims Court within 12 months of the date you receive this decision.

Sincerely,

"Awarding Official"

cc: Audit Liaison Officer

FINDINGS AND DETERMINATION (F&D)
FOR
SINGLE AUDIT REPORT

Contractor: New Tribe of Indians
Atlanta, GA
Telephone (...).....

Audit Report No.: 97-A-300

Audit Period: Fiscal Year Ended September 30, 1995

Awarding Official: Name
Bureau of Indian Affairs
Area/Agency office
Telephone (...).....

Introduction

The Single Audit Act and Office of Management and Budget (OMB) Circular A-128 (or A-133) establish audit requirements for Tribal governments that receive Federal financial assistance. In compliance with these requirements, the New Tribe of Indians had an independent audit conducted for Fiscal Year 1995 by, Certified Public Accountant, in accordance with the Government Auditing Standards. The audit was submitted to the Department of the Interior's Office of Inspector General. The audit contained six (6) findings and questioned costs which totaling \$22,000. The Office of Inspector General forwarded copies of the audit to the Awarding Official on April 10, 1997, for resolution.

Findings

The auditor identified the following areas of non-compliance with internal control procedures:

Finding No. 1: Personnel files were not kept in a secure location in accordance with Privacy Act requirements.

Finding No. 2: Property records were not maintained as required by fiscal procedures manual.

Finding No. 3: Some purchase orders did not include two signatures as required in the Tribe's fiscal procedures manual.

Finding No. 5: Bank accounts were not reconciled monthly.

Tribes' Response: By letter dated May 25, 1997, the Tribe states that they have corrected the internal control issues by hiring a trained accountant and a Tribal coordinator who have years of experience working with Indian programs. All internal control procedures are currently being followed.

Questioned Costs

The auditor identified the following questioned costs:

Finding No. 4: The Tribe made payments for penalties and interest in the amount of \$12,000.

Tribe's response: By letter dated May 25, 1997, the Tribe states that they are actively pursuing the collection of loans, and that unallowable expenditures such as interest will be covered from non-Federal sources.

Finding No. 6: Certain per diem and expense reports lacked backup and documentation and there was no evidence of approval before payment. The amount of questioned costs was \$10,000.

Tribe's response: By letter dated May 25, 1997, the Tribe provided copies of receipts, tickets, and approval letters to support the \$10,000 in questioned costs.

Determination

I have reviewed the Auditor's findings and the tribe's responses regarding the internal control issues and determined them to be acceptable.

I have also reviewed the Tribe's documentation for \$10,000 in questioned costs related to per diem and expense reports and have determined them to be allowable costs. Therefore, the questioned costs of \$10,000 are reinstated.

Interest and penalties are unallowable costs. The audit finding is sustained and the amount of \$12,000 is to be refunded by the Tribe to the Government.

"Name", Awarding Official
Warrant # (if applicable)

Date



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

June 30, 1997

Memorandum

To: Director, External Audits
Office of Inspector General

From: BIA Awarding Official

Subject: Single Audit of the New Tribe of Indians for the Fiscal Year Ended September 30, 1995,
Report No. 97-A-300.

The subject audit report, issued on April 10, 1997, contained six findings and questioned costs of \$22,000 for the Bureau of Indian Affairs to resolve.

I have reviewed the subject report and the Tribe's response included in the report. I have also reviewed the contract/grant files and discussed the findings with the grantee. It is my determination that the internal control findings are all resolved. Based on documentation provided by the grantee, I have reinstated \$10,000 of the questioned costs. The attached Findings and Determination notified the grantee that \$12,000 of the questioned costs were disallowed and must be refunded to the Government.

Attachment

cc: New Tribe of Indians
Audit Liaison Officer

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Management Controls

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3.1 Purpose. The purpose of this chapter is to issue guidance to agency managers on ensuring the accountability and effectiveness of Federal programs and operations by establishing management controls, assessing them periodically, revising controls when necessary, and reporting weaknesses in management controls when indicated.

3.2 Authority.

- A. Title 31 U.S.C. §3512, Federal Managers' Financial Integrity Act (FMFIA), P.L. 97-255.
- B. Title 31 U.S.C. §901, Chief Financial Officers (CFO) Act, P.L. 101-576, as amended.
- C. Title 5 U.S.C., Appendix, Inspector General Act, P.L. 95-452, as amended.
- D. Title 31 U.S.C. § 3512, Accounting and Auditing Act of 1950, as amended.
- E. Title 31 U.S.C. §1341, Antideficiency Act

3.3 Guidance.

A. Office of Management and Budget (OMB) Circular A-123, Management Accountability and Control.

B. Departmental Manual Part 340, Management Control Systems.

3.4 Designation of Management Control Coordinator. As required by 340 DM 1.4(G), the Director, Office of Audit and Evaluation, is the designated Management Control Coordinator for Indian Affairs.

3.5 Responsibilities.

A. Managers.

(1) Establish, maintain, monitor, evaluate, and improve on systems of controls to help ensure that program objectives are met and that Government resources are used efficiently and effectively for their intended purpose;

(2) Develop plans to correct identified weaknesses and ensure that such plans are implemented; and

(3) Report, as required, on implementation actions to correct any internal control deficiencies which have been declared material weaknesses.

B. All Indian Affairs Employees are to report identified weaknesses in controls to the person responsible for the function or activity involved, and to the supervisory level immediately above the person directly responsible.

C. Executives:

(1) Determine, on an annual basis, which programs or functions should be subject to a formal review in order to supplement management's judgment as to the adequacy of the management controls;

(2) Report annually on the adequacy of controls in their organization;

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(3) Review and approve plans prepared to correct identified material weaknesses within their area of responsibility; and

(4) Provide the oversight and support necessary to ensure that corrective action plans are completed within the time frame identified in the plan.

D. Management Control Coordinator:

(1) Provides technical assistance to Indian Affairs organizations in assessing management controls, reporting the results of reviews, developing corrective action plans, and implementing corrective actions;

(2) Coordinates the submission of required reports on control evaluations and implementation of corrective actions for identified material weaknesses; and

(3) Assists senior management in evaluating identified weaknesses to determine if reporting outside of Indian Affairs is indicated.

3.6 Management Controls. Management controls are the organization, policies, and procedures used to ensure that:

- A. Programs achieve their intended results;
- B. Resources are used consistent with the agency's mission;
- C. Resources are protected from waste, fraud, and mismanagement;
- D. Laws and regulations are followed; and
- E. Reliable and timely information is maintained, reported, and used for decision-making.

3.7 Management Control Standards

A. General Management Control Standards.

(1) **Compliance with Law.** All program operations, obligations and costs must comply with applicable law and regulation. Resources should be efficiently and effectively allocated for duly authorized purposes.

(2) **Reasonable Assurance and Safeguards.** Management controls must provide reasonable assurance that assets are safeguarded against waste, loss, unauthorized use, and misappropriation. Management controls should be logical, applicable, reasonably complete, and effective and efficient in accomplishing management objectives.

(3) **Integrity, Competence, and Attitude.** Managers and employees must have personal integrity and are obligated to support the ethics programs in their agencies. The spirit of the Standards of Ethical Conduct requires that they develop and implement effective management controls and maintain a level of competence that allows them to accomplish their assigned duties. Effective communication within and between offices is encouraged.

B. Specific Management Control Standards.

(1) **Delegation of Authority and Organization.** Managers should ensure that appropriate authority, responsibility and accountability are defined and delegated to accomplish the

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mission of the organization, and that an appropriate organizational structure is established to effectively carry out program responsibilities. To the extent possible, controls and related decision-making authority should be in the hands of line managers and staff.

(2) Separation of Duties and Supervision. Key duties and responsibilities in authorizing, processing, recording, and reviewing official agency transactions should be separated among individuals. Managers should exercise appropriate oversight to ensure individuals do not exceed or abuse their assigned authorities.

(3) Access to and Accountability for Resources. Access to resources and records should be limited to authorized individuals, and accountability for the custody and use of resources should be assigned and maintained.

(4) Recording and Documentation. Transactions should be promptly recorded, properly classified, and accounted for in order to prepare timely accounts and reliable financial and other reports. The documentation for transactions, management controls, and other significant events must be clear and readily available for examination.

(5) Resolution of Audit Findings and Other Deficiencies. Managers should promptly evaluate and determine proper actions in response to known deficiencies, reported audit and other findings, and related recommendations. Managers should complete, within established time frames, all actions that correct or otherwise resolve the appropriate matters brought to management's attention.

3.8 Assessment of Management Controls. It is not necessary to establish a separate process to assess the effectiveness of management controls. During the course of daily operations, problems are often identified that indicate controls are not working as intended, and adjustments are made to correct the problem. The results of the required administrative procedures (such as annual property inventories or performance appraisals), internal management or program reviews, and OIG or GAO audits can also provide managers with a basis for assessing controls. The following list of questions should be considered by managers in making an assessment:

- A. Are position descriptions accurate?
- B. Does the organization structure provide for appropriate levels of accountability, supervision, and separation of duties?
- C. Were performance standards established and performance appraisals completed?
- D. Did the annual physical inventory of real property and capitalized personal property identify problems in the accurate recording of property, in the disposal process, or in safeguarding the property?
- E. Are payments rejected because of a failure to enter obligational data?
- F. How many requests to record undisclosed obligations are submitted by the office?
- G. Are all items on the undelivered orders report valid obligations, or should any of them be deobligated?

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H. Is accurate information readily available to assess the performance of program responsibilities?

I. Are there frequent complaints about the level of service being provided?

J. Have all recommendations contained in internal reviews or in audits conducted by the OIG or GAO been implemented?

3.9 Reporting by Employees and Managers. Management control deficiencies identified in the course of daily operations or as a result of management reviews will be reported through the chain of command to the individual responsible for the function or activity involved, and to the immediate supervisor of the individual responsible for the function or activity. This process enables more senior levels of management to provide needed support or oversight for taking corrective actions. Where findings cut across organizational boundaries, the reporting will cross over as well and be directed to a sufficiently high level to ensure appropriate action.

3.10 Identification of Potential Material Weaknesses. A material weakness is a deficiency that the Secretary of the Interior determines to be of sufficient importance to warrant reporting to the President and to the Congress.

A. Assessment of Importance. Once responsibility for correcting the management control deficiency has been established, the next higher management level (which has already been apprised of the problem) determines whether a condition is sufficiently serious to warrant further reporting up the management chain. In making this decision, the manager should consider the following questions:

- (1) Could this problem lead to a serious injury or loss of life?
- (2) Even if the problem is fixed in my part of the organization, is there a good possibility that the same problem may exist in other parts of the organization (the office, the area, the bureau, the department)?
- (3) Either before or after the deficiency is corrected, is there a possibility that higher levels of management may get questions from Congress or the media about the problem?
- (4) Is it going to take more than three months to correct the deficiency?
- (5) Was there a significant loss of government property? Is there the potential for a significant property loss?
- (6) Was there a significant loss of money -- either through misuse of appropriated funds or under collection of revenues? Is there the potential for a significant loss?
- (7) Were laws broken or regulations ignored?
- (8) Could the department have any potential liability to employees or to third parties as a result of the deficiency?
- (9) Were there ethical violations by employees or managers?
- (10) Was inaccurate information reported upon which management or third parties

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based decisions?

B. Further Reporting. If the answer to any one of the questions above is "yes," further reporting is generally indicated.

C. Form of Reporting. Weaknesses reported to the Commissioner, the Director, Office of Indian Education Programs, or the Assistant Secretary - Indian Affairs should be written and a copy of the report should be provided to the Office of Audit and Evaluation.

3.11 Declaration of Material Weakness.

A. Assistant Secretary - Indian Affairs. Based upon the information reported by the Deputy Commissioner, the Director, Office of Indian Education Programs, and the directors of the staff offices reporting to the Assistant Secretary, the Assistant Secretary will determine if any internal control weaknesses are of sufficient importance to warrant reporting to the Department's Management Control and Audit Follow Up Council.

B. The Management Control and Audit Follow Up Council reviews information submitted by the Assistant Secretaries and makes recommendations to the Secretary on deficiencies that meet the criteria for being declared material weaknesses.

3.12 Corrective Action Plans. Many weakness identified in daily operations can be satisfactorily addressed and corrected without the development of a formal plan. In other cases, however, plans are advisable or required.

A. Development of a Corrective Action Plan is Advised When:

- (1) Responsibilities are split among organizations; or
- (2) Implementation will extend beyond one month.

B. Development of a Corrective Action Plan is Required When:

- (1) Requested by a manager or executive; or
- (2) A material weakness has been declared.

3.13 Implementation Actions. Indian Affairs is required to provide semi-annual reports to the Department on implementation of actions necessary to correct identified material weaknesses. The Management Control Coordinator will work with the responsible offices in the preparation and submission of these reports.

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Management Accountability
Annual Assurance Statements

Page 1

4.1 Purpose. This chapter describes the procedures and assigns responsibilities for preparation of Annual Assurance Statements for Indian Affairs.

4.2 Authority. Title 31 U.S.C. §3512, Federal Managers' Financial Integrity Act (FMFIA), P.L. 97-255.

4.3 Guidance.

A. **Office of Management and Budget (OMB) Circular A-123**, Management Accountability and Control, June 21, 1995;

B. **Departmental Manual Part 340**, Management Control Systems; and

C. **Indian Affairs Manual, Part 5, Chapter 3**, Management Controls

4.4 Requirements. FMFIA requires the head of each executive agency to prepare an annual statement on the adequacy of the systems of internal accounting and administrative controls. The Secretary of the Department of the Interior (Secretary) provides a "Statement of Assurance" to the President and to the Congress on the effectiveness of management controls within the Department. The Secretary's statement is based upon assurance statements provided by bureau and office directors, through the cognizant assistant secretary.

4.5 Responsibilities. The following officials are responsible for the submission of annual assurance statements:

A. **Commissioner of Indian Affairs** will provide assurance for Bureau of Indian Affairs programs and operations other than Education based on personal knowledge and on the information provided by the following:

(1) Area Directors and Central Office Directors (other than Education) will provide to the Deputy Commissioner an assessment of the effectiveness of management controls within their area of responsibility. Directors will also provide a brief explanation of the basis for this judgment, including the results of any management control reviews conducted during the year, and a paragraph which describes the staff, funding (other than that obligated for Indian Self-Determination contracts and grants), and service population.

(2) Director, Office of Audit and Evaluation will provide the Deputy Commissioner with relevant information on audits conducted by the Office of Inspector General and the General Accounting Office and summary information about single audits conducted for tribes and tribal organizations which receive Federal financial assistance from Indian Affairs.

B. **Director, Office of Indian Education Programs**, will provide assurance for the Office of Indian Education Programs. The Director may require input from Education Line Officers or other OIEP officials.

C. **Director, Office of Self-Governance**, will provide assurance for programs and functions administered by the Office of Self-Governance.

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Chapter: 4 Annual Assurance Statements Page 2

D. Director, Office of American Indian Trust, will provide assurance for the Office of American Indian Trust.

E. Director, Office of Audit and Evaluation, will provide assurance for the Office of Audit and Evaluation.

4.6 Basis for Assurance. Managers may supplement their own judgment gained from daily operation of programs and systems with information derived from any of the sources discussed in Chapter 3 of this Manual Part.

4.7 Reasonable Assurance means that there is a satisfactory level of confidence that controls are in place and working efficiently and effectively to achieve program objectives and Government resources are safeguarded given considerations of cost, benefit, and risk.

4.8 Format. Suggested formats are provided for the following:

- A. Statements from Area Directors and Central Office Directors: Illustration 1;
- B. Statement from the Commissioner: Illustration 2;
- C. Statement from Director, Office of Indian Education Programs: Illustration 3;
- D. Statement from Director, Office of Self-Governance: Illustration 4;
- E. Statement from Director, Office of American Indian Trust: Illustration 5; and
- F. Statement from the Director, Office of Audit and Evaluation: Illustration 6.

4.9 Due Dates.

A. October 15: Bureau and office statements due to the Assistant Secretary - Policy, Management and Budget, with concurrence of the Assistant Secretary.

B. October 8: Commissioner's Statement and Statements from the Directors of Indian Education Programs, American Indian Trust, Audit and Evaluation, and Self-Governance due to the Office of Audit and Evaluation.

C. September 30: Statements from Area Directors and Central Office Directors due to the Commissioner, and statements from OIEP officials, if required, due to the Director, Office of Indian Education Programs.

4.10 Technical Assistance and Coordination of Statements.

A. Technical Assistance in preparing statements for any of the responsible officials is available from the Office of Audit and Evaluation.

B. Coordination of the statements for submission to the Commissioner, Assistant Secretary and Secretary is necessary. Therefore, all Directors' statements should be mailed to the attention of the Director, Office of Audit and Evaluation, 1849 "C" Street, NW, MS 2559-MIB, Washington, DC 20240.

Memorandum

To: Assistant Secretary - Policy, Management, and Budget
(Attention: Office of Financial Management)

Through: Assistant Secretary - Indian Affairs

From: Commissioner of Indian Affairs

Subject: FY 1996 Annual Assurance Statement on Management Controls

The Bureau of Indian Affairs has completed an assessment of its systems of management, administrative and financial controls in accordance with the standards and guidelines established by the *Federal Managers' Financial Integrity Act (FMFIA)* and the Office of Management and Budget. The objectives of this assessment were to ensure that:

- programs achieved their intended results;
- resources were used consistent with agency mission;
- resources are protected from waste, fraud, and mismanagement;
- laws and regulations are followed;
- reliable and timely information is maintained, reported, and used for decision-making.

In performing the assessment, the Bureau relied on the knowledge and experience management has gained from daily operation of its programs and systems of management, administrative and financial controls, and information obtained from management control reviews, OIG and GAO audits, program reviews, evaluations and studies, audits of financial statements, performance plans and reports, and other information. The scope of the assessment was broad enough to support the following conclusions.

Statements of Assurance by BIA Directors:

The Bureau provides a wide-range of services directly, or through self-determination contract, grant, and self-governance compact agreements with tribal governments and organizations, to over 1.2 million Indian, Eskimo, and Aleut residents in 31 states. In addition, the Bureau administers more than 54 million acres of land owned by tribes, individual Indians, and the Federal Government. The program services and trust responsibilities are managed through 12 area offices, 83 agency offices, and nine other field locations.

In FY 1995, the Bureau obligated over \$1.2 billion for its program operations and awarded \$1 billion to tribal organizations under self-determination and self-governance agreements. These amounts included \$421 million in program funds allocated from other federal agencies. During FY 1996, the Bureau is administering nearly \$2.5 billion in total resources, of which an estimated \$1.3 billion is for direct operations and support services to tribes that do not receive contracts, grants, or compacts. The Bureau is expected to have about 10,600 employees at the end of the fiscal year.

Assurance statements have been received from nine Senior Executives in the BIA who together manage 4,616 employees and annual budgets of \$650 million. When combined with the Offices of Indian Education Programs, Self-Governance, American Indian Trust, and Audit and Evaluation, the assurance statements for FY 1996 cover \$936 million, or 70 percent of the funds available for Bureau operations, and 9,846 employees, or 93 percent of total Indian Affairs' staffing. These assurance statements do not identify any problems of material concern in the systems of management, administrative, and financial controls, with the exception of the material weaknesses in BIA operations which have been previously disclosed.

OIG and GAO Audits and Reports on BIA Operations:

During FY 1996, the General Accounting Office issued four reports based in part on information provided by BIA: Profile of Indian Gaming; Survey of Telecommunications Costs; Support for International Organizations; and Land Ownership, Acreage, Management, and Use of Federal Lands. In each instance, BIA had the information requested and provided it in a timely manner.

Four final audits and two draft audits of BIA operations were issued by the Office of Inspector General in FY 1996. Two of the final audits contained no recommendations for BIA management: Firefighter Payroll in the Albuquerque Area Office and the Principal Financial Statements for FY 1995. The audits of the Road Construction Program and of Indian Irrigation Projects had a total of 20 recommendations. All of these recommendations were resolved with the OIG. Implementation of the seven corrective actions in the Road Construction program is scheduled for FY 1997. While implementation of the 13 irrigation project recommendations will require several years, in FY 1996 the BIA began the first-ever organized, systematic review and reconciliation of the financial data on irrigation projects. None of the draft or final audits identified any material weaknesses in BIA operations that had not been previously disclosed.

Material Weaknesses:

Since 1993, the Bureau has taken effective actions to eliminate 12 of the 17 long-standing weaknesses that had been previously identified by the Department. During FY 1996, the BIA completed actions to correct problems in Personal Property Management that had been noted in 1992. Significant progress has been made on Irrigation Operations and Maintenance, which was first identified as a material problem twelve years ago, so that final corrective actions will be completed by December 1996. Final corrective actions will occur in October 1997 on the Acquisition Management Program, which was listed as a material weakness in 1989. Several additional years will be required to resolve material weaknesses in Debt Collection (1987), Records Management (1991), and Real Property Management and Accounting (1995).

The corrective action reports for pending material weaknesses are attached. The existence of these material weaknesses does not prevent the Bureau from providing reasonable assurance on the effectiveness of its management controls as a whole.

Based on the results of the assessment and except for the material weaknesses noted, I conclude that the Bureau's systems of management, administrative and financial controls provide reasonable assurance that the objectives of the *FMFIA* have been achieved and that the Bureau's financial systems generally conform to government wide principles, standards and related requirements.

Attachment

Memorandum

To: Assistant Secretary - Policy, Management and Budget
Through: Assistant Secretary - Indian Affairs
From: Director, Office of Indian Education Programs
Subject: Management Accountability and Control

The Federal Managers Financial Integrity Act (FMFIA) requires an annual report on the effectiveness of the management control systems which are to provide reasonable assurance that: (1) programs achieve their intended result; (2) resources are used in a manner consistent with the Bureau's mission; (3) resources are protected from waste, fraud, and mismanagement; (4) laws and regulations are followed; and (5) reliable and timely information is maintained, reported, and used for decision-making.

During the 1995-96 academic year, the Office of Indian Education Programs (OIEP) operated 83 elementary and secondary schools, six dormitories, the Haskell Indian Nations University, and the Southwestern Indian Polytechnic Institute and funded an additional 98 schools and dormitories operated by tribes under grant or contract. OIEP also provided funding for technical assistance and endowments to 24 Tribally Controlled Community Colleges. In Fiscal Year 1996, the OIEP administered \$502 million in appropriations made to the Bureau of Indian Affairs and \$78 million that was allocated from the U.S. Department of Education. Staffing for OIEP and Bureau-operated schools was 5,200 Federal employees.

I conclude that the Office of Indian Education Programs systems of management, administrative, and financial controls provide reasonable assurance that the objectives of the FMFIA have been achieved. This statement is based upon management's knowledge of day-to-day operations, monthly reviews of summary fund status reports, periodic reviews with school superintendents and Education Line Officers, review of position descriptions, and adherence to performance appraisal requirements as well as two internal audits. One of those two audits was an Office of Inspector General report which is closed and contained no findings. The other was a General Accounting Office information report. Furthermore, all Bureau-operated schools received annual accreditation by state and/or regional education organizations.

Memorandum

To: Assistant Secretary - Policy, Management and Budget
(Attention: Office of Financial Management)

Through: Assistant Secretary - Indian Affairs

From: Director, Office of Self-Governance

Subject: Management Accountability and Control

The *Federal Managers' Financial Integrity Act* requires an annual report on the effectiveness of the management control systems which are to provide reasonable assurance that: (1) programs achieve their intended result; (2) resources are used in a manner consistent with the Office's mission; (3) resources are protected from waste, fraud, and mismanagement; (4) laws and regulations are followed; and (5) reliable and timely information is maintained, reported, and used for decision-making.

The Office of Self-Governance administered over \$150 million in financial assistance to 180 federally-recognized tribes under 53 compact agreements during FY 1996. The Office also provided policy guidance and oversight for negotiations between the BIA and self-governance tribes on 62 annual funding agreements to be implemented in FY 1997. In FY 1996, the Office had a staff of eight professional and administrative personnel and a total budget of \$1,211,000, exclusive of amounts provided under self-governance annual funding agreements.

The Office reviewed 44 single audits which were submitted by 36 of the Self-Governance compactors. Of these audits, 43 percent contained no findings or questioned costs. The remainder of the audits identified 93 compliance or internal control findings and questioned costs of \$23,245. All findings and questioned costs have been satisfactorily resolved. We have contacted those tribes which are delinquent in submitting the required audits and have been assured that the reports will be provided within six months.

I conclude that the Office's systems of management, administrative, and financial controls provide reasonable assurance that the objectives of the *FMFIA* have been achieved, except for the timely submission of reports required under section 405 of the *Indian Self-Determination and Education Assistance Act*. Section 405 requires a report to Congress on the costs and benefits of self-governance by January 1 of each year. The FY 1995 annual report has been delayed by the additional time needed to negotiate the methodology with the Self-Governance Rulemaking Committee in conjunction with the regulations being developed for the Tribal Self-Governance Program. Section 403 also requires that each annual funding agreement with a self-governance tribe be submitted for review by the Congress no later than 90 days before the effective date of the agreement. In several instances, FY 1996 agreements were not finalized within this time frame because of protracted negotiations.

This assurance statement is based upon my knowledge of day-to-day operations, monthly reviews of summary fund status reports, review of position descriptions, adherence to performance appraisal requirements, an annual inventory of personal property, and a review of tribal audits.

Memorandum

To: Assistant Secretary - Policy, Management and Budget
(Attention: Office of Financial Management)

Through: Assistant Secretary - Indian Affairs

From: Director, Office of Audit and Evaluation

Subject: Management Accountability and Control

The *Federal Managers' Financial Integrity Act* requires an annual report on the effectiveness of the management control systems which are to provide reasonable assurance that: (1) programs achieve their intended result; (2) resources are used in a manner consistent with the Office's mission; (3) resources are protected from waste, fraud, and mismanagement; (4) laws and regulations are followed; and (5) reliable and timely information is maintained, reported, and used for decision-making.

The Office of Audit and Evaluation provides technical advice and assistance to the Bureau of Indian Affairs and the Office of Self-Governance in the resolution of audit findings related to their programs, including annual audit reports submitted by tribal governments, schools, and organizations that receive federal financial assistance. In FY 1996, the Office had a staff of 13 professional and administrative personnel and a total budget of \$1,398,000.

I conclude that the Office's systems of management, administrative, and financial controls provide reasonable assurance that the objectives of the *FMFIA* have been achieved. This statement is based upon my knowledge of day-to-day operations, availability of appropriate manuals and regulations, review of position descriptions, adherence to performance appraisal requirements, monthly reviews of budget and accounting reports, and an annual inventory of personal property.

In FY 1995, the Bureau and the Office of Self-Governance awarded over \$1 billion under self-determination contract, grant, and self-governance compact agreements. Federal funds were provided to 449 tribes and 97 schools are operated by tribes or tribal organizations. Through August 1996, 388 audit reports were received from grantees and tribal contractors, as required under the *Single Audit Act of 1984*, covering FY 1995 and prior fiscal years. Of the 388 audits, 160 reports (41 percent) contained no adverse findings. Another 156 reports with a combined 804 audit findings were successfully resolved, although collection action is pending on ten of these. The BIA made the required management decisions on all audits with findings or questioned costs within the 180 day period prescribed by Departmental policy. Of the remaining audits, the OIG is presently reviewing BIA's management decisions on 17, and BIA management decisions are pending on 57.

During 1996, BIA awarding officials have disallowed \$121,000 of grant and contract expenditures charged to Federal funds in prior fiscal years. This represents only one-tenth of one percent (.01 percent) of annual BIA awards to tribes and tribal organizations.

Based upon these audit results, the Department has reasonable assurance that the federal financial assistance provided by the BIA to tribes and tribal organizations is protected from waste, fraud, and abuse.

9-22-95
J



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

APR 28 1995

BIAM, Release No. 9501

IN REPLY REFER TO:

Memorandum

To: Holders of 14 BIAM, Audits

From: Deputy Commissioner of Indian Affairs

Subject: Transmittal of 14 BIAM, Release 5

This transmits the Bureau's revised procedures on resolution of internal and external audits. The handbook identifies the responsibilities of the Office of Audit and Evaluation, Area Offices, other awarding officials, and the Division of Accounting Management in the timely resolution of audits.

This release is issued in keeping with the bureau policy of periodic review of all manual parts.

Hilda A. Manuel
Deputy Commissioner of Indian Affairs

Filing Instructions:

- (a): Remove superseded material:
 - 14 BIAM, Release 4 (dated 09/26/86) (5 sheets)
 - Table of Contents (dated 09/26/86) (1 sheet)
 - Illustrations 1-13 (dated 09/26/86) (11 sheets)
- (b): Insert new material transmitted:
 - 14 BIAM, Release 5 (dated 04/28/95) (8 sheets)
 - Table of Contents (dated 04/28/95) (1 sheet)
 - Illustrations 1-13 (dated 04/28/95) (9 sheets)
- (c): Pen-and-ink changes:
 - None

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**AUDITS
General**

1. GENERAL

1.1 Purpose. The purpose of this manual is to provide policies and procedures to be followed for audit response, resolution, and close-out.

1.2 Authority. This manual is issued pursuant to the Inspector General Act of 1978 (P.L. 95-452); The Single Audit Act of 1984 (P.L. 98-502); Office of Management and Budget (OMB) Circulars A-50, A-110, A-123, and A-128; Parts 360 and 361 of the Department Manual; 43 CFR Part 12; and the authority delegated to the Assistant Secretary - Indian Affairs in accordance with 209 DM 8. These documents shall be maintained as references in Bureau of Indian Affairs' offices having responsibilities for audits.

1.3 Policy. It is the policy of the Bureau of Indian Affairs to provide timely resolution of external audit reports; to give prompt and objective consideration to the findings and recommendations contained in internal audit reports; to follow through, if necessary, with appropriate corrective actions; and to report, as required, on all of the above.

1.4 Definitions.

A. Closed Audit means that the Office of Inspector General (OIG), or the Office of Policy, Management and Budget (PMB) if the audit has been referred, notifies the Bureau that it agrees that all findings and recommendations are resolved and implemented, including the collection, write-off or reinstatement of any disallowed costs.

B. Disallowed Cost means a cost that is questioned by auditors that management has subsequently sustained or agreed should not be charged to the Government.

C. Management means the agency official to whom an audit report is addressed. For internal audits, the agency official is the Assistant Secretary or Bureau Director. For external audits, the agency official is the contracting officer or grants awarding official within whose purview the subject matter of the audit falls.

D. Management Decision means the evaluation by management of the findings and recommendations included in an audit report and the issuance of a final decision by OIG or PMB concerning management's response to such findings and recommendations, including actions determined to be necessary.

E. Questioned Cost means a cost that is questioned by the OIG or other audit entity because of an alleged violation of a

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provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; a finding that, at the time of the audit, such cost is not supported by adequate documentation; or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable.

F. Reinstated Cost means a questioned cost that management determines is allowable and, therefore, the contractor does not owe the government.

G. Resolved Audit means that stage of a recommendation in which a determination of actions to be taken has been rendered and accepted by management, the OIG, and the Office of Policy, Management and Budget (PMB).

1.5 Types of Audits.

A. External Audits. These are audits of non-Federal organizations or commercial enterprises that are referred to the Bureau of Indian Affairs for resolution. The largest number are those required by the Single Audit Act of 1984 and OMB Circular A-128. These audits are required of tribes or tribal organizations receiving Federal financial assistance (grants, self-determination contracts, or self-governance compacts). The audits are performed by independent certified public accountants and cover financial operations, internal controls, and compliance with Federal statutes and regulations. Other external audits are conducted by the OIG or other Federal auditors of costs claimed by commercial businesses having a contractual relationship with the Bureau of Indian Affairs.

B. Internal Audits. These are audits of Bureau operations performed either by the Office of Inspector General (OIG) or the General Accounting Office (GAO). Bureau administrative functions, including oversight of self-determination awards, program operations, and audits performed under the Chief Financial Officers Act fall within the scope of internal audits. The purpose of the audits is to provide information on the effectiveness, efficiency, and economy of Bureau programs; to determine if the programs are conducted in compliance with laws, regulations, and Department or Bureau policies; and to determine if financial operations are properly conducted.

1.6 Responsibilities.

A. Assistant Secretary - Indian Affairs. The Assistant Secretary - Indian Affairs (Assistant Secretary) through the Audit Liaison Officer (ALO) is responsible for the development and oversight of Bureauwide audit policies and procedures. The

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Assistant Secretary also ensures that the performance standards for all appropriate senior management officials contain factors that reflect accountability for resolving audits and for implementing corrective action plans.

B. Audit Liaison Officer. The Director, Office of Audit and Evaluation, is the Assistant Secretary's Audit Liaison Officer. The Audit Liaison Officer:

(1) Designates Bureau or Departmental officials responsible for preparation of the Assistant Secretary's response to internal audit reports.

(2) Provides semiannual reports to designated Departmental officials on the status of unresolved audit recommendations.

(3) Provides periodic analysis of audit recommendations, resolution, and corrective actions, to determine trends and problems, and to recommend solutions.

(4) Provides assistance to Bureau management in responding to audits, formulating corrective action plans, implementing such plans, and reporting thereon.

(5) Serves as coordinator for OIG and GAO audits, attends entrance and exit conferences, is the contact for annual audit plans, and mediates disputes.

(6) Conducts validation studies to ensure that corrective actions have been implemented and have corrected the problems noted in the audit findings.

(7) Establishes and maintains an automated tracking system to provide management information on the status of all open internal and external audits.

C. Bureau Directors. Bureau Central Office Directors and Area Directors:

(1) Designate an audit coordinator to serve as the primary point of contact with the ALO.

(2) Ensure timely resolution of external audits referred by the OIG.

(3) Ensure the preparation of timely, complete responses to internal audits referred by the ALO.

(4) Ensure that corrective action plans related to

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internal audits:

- (a) Will resolve the identified weakness.
- (b) Are reasonable in terms of personnel and financial resources required for implementation.
- (c) Identify responsible officials.
- (d) Are completed within the specified time frame.

D. Audit Coordinators. The audit coordinators are designated by Central Office and Area Directors to:

(1) Monitor the status of external audit resolution, internal audit responses, and corrective action plan implementation in order to provide timely notification of progress and problems to the Director.

(2) Provide information to be included in the semiannual report on audit follow-up to the ALO within the designated time frame and in such format as may be required.

(3) Identify issues requiring technical assistance from the ALO and request such assistance through the Director.

(4) Designate personnel responsible for preparing audit responses.

E. Awarding Officials. Awarding officials include Contracting Officers, Education Line Officers, and others who have been delegated authority to award contracts or grants to tribes, tribal organizations, and individuals. Awarding officials:

(1) Resolve external audit reports referred by the OIG and prepare management decisions.

(2) Resolve issues of questioned costs identified through internal audit reports.

(3) Update the information contained in the audit tracking system at those locations where the system is operational.

F. Division of Accounting Management. The Division of Accounting Management:

- (1) Issues Bills for Collection and demand letters for

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audit related debt.

(2) Submits the required audit-related debt collection reports to the ALO through the audit tracking system.

(3) Coordinates with awarding officials on the preparation of Claims Collection Litigation Reports, when required.

(4) Prepares requests to write-off uncollectible audit-related debt for approval by appropriate officials.

AUDITS
External Audits

2. EXTERNAL AUDITS

2.1 Notification. The OIG provides written notification to the cognizant awarding official transmitting a single audit (Illustration 1). A copy of this notification is provided to the ALO. The notification may state that there are no findings or questioned costs to be resolved. In that case, no further action is required. In other instances, there may be findings but no questioned costs; questioned costs, but no other findings; or both findings and questioned costs. A response from the contractor or grantee may be included in the audit report.

2.2 Audits With Findings but No Questioned Costs. Unless otherwise requested by the cognizant Director, the ALO shall review audits with findings but no questioned costs to determine if the response contained in the audit report is adequate. If the response is deemed adequate to resolve the audit, the ALO shall so notify the OIG by memorandum and recommend that the audit be closed. A copy of the memorandum shall be sent to the cognizant awarding official (Illustration 2). If the ALO does not recommend closure based upon the response, the ALO shall notify the cognizant awarding official that the audit requires action by the awarding official to resolve the findings (Illustration 3).

2.3 Audits With Questioned Costs and/or Unresolved Findings. All audits with questioned costs, unresolved findings, or both require final action by the awarding official within ninety calendar days of issuance of the audit notification by the OIG. In resolving the audit, the awarding official shall take one of the following actions:

A. Audit Resolution Based on Available Information. The awarding official reviews the response contained in the audit report, the contract or grant files, and other available information to determine if the audit can be resolved with the information at hand. In some cases, the awarding official may be able to make determinations about questioned costs based on the Tribe's response to the audit. If the findings can be resolved, the awarding official shall provide the contractor or grantee with the findings and determinations and notify the OIG by memorandum attaching a copy of the findings and determinations, and recommending that the audit be closed. A copy of the memorandum shall be provided to the contractor or grantee (Illustration 4).

B. Requests for Additional Information. If the audit lacks a response from the contractor or grantee or if the awarding official determines that additional information is required, the awarding official shall contact the contractor or

AUDITS
External Audits

grantee within fourteen (14) calendar days of receipt of the audit from the OIG or the ALO. The letter shall request a response from the contractor or grantee within thirty (30) calendar days (Illustration 5). Failure of the contractor or grantee to provide a response to support the expenditure of funds for questioned items does not relieve the awarding official of the responsibility for issuing findings and determinations on the allowability of such questioned costs.

(1) If all questioned costs are reinstated and all findings are resolved based upon the response, the awarding official shall provide the contractor or grantee with the findings and determinations and notify the OIG by memorandum, attaching a copy of the findings and determinations, and recommending that the audit be closed (Illustration 6).

(2) If some or all of the questioned costs are disallowed, the awarding official shall notify the contractor or grantee of the findings and determinations and of their appeal rights. The OIG shall be notified by memorandum, attaching a copy of the findings and determinations, of the resolution of the audit and the disallowance of certain questioned costs (Illustration 7). Any appeal of the awarding official's decision must be filed with the Interior Board of Contract Appeals within 30 days after receipt of the decision, in accordance with 43 CFR 4 and 25 CFR 2.

2.4 Collection of Disallowed Costs. Once the awarding official has determined that certain costs are disallowed, these amounts become due and payable to the Bureau. While the audit findings and questioned costs may be resolved, the audit cannot be closed until final disposition of the debt. Audit related debt may be resolved:

A. By payment from the contractor or grantee without the issuance of a Bill for Collection (BFC). Based upon the findings and determinations, the contractor or grantee may remit a check or money order payable to the Bureau of Indian Affairs. The check or money order shall be immediately forwarded to the Division of Accounting Management with a field receipt identifying the amount as repayment of disallowed costs related to the specific audit.

B. By payment following receipt of a BFC. If the contractor or grantee does not make payment within five (5) calendar days following notification of disallowed costs, the awarding official shall immediately request that the Division of Accounting Management issue a Bill for Collection (Illustration 8). Further actions following the issuance of a BFC are governed by the Debt Collection Act and 42 BIAM.

AUDITS
External Audits

C. By administrative offset. In this instance, the government withholds money otherwise payable to the contractor or grantee to satisfy the debt owed to the government.

2.5 Resolution and Closure of Audits. Responses to external audits are reviewed by the OIG. If the response is acceptable, the OIG agrees to close the audit by memorandum to awarding official or to the Audit Liaison Officer (Illustration 9).

2.6 Resolution and Closure of Overdue Audits. External audits for which the awarding official has not issued a management decision within 120 calendar days of issuance are referred by the OIG to the Assistant Secretary - Policy, Management and Budget (PMB) for resolution. Resolved audits with outstanding disallowed costs are also referred for the tracking of collection action. The OIG provides the ALO with a copy of the memorandum referring the audit to PMB (Illustration 10). The audit resolution and closure procedures for overdue audits are the same as described above with the following exceptions:

A. The memorandum detailing the resolution of the audit findings or the collection of disallowed costs shall be sent through the ALO to PMB (Illustration 11). If PMB considers the resolution acceptable, they agree by memorandum to close the audit and remove it from the tracking system (Illustration 12).

B. Disallowed costs may not be collected if the findings and determinations are issued more than 365 calendar days following receipt of the single audit by the OIG.

2.7 Corrective Action Plans. The cognizant tribal official's response to an audit issued pursuant to the Single Audit Act of 1984 should include a plan for corrective action to eliminate findings of non-compliance findings or internal control weaknesses or a statement describing the corrective actions already taken or the reason that corrective action is not necessary.

2.8 Unresolved External Audits: While the responsibility for resolution of questioned costs rests with the awarding official, the resolution of compliance or internal control findings requires positive action on the part of the contractor or grantee. In a situation where the contractor or grantee fails to take action necessary to resolve material audit findings, the audit remains unresolved and the awarding official shall consider the options of contract declination or the rescission of contract or grant authority as provided in the Indian Education and Self-Determination Act, P.L. 93-638, as amended.

AUDITS
Internal Audits

3. INTERNAL AUDITS

3.1 Notification. The internal audit cycle begins with a notification to the ALO from the OIG or GAO (hereinafter referred to as auditors) of their intention to audit specific areas of Bureau operations. The ALO shall notify the appropriate Department and/or Bureau Director(s) of the initiation of the audit. The process described below pertains to audits conducted by the OIG. GAO audits have wide variations in process, procedures, time frames, and requirements for response. These audits, therefore, will be handled on a case-by-case basis.

3.2 Entrance Conference. The auditors normally request an entrance conference to discuss the scope of the audit, to identify certain background material that may be of assistance in conducting the audit, and to provide an estimate of the duration of the audit. The ALO coordinates the scheduling of the entrance conference.

3.3 Interim Report. Occasionally during the course of an audit, significant findings of fraud, waste, abuse, or mismanagement may surface. In this case, the auditors will prepare a special report for management, prior to the completion of the entire audit, so that management can take immediate action to correct the situation. Formal written responses are not required at this time.

3.4 Exit Conference. A preliminary draft audit report may be provided to the Bureau prior to the exit conference, or the auditors may provide only an oral report of their findings and conclusions. Bureau officials should use the information gained from the exit conference to begin preparation of the Bureau response to the audit.

3.5 Draft Audit Report. Sometime following the exit conference, the auditors will issue a draft audit report requesting a formal response from the Assistant Secretary - Indian Affairs within thirty (30) calendar days. The ALO shall provide the appropriate Director a copy of the audit report and a memorandum outlining the response requirements.

3.6 Response to Draft Audit Report. The response to the draft audit report shall be prepared in memorandum format for signature by the Assistant Secretary - Indian Affairs (Illustration 13), and shall contain the following:

A. A general discussion in the same sequence of the audit report detailing any areas of disagreement with the substance of the report and providing a context for the responses to the specific recommendations contained in the audit report.

AUDITS
Internal Audits

B. The verbatim audit recommendations followed by the Bureau's response to each. Each response should begin with one of the statements listed below followed by an explanation of the response.

- (1) The Bureau concurs.
- (2) The Bureau does not concur.
- (3) The Bureau partially concurs.

C. For any audit recommendation which has already been implemented, the response shall provide documentation of such implementation.

D. For any audit recommendation with which the Bureau concurs that has not been implemented, the response shall specifically identify what action will be taken, the individual(s) responsible for implementation, and the target date for completion of the implementing action(s).

3.7 Extension of Due Date. At times, there are valid reasons why the response cannot be submitted within the established time frame. If the response will not be submitted by the due date, the audit coordinator should notify the ALO to alert the OIG. If the response will be more than ten (10) days late, the responsible Director shall prepare a memorandum to the OIG, through the ALO, requesting an extension. Inordinate delays in the Bureau's response will result in the issuance of a final audit report without the benefit of Bureau comments.

3.8 Final Audit Report. The final audit report will identify recommendations that have been resolved and implemented; resolved, but not implemented; and any unresolved issues. Unresolved issues are to be reconsidered by the Assistant Secretary - Indian Affairs, and a follow up response is required.

3.9 Response to Final Audit Report. If a response to the draft audit report was not provided, the steps outlined above shall be followed in responding to the final audit report. If there was a response to the draft audit report, the response to the final audit report is limited to addressing any unresolved findings and providing documentation on implementation actions that have been completed since the response to the draft audit report. The response is written in memorandum format for signature by the Assistant Secretary - Indian Affairs.

3.10 Corrective Action Plans. Those individuals identified in the audit response as responsible for implementing corrective actions shall submit a corrective action plan through their audit

AUDITS

Internal Audits

coordinator to the ALO within ten (10) working days of the final audit response. If the plan is to correct an identified material weakness, the ALO shall forward a copy of the plan to PMB. The corrective action plan shall include sufficient detail of the steps involved and time frames required to implement the necessary actions so as to allow for accurate reporting of progress to management. The ALO shall provide technical assistance in preparing the plans at the request of responsible officials.

3.11 Audit Resolution. If any recommendations remain unresolved or resolved but not implemented following submission of the Assistant Secretary's response to the final audit report, the OIG refers such recommendations to PMB for resolution or for tracking of implementation. Meetings provide the forum for final decisions on unresolved recommendations. Formal notification of the decision of the Assistant Secretary - Policy, Management and Budget is provided to the Assistant Secretary - Indian Affairs.

AUDITS
Reporting Requirements

4. REPORTING REQUIREMENTS

4.1 Corrective Actions. As soon as final corrective action has been taken to implement recommendations contained in internal audits, the responsible official shall provide written notification and documentation to the ALO through the audit coordinator. Interim reporting on progress on corrective actions is required at the end of each quarter of the fiscal year. If target implementation dates are not met, written justification of the reasons for the slippage and revised completion dates shall accompany the quarterly report.

4.2 Consolidation of Reports. The ALO shall be responsible for the timely submission of consolidated Bureauwide reports to PMB.

4.3 Report to Congress. A semi-annual report to Congress is prepared containing specific and detailed information on the status of final action on audit reports. The report is compiled by PMB based upon information submitted by the various bureaus.



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL

Headquarters-Audits
1550 Wilson Boulevard
Suite 401
Arlington, VA 22209

14 BIAM
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SAMPLE

August 30, 1995

Memorandum

To: Awarding Official
....Area/Agency/Organization, Bureau of Indian Affairs

From: Director, External Audits

Subject: Single Audit of the New Tribe of Indians for the Fiscal Year Ended September 30, 1994, Report No. 95-A-300.

The subject audit report, which we received on August 4, 1995, was issued in accordance with the provisions of the Single Audit Act of 1984 and Office of Management and Budget Circular A-128. The audit was performed by, Certified Public Accountant. Based on our review, we concluded that the report meets the reporting requirements of the Act and Circular A-128.

The schedule of Federal financial assistance is on pages 25-28. The compliance reports are on pages 30 through 35. The internal control reports are on pages 40 through 45. The report contains 8 current year findings with \$11,892 in questioned costs for the Bureau of Indian Affairs to resolve.

Please review the findings and the contractor's (grantee's) response to determine if the steps taken or planned will correct the deficiencies reported. If you determine that the steps will not correct the deficiencies, you should advise the contractor (grantee) of the additional steps needed to be taken.

As required by the Departmental Manual (360 DM 5.3), please provide us with a written response concerning the resolution of the findings and questioned costs by November 30, 1995.

If further information is needed, please contact Mr..... at (703) 235-3061.

Attachment

cc: Audit Liaison Officer (Office of Audit and Evaluation)

Attachment

NEW TRIBE OF INDIANS
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
for the Year Ended September 30, 1994

<u>Finding Number</u>	<u>Page Number</u>	<u>Finding</u>	<u>Questioned Costs</u>
1	56	Personnel Files	--
2	57	Property Management	--
3	59	Purchase Orders	--
4	63	Payment made for penalties and interest	\$ 6,642
5	72	Accounting records were not posted or reconciled timely	--
6	75	Certain per diem and expense reports lacked receipts or backup and had no evidence of approval before payment.	\$ 5,250
7	80	Lack of Separation of Duties	--
8	85	Reconciliation of Actual Cash Receipts	--
			<hr/>
			\$11,892



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

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SAMPLE

September 20, 1995

Memorandum

To: BIA Awarding Official

From: Director, Office of Audit and Evaluation

Subject: Single Audit of the First Tribe of Indians for the
Fiscal Year Ended September 30, 1994, Report No. 95-A-
462.

We have reviewed the subject audit and are unable to recommend closure of the audit findings with the information available in the audit report and the contractor/grantee's response. Specifically, the contractor/grantee's response did not address the finding related to property management.

Please work with the contractor/grantee to resolve this finding. If we can be of assistance, you can contact of my staff on (202) 208-1916.

[NOTE: The Audit and Evaluation analyst may substitute a phone contact for this memorandum depending on preference of the area office and the individual.]



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

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SAMPLE

September 20, 1995

Memorandum

To: Director, External Audits
Office of Inspector General

From: Director, Office of Audit and Evaluation

Subject: Single Audit of the Old Tribe of Indians for the Fiscal
Year Ended September 30, 1994, Report No. 95-A-500.

The subject audit report, issued on September 15, 1995, contained two findings and no questioned costs. We have reviewed the report and the tribe's response which was included with the audit.

The first finding related to inadequate separation of duties in payroll processing. The tribe indicates that the administrative officer now reviews the payroll records prepared by the payroll clerk prior to processing. The second finding stated that of 20 quarterly reports required, two were filed late. As the two late reports were filed within three and five days of the original due date, we do not consider this finding to be material.

Based upon the foregoing, we recommend that the findings be considered resolved and that the audit be closed.

cc: BIA Awarding Official
Old Tribe of Indians



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, D.C. 20240

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SAMPLE

October 10, 1995

Memorandum

To: Director, External Audits
Office of Inspector General

From: BIA Awarding Official

Subject: Single Audit of the New Tribe of Indians for the Fiscal
Year Ended September 30, 1994, Report No. 95-A-300.

I have reviewed the subject single audit report, the tribe's response which was included with the audit report, contract/grant files, and other relevant information. It is my determination that the findings are all resolved.

The contractor/grantee has hired a full-time administrator/business manager to address the internal control findings numbered 1, 2, 3, 5, 7, and 8 in the audit report. The tribe has presented receipts to document the questioned costs, and it is my determination that the costs should be reinstated.

I recommend that the subject audit be closed.

cc: Audit Liaison Officer (Office of Audit & Evaluation)
New Tribe of Indians



IN REPLY REFER TO

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, D.C. 20240

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SAMPLE

October 15, 1995

....., Chairperson
New Tribe of Indians
Atlanta, Georgia

Dear Chairperson:

I have reviewed a copy of the Single Audit of the New Tribe of Indians for the Fiscal Year Ended September 30, 1994, (Report No. 95-A-300 issued August 30, 1995) which was conducted at your request by, CPA.

Additional information is necessary for me to make a determination about allowability of costs questioned by the auditor and whether other findings have been resolved. Please provide responses and documentation as described below. Your response is needed as soon as possible, but no later than November 10, 1995.

[List the findings you can't resolve.]

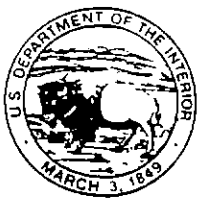
[List any questioned costs and identify what type of documentation you feel would adequately support the cost. If you suspect that the cost will be unallowable, you should so state at this point and tell them why you consider it unallowable. Offer them the opportunity to justify the cost or to clear up any misunderstandings.]

If you have questions about this request or need assistance in preparing your response, you may contact me on (...)

Sincerely,

Awarding Officer

cc: Audit Liaison Officer (Office of Audit & Evaluation)



IN REPLY REFER TO

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

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SAMPLE

November 20, 1995

Memorandum

To: Director, External Audits
Office of Inspector General

From: BIA Awarding Official

Subject: Single Audit of the New Tribe of Indians for the Fiscal
Year Ended September 30, 1994, Report No. 95-A-300.

I have reviewed the subject single audit and the tribe's response which is attached. Based on the documentation they provided, I have determined that all of the findings are resolved and that the questioned costs are allowable and should be reinstated. It is my recommendation that the subject audit be closed.

[You should provide specific detail for each finding and questioned cost for your own records and as a means of notifying the tribe as to your determination. As the awarding official you are responsible for your decisions related to resolution of the audit. This detail protects you as well as the contractor/grantee.]

cc: Chairperson, New Tribe of Indians
Audit Liaison Officer (Office of Audit & Evaluation)



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

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IN REPLY REFER TO

SAMPLE

November 30, 1995

Certified Mail - Return Receipt Requested

....., Chairperson
New Tribe of Indians
Atlanta, Georgia 00001

Dear Chairperson:

Enclosed is a copy of the Findings and Determination which reflects a final decision of the Contracting Officer (or Awarding Official) in respect to the Single Audit Report on the New Tribe of Indians for the Fiscal Year Ended September 30, 1994 (Report No. 95-A-300, which was received by the Office of Inspector General on August 4, 1995, and issued to the Bureau of Indian Affairs on August 30, 1995.

You have a right to dispute any information contained in the Contracting Officer's final decision. Should you elect to file an appeal, the following appeal notice is hereby provided:

APPEAL NOTICE

This is a final decision of the Contracting Officer (or Awarding Official). You may appeal this decision to the Interior Board of Contract Appeals, 4015 Wilson Boulevard, Arlington, VA 22203. The Interior Board of Contract Appeals (IBCA) is the authorized representative of the Secretary of the Interior with jurisdiction to hear and determine appeals relating to contracts (or grants) made by any Bureau or Office of the Department of the Interior.

If you decide to appeal, you must mail or otherwise furnish a written notice of appeal to the IBCA within 30 days of receipt of this decision and provide a copy to the Contracting Officer (or Awarding Official) from whose decision the appeal is taken. The notice of appeal must indicate that an appeal is intended and must reference this decision and the identifying contract number.

If you appeal to the Board of Contract Appeals, you may, solely at your election, proceed under the Board's small claims procedure for claims of \$10,000 or less or its accelerated procedure for claims of \$50,000 or less. Instead of appealing to the Board of Contract Appeals, you may bring an action directly in the U.S. Claims Court within 12 months of the date you receive this decision.

Sincerely,

"Awarding Official"

Enclosure

cc: Audit Liaison Officer (Denver, Office of Audit & Evaluation)

DETERMINATION AND FINDINGS
FOR
SINGLE AUDIT REPORT

Contractor: New Tribe of Indians
[Address]
Atlanta, GA
Telephone (...)

Audit No.: 95-A-300

Audit Period: Fiscal Year Ended September 30, 1994

Awarding Official: "Name"
Bureau of Indian Affairs
Area/Agency Office
Atlanta, GA
Telephone (...)

Introduction

The Single Audit Act of 1984 and Office of Management and Budget (OMB) Circular A-128 establish audit requirements for tribal governments that receive Federal assistance. In compliance with these requirements, the New Tribe of Indians had an independent audit conducted for fiscal year 1994 by, Certified Public Accountant, in accordance with the Government Auditing Standards. The audit was submitted to the Department of the Interior's Office of Inspector General. The audit contained eight (8) findings and two (2) questioned costs which totalled \$11,892. The Office of the Inspector General received the audit report on August 4, 1995, and forwarded copies of the audit to the Awarding Official on August 30, 1995, for resolution.

Findings

The auditor identified the following findings as not in compliance with internal control procedures.

Finding No. 1: Personnel Files were not kept in a secure location in accordance with Privacy Act requirements.

Finding No. 2: Property records were not maintained as required by fiscal procedures manual.

Finding No. 3: Some Purchase Orders did not include two signatures as required in the tribe's fiscal procedures manual.

Finding No. 5: etc. etc. etc. etc.

Tribe's Response: By letter dated November 15, 1995, the Tribe states that they have corrected the internal control issues by hiring a trained accountant and a tribal coordinator who have years of experience working with Indian programs. All internal control procedures are currently being followed.

Questioned Costs

The auditor identified the following questioned costs:

Finding No. 4: The tribe made payments for penalties and interest in the amount of \$6,642 and charged the costs to the Law Enforcement contract.

Tribe's response: By letter dated November 15, 1995, the tribe states that in the future interest and penalty assessments will be charged to non-federal funds.

Finding No. 6: Certain per diem and expense reports lacked backup and documentation and had no evidence of approval prior to payment. The amount of questioned costs was \$5,250.

Tribe's response: By letter dated November 15, 1995, the tribe provided copies of receipts, tickets, and approval letters to support the \$5,250 in questioned costs.

Determination

I have reviewed the Auditor's findings and the tribe's responses regarding the internal control issues and determined them to be acceptable.

I have also reviewed the tribe's documentation for \$5,250 in questioned costs related to per diem and expense reports and have determined them to be allowable costs. Therefore, the questioned costs of \$5,250 are reinstated.

Pursuant to 25 CFR, Chapter 1, Part 276, Appendix A, D(5) and (7), interest and penalties are unallowable costs. The audit finding is sustained and the amount of \$6,642 is to be refunded by the tribe to the Government.

....., Awarding Official
Warrant # (if applicable)

Date



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

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SAMPLE

December 5, 1995

Memorandum

To: Division of Accounting Management
Accounts Receivable and Collection Branch
(Attention: Linda Wilson)

From: BIA Awarding Official

Subject: Request for Collection Action

Please issue a Bill for Collection in the sum of \$6,642.00 to the New Tribe of Indians, Atlanta, Georgia 00001, for Single Audit No. 95-A-300 (received August 5, 1995).

The attached Findings and Determination is the basis for this collection action. The refund should be credited to:

S00001-94-39420

If you have questions, you may contact me on (xxx)
.....

Attachment

cc: Audit Liaison Officer (Office of Audit and Evaluation)



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL EASTERN REGION AUDITS

1550 Wilson Boulevard
Suite 425
Arlington, Virginia 22209

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SAMPLE

October 7, 1995

Memorandum

To: Director, Office of Audit and Evaluation

From: Assistant Director for Single Audits

Subject: Resolution of Single Audit Report on the Old Tribe of Indians for the Fiscal Year Ended September 30, 1994, Report No. 95-A-500, Issued on September 15, 1995

We reviewed your September 20, 1995 response on the resolution of the two findings and no questioned costs in the subject audit report. Based on the contractor/grantee's proposed actions, we consider the audit resolved.

cc: BIA Awarding Official



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

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SAMPLE

December 20, 1995

Memorandum

To: Assistant Secretary - Policy, Management and Budget
(Attention: Departmental Audit Coordination Officer)

From: Director, External Audits

Subject: Referral of Single Audit Report on the New Tribe of
Indians for the Fiscal Year Ended September 30, 1994
(No. 95-A-300), Issued on August 30, 1995.

In accordance with the Departmental Manual (361 DM 1), questioned costs of \$6,642 in the subject report are being referred to you for tracking of collection action. The report contained questioned costs of \$11,892 of which \$5,250 has been reinstated. The Bureau of Indian Affairs' December 17, 1995, response was sufficient for us to consider the report's 8 findings resolved and \$6,642 in questioned costs disallowed.

If further information is needed regarding this referral, please contact Ms..... at (703) 235-3061.

cc: BIA Awarding Official
Audit Liaison Officer (Office of Audit and Evaluation)



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO

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SAMPLE

January 15, 1996

Memorandum

To: Assistant Secretary - Policy, Management and Budget
Office of Financial Management
(Attention: Charlene Hutchinson)

Through: Director, Office of Audit and Evaluation

From: BIA Awarding Official

Subject: Single Audit of the New Tribe of Indians for the Fiscal
Year Ended September 30, 1994, Report No. 95-A-300.

The subject audit was referred to you for tracking of collection of \$6,642 disallowed costs on December 20, 1994.

A bill for collection was issued by the Division of Accounting Management on December 10, 1995 and the tribe paid by check number 555123 on December 20, 1995. [If the awarding official has access to the Bureau's accounting system, attach a screen print showing the collection transaction.]

Based upon the repayment of disallowed costs, I request that the subject audit be closed.

cc: Chairperson, New Tribe of Indians



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

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SAMPLE

January 30, 1996

Memorandum

To: Director - External Audits
Office of Inspector General

From: Chief, Division of Management Control and Audit
Followup
Office of Financial Management

Subject: Single Audit of the New Tribe of Indians for the Fiscal
Year Ended September 30, 1994, Report No. 95-A-300

The subject audit report, issued August 20, 1995, was referred by the Office of Inspector General for tracking of collection costs on December 20, 1995.

We have received the Bureau of Indian Affairs' response providing evidence of collection of \$6,642 in disallowed costs. Accordingly, we consider this report to be closed.

cc: Director, Office of Audit and Evaluation




United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

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SAMPLE

November 15, 1995

SEP 22 1995 

Memorandum

To: Assistant Inspector General for Audits
From: Assistant Secretary - Indian Affairs
Subject: [Draft or Final] Audit Report on "Name of Report",
[Assignment Number or Report Number]

The subject audit addressed whether the program was being operated efficiently and effectively in support of the tribes in the Area. [Provide any additional information which would clarify the report or which would show why statements contained in the report are incorrect. This section may be very brief if there is no disagreement with the content of the report, or it may extend for several pages if there are serious concerns with the the report or the conclusions reached in the report.]

Recommendation A.1: [Quote the auditor's recommendation.]

Response: ["The Bureau concurs." OR "The Bureau does not concur." OR "The Bureau partially concurs." - use the appropriate statement.]

If we concur and the recommended action has already been taken, the response should so indicate and documentation of the action should be included as an attachment.

If we concur but the recommended action has not yet been taken, the name and title of the official responsible for implementation along with the scheduled completion date is to be included.

If we do not concur, a reason must be given.

If we partially concur, an explanation of actions we propose as opposed to those recommended in the audit report is to be included.

Recommendation A.2." [Repeat the above for each recommendation contained in the report.]

Response: [Repeat the above for each response.]

PAK

*Keep for historical records
for review of 14 BIAM*



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

WASHINGTON, D.C. 20245

IN REPLY REFER TO:

14 BIAM Release 4

September 26, 1986

RECEIVED

MAR - 2 1987

BUREAU OF INDIAN AFFAIRS
TRUST FUNDS MGMT.

Memorandum

To: Holders of 14 BIAM
From: Deputy to the Assistant Secretary - Indian Affairs (Operations)
Subject: Audits

This release redefines duties, responsibilities, and procedures for the management of audit resolution in the Bureau of Indian Affairs, 14 BIAM Audits.

Ronald L. Esquerro
Deputy to the Assistant Secretary -
Indian Affairs (Operations)

Filing Instructions:

- (a) Remove superseded material:
14 BIAM Release 3 (Dated 3/27/80) (4 sheets)
- (b) Insert new material transmitted:
14 BIAM Release 4 (Dated 9/26/86) (17 sheets)
- (c) Pen-and-ink changes:
None

AUDITS
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AUDITS
General

1. GENERAL

1.1 Purpose. The purpose of this manual is to provide policies and procedures necessary for the Bureau to establish and maintain a formal process for responding to audit reports which includes follow-up corrective action. This directive applies to audits performed by the Office of Inspector General (OIG), independent public accountants under cognizant assignments of the OIG, and the General Accounting Office (GAO).

1.2 Authority. This manual is issued pursuant to the provisions of the Inspector General Act of 1978 (92 Stat. 1101); The Single Audit Act of 1984 (Pub. L. 98-502); Office of Management and Budget (OMB) Circulars A-50, A-73 A-128, A-110 and A-123; the Supplemental Appropriations and Rescissions Act of 1980 (Pub. L. 96-304); Parts 360 and 361 of the Department Manual; 43 CFR Part 12 and authority delegated to the Assistant Secretary - Indian Affairs in accordance with 209 DM 8.

1.3 Policy. It is the policy of the Bureau of Indian Affairs to give prompt and objective consideration to the findings, recommendations, and suggestions contained in audit reports. All reports will be addressed in accordance with this policy by the offices responsible for the programs, functions, and activities addressed in the audit reports. All time constraints shall be consistent with legislative and/or Executive mandates and with Bureau requirements. Failure to implement and enforce standards of performance for audit resolution shall result in appropriate personnel actions.

1.4 References. The following information should be referenced when guidance is needed to process audit reports.

A. Inspector General Act of 1978. This Act establishes objectives to promote economy, efficiency, and effectiveness in the administration of programs and operations of the Department of the Interior; to prevent and detect waste, fraud, abuse, and mismanagement in such programs and operations; and to keep the Secretary and Congress informed about problems and deficiencies relating to the administration of such programs as well as the necessity for corrective actions.

B. Office of Management and Budget Circular A-50. This OMB Circular provides the policies and procedures for use by Executive Agencies when considering audit reports prepared by the organizations identified in 1.1 of this Manual. These OMB policies and procedures define and outline the follow-up and tracking required on audit recommendations. In accordance with this circular, the Bureau is expected to provide timely and objective consideration of and action on audit findings and recommendations within six months of issuance.

C. Office of Management and Budget Circular A-73. This circular sets forth policies to be followed during the conduct of an audit of Federal opera-

AUDITS
General

tions and programs. Its objectives are to promote improved audit practices, achieve more efficient use of audit staff, improve coordination of audits, and require the application of audit standards issued by the Comptroller General.

D. Single Audit Act Of 1984 (Pub. L. 98-502). This law establishes the audit requirements for State, local and Indian tribal governments that receive Federal assistance. It requires that financial and compliance audits of organizations receiving federal assistance be made by independent auditors on an entity-wide basis rather than on an individual grant or contract award basis.

E. Office of Management and Budget Circular A-128. This Circular is pursuant to Public Law 98-502. It establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.

F. 43 CFR Part 12. This regulation defines the Department's responsibility for monitoring and implementing Public Law 98-502 and OMB Circular A-128.

G. Office of Management and Budget Circular A-123. This Circular sets the standards for internal controls and directs each Federal agency to review and update its present system of control, and provides for periodic reviews thereafter by entities not directly involved with the agency's business. It should be noted that internal audits are not a substitute for internal control responsibilities of Bureau programs and operations. Administrators shall continue to provide adequate organization, policy, day-to-day operating procedures and administrative reviews.

H. Departmental Manual Part 360, Departmental Audits. These instructions provide guidelines and procedures for implementing the duties and responsibilities for audits of programs and operations of the Department, as required by the Inspector General Act of 1978.

I. Departmental Manual Part 361, Audit Followup. This directive implements the provisions of OMB Circular A-50. It provides policies and procedures for use by Departmental organizations when responding to audit reports issued by the Inspector General.

1.5 Types of Audits

A. External Audits. These are audits of non-Bureau activities, such as non-federal programs conducted by governments, contractors, grantees, concessioners, and lessees. It also includes audits of revenue producing activities such as mineral leasing, timber sales, and other sources of income generated from public or trust lands. These reports are classified according to their purpose and include: Interim and Final Cost Audits; Indirect Cost Proposal

AUDITS
General

Audits; Preaward Audits; A-128 Attachment P Audits; Contractor Claims and Costs Incurred Audits; Post Award Audits; and Contract Price Proposal Audits. Further explanation and definition of the contractual audits may be found in Title 41 of the Code of Federal Regulations. Draft reports are not issued for external audits. The Bureau has 90 days to respond to the findings and recommendations contained in the external audit report.

B. Internal Audit Reports. These are audits of specific Bureau programs, activities, and functions conducted by the OIG to furnish information on the effectiveness, efficiency and economy of Bureau programs; to determine if programs are conducted in compliance with laws, regulations, and Department or Bureau policies, and to determine if financial operations are properly conducted. Internal reports are usually issued in two phases. The auditor usually issues a draft report for comments before issuing the final report. The Bureau is usually given 30 days to respond to a draft report. After the OIG reviews the Bureau's response to the draft audit report, the final audit report is issued. The final report reflects any corrections, revisions, additions and deletions provided in the Bureau's response. The Bureau has 60 days to respond to the findings and recommendations contained in the final audit report.

C. General Accounting Office (GAO) Audits. This is a special type of internal audit that is performed and issued by the GAO to the Department. The Bureau's role is normally to provide comments to the Department on issues that affect the Bureau and thereafter comply with the directions issued by the Department. Part 361 of the Department Manual fully outlines the audit process and responsibilities.

1.6 Definitions. The following definitions are applicable to Bureau audit reports.

A. Closed Audit. An audit is closed after the OIG informs the Bureau that it agrees that all findings and recommendations are implemented.

B. Collateral Respondent. The collateral respondent is an official who provides remarks to the lead respondent to address aspects of the audit for which it has responsibility.

C. Cognizant Audit Agency. The Federal agency that is assigned audit responsibility by the OMB for a particular recipient organization.

D. Implementation of Corrective Actions. The implementation of corrective actions occurs when the Bureau actually takes certain actions to resolve the audit.

AUDITS
General

E. Lead Respondent. The lead respondent is the official assigned primary responsibility to prepare the Bureau's response to the audit report. This individual is held accountable for providing a timely and comprehensive document that is prepared in the format outlined in Section 2 of this manual.

F. Resolved Audit. An audit is resolved after the OIG/PBA has reviewed the Bureau's audit response and has agreed with the Bureau that all findings and recommendations are adequately addressed. This does not necessarily mean that all actions taken to resolve the findings and recommendations have been completed, but only that the Bureau has agreed to take the action.

1.7 Responsibilities.

A. Assistant Secretary - Indian Affairs. The Assistant Secretary - Indian Affairs through the Bureau Audit Liaison Officer is responsible for Bureauwide audit policies and procedures.

B. Audit Liaison Officer. The Deputy to the Assistant Secretary - Indian Affairs (Operations) is the Bureau Audit Liaison Officer (ALO). The Audit Liaison Officer:

(1) Designates lead and collateral respondents for preparation of the Bureau's response to specific audit reports.

(2) Assures that the performance standards for all appropriate management officials contain factors that reflect accountability for resolving audit and implementing corrective action in accordance with the policy stated in 1.3 above.

(3) Provides semiannual reports to the Assistant Secretary - Policy, Budget and Administration on the status of all unresolved audit recommendations over six months old.

(4) Provides for periodic analysis of audit recommendations, resolution, and corrective action, to determine trends and problems, and to recommend solutions.

(5) Provides for periodic evaluations of whether the audit follow-up system results in efficient, prompt, and proper resolution and corrective action on audit recommendations.

C. Lead Respondent. The designated lead respondent:

(1) Secures comments from other organizations, as required.

(2) Prepares the Audit Response (see Section 2) and attaches the appropriate support documentation, e.g., Findings and Determinations and Bill for Collection.

AUDITS
General

(3) Transmits the response for external audits directly to the OIG provided the report has not been referred to the Office of Policy, Budget and Administration for resolution. See Illustration 1 for a sample transmittal memorandum.

(4) Prepares the transmittal memorandum for signature of the Deputy to the Assistant Secretary - Indian Affairs (Operations) forwarding the audit response to the appropriate agency for all internal reports and for external reports that have been referred to the Office of Policy, Budget and Administration for resolution. See Illustration 2 for a sample memorandum.

(5) Ensures audits are answered by the dates established by the audit agency or the Audit Liaison Officer.

(6) Provides quarterly audit status reports by the last day of the quarter, beginning with September 30, 1986, (See Section 3.1A). Form BIA-1403 will be used to provide the data.

(7) Provides a semiannual report to the Audit Liaison Officer covering the status of all audits in the implementation phase, resolved but not closed (See Section 3.1B). Form BIA-1404 will be used for the report.

D. Collateral Respondent. The collateral respondent provides substantive and timely comments and supporting documentation to the lead respondent by the date established by the Audit Liaison Officer or lead respondent. If the collateral respondent is asked to provide input to specific findings and recommendations he/she will follow the instructions contained in Section 2. Negative responses are required if the collateral respondent has no input.

AUDITS

Response Procedures

2. RESPONSE PROCEDURES

2.1 Audit Response Form BIA-1402.

A. The Form BIA-1402 (See Illustration 5) is the document used to address audit recommendations contained in the report. For recommendations contained in Preaward Contracts Audits and all Contract Claim Audits see Section 2.2 below. The form must include a verbatim statement of each recommendation followed by a statement of concurrence or nonconcurrence.

(1) When the respondent concurs, the corrective action plan for each recommendation must be recorded. The response must contain a concise statement fully addressing each recommendation. The plan must include the name of the Bureau official responsible for implementation or certification, and the projected completion date. If the action has been completed, the form must reflect the action officer's name and the date the action was completed.

(2) When the respondent does not concur, the form must reflect the specific reasons for nonconcurrence and supporting documentation must be attached.

B. An example of a completed Form BIA-1402 is included in the Illustration. Reproduction of Form BIA-1402 for local use is authorized.

C. Documentation. Supporting documentation is important and copies of any correspondence, form, or document pertinent to the audit should be attached to the audit response form as appropriate to clarify the response.

2.2 Response to Preaward Contract Audits and Cost Claim Audits. The response must include a copy of the agreement made between the contracting officer and the contractor. In addition, these reports must include copies of the negotiated memorandum or a notice that the claim has been withdrawn or submitted to the Board of Contract Appeals.

AUDITS
Reports

3. REPORTS

3.1 Reporting Requirement.

A. Unresolved Audit Report. This report is required of all designated lead respondents who have not received notification from the OIG or the Deputy to the Assistant Secretary - Indian Affairs (Operations) that the audit is resolved. The report must reflect the status of the audit as of the last day of each report quarter, beginning with the September 30, 1986 report. The report must be submitted to the Audit Liaison Officer on Form BIA-1403 (Illustration 3) no later than the fifth day after the end of the quarter. The reproduction of Form BIA-1403 for local use is authorized. An example of a completed report form is included in the Illustration.

B. Semiannual Audit Report. This is a status report of all audit findings, recommendations and proposed actions that have been accepted by OIG or PBA and Bureau management. The report must be submitted on Form BIA-1404 (see Illustration 4). A sample of a completed form is included in the Illustration. The report is due to the Audit Liaison Officer by April 1 and October 1 of each year. The report will be consolidated by the Audit Liaison Officer to provide the Office of Policy, Budget and Administration the Bureau's Semiannual Status Report.

memorandum

SAMPLE

DATE:

REPLY TO
ATTN OF:

SUBJECT: Response to Audit Report
Report No.

TO: Appropriate Regional OIG Office

This is in response to your (date of auditor's memorandum transmitting
audit for response) memorandum concerning the above cited audit.

— The Bureau's response to the above cited audit is attached. I trust this
information will resolve the audit.

(Area Director's signature)

Attachments

—

Release 14-4, 9/26/86



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

WASHINGTON, D.C. 20245

IN REPLY REFER TO:

SAMPLE

Memorandum

To: Assistant Inspector General for Audits or
Office of Policy, Budget and Administration

From: Deputy to the Assistant Secretary - Indian Affairs (Operations)

Subject: Response to Audit Report, " _____ (Subject of Audit) _____ ",
Report No. _____.

This is in response to your (date of Auditor's memorandum transmitting audit for response) memorandum concerning the above cited audit.

The Bureau's response, as provided for by the (name of Area Office) Area Office Director is attached. I trust this information will resolve the audit.

Attachments

(attach audit response form and support documents)

NOTE: Use for internal audits and external audits that have been forwarded to PBA for resolution/implementation

QUARTERLY STATUS REPORT OF UNRESOLVED AUDITS

LEAD RESPONDENT: _____

DATE PREPARED: _____

REPORT TITLE	REPORT NUMBER	DATE ISSUED	ORIGINAL RESPONSE DUE DATE	REVISED DUE DATE	REASON AUDIT UNRESOLVED
DATE	TYPED NAME AND TITLE OF INITIATOR				
					SIGNATURE

List audits chronologically by type; internal reports first, followed by external.

QUARTERLY STATUS REPORT OF UNRESOLVED AUDITS
(continuation)

LEAD RESPONDENT: _____ INITIALS OF LEAD RESPONDENT: _____

DATE PREPARED: _____

REPORT TITLE	REPORT NUMBER	DATE ISSUED	ORIGINAL RESPONSE DUE DATE	REVISED DUE DATE	REASON AUDIT UNRESOLVED

List audits chronologically by type; internal reports first, followed by external.
Form BIA-1403
Release 14-4, 9/26/86

QUARTERLY STATUS REPORT OF UNRESOLVED AUDITS

LEAD RESPONDENT: Portland Area Director
 DATE PREPARED: 07-01-86

REPORT TITLE	REPORT NUMBER	DATE ISSUED	ORIGINAL RESPONSE DUE DATE	REVISED DUE DATE	REASON AUDIT UNRESOLVED
Selected Contracts	W-AP-BIA-999-831A	4-10-86	N/A		The tribe held an election on 2-10-86. The results are being disputed in tribal court. A decision will be made by July 23, 1986. A response will be submitted by the new tribal government by August 30, 1986 on recommendation 2.2 regarding documentation of expenditures for the old age program. All other recommendations have been resolved.

DATE 7-3-85
 TYPED NAME AND TITLE OF INITIATOR
 DON DRACKERT, Portland Area Director
 SIGNATURE *Don Drackert*
 List audits chronologically by type; internal reports first, followed by external.

SEMIANNUAL STATUS REPORT

REPORTING OFFICE: _____ DATE PREPARED: _____
 PERIOD OF REPORT: APRIL 1 _____ to SEPT. 30 _____
 OCT. 1 _____ to MARCH 31 _____

NAME OF PREPARER: _____

AUDIT TITLE	AUDIT NUMBER	RECOMMENDATION NUMBER	STATUS CODE*

DATE _____ TYPED NAME AND TITLE OF REPORTING OFFICIAL _____ SIGNATURE _____

* STATUS CODES - Enter Applicable Codes

1. No Action initiated
 - A. Office intends to act, but has not started.
 - B. Office has not responded to request for information on implementation.
2. Action in progress
 - A. Office satisfied of adequate progress toward implementation.
 - B. Office reports that progress is delayed or action has occurred to prevent implementation.
3. Action Completed
 - A. Office verified completed action.
 - B. Office did not verify completed action.
4. Recommendation is no longer valid.

SEMIANNUAL STATUS REPORT
(Continuation)

REPORTING OFFICE: _____

DATE PREPARED: _____

PERIOD OF REPORT: APRIL 1 _____ to SEPT. 30 _____

NAME OF PREPARER: _____

OCT. 1 _____ to MARCH 31 _____

INITIALS OF REPORTING OFFICIAL: _____

AUDIT TITLE	AUDIT NUMBER	RECOMMENDATION NUMBER	STATUS CODE*

SEMIANNUAL STATUS REPORT

REPORTING OFFICE: Portland Area

DATE PREPARED: October 5, 1985

PERIOD OF REPORT: APRIL 1 to SEPT. 30

NAME OF PREPARER: Tom Corlette

OCT. 1 to MARCH 31

AUDIT TITLE	AUDIT NUMBER	RECOMMENDATION NUMBER	STATUS CODE*
Review of Procurement Activities - Portland Area Office	C-IA-BIA-29-84	1.1 1.2 1.3 2.1 2.2 3.1	2A 3A 2B 3B 3B 4

DATE 10-5-85	TYPED NAME AND TITLE OF RESPONDENT DON DRACKERT, Portland Area Director	SIGNATURE <i>Tom Corlette</i>
-----------------	--	----------------------------------

* STATUS CODES - Enter Applicable Codes

1. No Action initiated
 - A. Office intends to act, but has not started.
 - B. Office has not responded to request for information on implementation.
2. Action in progress
 - A. Office satisfied that adequate progress toward implementation is being made.
 - B. Office reports that progress is delayed or action has occurred to prevent implementation.
3. Action Completed
 - A. Office verified completed action.
 - B. Office did not verify completed action.
4. Recommendation is no longer valid.

AUDIT RESPONSE FORM

AUDIT NUMBER: _____ DATE ISSUED: _____ NAME OF PREPARER: _____

AUDIT TITLE: _____ TITLE OF PREPARER: _____

DATE PREPARED: _____

Telephone Number: _____

F&D Required (Yes/No): _____ DATE F&D Issued: _____

\$\$ Amt. Questioned: _____ Number of Recommendations

\$\$ Amt. Disallowed: _____ DATE BFC Issued: _____

REC. NO.	AUDIT REPORT RECOMMENDATION (VERBATIM) / RESPONSE AND PROPOSED CORRECTIVE ACTION PLAN	INDIVIDUAL RESPONSIBLE DUE DATES	IMPLEMENTATION STATUS

DATE _____ TYPED NAME AND TITLE OF DESIGNATED RESPONDENT _____ SIGNATURE _____

AUDIT RESPONSE FORM (continuation)

INITIALS OF DESIGNATED RESPONDENT

AUDIT NUMBER

DATE

REC. NO.

AUDIT REPORT RECOMMENDATION (VERBATIM)/RESPONSE AND ACTION PLAN

INDIVIDUAL RESPONSIBLE DUE DATE

IMPLEMENTATION STATUS

E X A M P L E

AUDIT RESPONSE FORM

AUDIT NUMBER: C-IA-BIA-29-84 DATE ISSUED: 1-01-85

NAME OF PREPARER: Tom Corlette

AUDIT TITLE: Review of Procurement Activities -
Portland Area office

TITLE OF PREPARER: Audit Coordinator

DATE PREPARED: March 12, 1985

Telephone Number: FTS 555-1212

F&D Required (Yes/No): Yes
 \$\$ Amt. Questioned: \$ 8,200 Number of
 \$\$ Amt. Disallowed: \$22,950 Recommendations

DATE F&D ISSUED:
DATE BFC ISSUED:

REC. NO.	AUDIT REPORT RECOMMENDATION (VERBATIM)/ RESPONSE AND PROPOSED CORRECTIVE ACTION PLAN	INDIVIDUAL RESPONSIBLE DUE DATES	IMPLEMENTATION STATUS
1.1	<p>All expenditure reports, including those now in the backlog, are processed and recorded as soon as possible. This, of course, implies that the results will then be reviewed and analyzed and that attempts will be made to immediately recover any excesses in the hands of the contractors.</p> <p>Bureau's response:</p> <p>Agree. The Area Branch of Finance has been working overtime to reduce the backlog which will be cleared by December 31, 1985</p>	<p>Charles Roger 12/31/85</p>	<p>On schedule.</p>
1.2	<p>All contracts and grants, including the 638 contracts, are closed out as soon as their final financial status is determined and properly settled.</p> <p>Bureau's Response:</p> <p>Agree. The Contracting/Grants Officer's Representatives keep track of contract/grant closing requirements. Most contractors/grantees now act timely to met their closing requirements. Attached is the Area issuance sent to all contractors on 2/1/85.</p>	<p>Stan Perrin</p>	

DATE 3/15/85	TYPED NAME AND TITLE OF DESIGNATED RESPONDENT DON DRACKERT, Portland Area Director	SIGNATURE <i>Don Drackert</i>
-----------------	---	----------------------------------

E X A M P L E

AUDIT RESPONSE FORM (continuation)		INITIALS OF DESIGNATED RESPONDENT
AUDIT NUMBER	DATE	
C-IA-BIA-29-84	3/15/85	<i>A. D.</i>
REC. NO.	AUDIT REPORT RECOMMENDATION (VERBATIM)/RESPONSE AND ACTION PLAN	INDIVIDUAL RESPONSIBLE DUE DATE
1.3	<p>Assign and utilize adequate resources to perform the work necessary to record and complete the processing of current transactions and to eliminate the existing backlog of unrecorded documents.</p> <p>Bureau's Response: Agree. Insofar as internal limiting actions will permit. Our resources are limited. We anticipate this work to be completed. Attached is a copy of prepared Action Plan to use as work guide.</p>	<p>John Smith 6-31-85</p>
2.1	<p>Resolve Questioned Costs of \$8,2000.</p> <p>Bureau's Response: Agree. A Findings & Determinations (F&D) will be prepared by the Contracting Officer and Bill(s) for Collection (BFC's) issued if required by the F&D.</p>	<p>Joe Grable 4-31-85</p>
2.2	<p>Recover disallowed costs of \$22,960.</p> <p>Bureau's Response: <u>(Same as 2.1)</u></p>	<p>Joe Grable 4-31-85</p>
3.1	<p>The BIA should amend the P.L. 93-638 Regulations to enforce compliance of the said Act.</p> <p>Bureau's Response: Disagree. Procedures already exist in 25 CFR 271-277.</p>	<p>Not applicable</p>
		<p>Delayed to 8-01-85. A severe flood has required relocation of staff and work area.</p> <p>On schedule.</p> <p>On schedule</p> <p>N/A</p>



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 4, 1995

*Revised
in May 1995*

Circular No. A-87
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

FROM: Alice M. Rivlin
Director

AMR

SUBJECT: Cost Principles for State, Local, and Indian Tribal Governments

- Purpose. This Circular establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local governments and federally-recognized Indian tribal governments (governmental units).
- Authority. This Circular is issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; the Chief Financial Officers Act of 1990; Reorganization Plan No. 2 of 1970; and Executive Order No. 11541 ("Prescribing the Duties of the Office of Management and Budget and the Domestic Policy Council in the Executive Office of the President").
- Background. An interagency task force was established in 1987 to review existing cost principles for Federal awards to State, local, and Indian tribal governments. The task force studied Inspector General reports and recommendations, solicited suggestions for changes to the Circular from governmental units, and compared for consistency the provisions of other OMB cost principles circulars covering non-profit organizations and universities. A proposed revised Circular reflecting the results of those efforts was issued on October 12, 1988, and August 19, 1993. Extensive comments on the proposed revisions, discussions with interest groups, and related developments were considered in developing this revision.
- Rescissions. This Circular rescinds and supersedes Circular A-87, issued January 15, 1981.
- Policy. This Circular establishes principles and standards to provide a uniform approach for determining costs and to promote effective program delivery, efficiency, and better relationships between governmental units and the Federal Government. The principles are for determining allowable costs only. They are not intended to identify the circumstances or to dictate the extent of Federal and governmental unit participation

in the financing of a particular Federal award. Provision for profit or other increment above cost is outside the scope of this Circular.

6. Definitions. Definitions of key terms used in this Circular are contained in Attachment A, Section B.

7. Required Action. Agencies responsible for administering programs that involve cost reimbursement contracts, grants, and other agreements with governmental units shall issue codified regulations to implement the provisions of this Circular and its Attachments by September 1, 1995.

8. OMB Responsibilities. The Office of Management and Budget (OMB) will review agency regulations and implementation of this Circular, and will provide policy interpretations and assistance to insure effective and efficient implementation. Any exceptions will be subject to approval by OMB. Exceptions will only be made in particular cases where adequate justification is presented.

9. Information Contact. Further information concerning this Circular may be obtained by contacting the Office of Federal Financial Management, Financial Standards and Reporting Branch, Office of Management and Budget, Washington, DC 20503, telephone 202-395-3993.

10. Policy Review Date. OMB Circular A-87 will have a policy review three years from the date of issuance.

11. Effective Date. This Circular is effective as follows:

- For costs charged indirectly or otherwise covered by the cost allocation plans described in Attachments C, D and E, this revision shall be applied to cost allocation plans and indirect cost proposals submitted or prepared for a governmental unit's fiscal year that begins on or after September 1, 1995.
- For other awards, this revision shall be applied to all awards or amendments, including continuation or renewal awards, made on or after September 1, 1995.

Attachments

OMB CIRCULAR NO. A-87
COST PRINCIPLES FOR
STATE, LOCAL AND INDIAN TRIBAL GOVERNMENTS

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Attachment A - General Principles for Determining Allowable Costs

Attachment B - Selected Items of Cost

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GENERAL PRINCIPLES FOR DETERMINING
ALLOWABLE COSTS

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A. Purpose and Scope

1. Objectives. This Attachment establishes principles for determining the allowable costs incurred by State, local, and federally-recognized Indian tribal governments (governmental units) under grants, cost reimbursement contracts, and other agreements with the Federal Government (collectively referred to in this Circular as "Federal awards"). The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal or governmental unit participation in the financing of a particular program or project. The principles are designed to provide that Federal awards bear their fair share of cost recognized under these principles except where restricted or prohibited by law. Provision for profit or other increment above cost is outside the scope of this Circular.

2. Policy guides.

a. The application of these principles is based on the fundamental premises that:

1. Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.

2. Governmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.

3. Each governmental unit, in recognition of its own unique combination of staff, facilities, and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration of Federal awards.

b. Federal agencies should work with States or localities which wish to test alternative mechanisms for paying costs for administering Federal programs. The Office of Management and Budget (OMB) encourages Federal agencies to test fee-for-service alternatives as a replacement for current cost-reimbursement payment methods in response to the National Performance Review's (NPR) recommendation. The NPR recommended the fee-for-service approach to reduce the burden associated with maintaining systems

for charging administrative costs to Federal programs and preparing and approving cost allocation plans. This approach should also increase incentives for administrative efficiencies and improve outcomes.

3. Application.

a. These principles will be applied by all Federal agencies in determining costs incurred by governmental units under Federal awards (including subawards) except those with (1) publicly-financed educational institutions subject to OMB Circular A-21, "Cost Principles for Educational Institutions," and (2) programs administered by publicly-owned hospitals and other providers of medical care that are subject to requirements promulgated by the sponsoring Federal agencies. However, this Circular does apply to all central service and department/agency costs that are allocated or billed to those educational institutions, hospitals, and other providers of medical care or services by other State and local government departments and agencies.

b. All subawards are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a governmental unit (other than a college, university or hospital), this Circular shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial organizations shall apply; if a subaward is to a college or university, Circular A-21 shall apply; if a subaward is to a hospital, the cost principles used by the Federal awarding agency for awards to hospitals shall apply, subject to the provisions of subsection A.3.a. of this Attachment; if a subaward is to some other non-profit organization, Circular A-122, "Cost Principles for Non-Profit Organizations," shall apply.

c. These principles shall be used as a guide in the pricing of fixed price arrangements where costs are used in determining the appropriate price.

d. Where a Federal contract awarded to a governmental unit incorporates a Cost Accounting Standards (CAS) clause, the requirements of that clause shall apply. In such cases, the governmental unit and the cognizant Federal agency shall establish an appropriate advance agreement on how the governmental unit will comply with applicable CAS requirements when estimating, accumulating and reporting costs under CAS-covered contracts. The agreement shall indicate that OMB Circular A-87 requirements will be applied to other Federal awards. In all cases, only one set of records needs to be maintained by the governmental unit.

B. Definitions

1. "Approval or authorization of the awarding or cognizant Federal agency" means documentation evidencing consent prior to incurring a specific cost. If such costs are specifically identified in a Federal award document, approval of the document constitutes approval of the costs. If the costs are covered by a State/local-wide cost allocation plan or an indirect cost proposal, approval of the plan constitutes the approval.

2. "Award" means grants, cost reimbursement contracts and other agreements between a State, local and Indian tribal government and the Federal Government.

3. "Awarding agency" means (a) with respect to a grant, cooperative agreement, or cost reimbursement contract, the Federal agency, and (b) with respect to a subaward, the party that awarded the subaward.

4. "Central service cost allocation plan" means the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a governmental unit on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.

5. "Claim" means a written demand or written assertion by the governmental unit or grantor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of award terms, or other relief arising under or relating to the award. A voucher, invoice or other routine request for payment that is not a dispute when submitted is not a claim. Appeals, such as those filed by a governmental unit in response to questioned audit costs, are not considered claims until a final management decision is made by the Federal awarding agency.

6. "Cognizant agency" means the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under this Circular on behalf of all Federal agencies. OMB publishes a listing of cognizant agencies.

7. "Common Rule" means the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Final Rule" originally issued at 53 FR 8034-8103 (March 11, 1988). Other common rules will be referred to by their specific titles.

8. "Contract" means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It

includes all types of commitments that obligate the government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to): awards and notices of awards; job orders or task orders issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and, bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301 et seq.

9. "Cost" means an amount as determined on a cash, accrual, or other basis acceptable to the Federal awarding or cognizant agency. It does not include transfers to a general or similar fund.

10. "Cost allocation plan" means central service cost allocation plan, public assistance cost allocation plan, and indirect cost rate proposal. Each of these terms are further defined in this section.

11. "Cost objective" means a function, organizational subdivision, contract, grant, or other activity for which cost data are needed and for which costs are incurred.

12. "Federally-recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and service provided through the Bureau of Indian Affairs.

13. "Governmental unit" means the entire State, local, or federally-recognized Indian tribal government, including any component thereof. Components of governmental units may function independently of the governmental unit in accordance with the term of the award.

14. "Grantee department or agency" means the component of a State, local, or federally-recognized Indian tribal government which is responsible for the performance or administration of all or some part of a Federal award.

15. "Indirect cost rate proposal" means the documentation prepared by a governmental unit or component thereof to substantiate its request for the establishment of an indirect cost rate as described in Attachment E of this Circular.

16. "Local government" means a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or

not incorporated as a non-profit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

17. "Public assistance cost allocation plan" means a narrative description of the procedures that will be used in identifying, measuring and allocating all administrative costs to all of the programs administered or supervised by State public assistance agencies as described in Attachment D of this Circular.

18. "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments.

C. Basic Guidelines

1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.

b. Be allocable to Federal awards under the provisions of this Circular.

c. Be authorized or not prohibited under State or local laws or regulations.

d. Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.

e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.

f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

g. Except as otherwise provided for in this Circular, be determined in accordance with generally accepted accounting principles.

h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in

either the current or a prior period, except as specifically provided by Federal law or regulation.

- i. Be the net of all applicable credits.
- j. Be adequately documented.

2. Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately federally-funded. In determining reasonableness of a given cost, consideration shall be given to:

a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award.

b. The restraints or requirements imposed by such factors as: sound business practices; arms length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award.

c. Market prices for comparable goods or services.

d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.

e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the Federal award's cost.

3. Allocable costs.

a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

b. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.

c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law

or terms of the Federal awards, or for other reasons. However, this prohibition would not preclude governmental units from shifting costs that are allowable under two or more awards in accordance with existing program agreements.

d. Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required as described in Attachments C, D, and E.

4. Applicable credits.

a. Applicable credits refer to those receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to Federal awards as direct or indirect costs. Examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the governmental unit relate to allowable costs, they shall be credited to the Federal award either as a cost reduction or cash refund, as appropriate.

b. In some instances, the amounts received from the Federal Government to finance activities or service operations of the governmental unit should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) should be recognized in determining the rates or amounts to be charged to Federal awards. (See Attachment B, item 15, "Depreciation and use allowances," for areas of potential application in the matter of Federal financing of activities.)

D. Composition of Cost

1. Total cost. The total cost of Federal awards is comprised of the allowable direct cost of the program, plus its allocable portion of allowable indirect costs, less applicable credits.

2. Classification of costs. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost. Guidelines for determining direct and indirect costs charged to Federal awards are provided in the sections that follow.

E. Direct Costs

1. General. Direct costs are those that can be identified specifically with a particular final cost objective.

2. Application. Typical direct costs chargeable to Federal awards are:

a. Compensation of employees for the time devoted and identified specifically to the performance of those awards.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of those awards.

c. Equipment and other approved capital expenditures.

d. Travel expenses incurred specifically to carry out the award.

3. Minor items. Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all cost objectives.

F. Indirect Costs

1. General. Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a governmental unit department or in other agencies providing services to a governmental unit department. Indirect cost pools should be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

2. Cost allocation plans and indirect cost proposals. Requirements for development and submission of cost allocation plans and indirect cost rate proposals are contained in Attachments C, D, and E.

3. Limitation on indirect or administrative costs.

a. In addition to restrictions contained in this Circular, there may be laws that further limit the amount of administrative or indirect cost allowed.

b. Amounts not recoverable as indirect costs or administrative costs under one Federal award may not be shifted to another Federal award, unless specifically authorized by Federal legislation or regulation.

G. Interagency Services. The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro rate share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Attachment C.

H. Required Certifications. Each cost allocation plan or indirect cost rate proposal required by Attachments C and E must comply with the following:

1. No proposal to establish a cost allocation plan or an indirect cost rate, whether submitted to a Federal cognizant agency or maintained on file by the governmental unit, shall be acceptable unless such costs have been certified by the governmental unit using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Attachments C and E. The certificate must be signed on behalf of the governmental unit by an individual at a level no lower than chief financial officer of the governmental unit that submits the proposal or component covered by the proposal.

2. No cost allocation plan or indirect cost rate shall be approved by the Federal Government unless the plan or rate proposal has been certified. Where it is necessary to establish a cost allocation plan or an indirect cost rate and the governmental unit has not submitted a certified proposal for establishing such a plan or rate in accordance with the requirements, the Federal Government may either disallow all indirect costs or unilaterally establish such a plan or rate. Such a plan or rate may be based upon audited historical data or such other data that have been furnished to the cognizant Federal agency and for which it can be demonstrated that all unallowable costs have been excluded. When a cost allocation plan or indirect cost rate is unilaterally established by the Federal Government because of failure of the governmental unit to submit a certified proposal, the plan or rate established will be set to ensure that potentially unallowable costs will not be reimbursed.

SELECTED ITEMS OF COST

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40. Training
41. Travel costs
42. Underrecovery of costs under Federal agreements

Sections 1 through 42 provide principles to be applied in establishing the allowability or unallowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. A cost is allowable for Federal reimbursement only to the extent of benefits received by Federal awards and its conformance with the general policies and principles stated in Attachment A to this Circular. Failure to mention a particular item of cost in these sections is not intended to imply that it is either allowable or unallowable; rather, determination of allowability in each case should be based on the treatment or standards provided for similar or related items of cost.

1. Accounting. The cost of establishing and maintaining accounting and other information systems is allowable.

2. Advertising and public relations costs.

a. The term "advertising costs" means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

b. The term "public relations" includes community relations and means those activities dedicated to maintaining the image of the governmental unit or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

c. Advertising costs are allowable only when incurred for the recruitment of personnel, the procurement of goods and services, the disposal of surplus materials, and any other specific purposes necessary to meet the requirements of the Federal award. Advertising costs associated with the disposal of surplus materials are not allowable where all disposal costs are reimbursed based on a standard rate as specified in the grants management common rule.

d. Public relations costs are allowable when:

(1) Specifically required by the Federal award and then only as a direct cost;

(2) Incurred to communicate with the public and press pertaining to specific activities or accomplishments that result from performance of the Federal award and then only as a direct cost; or

(3) Necessary to conduct general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc.

e. Unallowable advertising and public relations costs include the following:

(1) All advertising and public relations costs other than as specified in subsections c. and d.;

(2) Except as otherwise permitted by these cost principles, costs of conventions, meetings, or other events related to other activities of the governmental unit including:

(a) Costs of displays, demonstrations, and exhibits;

(b) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and

(c) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

(3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs; and

(4) Costs of advertising and public relations designed solely to promote the governmental unit.

3. Advisory councils. Costs incurred by advisory councils or committees are allowable as a direct cost where authorized by the Federal awarding agency or as an indirect cost where allocable to Federal awards.

4. Alcoholic beverages. Costs of alcoholic beverages are unallowable.

5. Audit services. The costs of audits are allowable provided that the audits were performed in accordance with the Single Audit Act, as implemented by Circular A-128, "Audits of State and Local Governments." Generally, the percentage of costs charged to Federal awards for a single audit shall not exceed the

percentage derived by dividing Federal funds expended by total funds expended by the recipient or subrecipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs.

Other audit costs are allowable if specifically approved by the awarding or cognizant agency as a direct cost to an award or included as an indirect cost in a cost allocation plan or rate.

6. Automatic electronic data processing. The cost of data processing services is allowable (but see section 19, Equipment and other capital expenditures).

7. Bad debts. Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable unless provided for in Federal program award regulations.

8. Bonding costs. Costs of bonding employees and officials are allowable to the extent that such bonding is in accordance with sound business practice.

9. Budgeting. Costs incurred for the development, preparation, presentation, and execution of budgets are allowable.

10. Communications. Costs of telephone, mail, messenger, and similar communication services are allowable.

11. Compensation for personnel services.

a. General. Compensation for personnel services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under Federal awards, including but not necessarily limited to wages, salaries, and fringe benefits. The costs of such compensation are allowable to the extent that they satisfy the specific requirements of this Circular, and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established policy of the governmental unit consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with a governmental unit's laws and rules and meets merit system or other requirements required by Federal law, where applicable; and

(3) Is determined and supported as provided in subsection h.

b. Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the

extent that it is consistent with that paid for similar work in other activities of the governmental unit. In cases where the kinds of employees required for Federal awards are not found in the other activities of the governmental unit, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

c. Unallowable costs. Costs which are unallowable under other sections of these principles shall not be allowable under this section solely on the basis that they constitute personnel compensation.

d. Fringe benefits.

(1) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave, employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law, governmental unit-employee agreement, or an established policy of the governmental unit.

(2) The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, holidays, court leave, military leave, and other similar benefits, are allowable if: (a) they are provided under established written leave policies; (b) the costs are equitably allocated to all related activities, including Federal awards; and, (c) the accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the governmental unit.

(3) When a governmental unit uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment provided they are allocated as a general administrative expense to all activities of the governmental unit or component.

(4) The accrual basis may be only used for those types of leave for which a liability as defined by Generally Accepted Accounting Principles (GAAP) exists when the leave is earned. When a governmental unit uses the accrual basis of accounting, in accordance with GAAP, allowable leave costs are the lesser of the

amount accrued or funded.

(5) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in section 25, Insurance and indemnification); pension plan costs (see subsection e.); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, whether treated as indirect costs or as direct costs, shall be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities.

e. Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit.

(1) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursement and the governmental unit's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the pension fund.

(3) Amounts funded by the governmental unit in excess of the actuarially determined amount for a fiscal year may be used as the governmental unit's contribution in future periods.

(4) When a governmental unit converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion shall be allowable if amortized over a period of years in accordance with GAAP.

(5) The Federal Government shall receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

f. Post-retirement health benefits. Post-retirement health benefits (PRHB) refers to costs of health insurance or health services not included in a pension plan covered by subsection e. for retirees and their spouses, dependents, and survivors. PRHB costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit.

(1) For PRHB financed on a pay as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) PRHB costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursements and the governmental unit's contributions to the PRHB fund. Adjustments may be made by cash refund, reduction in current year's PRHB costs, or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the PRHB fund.

(3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the government's contribution in a future period.

(4) When a governmental unit converts to an acceptable actuarial cost method and funds PRHB costs in accordance with this method, the initial unfunded liability attributable to prior years shall be allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency.

(5) To be allowable in the current year, the PRHB costs must be paid either to:

(a) An insurer or other benefit provider as current year costs or premiums, or

(b) An insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries.

(6) The Federal Government shall receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or

other credit.

g. Severance pay.

(1) Payments in addition to regular salaries and wages made to workers whose employment is being terminated are allowable to the extent that, in each case, they are required by (a) law, (b) employer-employee agreement, or (c) established written policy.

(2) Severance payments (but not accruals) associated with normal turnover are allowable. Such payments shall be allocated to all activities of the governmental unit as an indirect cost.

(3) Abnormal or mass severance pay will be considered on a case-by-case basis and is allowable only if approved by the cognizant Federal agency.

h. Support of salaries and wages. These standards regarding time distribution are in addition to the standards for payroll documentation.

(1) Charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit.

(2) No further documentation is required for the salaries and wages of employees who work in a single indirect cost activity.

(3) Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.

(4) Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5) unless a statistical sampling system (see subsection (6)) or other substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on:

- (a) More than one Federal award,
- (b) A Federal award and a non-Federal award,
- (c) An indirect cost activity and a direct cost activity,
- (d) Two or more indirect activities which are allocated using different allocation bases, or
- (e) An unallowable activity and a direct or indirect cost activity.

(5) Personnel activity reports or equivalent documentation must meet the following standards:

- (a) They must reflect an after-the-fact distribution of the actual activity of each employee,
- (b) They must account for the total activity for which each employee is compensated,
- (c) They must be prepared at least monthly and must coincide with one or more pay periods, and
- (d) They must be signed by the employee.
- (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:

(i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;

(ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and

(iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

(6) Substitute systems for allocating salaries and wages to Federal awards may be used in place of activity reports. These systems are subject to approval if required by the cognizant agency. Such systems may include, but are not limited

to, random moment sampling, case counts, or other quantifiable measures of employee effort.

(a) Substitute systems which use sampling methods (primarily for Aid to Families with Dependent Children (AFDC), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(i) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in subsection (c);

(ii) The entire time period involved must be covered by the sample; and

(iii) The results must be statistically valid and applied to the period being sampled.

(b) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(c) Less than full compliance with the statistical sampling standards noted in subsection (a) may be accepted by the cognizant agency if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the governmental unit will result in lower costs to Federal awards than a system which complies with the standards.

(7) Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards.

i. Donated services.

(1) Donated or volunteer services may be furnished to a governmental unit by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of the Common Rule.

(2) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the governmental unit's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs.

(3) To the extent feasible, donated services will be supported by the same methods used by the governmental unit to

support the allocability of regular personnel services.

12. Contingencies. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, or intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see subsection 25.c.), pension plan reserves (see subsection 11.e.), and post-retirement health and other benefit reserves (see subsection 11.f.) computed using acceptable actuarial cost methods.

13. Contributions and donations. Contributions and donations, including cash, property, and services, by governmental units to others, regardless of the recipient, are unallowable.

14. Defense and prosecution of criminal and civil proceedings, and claims.

a. The following costs are unallowable for contracts covered by 10 U.S.C. 2324(k), "Allowable costs under defense contracts."

(1) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of false certification brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification)).

(2) Costs incurred by a contractor in connection with any criminal, civil or administrative proceedings commenced by the United States or a State to the extent provided in 10 U.S.C. 2324(k).

b. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

15. Depreciation and use allowances.

a. Depreciation and use allowances are means of allocating the cost of fixed assets to periods benefitting from asset use. Compensation for the use of fixed assets on hand may be made through depreciation or use allowances. A combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.) except as provided in subsection g. Except for enterprise funds and internal service funds that are included as part of a State/local cost allocation plan, classes of assets shall be determined on the same basis used for the government-wide financial statements.

b. The computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used. The value of an asset donated to the governmental unit by an unrelated third party shall be its fair market value at the time of donation. Governmental or quasi-governmental organizations located within the same State shall not be considered unrelated third parties for this purpose.

c. The computation of depreciation or use allowances will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government irrespective of where title was originally vested or where it presently resides; and

(3) Any portion of the cost of buildings and equipment contributed by or for the governmental unit, or a related donor organization, in satisfaction of a matching requirement.

d. Where the use allowance method is followed, the use allowance for buildings and improvements (including land improvements, such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition costs. The use allowance for equipment will be computed at an annual rate not exceeding 6 2/3 percent of acquisition cost. When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components (e.g., plumbing system, heating and air condition, etc.) cannot be segregated from the building's shell. The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, modular furniture, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the destruction of, or need for costly or extensive alterations or repairs, to the building or the equipment. Equipment that meets these criteria will be subject to the 6 2/3 percent equipment use allowance limitation.

e. Where the depreciation method is followed, the period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, historical usage patterns, technological developments, and the renewal and

replacement policies of the governmental unit followed for the individual items or classes of assets involved. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than the later portions of its useful life, the straight line method of depreciation shall be used. Depreciation methods once used shall not be changed unless approved by the Federal cognizant or awarding agency. When the depreciation method is introduced for application to an asset previously subject to a use allowance, the annual depreciation charge thereon may not exceed the amount that would have resulted had the depreciation method been in effect from the date of acquisition of the asset. The combination of use allowances and depreciation applicable to the asset shall not exceed the total acquisition cost of the asset or fair market value at time of donation.

f. When the depreciation method is used for buildings, a building's shell may be segregated from the major component of the building (e.g., plumbing system, heating, and air conditioning system, etc.) and each major component depreciated over its estimated useful life, or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life.

g. A reasonable use allowance may be negotiated for any assets that are considered to be fully depreciated, after taking into consideration the amount of depreciation previously charged to the government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factor pertinent to the utilization of the asset for the purpose contemplated.

h. Charges for use allowances or depreciation must be supported by adequate property records. Physical inventories must be taken at least once every two years (a statistical sampling approach is acceptable) to ensure that assets exist, and are in use. Governmental units will manage equipment in accordance with State laws and procedures. When the depreciation method is followed, depreciation records indicating the amount of depreciation taken each period must also be maintained.

16. Disbursing service. The cost of disbursing funds by the Treasurer or other designated officer is allowable.

17. Employee morale, health, and welfare costs. The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employee counseling services, employee information publications, and any related expenses incurred in accordance with a governmental unit's policy are allowable. Income generated from any of these activities will be offset against expenses.

18. Entertainment. Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

19. Equipment and other capital expenditures.

a. As used in this section the following terms have the meanings as set forth below:

(1) "Capital expenditure" means the cost of the asset including the cost to put it in place. Capital expenditure for equipment means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in, or excluded from, capital expenditure cost in accordance with the governmental unit's regular accounting practices.

(2) "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the governmental unit for financial statement purposes, or (b) \$5000.

(3) "Other capital assets" mean buildings, land, and improvements to buildings or land that materially increase their value or useful life.

b. Capital expenditures which are not charged directly to a Federal award may be recovered through use allowances or depreciation on buildings, capital improvements, and equipment (see section 15). See also section 38 for allowability of rental costs for buildings and equipment.

c. Capital expenditures for equipment, including replacement equipment, other capital assets, and improvements which materially increase the value or useful life of equipment or other capital assets are allowable as a direct cost when approved by the awarding agency. Federal awarding agencies are authorized at their option to waive or delegate this approval requirement.

d. Items of equipment with an acquisition cost of less than \$5000 are considered to be supplies and are allowable as direct costs of Federal awards without specific awarding agency approval.

e. The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by (1) continuing to claim the otherwise allowable use allowances or depreciation charges on the equipment or by (2) amortizing the amount to be written off over a period of years negotiated with the cognizant agency.

f. When replacing equipment purchased in whole or in part with Federal funds, the governmental unit may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

20. Fines and penalties. Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, local, or Indian tribal laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments.

21. Fund raising and investment management costs.

a. Costs of organized fund raising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable, regardless of the purpose for which the funds will be used.

b. Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable. However, such costs associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this Circular are allowable.

c. Fund raising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in subsection C.3.b. of Attachment A.

22. Gains and losses on disposition of depreciable property and other capital assets and substantial relocation of Federal programs.

a. (1) Gains and losses on the sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) shall be the difference between the amount realized on the property and the undepreciated basis of the property.

(2) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions:

(a) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under sections 15 and 19.

(b) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in subsection 25.d.

(d) Compensation for the use of the property was provided through use allowances in lieu of depreciation.

b. Substantial relocation of Federal awards from a facility where the Federal Government participated in the financing to another facility prior to the expiration of the useful life of the financed facility requires Federal agency approval. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation charged to date may require negotiation of space charges for Federal awards.

c. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subsection a., e.g., land or included in the fair market value used in any adjustment resulting from a relocation of Federal awards covered in subsection b. shall be excluded in computing Federal award costs.

23. General government expenses.

a. The general costs of government are unallowable (except as provided in section 41). These include:

(1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executives of federally-recognized Indian tribal governments;

(2) Salaries and other expenses of State legislatures, tribal councils, or similar local governmental bodies, such as

county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction;

(3) Cost of the judiciary branch of a government;

(4) Cost of prosecutorial activities unless treated as a direct cost to a specific program when authorized by program regulations (however, this does not preclude the allowability of other legal activities of the Attorney General); and

(5) Other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost in program regulations.

b. For federally-recognized Indian tribal governments and Councils Of Governments (COGs), the portion of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his staff is allowable.

24. Idle facilities and idle capacity.

a. As used in this section the following terms have the meanings set forth below:

(1) "Facilities" means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the governmental unit.

(2) "Idle facilities" means completely unused facilities that are excess to the governmental unit's current needs.

(3) "Idle capacity" means the unused capacity of partially used facilities. It is the difference between (a) that which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and (b) the extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.

(4) "Cost of idle facilities or idle capacity" means costs such as maintenance, repair, housing, rent, and other related costs, e.g., insurance, interest, and depreciation or use allowances.

b. The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet fluctuations in workload; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

c. The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities.

25. Insurance and indemnification.

a. Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable.

b. Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage are in accordance with the governmental unit's policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the awarding agency has specifically required or approved such costs.

c. Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the Federal award or as described below. However, the Federal Government will participate in actual losses of a self insurance fund that are in excess of reserves. Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and

disappearance of small hand tools, which occur in the ordinary course of operations; are allowable.

d. Contributions to a reserve for certain self-insurance programs including workers compensation, unemployment compensation, and severance pay are allowable subject to the following provisions:

(1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, shall not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by giving consideration to such factors as the governmental unit's settlement rate for those liabilities and its investment rate of return.

(2) Earnings or investment income on reserves must be credited to those reserves.

(3) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and take into account any reinsurance, coinsurance, etc. Reserve levels related to employee-related coverages will normally be limited to the value of claims (a) submitted and adjudicated but not paid, (b) submitted but not adjudicated, and (c) incurred but not submitted. Reserve levels in excess of the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal.

(4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the governmental unit. If individual departments or agencies of the governmental unit experience significantly different levels of claims for a particular risk, those differences are to be recognized by the use of separate allocations or other techniques resulting in an equitable allocation.

(5) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund), refunds shall be made to the Federal Government for its share of funds transferred, including earned or imputed interest from the date of transfer.

e. Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment

compensation, severance pay, and similar employee benefits (e.g., subsection 11.f. for post retirement health benefits), are allowable in the year of payment provided (1) the governmental unit follows a consistent costing policy and (2) they are allocated as a general administrative expense to all activities of the governmental unit.

f. Insurance refunds shall be credited against insurance costs in the year the refund is received.

g. Indemnification includes securing the governmental unit against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the governmental unit only to the extent expressly provided for in the Federal award, except as provided in subsection d.

h. Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship are unallowable.

26. Interest.

a. Costs incurred for interest on borrowed capital or the use of a governmental unit's own funds, however represented, are unallowable except as specifically provided in subsection b. or authorized by Federal legislation.

b. Financing costs (including interest) paid or incurred on or after the effective date of this Circular associated with the otherwise allowable costs of building acquisition, construction, or fabrication, reconstruction or remodeling completed on or after October 1, 1980 is allowable, subject to the conditions in (1)-(4). Financing costs (including interest) paid or incurred on or after the effective date of this Circular associated with otherwise allowable costs of equipment is allowable, subject to the conditions in (1)-(4).

(1) The financing is provided (from other than tax or user fee sources) by a bona fide third party external to the governmental unit;

(2) The assets are used in support of Federal awards;

(3) Earnings on debt service reserve funds or interest earned on borrowed funds pending payment of the construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.

(4) Governmental units will negotiate the amount of allowable interest whenever cash payments (interest, depreciation, use allowances, and contributions) exceed the governmental unit's cash payments and other contributions attributable to that portion of real property used for Federal awards.

27. Lobbying. The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans shall be governed by the common rule, "New Restrictions on Lobbying" published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Government-wide Guidance for New Restrictions on Lobbying" and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), and 57 FR 1772 (January 15, 1992), respectively.

28. Maintenance, operations and repairs. Unless prohibited by law, the cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations, and the like are allowable to the extent that they: (1) keep property (including Federal property, unless otherwise provided for) in an efficient operating condition, (2) do not add to the permanent value of property or appreciably prolong its intended life, and (3) are not otherwise included in rental or other charges for space. Costs which add to the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures (see sections 15 and 19).

29. Materials and supplies. The cost of materials and supplies is allowable. Purchases should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing, consistently applied. Incoming transportation charges are a proper part of materials and supply costs.

30. Memberships, subscriptions, and professional activities.

a. Costs of the governmental unit's memberships in business, technical, and professional organizations are allowable.

b. Costs of the governmental unit's subscriptions to business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences where the primary purpose is the dissemination of technical information, including meals, transportation, rental of meeting facilities, and other incidental costs are allowable.

d. Costs of membership in civic and community, social organizations are allowable as a direct cost with the approval of the Federal awarding agency.

e. Costs of membership in organizations substantially engaged in lobbying are unallowable.

31. Motor pools. The costs of a service organization which provides automobiles to user governmental units at a mileage or fixed rate and/or provides vehicle maintenance, inspection, and repair services are allowable.

32. Pre-award costs. Pre-award costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

33. Professional service costs.

a. Cost of professional and consultant services rendered by persons or organizations that are members of a particular profession or possess a special skill, whether or not officers or employees of the governmental unit, are allowable, subject to section 14 when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government.

b. Retainer fees supported by evidence of bona fide services available or rendered are allowable.

34. Proposal costs. Costs of preparing proposals for potential Federal awards are allowable. Proposal costs should normally be treated as indirect costs and should be allocated to all activities of the governmental unit utilizing the cost allocation plan and indirect cost rate proposal. However, proposal costs may be charged directly to Federal awards with the prior approval of the Federal awarding agency.

35. Publication and printing costs. Publication costs, including the costs of printing (including the processes of composition, plate-making, press work, and binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling are allowable.

36. Rearrangements and alterations. Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable. Special arrangements and alterations costs incurred specifically for a Federal award are allowable with the prior approval of the Federal awarding agency.

37. Reconversion costs. Costs incurred in the restoration or rehabilitation of the governmental unit's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, less costs related to normal wear and tear, are allowable.

38. Rental costs.

a. Subject to the limitations described in subsections b. through d. of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and, the type, life expectancy, condition, and value of the property leased.

b. Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the governmental unit continued to own the property.

c. Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested in the governmental unit. For this purpose, less-than-arms-length leases include, but are not limited to, those where:

(1) One party to the lease is able to control or substantially influence the actions of the other;

(2) Both parties are parts of the same governmental unit; or

(3) The governmental unit creates an authority or similar entity to acquire and lease the facilities to the governmental unit and other parties.

d. Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount that would be allowed had the governmental unit purchased the property on the date the lease agreement was executed. This amount would include expenses such as depreciation or use allowance, maintenance, and insurance. The provisions of Financial Accounting Standards Board Statement 13 shall be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in section 26.

39. Taxes.

a. Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs. This

provision becomes effective for taxes paid during the governmental unit's first fiscal year that begins on or after January 1, 1998, and applies thereafter.

b. Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal Government are allowable.

c. This provision does not restrict the authority of Federal agencies to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency may accept a reasonable approximation thereof.

40. Training. The cost of training provided for employee development is allowable.

41. Travel costs.

a. General. Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees traveling on official business. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-federally-sponsored activities. Notwithstanding the provisions of section 23, travel costs of officials covered by that section, when specifically related to Federal awards, are allowable with the prior approval of a grantor agency.

b. Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the governmental unit in its regular operations as a result of the governmental unit's policy. In the absence of a written governmental unit policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57 of Title 5, United States Code "Travel and Subsistence Expenses; Mileage Allowances," or by the Administrator of General Services, or the President (or his designee) pursuant to any provisions of such subchapter shall be used as guidance for travel under Federal awards (41 U.S.C. 420, "Travel Expenses of Government Contractors").

c. Commercial air travel. Airfare costs in excess of the customary standard (coach or equivalent) airfare, are unallowable except when such accommodations would: require circuitous routing, require travel during unreasonable hours, excessively

prolong travel, greatly increase the duration of the flight, result in increased cost that would offset transportation savings, or offer accommodations not reasonably adequate for the medical needs of the traveler. Where a governmental unit can reasonably demonstrate to the awarding agency either the nonavailability of customary standard airfare or Federal Government contract airfare for individual trips or, on an overall basis, that it is the governmental unit's practice to make routine use of such airfare, specific determinations of nonavailability will generally not be questioned by the Federal Government, unless a pattern of avoidance is detected. However, in order for airfare costs in excess of the customary standard commercial airfare to be allowable, e.g., use of first-class airfare, the governmental unit must justify and document on a case-by-case basis the applicable condition(s) set forth above.

d. Air travel by other than commercial carrier. Cost of travel by governmental unit-owned, -leased, or -chartered aircraft, as used in this section, includes the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, interest, insurance, and other related costs. Costs of travel via governmental unit-owned, -leased, or -chartered aircraft are unallowable to the extent they exceed the cost of allowable commercial air travel, as provided for in subsection c.

42. Underrecovery of costs under Federal agreements. Any excess costs over the Federal contribution under one award agreement are unallowable under other award agreements.

STATE/LOCAL-WIDE CENTRAL SERVICE COST ALLOCATION PLANS

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- A. General.

1. Most governmental units provide certain services, such as motor pools, computer centers, purchasing, accounting, etc., to operating agencies on a centralized basis. Since federally-supported awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process. All costs and other data used to distribute the costs included in the plan

should be supported by formal accounting and other records that will support the propriety of the costs assigned to Federal awards.

2. Guidelines and illustrations of central service cost allocation plans are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government." A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

B. Definitions.

1. "Billed central services" means central services that are billed to benefitted agencies and/or programs on an individual fee-for-service or similar basis. Typical examples of billed central services include computer services, transportation services, insurance, and fringe benefits.

2. "Allocated central services" means central services that benefit operating agencies but are not billed to the agencies on a fee-for-service or similar basis. These costs are allocated to benefitted agencies on some reasonable basis. Examples of such services might include general accounting, personnel administration, purchasing, etc.

3. "Agency or operating agency" means an organizational unit or sub-division within a governmental unit that is responsible for the performance or administration of awards or activities of the governmental unit.

C. Scope of the Central Service Cost Allocation Plans. The central service cost allocation plan will include all central service costs that will be claimed (either as a billed or an allocated cost) under Federal awards and will be documented as described in section E. Costs of central services omitted from the plan will not be reimbursed.

D. Submission Requirements.

1. Each State will submit a plan to the Department of Health and Human Services for each year in which it claims central service costs under Federal awards. The plan should include (a) a projection of the next year's allocated central service cost (based either on actual costs for the most recently completed year or the budget projection for the coming year), and (b) a reconciliation of actual allocated central service costs to the estimated costs used for either the most recently completed year or the year immediately preceding the most recently completed year.

2. Each local government that has been designated as a "major local government" by the Office of Management and Budget (OMB) is also required to submit a plan to its cognizant agency annually. OMB periodically lists major local governments in the Federal Register.

3. All other local governments claiming central service costs must develop a plan in accordance with the requirements described in this Circular and maintain the plan and related supporting documentation for audit. These local governments are not required to submit their plans for Federal approval unless they are specifically requested to do so by the cognizant agency. Where a local government only receives funds as a sub-recipient, the primary recipient will be responsible for negotiating indirect cost rates and/or monitoring the sub-recipient's plan.

4. All central service cost allocation plans will be prepared and, when required, submitted within six months prior to the beginning of each of the governmental unit's fiscal years in which it proposes to claim central service costs. Extensions may be granted by the cognizant agency on a case-by-case basis.

E. Documentation Requirements for Submitted Plans. The documentation requirements described in this section may be modified, expanded, or reduced by the cognizant agency on a case-by-case basis. For example, the requirements may be reduced for those central services which have little or no impact on Federal awards. Conversely, if a review of a plan indicates that certain additional information is needed, and will likely be needed in future years, it may be routinely requested in future plan submissions. Items marked with an asterisk (*) should be submitted only once; subsequent plans should merely indicate any changes since the last plan.

1. General. All proposed plans must be accompanied by the following: an organization chart sufficiently detailed to show operations including the central service activities of the State/local government whether or not they are shown as benefiting from central service functions; a copy of the Comprehensive Annual Financial Report (or a copy of the Executive Budget if budgeted costs are being proposed) to support the allowable costs of each central service activity included in the plan; and, a certification (see subsection 4.) that the plan was prepared in accordance with this Circular, contains only allowable costs, and was prepared in a manner that treated similar costs consistently among the various Federal awards and between Federal and non-Federal awards/activities.

2. Allocated central services. For each allocated central service, the plan must also include the following: a brief description of the service*, an identification of the unit rendering the service and the operating agencies receiving the

service, the items of expense included in the cost of the service, the method used to distribute the cost of the service to benefitted agencies, and a summary schedule showing the allocation of each service to the specific benefitted agencies. If any self-insurance funds or fringe benefits costs are treated as allocated (rather than billed) central services, documentation discussed in subsections 3.b. and c. shall also be included.

3. Billed services.

a. General. The information described below shall be provided for all billed central services, including internal service funds, self-insurance funds, and fringe benefit funds.

b. Internal service funds.

(1) For each internal service fund or similar activity with an operating budget of \$5 million or more, the plan shall include: a brief description of each service; a balance sheet for each fund based on individual accounts contained in the governmental unit's accounting system; a revenue/expenses statement, with revenues broken out by source, e.g., regular billings, interest earned, etc.; a listing of all non-operating transfers (as defined by Generally Accepted Accounting Principles (GAAP)) into and out of the fund; a description of the procedures (methodology) used to charge the costs of each service to users, including how billing rates are determined; a schedule of current rates; and, a schedule comparing total revenues (including imputed revenues) generated by the service to the allowable cost of the service, as determined under this Circular, with an explanation of how variances will be handled.

(2) Revenues shall consist of all revenues generated by the service, including unbilled and uncollected revenues. If some users were not billed for the services (or were not billed at the full rate for that class of users), a schedule showing the full imputed revenues associated with these users shall be provided. Expenses shall be broken out by object cost categories (e.g., salaries, supplies, etc.).

c. Self-insurance funds. For each self-insurance fund, the plan shall include: the fund balance sheet; a statement of revenue and expenses including a summary of billings and claims paid by agency; a listing of all non-operating transfers into and out of the fund; the type(s) of risk(s) covered by the fund (e.g., automobile liability, workers' compensation, etc.); an explanation of how the level of fund contributions are determined, including a copy of the current actuarial report (with the actuarial assumptions used) if the contributions are determined on an actuarial basis; and, a description of the procedures used to charge or allocate fund contributions to benefitted activities. Reserve levels in excess

of claims (1) submitted and adjudicated but not paid, (2) submitted but not adjudicated, and (3) incurred but not submitted must be identified and explained.

d. Fringe benefits. For fringe benefit costs, the plan shall include: a listing of fringe benefits provided to covered employees, and the overall annual cost of each type of benefit; current fringe benefit policies*; and procedures used to charge or allocate the costs of the benefits to benefitted activities. In addition, for pension and post-retirement health insurance plans, the following information shall be provided: the governmental unit's funding policies, e.g., legislative bills, trust agreements, or State-mandated contribution rules, if different from actuarially determined rates; the pension plan's costs accrued for the year; the amount funded, and date(s) of funding; a copy of the current actuarial report (including the actuarial assumptions); the plan trustee's report; and, a schedule from the activity showing the value of the interest cost associated with late funding.

4. Required certification. Each central service cost allocation plan will be accompanied by a certification in the following form:

CERTIFICATE OF COST ALLOCATION PLAN

This is to certify that I have reviewed the cost allocation plan submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal [identify date] to establish cost allocations or billings for [identify period covered by plan] are allowable in accordance with the requirements of OMB Circular A-87, "Cost Principles for State and Local Governments," and the Federal award(s) to which they apply. Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

(2) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the awards to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently.

I declare that the foregoing is true and correct.

Governmental Unit: _____

Signature: _____

Name of Official: _____

Title: _____

Date of Execution: _____

F. Negotiation and Approval of Central Service Plans.

1. All proposed central service cost allocation plans that are required to be submitted will be reviewed, negotiated, and approved by the Federal cognizant agency on a timely basis. The cognizant agency will review the proposal within six months of receipt of the proposal and either negotiate/approve the proposal or advise the governmental unit of the additional documentation needed to support/evaluate the proposed plan or the changes required to make the proposal acceptable. Once an agreement with the governmental unit has been reached, the agreement will be accepted and used by all Federal agencies, unless prohibited or limited by statute. Where a Federal funding agency has reason to believe that special operating factors affecting its awards necessitate special consideration, the funding agency will, prior to the time the plans are negotiated, notify the cognizant agency.

2. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the governmental unit. This agreement will be subject to re-opening if the agreement is subsequently found to violate a statute or the information upon which the plan was negotiated is later found to be materially incomplete or inaccurate. The results of the negotiation shall be made available to all Federal agencies for their use.

3. Negotiated cost allocation plans based on a proposal later found to have included costs that: (a) are unallowable (i) as specified by law or regulation, (ii) as identified in Attachment B of this Circular, or (iii) by the terms and conditions of Federal awards, or (b) are unallowable because they are clearly not allocable to Federal awards, shall be adjusted, or a refund shall be made at the option of the Federal cognizant agency. These adjustments or refunds are designed to correct the plans and do not constitute a reopening of the negotiation.

G. Other Policies.

1. Billed central service activities. Each billed central service activity must separately account for all revenues (including imputed revenues) generated by the service, expenses incurred to furnish the service, and profit/loss.

2. Working capital reserves. Internal service funds are dependent upon a reasonable level of working capital reserve to operate from one billing cycle to the next. Charges by an internal service activity to provide for the establishment and maintenance of a reasonable level of working capital reserve, in addition to the full recovery of costs, are allowable. A working capital reserve as part of retained earnings of up to 60 days cash expenses for normal operating purposes is considered reasonable. A working capital reserve exceeding 60 days may be approved by the cognizant Federal agency in exceptional cases.

3. Carry-forward adjustments of allocated central service costs. Allocated central service costs are usually negotiated and approved for a future fiscal year on a "fixed with carry-forward" basis. Under this procedure, the fixed amounts for the future year covered by agreement are not subject to adjustment for that year. However, when the actual costs of the year involved become known, the differences between the fixed amounts previously approved and the actual costs will be carried forward and used as an adjustment to the fixed amounts established for a later year. This "carry-forward" procedure applies to all central services whose costs were fixed in the approved plan. However, a carry-forward adjustment is not permitted, for a central service activity that was not included in the approved plan, or for unallowable costs that must be reimbursed immediately.

4. Adjustments of billed central services. Billing rates used to charge Federal awards shall be based on the estimated costs of providing the services, including an estimate of the allocable central service costs.

A comparison of the revenue generated by each billed service (including total revenues whether or not billed or collected) to the actual allowable costs of the service will be made at least annually, and an adjustment will be made for the difference between the revenue and the allowable costs. These adjustments will be made through one of the following adjustment methods: (a) a cash refund to the Federal Government for the Federal share of the adjustment, (b) credits to the amounts charged to the individual programs, (c) adjustments to future billing rates, or (d) adjustments to allocated central service costs. Adjustments to allocated central services will not be permitted where the total amount of the adjustment for a particular service (Federal share and non-Federal) share exceeds \$500,000.

5. Records retention. All central service cost allocation plans and related documentation used as a basis for claiming costs under Federal awards must be retained for audit in accordance with the records retention requirements contained in the Common Rule.

6. Appeals. If a dispute arises in the negotiation of a plan between the cognizant agency and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

7. OMB assistance. To the extent that problems are encountered among the Federal agencies and/or governmental units in connection with the negotiation and approval process, OMB will lend assistance, as required, to resolve such problems in a timely manner.

PUBLIC ASSISTANCE COST ALLOCATION PLANS

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- E. Review of Implementation of Approved Plans

A. General. Federally-financed programs administered by State public assistance agencies are funded predominately by the Department of Health and Human Services (HHS). In support of its stewardship requirements, HHS has published requirements for the development, documentation, submission, negotiation, and approval of public assistance cost allocation plans in Subpart E of 45 CFR Part 95. All administrative costs (direct and indirect) are normally charged to Federal awards by implementing the public assistance cost allocation plan. This Attachment extends these requirements to all Federal agencies whose programs are administered by a State public assistance agency. Major federally-financed programs typically administered by State public assistance agencies include: Aid to Families with Dependent Children, Medicaid, Food Stamps, Child Support Enforcement, Adoption Assistance and Foster Care, and Social Services Block Grant.

B. Definitions.

1. "State public assistance agency" means a State agency administering or supervising the administration of one or more public assistance programs operated by the State as identified in Subpart E of 45 CFR Part 95. For the purpose of this Attachment, these programs include all programs administered by the State public assistance agency.

2. "State public assistance agency costs" means all costs incurred by, or allocable to, the State public assistance agency, except expenditures for financial assistance, medical vendor payments, food stamps, and payments for services and goods provided directly to program recipients.

C. Policy. State public assistance agencies will develop, document and implement, and the Federal Government will review, negotiate, and approve, public assistance cost allocation plans in accordance with Subpart E of 45 CFR Part 95. The plan will include all programs administered by the State public assistance agency. Where a letter of approval or disapproval is transmitted to a State public assistance agency in accordance with Subpart E, the letter will apply to all Federal agencies and programs. The remaining sections of this Attachment (except for the requirement for certification) summarize the provisions of Subpart E of 45 CFR Part 95.

D. Submission, Documentation, and Approval of Public Assistance Cost Allocation Plans.

1. State public assistance agencies are required to promptly submit amendments to the cost allocation plan to HHS for review and approval.

2. Under the coordination process outlined in subsection E, affected Federal agencies will review all new plans and plan amendments and provide comments, as appropriate, to HHS. The effective date of the plan or plan amendment will be the first day of the quarter following the submission of the plan or amendment, unless another date is specifically approved by HHS. HHS, as the cognizant agency acting on behalf of all affected Federal agencies, will, as necessary, conduct negotiations with the State public assistance agency and will inform the State agency of the action taken on the plan or plan amendment.

E. Review of Implementation of Approved Plans.

1. Since public assistance cost allocation plans are of a narrative nature, the review during the plan approval process consists of evaluating the appropriateness of the proposed groupings of costs (cost centers) and the related allocation bases. As such, the Federal Government needs some assurance that the cost allocation plan has been implemented as approved. This is accomplished by reviews by the funding agencies, single audits, or audits conducted by the cognizant audit agency.

2. Where inappropriate charges affecting more than one funding agency are identified, the cognizant HHS cost negotiation office will be advised and will take the lead in resolving the issue(s) as provided for in Subpart E of 45 CFR Part 95.

3. If a dispute arises in the negotiation of a plan or from a disallowance involving two or more funding agencies, the dispute shall be resolved in accordance with the appeals procedures set out in 45 CFR Part 75. Disputes involving only one funding agency will be resolved in accordance with the funding agency's appeal process.

4. To the extent that problems are encountered among the Federal agencies and/or governmental units in connection with the negotiation and approval process, the Office of Management and Budget will lend assistance, as required, to resolve such problems in a timely manner.

F. Claims developed under approved cost allocation plans will be based on allowable costs as identified in this Circular. Where unallowable costs have been claimed and reimbursed, they will be refunded to the program that reimbursed the unallowable cost using one of the following methods: (a) a cash refund, (b) offset to a subsequent claim, or (c) credits to the amounts charged to individual awards.

STATE AND LOCAL INDIRECT COST RATE PROPOSALS

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A. General.

1. Indirect costs are those that have been incurred for common or joint purposes.. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned directly to Federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefitted cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for

the same purpose, in like circumstances, has been assigned to a Federal award as a direct cost.

2. Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and (b) the costs of central governmental services distributed through the central service cost allocation plan (as described in Attachment C) and not otherwise treated as direct costs.

3. Indirect costs are normally charged to Federal awards by the use of an indirect cost rate. A separate indirect cost rate(s) is usually necessary for each department or agency of the governmental unit claiming indirect costs under Federal awards. Guidelines and illustrations of indirect cost proposals are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government." A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

4. Because of the diverse characteristics and accounting practices of governmental units, the types of costs which may be classified as indirect costs cannot be specified in all situations. However, typical examples of indirect costs may include certain State/local-wide central service costs, general administration of the grantee department or agency, accounting and personnel services performed within the grantee department or agency, depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, etc.

5. This Attachment does not apply to State public assistance agencies. These agencies should refer instead to Attachment D.

B. Definitions.

1. "Indirect cost rate proposal" means the documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate.

2. "Indirect cost rate" is a device for determining in a reasonable manner the proportion of indirect costs each program should bear. It is the ratio (expressed as a percentage) of the indirect costs to a direct cost base.

3. "Indirect cost pool" is the accumulated costs that jointly benefit two or more programs or other cost objectives.

4. "Base" means the accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute indirect costs to individual Federal awards. The direct cost base selected should result in each award bearing a fair share of the indirect costs in reasonable relation to the benefits received from the costs.

5. "Predetermined rate" means an indirect cost rate, applicable to a specified current or future period, usually the governmental unit's fiscal year. This rate is based on an estimate of the costs to be incurred during the period. Except under very unusual circumstances, a predetermined rate is not subject to adjustment. (Because of legal constraints, predetermined rates are not permitted for Federal contracts; they may, however, be used for grants or cooperative agreements.) Predetermined rates may not be used by governmental units that have not submitted and negotiated the rate with the cognizant agency. In view of the potential advantages offered by this procedure, negotiation of predetermined rates for indirect costs for a period of two to four years should be the norm in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting periods.

6. "Fixed rate" means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual, allowable costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

7. "Provisional rate" means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on Federal awards pending the establishment of a "final" rate for that period.

8. "Final rate" means an indirect cost rate applicable to a specified past period which is based on the actual allowable costs of the period. A final audited rate is not subject to adjustment.

9. "Base period" for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to activities performed in that period. The base period normally should coincide with the governmental unit's fiscal year, but in any event, shall be so selected as to avoid inequities in the allocation of costs.

C. Allocation of Indirect Costs and Determination of Indirect Cost Rates.

1. General.

a. Where a governmental unit's department or agency has only one major function, or where all its major functions benefit from the indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures as described in subsection 2.

b. Where a governmental unit's department or agency has several major functions which benefit from its indirect costs in varying degrees, the allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefitted functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual awards and other activities included in that function by means of an indirect cost rate(s).

c. Specific methods for allocating indirect costs and computing indirect cost rates along with the conditions under which each method should be used are described in subsections 2, 3 and 4.

2. Simplified method.

a. Where a grantee agency's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (1) classifying the grantee agency's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to individual Federal awards. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used where a governmental unit's department or agency has only one major function encompassing a number of individual projects or activities, and may be used where the level of Federal awards to that department or agency is relatively small.

b. Both the direct costs and the indirect costs shall exclude capital expenditures and unallowable costs. However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

c. The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

3. Multiple allocation base method.

a. Where a grantee agency's indirect costs benefit its major functions in varying degrees, such costs shall be accumulated into separate cost groupings. Each grouping shall then be allocated individually to benefitted functions by means of a base which best measures the relative benefits.

b. The cost groupings should be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping should constitute a pool of expenses that are of like character in terms of the functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The number of separate groupings should be held within practical limits, taking into consideration the materiality of the amounts involved and the degree of precision needed.

c. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefitted functions. When an allocation can be made by assignment of a cost grouping directly to the function benefitted, the allocation shall be made in that manner. When the expenses in a grouping are more general in nature, the allocation should be made through the use of a selected base which produces results that are equitable to both the Federal Government and the governmental unit. In general, any cost element or related factor associated with the governmental unit's activities is potentially adaptable for use as an allocation base provided that: (1) it can readily be expressed in terms of dollars or other quantitative measures (total direct costs, direct salaries and wages, staff hours applied, square feet used, hours of usage, number of documents processed, population served, and the like), and (2) it is common to the benefitted functions during the base period.

d. Except where a special indirect cost rate(s) is required in accordance with subsection 4, the separate groupings of indirect costs allocated to each major function shall be aggregated and treated as a common pool for that function. The costs in the common pool shall then be distributed to individual Federal awards included in that function by use of a single indirect cost rate.

e. The distribution base used in computing the indirect cost rate for each function may be (1) total direct

costs (excluding capital expenditures and other distorting items such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution. An indirect cost rate should be developed for each separate indirect cost pool developed. The rate in each case should be stated as the percentage relationship between the particular indirect cost pool and the distribution base identified with that pool.

4. Special indirect cost rates.

a. In some instances, a single indirect cost rate for all activities of a grantee department or agency or for each major function of the agency may not be appropriate. It may not take into account those different factors which may substantially affect the indirect costs applicable to a particular program or group of programs. The factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or other resources employed, the organizational arrangements used, or any combination thereof. When a particular award is carried out in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to that award. The separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used, provided that: (1) the rate differs significantly from the rate which would have been developed under subsections 2. and 3., and (2) the award to which the rate would apply is material in amount.

b. Although this Circular adopts the concept of the full allocation of indirect costs, there are some Federal statutes which restrict the reimbursement of certain indirect costs. Where such restrictions exist, it may be necessary to develop a special rate for the affected award. Where a "restricted rate" is required, the procedure for developing a non-restricted rate will be used except for the additional step of the elimination from the indirect cost pool those costs for which the law prohibits reimbursement.

D. Submission and Documentation of Proposals.

1. Submission of indirect cost rate proposals.

a. All departments or agencies of the governmental unit desiring to claim indirect costs under Federal awards must prepare an indirect cost rate proposal and related documentation to support those costs. The proposal and related documentation must be retained for audit in accordance with the records retention requirements contained in the Common Rule.

b. A governmental unit for which a cognizant agency assignment has been specifically designated must submit its indirect cost rate proposal to its cognizant agency. The Office of Management and Budget (OMB) will periodically publish lists of governmental units identifying the appropriate Federal cognizant agencies. The cognizant agency for all governmental units or agencies not identified by OMB will be determined based on the Federal agency providing the largest amount of Federal funds. In these cases, a governmental unit must develop an indirect cost proposal in accordance with the requirements of this Circular and maintain the proposal and related supporting documentation for audit. These governmental units are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency. Where a local government only receives funds as a sub-recipient, the primary recipient will be responsible for negotiating and/or monitoring the sub-recipient's plan.

c. Each Indian tribal government desiring reimbursement of indirect costs must submit its indirect cost proposal to the Department of the Interior (its cognizant Federal agency).

d. Indirect cost proposals must be developed (and, when required, submitted) within six months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant Federal agency. If the proposed central service cost allocation plan for the same period has not been approved by that time, the indirect cost proposal may be prepared including an amount for central services that is based on the latest federally-approved central service cost allocation plan. The difference between these central service amounts and the amounts ultimately approved will be compensated for by an adjustment in a subsequent period.

2. Documentation of proposals. The following shall be included with each indirect cost proposal:

a. The rates proposed, including subsidiary work sheets and other relevant data, cross referenced and reconciled to the financial data noted in subsection b. Allocated central service costs will be supported by the summary table included in the approved central service cost allocation plan. This summary table is not required to be submitted with the indirect cost proposal if the central service cost allocation plan for the same fiscal year has been approved by the cognizant agency and is available to the funding agency.

b. A copy of the financial data (financial statements, comprehensive annual financial report, executive budgets, accounting reports, etc.) upon which the rate is based. Adjustments resulting from the use of unaudited data will be

recognized, where appropriate, by the Federal cognizant agency in a subsequent proposal:

c. The approximate amount of direct base costs incurred under Federal awards. These costs should be broken out between salaries and wages and other direct costs.

d. A chart showing the organizational structure of the agency during the period for which the proposal applies, along with a functional statement(s) noting the duties and/or responsibilities of all units that comprise the agency. (Once this is submitted, only revisions need be submitted with subsequent proposals.)

3. Required certification. Each indirect cost rate proposal shall be accompanied by a certification in the following form:

CERTIFICATE OF INDIRECT COSTS

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal [identify date] to establish billing or final indirect costs rates for [identify period covered by rate] are allowable in accordance with the requirements of the Federal award(s) to which they apply and OMB Circular A-87, "Cost Principles for State and Local Governments." Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

(2) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government will be notified of any accounting changes that would affect the predetermined rate.

I declare that the foregoing is true and correct.

Governmental Unit: _____
Signature: _____
Name of Official: _____
Title: _____
Date of Execution: _____

E. Negotiation and Approval of Rates.

1. Indirect cost rates will be reviewed, negotiated, and approved by the cognizant Federal agency on a timely basis. Once a rate has been agreed upon, it will be accepted and used by all Federal agencies unless prohibited or limited by statute. Where a Federal funding agency has reason to believe that special operating factors affecting its awards necessitate special indirect cost rates, the funding agency will, prior to the time the rates are negotiated, notify the cognizant Federal agency.

2. The use of predetermined rates, if allowed, is encouraged where the cognizant agency has reasonable assurance based on past experience and reliable projection of the grantee agency's costs, that the rate is not likely to exceed a rate

based on actual costs. Long-term agreements utilizing predetermined rates extending over two or more years are encouraged, where appropriate.

3. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the governmental unit. This agreement will be subject to re-opening if the agreement is subsequently found to violate a statute, or the information upon which the plan was negotiated is later found to be materially incomplete or inaccurate. The agreed upon rates shall be made available to all Federal agencies for their use.

4. Refunds shall be made if proposals are later found to have included costs that (a) are unallowable (i) as specified by law or regulation, (ii) as identified in Attachment B of this Circular, or (iii) by the terms and conditions of Federal awards, or (b) are unallowable because they are clearly not allocable to Federal awards. These adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

F. Other Policies.

1. Fringe benefit rates. If overall fringe benefit rates are not approved for the governmental unit as part of the central service cost allocation plan, these rates will be reviewed, negotiated and approved for individual grantee agencies during the indirect cost negotiation process. In these cases, a proposed fringe benefit rate computation should accompany the indirect cost proposal. If fringe benefit rates are not used at the grantee agency level (i.e., the agency specifically identifies fringe benefit costs to individual employees), the governmental unit should so advise the cognizant agency.

2. Billed services provided by the grantee agency. In some cases, governmental units provide and bill for services similar to those covered by central service cost allocation plans (e.g., computer centers). Where this occurs, the governmental unit should be guided by the requirements in Attachment C relating to the development of billing rates and documentation requirements, and should advise the cognizant agency of any billed services. Reviews of these types of services (including reviews of costing/billing methodology, profits or losses, etc.) will be made on a case-by-case basis as warranted by the circumstances involved.

3. Indirect cost allocations not using rates. In certain situations, a governmental unit, because of the nature of its awards, may be required to develop a cost allocation plan that distributes indirect (and, in some cases, direct) costs to the specific funding sources. In these cases, a narrative cost allocation methodology should be developed, documented,

maintained for audit, or submitted, as appropriate, to the cognizant agency for review, negotiation, and approval.

4. Appeals. If a dispute arises in a negotiation of an indirect cost rate (or other rate) between the cognizant agency and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

5. Collection of unallowable costs and erroneous payments. Costs specifically identified as unallowable and charged to Federal awards either directly or indirectly will be refunded (including interest chargeable in accordance with applicable Federal agency regulations).

6. OMB assistance. To the extent that problems are encountered among the Federal agencies and/or governmental units in connection with the negotiation and approval process, OMB will lend assistance, as required, to resolve such problems in a timely manner.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

CIRCULAR NO. A-102
(Revised)

October 7, 1994

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Grants and Cooperative Agreements with State and Local Governments

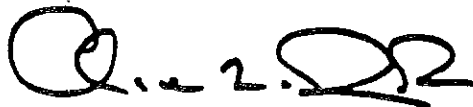
1. Purpose. This Circular establishes consistency and uniformity among Federal agencies in the management of grants and cooperative agreements with State, local, and federally-recognized Indian tribal governments. This revision supersedes Office of Management and Budget (OMB) Circular No. A-102, dated March 3, 1988.
2. Authority. This Circular is issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; Executive Order 11541 and the Chief Financial Officers Act, 31 U.S.C. 503. Also included in the Circular are standards to ensure consistent implementation of sections 202, 203, and 204 of the Intergovernmental Cooperation Act of 1968, the Office of Federal Procurement Policy Act Amendments of 1983, and sections 6301-08, title 31, United States Code.
3. Background. On March 12, 1987, the President directed all affected agencies to issue a grants management common rule to adopt government-wide terms and conditions for grants to State and local governments, and they did so. In 1988, OMB revised the Circular to provide guidance to Federal agencies on other matters not covered in the common rule.
4. Required Action. Consistent with their legal obligations, all Federal agencies administering programs that involve grants and cooperative agreements with State, local and Indian tribal governments (grantees) shall follow the policies in this Circular. If the enabling legislation for a specific grant program prescribes policies or requirements that differ from those in this Circular, the provisions of the enabling legislation shall govern.
5. OMB Responsibilities. OMB may grant deviations from the requirements of this Circular when permissible under existing law. However, in the interest of uniformity and consistency, deviations will be permitted only in exceptional circumstances.

6. Information Contact. Further information concerning this Circular may be obtained from:

Office of Federal Financial Management
Office of Management and Budget
Room 6025
New Executive Office Building
Washington, DC 20503
(202) 395-3993

7. Termination Review Date. The Circular will have a policy review three years from the date of issuance.

8. Effective Date. The Circular is effective on publication.



Alice M. Rivlin
Acting Director

Attachment

GRANTS AND COOPERATIVE AGREEMENTS
WITH STATE AND LOCAL GOVERNMENTS

1. Pre-Award Policies.

a. Use of grants and cooperative agreements. Sections 6301-08, title 31, United States Code govern the use of grants, contracts and cooperative agreements. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, "substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement."

b. Advance Public Notice and Priority Setting.

(1) Federal agencies shall provide the public with an advance notice in the Federal Register, or by other appropriate means, of intended funding priorities for discretionary assistance programs, unless funding priorities are established by Federal statute. These priorities shall be approved by a policy level official.

(2) Whenever time permits, agencies shall provide the public an opportunity to comment on intended funding priorities.

(3) All discretionary grant awards in excess of \$25,000 shall be reviewed for consistency with agency priorities by a policy level official.

c. Standard Forms for Applying for Grants and Cooperative Agreements.

(1) Agencies shall use the following standard application forms unless they obtain Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 35) and the 5 CFR Part 1320, "Controlling Paperwork Burdens on the Public":

- SF-424 Facesheet
- SF-424a Budget Information (Non-Construction)

- SF-424b Standard Assurances (Non-Construction)
- SF-424c Budget Information (Construction)
- SF-424d Standard Assurances (Construction)

When different or additional information is needed to comply with legislative requirements or to meet specific program needs, agencies shall also obtain prior OMB approval.

(2) A preapplication shall be used for all construction, land acquisition and land development projects or programs when the need for Federal funding exceeds \$100,000, unless the Federal agency determines that a preapplication is not needed. A preapplication is used to:

- (a) Establish communication between the agency and the applicant,
- (b) Determine the applicant's eligibility,
- (c) Determine how well the project can compete with similar projects from others, and
- (d) Discourage any proposals that have little or no chance for Federal funding before applicants incur significant costs in preparing detailed applications.

(3) Agencies shall use the Budget Information (Construction) and Standard Assurances (Construction) when the major purpose of the project or program is construction, land acquisition or land development.

(4) Agencies may specify how and whether budgets shall be shown by functions or activities within the program or project.

(5) Agencies should generally include a request for a program narrative statement which is based on the following instructions:

(a) Objectives and need for assistance. Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution. Demonstrate the need for the assistance and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Any relevant data based on planning studies should be included or footnoted.

(b) Results or Benefits Expected. Identify costs and benefits to be derived. For example, show how the facility will be used. For land acquisition or development projects, explain how the project will benefit the public.

(c) Approach. Outline a plan of action pertaining to the scope and detail how the proposed work will be accomplished for each assistance program. Cite factors which might accelerate or decelerate the work and reasons for taking this approach as opposed to others. Describe any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements. Provide for each assistance program quantitative projections of the accomplishments to be achieved, if possible. When accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments and target expected completion dates. Identify the kinds of data to be collected and maintained, and discuss the criteria to be used to evaluate the results and success of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. List each organization, cooperator, consultant, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

(d) Geographic location. Give a precise location of the project and area to be served by the proposed project. Maps or other graphic aids may be attached.

(e) If applicable, provide the following information: for research and demonstration assistance requests, present a biographical sketch of the program director with the following information: name, address, telephone number, background, and other qualifying experience for the project. Also, list the name, training and background for other key personnel engaged in the project. Describe the relationship between this project and other work planned, anticipated, or underway under Federal assistance. Explain the reason for all requests for supplemental assistance and justify the need for additional funding. Discuss accomplishments to date and list in chronological order a schedule of accomplishments, progress or milestones anticipated with the new funding request. If there have been significant changes in the project objectives, location, approach or time delays, explain and justify. For other requests for changes, or amendments, explain the reason for the change(s). If the scope or objectives have changed or an extension of time is necessary, explain the circumstances and justify. If the total budget has been exceeded or if the individual budget items have changes more than the prescribed limits, explain and justify the change and its effect on the project.

(6) Additional assurances shall not be added to those contained on the standard forms, unless specifically required by statute.

d. Debarment and Suspension. Federal agencies shall not award assistance to applicants that are debarred or suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549. Agencies shall establish procedures for the effective use of the List of Parties Excluded from Federal Procurement or Nonprocurement programs to assure that they do not award assistance to listed parties in violation of the Executive Order. Agencies shall also establish procedures to provide for effective use and/or dissemination of the list to assure that their grantees and subgrantees (including contractors) at any tier do not make awards in violation of the nonprocurement debarment and suspension common rule.

e. Awards and Adjustments.

(1) Ordinarily awards shall be made at least ten days prior to the beginning of the grant period.

(2) Agencies shall notify grantees immediately of any anticipated adjustments in the amount of an award. This notice shall be provided as early as possible in the funding period. Reductions in funding shall apply only to periods after notice is provided. Whenever an agency adjusts the amount of an award, it shall also make an appropriate adjustment to the amount of any required matching or cost sharing.

f. Carryover Balances. Agencies shall be prepared to identify to OMB the amounts of carryover balances (e.g., the amounts of estimated grantee unobligated balances available for carryover into subsequent grant periods). This presentation shall detail the fiscal and programmatic (level of effort) impact in the following period.

g. Special Conditions or Restrictions. Agencies may impose special conditions or restrictions on awards to "high risk" applicants/grantees in accordance with section __.12 of the grants management common rule. Agencies shall document use of the "Exception" provisions of section __.6 and "High-risk" provisions of section __.12 of the grants management common rule.

h. Waiver of Single State Agency Requirements.

(1) Requests to agencies from the Governors, or other duly constituted State authorities, for waiver of "single" State agency requirements in accordance with section 31 U.S.C. 6504, "Use of existing State or multi-member agency to administer grant

programs," shall be given expeditious handling and, whenever possible, an affirmative response.

(2) When it is necessary to refuse a request for waiver of "single" State agency requirements under section 204 of the Intergovernmental Corporation Act, the Federal grantor agency shall advise OMB prior to informing the State that the request cannot be granted. The agency shall indicate to OMB the reasons for the denial of the request.

(3) Legislative proposals embracing grant-in-aid programs shall avoid inclusion of proposals for "single" State agencies in the absence of compelling reasons to do otherwise. In addition, existing requirements in present grant-in-aid programs shall be reviewed and legislative proposals developed for the removal of these restrictive provisions.

i. Patent Rights. Agencies shall use the standard patent rights clause specified in "Rights to Inventions made by Non-profit Organizations and Small Business Firms" (37 CFR Part 401), when providing support for research and development.

j. Metric System of Measurement. The Metric Conversion Act of 1975, as amended, declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date(s), in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurement, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. Heads of departments and agencies shall establish a process for a policy level and program level review of proposed exceptions to metric usage in grants programs. Executive Order 12770 ("Metric Usage in Federal Government Programs") elaborates on implementation of the Act.

2. Post-award Policies.

a. Cash Management. Agency methods and procedures for transferring funds shall minimize the time elapsing between the transfer to recipients of grants and cooperative agreements and the recipient's need for the funds.

(1) Such transfers shall be made consistent with program purposes, applicable law and Treasury regulations contained in 31 CFR Part 205, Federal Funds Transfer Procedures.

(2) Where letters-of-credit are used to provide funds, they shall be in the same amount as the award.

b. Grantee Financial Management Systems. In assessing the adequacy of an applicant's financial management system, the awarding agency shall rely on readily available sources of information, such as audit reports, to the maximum extent possible. If additional information is necessary to assure prudent management of agency funds, it shall be obtained from the applicant or from an on-site review.

c. Financial Status Reports.

(1) Federal agencies shall require grantees to use the SF-269, Financial Status Report-Long Form, or SF-269a, Financial Status Report-Short Form, to report the status of funds for all non-construction projects or programs. Federal agencies need not require the Financial Status Report when the SF-270, Request for Advance or Reimbursement, or SF-272, Report of Federal Cash Transactions, is determined to provide adequate information.

(2) Federal agencies shall not require grantees to report on the status of funds by object class category of expenditure (e.g., personnel, travel, equipment).

(3) If reporting on the status of funds by programs, functions or activities within the project or program is required by statute or regulation, Federal agencies shall instruct grantees to use block 12, Remarks, on the SF-269, or a supplementary form approved by the OMB under the Paperwork Reduction Act of 1980.

(4) Federal agencies shall prescribe whether the reporting shall be on a cash or an accrual basis. If the Federal agency requires accrual information and the grantees's accounting records are not normally kept on an accrual basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through an analysis of the documentation on hand.

d. Contracting With Small and Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms. It is national policy to award a fair share of contracts to small and minority business firms. Grantees shall take similar appropriate affirmative action to support of women's enterprises and are encouraged to procure goods and services from labor surplus areas.

e. Program Income.

(1) Agencies shall encourage grantees to generate program income to help defray program costs. However, Federal agencies shall not permit grantees to use grant-acquired assets to compete unfairly with the private sector.

(2) Federal agencies shall instruct grantees to deduct program income from total program costs as specified in the grants management common rule at paragraph __.25 (g)(1), unless agency regulations or the terms of the grant award state otherwise. Authorization for recipients to follow the other alternatives in paragraph __.25 (g) (2) and (3) shall be granted sparingly.

f. Site Visits and Technical Assistance. Agencies shall conduct site visits only as warranted by program or project needs. Technical assistance site visits shall be provided only (1) in response to requests from grantees, (2) based on demonstrated program need, or (3) when recipients are designated "high risk" under section __.12 of the grants management common rule.

g. Infrastructure Investment. Agencies shall encourage grantees to consider the provisions of the common rule at Section __.31 and Executive Order 12803 ("Infrastructure Privatization"). This includes reviewing and modifying procedures affecting the management and disposition of federally-financed infrastructure owned by State and local governments, with their requests to sell or lease infrastructure assets, consistent with the criteria in Section 4 of the Order. Related guidance contained in Executive Order 12893 ("Principles for Federal Infrastructure Investments") requiring economic analysis and the development of investment options, including public-private partnership, shall also be applied. On March 7, 1994, OMB issued guidance on Executive Order 12893 in OMB Bulletin No. 94-16.

h. Resource Conservation and Recovery Act. Agencies shall implement the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6962). Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with Section 6002 of RCRA. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA). Current guidelines are contained in 40 CFR Parts 247-253. State and local recipients of grants, loans, cooperative agreements or other instruments funded by appropriated Federal funds shall give preference in procurement programs to the purchase of recycled products pursuant to the EPA guidelines.

i. Procurement of Goods and Services. Agencies should be aware of and comply with the requirement enacted in Section 623 of the Treasury, Postal Service and General Government Appropriations Act, 1993, and reenacted in Section 621 of the fiscal year 1994 Appropriations Act. This Section requires grantees to specify in any announcement of the awarding of

contracts with an aggregate value of \$500,000 or more, the amount of Federal funds that will be used to finance the acquisitions.

3. After-the-grant Policies.

a. Closeout. Federal agencies shall notify grantees in writing before the end of the grant period of final reports that shall be due, the dates by which they must be received, and where they must be submitted. Copies of any required forms and instructions for their completion shall be included with this notification. The Federal actions that must precede closeout are:

- (1) Receipt of all required reports,
- (2) Disposition or recovery of federally-owned assets (as distinct from property acquired under the grant), and
- (3) Adjustment of the award amount and the amount of Federal cash paid the recipient.

b. Annual Reconciliation of Continuing Assistance Awards. Federal agencies shall reconcile continuing awards at least annually and evaluate program performance and financial reports.

Items to be reviewed include:

- (1) A comparison of the recipient's work plan to its progress reports and project outputs,
- (2) the Financial Status Report (SF-269),
- (3) Request(s) for payment,
- (4) Compliance with any matching, level of effort or maintenance of effort requirement, and
- (5) A review of federally-owned property (as distinct from property acquired under the grant).



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 12, 1985

CIRCULAR No. A-128

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Audits of State and Local Governments.

1. Purpose. This Circular is issued pursuant to the Single Audit Act of 1984, P.L. 98-502. It establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.
2. Supersession. The Circular supersedes Attachment P, "Audit Requirements," of Circular A-102, "Uniform requirements for grants to State and local governments."
3. Background. The Single Audit Act builds upon earlier efforts to improve audits of Federal aid programs. The Act requires State or local governments that receive \$100,000 or more a year in Federal funds to have an audit made for that year. Section 7505 of the Act requires the Director of the Office of Management and Budget to prescribe policies, procedures and guidelines to implement the Act. It specifies that the Director shall designate "cognizant" Federal agencies, determine criteria for making appropriate charges to Federal programs for the cost of audits, and provide procedures to assure that small firms or firms owned and controlled by disadvantaged individuals have the opportunity to participate in contracts for single audits.
4. Policy. The Single Audit Act requires the following:
 - a. State or local governments that receive \$100,000 or more a year in Federal financial assistance shall have an audit made in accordance with this Circular.
 - b. State or local governments that receive between \$25,000 and \$100,000 a year shall have an audit made in accordance with this Circular, or in accordance with Federal laws and regulations governing the programs they participate in.
 - c. State or local governments that receive less than \$25,000 a year shall be exempt from compliance with the Act and other Federal audit requirements. These State and local governments shall be governed by audit requirements prescribed by State or local law or regulation.

c. Public hospitals and public colleges and universities may be excluded from State and local audits and the requirements of this Circular. However, if such entities are excluded, audits of these entities shall be made in accordance with statutory requirements and the provisions of Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations."

d. The auditor shall determine whether:

(1) the financial statements of the government, department, agency or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) the organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

(3) the organization has complied with laws and regulations that may have material effect on its financial statements and on each major Federal assistance program.

7. Frequency of audit. Audits shall be made annually unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits, covering both years, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning before January 1, 1987.

8. Internal control and compliance reviews. The Single Audit Act requires that the independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing Federal assistance programs in compliance with applicable laws and regulations.

a. Internal control review. In order to provide this assurance the auditor must make a study and evaluation of internal control systems used in administering Federal assistance programs. The study and evaluation must be made whether or not the auditor intends to place reliance on such systems. As part of this review, the auditor shall:

(1) Test whether these internal control systems are functioning in accordance with prescribed procedures.

(2) Examine the recipient's system for monitoring subrecipients and obtaining and acting on subrecipient audit reports.

h. "Indian tribe" means any Indian tribe, band, nations, or other organized group or community, including any Alaskan Native village or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

i. "Local government" means any unit of local government within a State, including a county, a borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

j. "Major Federal Assistance Program," as defined by P.L. 98-502, is described in the Attachment to this Circular.

k. "Public accountants" means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

l. "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, and any multi-State, regional, or interstate entity that has governmental functions and any Indian tribe.

m. "Subrecipient" means any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a direct recipient of Federal financial assistance.

6. Scope of audit. The Single Audit Act provides that:

a. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

b. The audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives \$25,000 or more in General Revenue Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

-- Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared, and

-- amounts claimed or used for matching were determined in accordance with OMB Circular A-87, "Cost principles for State and local governments," and Attachment F of Circular A-102, "Uniform requirements for grants to State and local governments."

(c) The principal compliance requirements of the largest Federal aid programs may be ascertained by referring to the Compliance Supplement for Single Audits of State and Local Governments, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

(3) Transactions related to other Federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

9. Subrecipients. State or local governments that receive Federal financial assistance and provide \$25,000 or more of it in a fiscal year to a subrecipient shall:

a. determine whether State or local subrecipients have met the audit requirements of this Circular and whether subrecipients covered by Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations," have met that requirement;

b. determine whether the subrecipient spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with this Circular, Circular A-110, or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

c. ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

d. consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

e. require each subrecipient to permit independent auditors to have access to the records and financial statements as necessary to comply with this Circular.

b. Compliance review. The law also requires the auditor to determine whether the organization has complied with laws and regulations that may have a material effect on each major Federal assistance program.

(1) In order to determine which major programs are to be tested for compliance, State and local governments shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies and through other State and local governments.

(2) The review must include the selection and testing of a representative number of charges from each major Federal assistance program. The selection and testing of transactions shall be based on the auditor's professional judgment considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

(a) In making the test of transactions, the auditor shall determine whether:

-- the amounts reported as expenditures were for allowable services, and

-- the records show that those who received services or benefits were eligible to receive them.

(b) In addition to transaction testing, the auditor shall determine whether:

-- matching requirements, levels of effort and earmarking limitations were met,

(3) Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements set forth in this Circular. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(6) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to this Circular; so that the additional audits build upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

12. Illegal acts or irregularities. If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also paragraph 13(a)(3) below for the auditor's reporting responsibilities.) The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

13. Audit Reports. Audit reports must be prepared at the completion of the audit. Reports serve many needs of State and local governments as well as meeting the requirements of the Single Audit Act.

a. The audit report shall state that the audit was made in accordance with the provisions of this Circular. The report shall be made up of at least:

(1) The auditor's report on financial statements and on a schedule of Federal assistance; the financial statements; and a schedule of Federal assistance, showing the total expenditures for

10. Relation to other audit requirements. The Single Audit Act provides that an audit made in accordance with this Circular shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides Federal agencies with information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits which are necessary to carry out its responsibilities under Federal law and regulation. Any additional Federal audit effort shall be planned and carried out in such a way as to avoid duplication.

a. The provisions of this Circular do not limit the authority of Federal agencies to make, or contract for audits and evaluations of Federal financial assistance programs, nor do they limit the authority of any Federal agency Inspector General or other Federal audit official.

b. The provisions of this Circular do not authorize any State or local government or subrecipient thereof to constrain Federal agencies, in any manner, from carrying out additional audits.

c. A Federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to this Circular shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

11. Cognizant agency responsibilities. The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of this Circular.

a. The Office of Management and Budget will assign cognizant agencies for States and their subdivisions and larger local governments and their subdivisions. Other Federal agencies may participate with an assigned cognizant agency, in order to fulfill the cognizance responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds whether directly or indirectly.

b. A cognizant agency shall have the following responsibilities:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of this Circular.

(2) Provide technical advice and liaison to State and local governments and independent auditors.

g. Recipients of more than \$100,000 in Federal funds shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports.

h. Recipients shall keep audit reports on file for three years from their issuance.

14. Audit Resolution. As provided in paragraph 11, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangements may be made on a case-by-case basis by agreement among the agencies concerned.

Resolution shall be made within six months after receipt of the report by the Federal departments and agencies. Corrective action should proceed as rapidly as possible.

15. Audit workpapers and reports. Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office, at the completion of the audit.

16. Audit Costs. The cost of audits made in accordance with the provisions of this Circular are allowable charges to Federal assistance programs.

a. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provision of Circular A-87, "Cost principles for State and local governments."

b. Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual cost.

17. Sanctions. The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with this Circular. In cases of continued inability or unwillingness to have a proper audit, Federal agencies must consider other appropriate sanctions including:

-- withholding a percentage of assistance payments until the audit is completed satisfactorily,

each Federal assistance program as identified in the Catalog of Federal Domestic Assistance. Federal programs or grants that have not been assigned a catalog number shall be identified under the caption "other Federal assistance."

(2) The auditor's report on the study and evaluation of internal control systems must identify the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the evaluation.

(3) The auditor's report on compliance containing:

-- a statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;

-- negative assurance on those items not tested;

-- a summary of all instances of noncompliance; and

-- an identification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.

b. The three parts of the audit report may be bound into a single report, or presented at the same time as separate documents.

c. All fraud abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, should normally be covered in a separate written report submitted in accordance with paragraph 13f.

d. In addition to the audit report, the recipient shall provide comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

e. The reports shall be made available (by) the State or local government for public inspection within 30 days after the completion of the audit.

f. In accordance with generally accepted government audit standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each Federal department or agency that provided Federal assistance funds to the recipient. Subrecipients shall submit copies to recipients that provided them Federal assistance funds. The reports shall be sent within 30 days after the completion of the audit, but no later than one year after the end of the audit period unless a longer period is agreed to with the cognizant agency.

20. Reporting. Each Federal agency will report to the Director of OMB on or before March 1, 1987, and annually thereafter on the effectiveness of State and local governments in carrying out the provisions of this Circular. The report must identify each State or local government or Indian tribe that, in the opinion of the agency, is failing to comply with the Circular.

21. Regulations. Each Federal agency shall include the provisions of this Circular in its regulations implementing the Single Audit Act.

22. Effective date. This Circular is effective upon publication and shall apply to fiscal years of State and local governments that begin after December 31, 1984. Earlier implementation is encouraged. However, until it is implemented, the audit provisions of Attachment P to Circular A-102 shall continue to be observed.

23. Inquiries. All questions or inquiries should be addressed to Financial Management Division, Office of Management and Budget, telephone number 202/395-3993.

24. Sunset review date. This Circular shall have an independent policy review to ascertain its effectiveness three years from the date of issuance.



David A. Stockman
Director

- withholding or disallowing overhead costs, and
- suspending the Federal assistance agreement until the audit is made.

18. Auditor Selection. In arranging for audit services State and local governments shall follow the procurement standards prescribed by Attachment O of Circular A-102, "Uniform requirements for grants to State and local governments." The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence.

19. Small and Minority Audit Firms. Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of this Circular. Recipients of Federal assistance shall take the following steps to further this goal:

a. Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

b. Make information on forthcoming opportunities available and arrange timeframes for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

c. Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

d. Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

e. Encourage contracting with consortiums of small audit firms as described in paragraph (a) above when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

f. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

Definition of Major Program as Provided
in P.L. 98-502

"Major Federal Assistance Program," for State and local governments having Federal assistance expenditures between \$100,000 and \$100,000,000, means any program for which Federal expenditures during the applicable year exceed the larger of \$300,000, or 3 percent of such total expenditures.

Where total expenditures of Federal assistance exceed \$100,000,000, the following criteria apply:

<u>Total Expenditures of</u> <u>Federal Financial Assistance</u> <u>for All Programs</u>		<u>Major Federal</u> <u>Assistance Program</u> <u>Means any Program</u> <u>That Exceeds</u>
<u>more than</u>	<u>but less than</u>	
\$100 million	1 billion	\$ 3 million
1 billion	2 billion	4 million
2 billion	3 billion	7 million
3 billion	4 billion	10 million
4 billion	5 billion	13 million
5 billion	6 billion	16 million
6 billion	7 billion	19 million
over 7 billion		20 million

Friday
November 13, 1987

FRIDAY
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1987

Part II

**Office of
Management and
Budget**

**Questions and Answers on the Single
Audit Process of OMB Circular A-128
"Single Audits of State and Local
Governments"; Notice**

OFFICE OF MANAGEMENT AND BUDGET

Questions and Answers on the Single Audit Process of OMB Circular A-128, "Single Audits of State and Local Governments"

This is a question and answer booklet which helps Federal, State and local officials and independent public accountants gain a better understanding of OMB Circular A-128 "Single Audits of State and Local Governments." The questions are ones that come up most frequently in correspondence and discussions with Federal, State and local officials and independent auditors.

Darrell A. Johnson,
Assistant Director for Administration,
November 1987.

Questions and Answers On the Single Audit Provisions of OMB Circular A-128, "Audits of State and Local Governments"

Executive Office of the President
Office of Management and Budget

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Foreword

The Single Audit Act, Pub. L. 96-502 builds upon earlier efforts to improve audits of Federal aid programs. The Act requires State or local governments that receive \$100,000 or more a year in Federal funds to have an audit made for that year. The Act also requires State or local governments that receive between \$25,000 and \$100,000 a year in Federal funds to have a single audit made for that year, or to have an audit made in accordance with the Federal laws governing the programs in which they participate.

Section 7505 of the Act requires the Director of the Office of Management and Budget to prescribe policies, procedures and guidelines to implement the Act. This was done through OMB Circular A-128 issued on April 12, 1985.

The Circular established audit requirements for State and local governments that receive Federal aid, and defined Federal responsibilities for implementing and monitoring those requirements.

As single audits were made under the provisions of the new Circular many auditors raised questions about compliance testing, audit reports and issues concerning subrecipients. The purpose of this booklet is to provide additional guidance through a series of questions and answers to those participating in single audits. The questions are ones that came up most frequently in discussions and through correspondence with Federal, State, and local government officials. Also, some of the questions came from auditors participating in single audits across the country. This booklet will provide answers to these questions to broader audiences.

We hope the booklet will be useful to you. Of course, if you have any additional questions or comments concerning the single audit, please let us know. Questions or comments should be addressed to: Financial Management Division, Office of Management and Budget, Washington, DC 20503. Telephone: (202) 395-3993.

James C. Miller III,
Director.

Questions About Audit Requirements

1. The Single Audit Act and Circular A-128 seem to have the same objectives as Attachment P to Circular A-102, "Uniform Requirements for Grants to State and Local Governments." Why was it necessary to replace an administrative policy already in place?

The Congress found that the pace of the implementation of Attachment P was slow and difficult. There also appeared to be some disagreement between Federal, State and local officials in the scope and purpose of the single audit. The Single Audit Act strengthens the single audit requirement and clarifies what is expected as a minimum from an audit of Federal programs. Also, the Act calls for more frequent audits and covers programs that were not covered under Attachment P.

2. Has OMB granted any exceptions to the requirements of Circular A-128?

Yes. See Question 39.

3. Must the auditor actually evaluate internal controls or can the report be based simply on the results of the auditor's testing of transactions from Federal programs?

The auditor must evaluate internal controls. The Government Operations Committee's report accompanying the Act (House Report 98-708) states that "a single audit must include an evaluation and written report on the recipient's internal accounting and administrative control systems over its Federal financial assistance programs." The report makes it clear that while the auditors need not express an opinion on the recipient's internal controls, their report is to be the result of a study and evaluation of those controls and not merely the by-product of testing for compliance with applicable laws and regulations. Further guidance on testing is contained in the AICPA Accounting and Audit Guide, for "Audits of State and Local Governmental Units"—1986 revised edition.

4. If an audit is performed on a departmental basis rather than on a governmentwide basis, should a major program be determined based on the expenditures of the department or the expenditures of the government as a whole?

If the entity is a department, the expenditures of the department would be the criteria used to determine a major program. For determining a major program the auditor should apply the criteria contained in Attachment A of Circular A-128 to the expenditures of the audited entity.

5. Do State laws that authorize but do not compel a less frequent than annual audit requirement provide an adequate basis for the biennial exception?

A State law that authorizes, but does not compel, a "less frequent than annual" audit requirement is not an adequate basis for qualifying for the biennial exception. Circular A-128 subsection 9(b)(2) provides that the exception applies only if the "less frequent than annual" audit requirement "is required" by statute. States with permissive (rather than mandatory) statutes constitute a subset of cases falling within the subsection (b)(3) exception (since the selection of more than one year cycles will be made by policy decision). Therefore, they must have converted to mandatory statutes by January 1, 1987 in order to qualify for the biennial audit exception.

6. Are medicaid funds paid by States to hospitals and other providers of services covered by the Single Audit Act?

Medicaid funds paid by the Federal government to States are Federal assistance payments and are covered by the Single Audit Act. However, most medicaid arrangements between the States and providers are contracts for services and not Federal assistance; therefore, they would not be covered by the Act.

7. If an entity participates in a loan or loan guarantee program which is determined to be major but has no expenditures during the period under audit (pursuant to the Single Audit Act and Circular A-128), what procedures, if any, are required of the auditor?

The auditor should ensure that the entity is in compliance with the appropriate laws and regulations governing the program. For loan guarantee programs that do not have expenditures during a specific period, the auditor should perform procedures annually to determine that loan recipients are eligible beneficiaries, the necessary review and award procedures are performed relative to loans, and that loans are being repaid and properly serviced. (See question 33.)

8. What is the basis for defining "receives" Federal financial assistance?

The definition of receipt of Federal assistance will be based on how the recipient recognizes and reports its revenue. Generally this means an entity has "received" Federal financial assistance when it has obtained Federal cash, or it has incurred expenditures which will be reimbursed under a Federal financial assistance program. For governments following GAAP receipt of Federal financial assistance means when the related assets or revenues are recorded in the financial statements. For those not following GAAP, receipt means when the cash is actually received.

For programs that involve the receipt of tangible assets (such as food stamps, food commodities and donated surplus property) "receives" should be based on when the revenue is recognized in accordance with GAAP.

For programs that do not involve the transfer of tangible assets (such as guarantee and insurance programs), "receives" shall be based on the transaction or event which gives rise to the award of assistance. For example, "receipt" of a loan guarantee would occur when a loan is made that is guaranteed by the Federal government. Or for example, "receipt" under an

insurance program would occur when the event occurred that is insured by the Federal government. (See question 33.)

9. Are all Indian organizations receiving Federal financial assistance required to comply with the Single Audit Act and OMB Circular A-128?

All Federally recognized Indian tribes receiving \$100,000 or more in total Federal financial assistance are required to have a single audit performed of their operations. Tribes receiving between \$25,000 and \$100,000 must have a single audit or an audit of the Federal programs in which they participate. The Federally recognized tribes are those identified by the Bureau of Indian Affairs (BIA), U.S. Department of the Interior, as eligible to receive services for BIA. A list of these tribes is published periodically by BIA in the Federal Register.

The Circular also requires any other Indian organization, Alaskan Native Village or Regional Corporation that receives financial assistance under the Indian Self Determination Act, Public Law 98-638, to have a single audit performed, provided that they meet the criteria contained in Circular A-128.

Questions on Compliance

10. When testing the entity's compliance with Federal laws and regulations, can the auditors limit their audit procedures or inquiries to those specified in the Compliance Supplement?

Yes. For the programs contained in the Compliance Supplement the audit of the requirements contained in the supplement will meet the requirements of Circular A-128.

11. What should the test procedure be for programs not included in the Compliance Supplement?

For programs not included in the Compliance Supplement, the auditor should review the award, grant agreement, contract, regulations, or enabling legislation to determine whether there are special conditions that need to be considered. Also, the auditor may have to contact the Federal program agency or the cognizant agency for assistance.

12. Is the auditor required to make compliance tests of nonmajor programs?

Yes. The Circular requires that transactions that are selected in connection with examinations of financial statements and/or evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

13. Are auditors required to review the program compliance requirements contained in the Compliance Supplement?

For major and/or nonmajor programs the use of the Compliance Supplement is not mandatory. However, the Federal Government recommends its use for identifying the compliance requirements to be tested. The requirements contained in the Compliance Supplement are those that Federal program officials and the Inspectors General have identified as being the minimum requirement for their programs. Auditors should recognize the importance of the Compliance Supplement to the Federal agencies when exercising their professional judgment in identifying which laws and regulations may have a material effect on the programs.

14. If an auditor selects a Federal assistance program transaction in his tests of financial balances or internal controls is the auditor required to test the entity's compliance with all major compliance requirements of that program?

No. The auditor would be required to test only those compliance aspects of the particular transaction selected. For example, if the transaction is a charge for travel the auditor should ascertain whether the travel was necessary and authorized by the grant or contract agreement.

15. Must the auditor read each Federal assistance agreement in its entirety?

No. The auditor should be familiar with the special terms and conditions of grants, loans, etc., but is not required to read each agreement in its entirety.

16. Does OMB Circular A-128 replace the guidance on the audit of block grant programs?

Yes.

17. Should the recipient's cost allocation plan be reviewed?

If indirect costs were claimed as expenditures on Federal programs during the period being audited, the auditor should ascertain if amounts claimed or used for matching were determined in accordance with OMB Circular A-87, "Cost Principles for State and Local Governments."

The auditor should do enough work to determine the reasonableness of the indirect cost rate or rates. In order to determine this the auditor should determine whether:

—The costs, bases, and methods of allocating costs are in accordance

with guidelines provided in OMB Circular A-87 or a plan that has been approved by the Federal Government.

- The same costs are not treated or charged both as indirect costs and direct costs.
- Statistical data such as square footage, population, salaries, included in the bases are current and reasonable.
- The costs are reasonable in amount and they are properly allocated.
- The costs were incurred within the period under review.

18. Must the expenditures of each major Federal program be considered as a separate population to support an auditor's report as to whether the entity has complied with laws and regulations that may have a material effect upon each major Federal assistance program?

Both the Single Audit Act and Circular A-128 clearly indicate the auditor must determine and report on compliance for each major program. Both also indicate the auditors shall select and test a representative number of transactions from each major program. Audit efficiency might be achieved by developing a test of transactions based on the overall population of all major (and even nonmajor) program transactions. However, the selection and testing of transactions must include, based on the auditor's professional judgment, a representative number of transactions from each major program.

Questions on Audit Sampling

19. Are independent auditors required to use statistical sampling techniques?

Either a nonstatistical or statistical approach to audit sampling may be used. However, statistical sampling is the preferred approach for selecting transactions for audit whenever the universe to be audited is susceptible to statistical treatment and the use of the technique is economical. The auditor is not required to report projected questioned costs, but in forming a basis for his opinion on an entity's compliance with requirements governing each major Federal financial assistance program, the auditor should project the results of any sampling applications he performed to the population from which he selected the sample. However, as indicated in answer 32, the size of the universe, the number tested, the error rate (and related amounts when applicable) should be disclosed in the auditor's report, in order to give the reader a basis for judging the prevalence of non-compliance.

20. When testing for compliance with laws and regulations using a sampling technique, should the auditor expand the scope of the audit to determine the effect of any questioned costs?

The scope of the audit is not required to be expanded nor is the auditor required to include a projection of questioned costs to the universe of Federal financial assistance programs. However, the auditor must consider the potential effect of the questioned costs in reporting on the entity's financial statements and on individual financial assistance programs.

Questions About Subrecipient and Contractor Audits

21. How are subrecipients defined in the Single Audit Act?

Under OMB Circular A-128(5) Subsection (m), subrecipients are defined as "any person or government department, agency or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a direct recipient of Federal financial assistance."

22. What is the difference between a subrecipient and a vendor and what is the determining factor in deciding whether a subrecipient relationship exists?

A subrecipient is an entity that receives Federal assistance passed down from the prime recipient. The subrecipient's responsibility is to help the recipient meet the requirements of the assistance award. A subrecipient's performance would be measured against meeting the objectives of the Federal assistance award. (See questions 21 and 26.)

A vendor is an entity that receives a procurement contract for goods or services from a recipient which will be paid for from Federal assistance funds. The vendor's responsibility is to meet the requirements of the procurement contract.

The test for a subrecipient relationship is whether a subrecipient receives Federal financial assistance from a recipient to carry out a program. Where a recipient enters into a procurement contract to buy goods or services, the other party to the contract is not a subrecipient for purposes of single audit. The answer is the same regardless of the type of entity involved (governmental, nonprofit, etc.) or the form of the agreement between the parties.

23. Are prime recipients to conduct quality control reviews of subrecipient audits?

Circular A-128 does not specifically require recipients to make quality control reviews of subrecipient audits. However, prime recipients are expected to establish a system to assure that audits of the subrecipients meet the requirements of Circular A-128 (or A-110 "Uniform requirements for grants to universities, hospitals and other nonprofit organizations" when applicable). (See question 24.) Such a system should include a desk review of each subrecipient report to ensure it conforms to the Circular.

24. Are nonprofit organizations and universities receiving funds through a State or local government required to have an audit made in accordance with the provisions of Circular A-128?

No. The provisions of Circular A-128 apply only to State and local governments including public hospitals and public colleges and universities and to certain Indian Tribes. Audits of other nonprofit organizations should be made in accordance with the applicable statutory requirements and/or provisions of Circular A-110, "Uniform Requirements for Grants to Universities, Hospitals, and Other Nonprofit Organizations." State and local governments may exclude public hospitals and public colleges from the provisions of Circular A-128 provided that the audits are made in accordance with statutory requirements and the provisions of Circular A-110.

25. For many Federal programs, funds flow down from the recipient to a subrecipient. Is the independent auditor required to make audits of subrecipients as part of the recipient audit?

No. Circular A-128 requires the recipient to determine that subrecipients have an audit made in accordance with the Circular's requirements. As long as the audit report of the subrecipient is current, it need not cover the same period as the recipient's audit. It is the recipient's responsibility to:

- a. establish a system to assure that the audits of the subrecipients meet the requirements of Circulars A-128 or A-110.
- b. establish a system for followup on questioned costs, weaknesses in internal control systems, and other audit exceptions and ensure that appropriate corrective action is taken within 6 months.
- c. consider whether subrecipient's records necessitate adjustments of the recipient's own records.

d. require access to subrecipient's records and financial statements.

The recipient's auditor would:

a. review the recipient's systems for obtaining and acting on subrecipient audit reports.

b. test to determine whether the system is functioning in accordance with prescribed procedures.

c. comment on the recipient's monitoring and disbursing procedures with respect to subrecipient, if warranted by the circumstances. Reported questioned costs require consideration for materiality, possible adjustment of financial statements, and possible footnote disclosure.

In the event that subrecipient audits have not been made and the amount of funds are material, the scope of the recipient audit can be expanded to include testing of the subrecipient expenditures. Alternatively, the recipient's auditor should report this condition as a finding and if the subrecipient expenditures are material to the recipient, then the recipient's auditor should consider whether to qualify and/or disclaim in their audit report in financial statements because the subrecipient's expenditures were not tested.

If a subrecipient's audit report was due but not received the recipient's auditor should report this condition as a finding.

26. Does the requirement for a single audit apply to contracts awarded by recipients to profitmaking organizations, and private or governmental organizations?

Commercial contractors (private for profit) and private or governmental organizations providing goods or services to State or local governments are not required to have a single audit performed in accordance with Circular A-128. State and local governments should use the same procedures used to monitor their own expenditures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds. However, the use of a contract by a governmental recipient to provide Federal financial assistance to a subrecipient will require the subrecipient to have an audit made in accordance with the Act.

27. Who is responsible for the audit resolution of findings resulting from subrecipient audits?

The entity providing funds to the subrecipient is responsible for resolving findings pertaining to pass through funds resulting from the audit. Consequently, in some cases an entity may first have to resolve some audit findings with a

Federal agency and then other findings with another level of government for funds which flow down from a recipient to a subrecipient.

28. Auditors at the subrecipient level have found that the subrecipient is not always able to identify the Federal share of funds received from another governmental entity. What are the auditor's responsibilities when he finds such a situation?

It is the subrecipient's, not the auditors' responsibility to learn or determine the amount, if any, of Federal funds included in monies received from a recipient government. If a government is not able to determine the portion of Federal funds included in the monies received, the auditor at a minimum should review the award document and determine whether the terms and conditions of the award are being met for all funds. The auditor should comment in the audit report that Federal funds could not be identified in pass-through awards and recommend that recipients identify the amount of Federal funds in subawards.

29. Can a recipient also mandate a single audit on its nonprofit subrecipients who also receive direct Federal funding subject to the A-110 audit requirement?

Yes. A State and local government may have its own audit requirements including A-128 audits for subrecipients provided the audit covers as a minimum the Federal requirements. The Federal audit requirements for State and local governments appear in Circular A-128, "Audits of State and Local Governments." Federal audit requirements for other not-for profit recipients are covered in Attachment F "Standards for Financial Management Systems" to Circular A-110, "Uniform Requirements for Grants to Universities, Hospitals, and Other Nonprofit Organizations."

30. What are the audit requirements under the Single Audit Act for profit making organizations, such as nursing homes and individuals, receiving Federal financial assistance through State and local governments?

The Single Audit Act contains no audit requirements for profit making organizations or individuals. However, if a prime recipient passes down funds with the intent of providing financial assistance to a profit-making subrecipient, the prime recipient has the same responsibilities outlined in paragraph 9 of Circular A-128. (See questions 6, 22, and 25.)

Questions About Audit Reports

31. If a government elects to have a single audit performed on an individual department, agency or establishment, can only the schedule of Federal financial assistance and the related auditor's reports be submitted?

No. The Act and Circular A-128 provide certain governments with the option to have a single audit of the entire operations of that government, or of only those departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance. If a single audit is performed for individual departments, agencies or establishments, then the audited financial statements with the auditor's report thereon, the schedule of Federal financial assistance with the auditor's reports thereon, and the auditor's reports on internal controls and compliance shall all focus on the individual departments, agencies or establishments selected for inclusion in the Single Audit package. (See question 35 for further guidance.)

32. Is it essential that findings of noncompliance with applicable laws and regulations include the cause and effect as well as the condition and criteria?

Findings of noncompliance must address the condition—what is questioned—and the criteria as to what the condition should have been. It should also address cause and effect; however, in some cases this will be impossible and, in other cases, the benefit of the auditor extending his procedures to develop the cause and effect may not justify the additional audit costs. Auditors should place the findings in proper perspective to give readers a basis for judging the prevalence of noncompliance. The auditor should disclose the number and dollar amount of items tested, size of universe error rate the number and dollar amount of findings. The General Accounting Office's *Standards for Audit of Governmental Organizations, Programs, Activities and Functions* provides guidance in presenting noncompliance findings.

33. How should Federal guarantee, loan or insurance programs which are operated by the governmental entity, but do not involve a current Federal outlay, be included on the schedule of Federal domestic assistance and in determining the program's status as a major program?

The existence and value of Federal guarantee, loan or insurance programs at the end of the fiscal year should be

disclosed in a footnote to the schedule of Federal assistance. Any interest subsidy, or administrative costs allowance received during the fiscal year under a loan or loan guarantee program should be included in the schedule of Federal assistance.

Generally, the total amount of expenditures of Federal Financial assistance included in the Schedule is the basis for applying the criteria in the attachment to A-128 for determining Major Federal Assistance Programs. However, for a loan or loan guarantee program the total value of new loans during the fiscal year plus the balance of loans for previous years for which the government is at risk and any interest subsidy, cash or administrative costs allowance received should be used to determine if that program is also a Major Federal Assistance Program. One exception to this is the Guaranteed Student Loan Program. Institutions of higher education that are not lenders should use the value of new loans made during the year.

If based on the above, it is determined that a loan or loan guarantee program is a Major program, this should not effect the identification of Major programs, using the criteria applicable to the Schedule of Federal Assistance. Sometimes, including a large loan program in the base used to determine major programs may distort the base. Therefore, if the number of programs determined to be major is significantly affected by the inclusion of a guarantee loan program in total Federal assistance the auditor should use his judgment as to whether the guarantee program should be included when determining which other programs are major.

34. Where should audit reports be sent when the audit is completed?

In accordance with the provision of Circular A-128 the recipient shall submit copies of reports to each Federal department or agency that directly provided Federal assistance funds to the recipient. Each agency may specify in its program regulations or in the award the distribution point for the Single Audit reports. Recipients of \$100,000 or more in Federal funds shall submit a copy of the audit report within 30 days after issuance to a central audit report clearinghouse. The address of the clearinghouse is: Bureau of the Census, Data Preparation Division, 1201 E 10th Street, Jeffersonville, Indiana 47132.

Subrecipients shall also submit copies

to recipients that provided them with Federal assistance funds.

35. Does the circular require the preparation of general purpose financial statements in accordance with generally accepted accounting principles?

The Circular does not require the preparation of general purpose financial statements in accordance with GAAP. However, financial statements are required. The Circular requires an audit of financial statements that are prepared by the recipient to meet its needs and the needs of other statement users. However, if these statements are not prepared in accordance with generally accepted accounting principles, the audit report should state the nature of the variances therefrom and follow professional guidance for reporting on financial statements which have not been prepared in accordance with GAAP.

36. Circular A-128 calls for the auditor to comment in the compliance report on financial reports and claims for advances or reimbursements made to the Federal Government. Does this mean that a 100 percent audit of all such reports and claims must be made?

No. A determination as to the reliability of the Federal financial reports can be made through a study and evaluation of internal systems used to accumulate the data for the reports in addition to tests of sample reports.

37. Can a cognizant agency reject an audit report or take similar actions? If so, what steps will be taken?

Circular A-128 anticipates that a Federal cognizant agency will advise the recipients of audits that have been found not to have met the requirements. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the Federal cognizant agency shall notify the recipient organization and Federal awarding agencies that the audit failed to meet Federal standards and cannot be relied upon. The Circular requires that the cognizant agency recommend followup action. This may include a recommendation to other Federal agencies to return the audit report to the recipient. It may also include a recommendation regarding appropriate sanctions by the Federal awarding agencies that should be taken against the recipient organization.

38. If a State makes an award of \$100,000 to a city and 50 percent of the award comes from Federal sources how much should be reported in the city's schedule of Federal financial assistance?

The city's schedule of Federal Financial Assistance should show the amount of the Federal funds for each Federal assistance program. In this case the amount would be \$50,000. If the percentage or amount of the Federal share is not known the total amount should be included with a footnote.

39. If a college or university is covered as part of the single audit of the State, must the statement of Federal financial assistance list all of the individual grant and contract awards by catalog of Federal domestic assistance program number?

No. In some cases because of the large number of awards or the lack of data it may be impractical to list them all. A summary of total expenditures by funding agency and a schedule of expenditures for each student financial assistance program will suffice for now. Reporting guidance for university audit reports will be forth coming soon as part of a new revised OMB Circular A-88, "Coordinating Audits and Negotiating Indirect Cost Rates at Educational Institutions."

40. How should the value of food stamps and commodities distributed and inventory thereof be reported?

The value of foods stamps issued and commodities distributed should be shown on the schedule of Federal assistance either as an expenditure or in a note. Likewise the value of food coupons on hand and the value of commodities in inventory should be shown in the entity's financial statements or in a note.

Question About Cost and Reimbursement for Audits

41. How will State and local governments pay for the cost of the single audits?

State and local governments should use normal financing procedures to pay for the single audit, the cost of which should be less than the aggregate cost of numerous individual Federal assistance audits. Under the current arrangements the Federal Government will reimburse recipients for its fair share of audit costs in accordance with Circular A-87, "Cost Principles for State and Local Governments." These payments are usually made as part of the allocated cost of Federal assistance programs being carried on by the unit of

government. However, Circular A-128 provides that allowable charges for audit may also be a direct cost.

Question About Sanctions

42. If recipients do not comply with the provisions of Circular A-128, what happens?

The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the act that were not made in accordance with the Circular. We expect that this sanction will be enforced much more frequently than it has in the past. Therefore, State and local officials should ensure that there is an adequate contract administration system in effect to monitor contracts for audit servicing.

In cases of a grantee's continued inability or unwillingness to have a proper audit, Federal agencies have other sanctions available including:

- withholding a percentage of assistance payments until the audit is completed satisfactorily, and/or
- withholding or disallowing overhead costs, and/or
- suspending the Federal assistance agreement until the audit is made.

Federal agencies may take action to perform the necessary audit work themselves.

Questions on Cognizant Responsibility

43. What guidance is provided to the cognizant audit agencies regarding their responsibilities in an organization-wide audit?

The responsibilities of the cognizant audit agencies are set forth in a document entitled, "Federal Cognizant Agency Audit Organization Guidelines." The document was prepared by the President's Council on Integrity and Efficiency Single Audit Committee.

It addresses such areas as:

- technical advice and liaison,
- desk reviews of audit reports,
- reviews of audit organizations and their work,
- addressing deficiencies noted during reviews, and
- processing audit reports by Federal agencies.

The "Federal Cognizant Agency Audit Organization Guidelines" can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock Number 040-000-00491-2.

44. What is the role of the cognizant audit agency regarding the approval of the audit scope or plan?

There is no requirement for the Federal cognizant audit agency to

approve the audit scope or plan in advance of the audit. However, most auditors and cognizant audit agencies would agree that a review of the plan is highly useful for avoiding future misunderstandings.

45. When a recipient contracts for a single audit, does the Federal cognizant agency need to approve the auditor in advance?

No. The selection of an independent auditor is a recipient responsibility and the process is often addressed in State law. Prior approval is not required by the Federal cognizant agency, although the Federal cognizant audit agency can provide advice for those recipients that have little or no experience in arranging for audit service.

Recipients selecting independent auditors should follow the Procurement Standards contained in Attachment O of OMB Circular A-102, "Uniform Requirements for Grants to State and Local Governments." These standards provide that services shall be obtained in an efficient and economical manner that provides maximum open and free competition. In addition recipients should ensure that the selected auditors are not currently in a suspended or debarred status. (Federal agencies are in the process of developing regulations which will explain procedures for screening of debarred and suspended organizations. Final regulations will be issued early in calendar year 1988.)

46. Is Attachment O "Procurement Standards" applicable to the procurement of single audit services if the audit costs are not charged to Federal programs?

Yes. Even though the Federal Government is not being charged for audit services and procurement standards should be followed. The standards help ensure that the auditor selected will meet the general standards for auditors contained in the GAO publication "Standards For Audit of Governmental Organizations, Programs, Activities, and Functions."

47. OMB issued a listing of Federal agencies responsible for cost negotiation and audits of the larger State and local governments on January 6, 1986. How do local governments not included in the listing get technical advice and guidance?

Cognizant agencies will not be assigned to those governments not included in the listing. Smaller governments not assigned a cognizant agency that need technical audit advice or guidance should contact the Federal agency or State agency that provides

them the most funds whether the funds are transferred directly or indirectly. Circular A-128 refers to these Federal agencies as general oversight agencies

48. Does an oversight agency have the same responsibility as a cognizant agency?

No. An oversight agency's responsibility would not be nearly as broad as a cognizant agency's responsibilities. Like a cognizant agency, an oversight agency would represent all Federal agencies. However, an oversight agency's primary responsibility would be to provide advice and counsel to recipients when requested by the recipient. An oversight agency may take on additional responsibilities if deemed necessary, such as ensuring audits are conducted and transmitted to appropriate Federal officials, conducting reviews of reports and audit work and resolving crosscutting or systems findings.

Questions About Small and Minority Audit Firms

49. What are the obligations of recipients of Federal funds under OMB Circular A-128 for hiring small and minority audit firms?

Paragraph 19 requires recipients of Federal funds to provide the maximum practicable opportunity for small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals to be considered for selection by audited organizations. Audited organizations must provide such opportunity in order to ensure that qualified audit firms are not overlooked merely because they may be small or controlled by disadvantaged persons.

State and local governments and other recipients of Federal funds retain the authority to select audit firms at their discretion. Federal cognizant audit agencies do not have the authority under Paragraph 19 to challenge an audited organization's choice of audit firms. Paragraph 19 establishes a requirement of a fair and open process for selection of audit firms; it does not establish any requirement that particular firms or classes of firms be selected.

Questions About Other Matters

50. Will changes be made to the audit requirements contained in the compliance supplement and Circular A-128?

Yes. When the need for change is disclosed from our own experience or is brought to our attention by others, the

Director of OMB will make such changes or interpretations as necessary. When important changes are proposed, the Director of OMB will solicit the views of Federal agencies, State and local officials, professional organizations, public interest groups, and other interested parties. He will use these suggestions in interpreting or revising the requirements.

51. Can Federal agencies add requirements to those prescribed by Circular A-128?

No additional audit requirements should be imposed upon recipients

unless specifically required by Federal law, executive order or prior arrangement as stated in paragraph 10 of A-128. To the extent that problems are encountered between a grantee and a Federal grantor agency which cannot be resolved, the Office of Management and Budget will lend assistance to resolve such problems in a timely manner.

52. When is a single audit report due?

A single audit report is due 13 months following the end of the entity's fiscal year. The twelve months are for the

preparation of the audit report. The 13th month is for audit transmittal.

53. Are funds provided by the National Guard bureaus to the States covered by the Single Audit Act?

At the present time, funds provided by the National Guard Bureau to the States are not considered Federal financial assistance funds within the provisions of the Single Audit Act. However, the matter is currently under review.

[FR Doc. 87-26293 Filed 11-12-87, 8 45 am]
BILLING CODE 3110-01-M

The OIG reviews the audit and determines if it meets the reporting requirements of the Single Audit Act and OMB Circular A-128. If audit meets requirements, the OIG assigns a number to the audit and issues the audit to the awarding official by memorandum with copy to Audit Liaison Officer.

The OIG also writes letters to the CPA and to the Tribe telling them the audit met the requirements of the Single Audit Act and OMB Circular A-128 and giving them the assigned number for the audit. The OIG makes no determination about the financial condition of the Tribe.

Audits with Questioned Costs and/or Unresolved Findings

All audits with questioned costs, unresolved findings, or both require final action by the awarding official within 90 days of issuance of the audit by the OIG. In resolving the audit, the awarding official shall take one of the following actions:

A. Resolve Audit Based on Available Information.

Awarding official reviews Tribe's response contained in the audit report, the contract or grant files, compact agreement, and other available information to determine if the audit can be resolved with the information at hand. If so, awarding official shall notify the OIG by memorandum of the resolution of each audit finding along with a recommendation that the audit be closed. A copy of the memorandum shall be provided to the ALO and to the Tribe.

B. Request Additional Information. If the audit lacks a response from the tribe or if the awarding official determines that additional information is required, awarding official shall contact the tribe after receipt of the audit from the OIG. The letter shall request a response from the tribal official within 30 days.

(1) If all questioned costs are reinstated and all findings are resolved based upon the response, the awarding official shall provide the tribe with the findings and determinations (F&D) and notify the OIG by memorandum, attaching a copy of the F&D, and recommending that the audit be closed.

(2) If some or all of the questioned costs are disallowed, the awarding official shall notify the appropriate Tribal officials of the F&D and of their appeal rights. The OIG shall be notified by memorandum of the management decision, the proposed resolution of the audit, and the fact that costs have been disallowed. A copy of the F&D shall be provided to the OIG. The OIG may consider the audit resolved but not closed until the disallowed costs are actually collected.

Collection of Disallowed Costs

When the awarding official determines that certain costs are disallowed, these amounts become due and payable to the Federal Government. The audit cannot be closed until final disposition of the debt. Audit-related debt may be resolved:

(A) By payment from the tribe without the issuance of a Bill for Collection (BFC). Based on the findings and determination, the tribe may remit a check or money order payable to BIA.

(B) By payment following receipt of a BFC. If the tribe does not make payment within 5 days following notification of disallowed costs, the awarding official shall request the Division of Accounting Management to issue a BFC. Further actions are governed by the Debt Collection Act and 42 BIAM.

(C) Through administrative offset. In this instance, the Government withholds money otherwise payable to the tribe in order to satisfy the debt owed to the Government. [NOTE: The October 1994 amendments to P.L. 93-638 allow tribes to receive funding in advance of accomplishments. This change may preclude the use of administrative offsets as a method of repayment of disallowed costs.]

Disallowed costs may not be collected if the findings and determination is issued more than 365 days following the OIG's receipt of the single audit.

Unresolved External Audits

When tribe fails to take action necessary to resolve material audit findings, the audit remains unresolved, and the awarding official shall consider the options of contract declination or the rescission of contract or grant authority as provided in P.L. 93-638, as amended.

DEFINITIONS

Audit Liaison Office (ALO) = Office of Audit and Evaluation

Awarding Official = Contracting Officer
Education Line Officer
Office of Self Governance
Grants Officer
Agency's 638 Specialist
Agency Superintendent, etc

Closed = Audits may only be closed by the Office of Inspector General (OIG) or by the Department's (DOI) Office of Financial Management (PFM) within Policy, Management and Budget (PMB). They will close an audit when they agree that all findings and recommendations are resolved and implemented and any disallowed costs have been collected. Their decision to close is based on the management decision prepared by the awarding official.

Cognizant Agency = Responsible to ensure that audits are conducted and reports are received in a timely manner and in accordance with OMB Circular A-128. Responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency. [Department of the Interior is the cognizant agency for most Federally-recognized tribes.]

"Cost" Definitions:

Questioned Costs. This is a term used by auditors when they cannot find appropriate backup for a cost or they "question" whether the expenditure is appropriate within the terms of the contract or grant.

Disallowed Costs (Sustained Costs). The Awarding Official makes the final determination whether to sustain the auditor's opinion on a questioned cost and in fact to disallow the cost. A disallowed cost becomes a debt of the contractor/grantee and collection efforts must be initiated by the Awarding Official.

Allowed Costs (Reinstated Costs). The Awarding Official may reinstate a cost questioned by the auditor and allow it. This means that the Awarding Official disagrees with the auditor's opinion because he/she has seen the appropriate documentation and/or feels the cost is appropriate to the contract or grant.

Findings and Determination (F&D) - Awarding Official's written decision about whether the audit findings have been corrected satisfactorily and whether questioned costs should be allowed or disallowed.

Resolved - means that stage of an audit when management (awarding official) has determined what correction will be made in response to a finding and that determination is accepted by OIG and/or PFM.

11/22/95

SINGLE AUDIT PROCESS

[OMB Circular A-128]

Contractor/Grantee (Tribe) hires Certified Public Accountant (CPA) to conduct audit.

Certified Public Accountant (CPA) conducts the audit. Upon completion of the audit, CPA sends copies of audit to the contractor/grantee (Tribe). If Tribe provides response to any of the audit findings, the response is included with the audit report.

TRIBE SHALL MAKE THE FOLLOWING DISTRIBUTION OF THE AUDIT REPORT:

Distribution	Address
Send copy to each Federal agency that provided funding	[Various]
Send at least 7 copies to Interior OIG which sends copies to any Interior Bureaus which provided funding to the Tribe.	Director of External Audits Office of Inspector General U.S. Department of the Interior 1550 Wilson Boulevard Room 725 Arlington, VA 22209
Send 1 copy to storage facility for all single audits.	Central Clearinghouse Single Audit Clearinghouse U.S. Bureau of the Census Data Preparation Division 1201 East Tenth Street Jeffersonville, IN 47132
Send 1 copy of audit to Regional OIG Office which deals with Indirect Costs for the specific Tribe. [NOTE: OIG has <u>not</u> centralized this function.]	Indirect Costs Office of Inspector General WESTERN REGION U.S. Department of the Interior 2800 Cottage Way, Room W2400 Sacramento, CA 95825
	Indirect Costs Office of Inspector General EASTERN REGION U.S. Department of the Interior 1550 Wilson Boulevard, Room 725 Arlington, VA 22209

If you have questions about distribution, you may contact:
Office of Audit and Evaluation (303) 231-5650
P.O. Box 25007, D-119
Denver, CO 80225-0007

SINGLE AUDIT ACT OF 1984

Public Law 98-502
98th Congress

An Act

To establish uniform audit requirements for State and local governments receiving Federal financial assistance.

Oct. 19, 1984
(S 1510)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Single Audit Act
of 1984.

SHORT TITLE; PURPOSE

SECTION 1. (a) This Act may be cited as the "Single Audit Act of 1984".

31 USC 7501
note.

(b) It is the purpose of this Act—

- (1) to improve the financial management of State and local governments with respect to Federal financial assistance programs;
- (2) to establish uniform requirements for audits of Federal financial assistance provided to State and local governments;
- (3) to promote the efficient and effective use of audit resources; and
- (4) to ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as added by this Act).

AMENDMENT TO TITLE 31, UNITED STATES CODE

SEC. 2. (a) Subtitle V of title 31, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

- "Sec.
- "7501. Definitions.
- "7502. Audit requirements; exemptions.
- "7503. Relation to other audit requirements.
- "7504. Cognizant agency responsibilities.
- "7505. Regulations.
- "7506. Monitoring responsibilities of the Comptroller General.
- "7507. Effective date; report.

31 USC 7501.

"§ 7501. Definitions

"As used in this chapter, the term—

- "(1) 'cognizant agency' means a Federal agency which is assigned by the Director with the responsibility for implementing the requirements of this chapter with respect to a particular State or local government.
- "(2) 'Comptroller General' means the Comptroller General of the United States.
- "(3) 'Director' means the Director of the Office of Management and Budget.

“(E) \$10,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$3,000,000,000 but are less than or equal to \$4,000,000,000;

“(F) \$7,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$2,000,000,000 but are less than or equal to \$3,000,000,000;

“(G) \$4,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$1,000,000,000 but are less than or equal to \$2,000,000,000;

“(H) \$3,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$100,000,000 but are less than or equal to \$1,000,000,000; and

“(I) the larger of (i) \$300,000, or (ii) 3 percent of such total expenditures for all programs, in the case of a State or local government for which such total expenditures for all programs exceed \$100,000 but are less than or equal to \$100,000,000.

“(13) ‘public accountants’ means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

“(14) ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe.

“(15) ‘subrecipient’ means any person or government department, agency, or establishment that receives Federal financial assistance through a State or local government, but does not include an individual that receives such assistance.

“§ 7502. Audit requirements; exemptions

31 USC 7502.

“(a)(1)(A) Each State and local government which receives a total amount of Federal financial assistance equal to or in excess of \$100,000 in any fiscal year of such government shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title.

“(B) Each State and local government that receives a total amount of Federal financial assistance which is equal to or in excess of \$25,000 but less than \$100,000 in any fiscal year of such government shall—

“(i) have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title; or

“(ii) comply with any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

“(C) Each State and local government that receives a total amount of Federal financial assistance which is less than \$25,000 in any

(4) 'Federal financial assistance' means assistance provided by a Federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.

(5) 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5, United States Code.

(6) 'generally accepted accounting principles' has the meaning specified in the generally accepted government auditing standards.

(7) 'generally accepted government auditing standards' means the standards for audit of governmental organizations, programs, activities, and functions, issued by the Comptroller General.

(8) 'independent auditor' means—

(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards, or

(B) a public accountant who meets such independence standards.

(9) 'internal controls' means the plan of organization and methods and procedures adopted by management to ensure that—

(A) resource use is consistent with laws, regulations, and policies;

(B) resources are safeguarded against waste, loss, and misuse; and

(C) reliable data are obtained, maintained, and fairly disclosed in reports.

(10) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

(12) 'major Federal assistance program' means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable year exceed—

(A) \$20,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$7,000,000,000;

(B) \$19,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$6,000,000,000 but are less than or equal to \$7,000,000,000;

(C) \$16,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$5,000,000,000 but are less than or equal to \$6,000,000,000;

(D) \$13,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$4,000,000,000 but are less than or equal to \$5,000,000,000;

fiscal year of such government shall be exempt for such fiscal year from compliance with—

“(i) the audit requirements of this chapter; and

“(ii) any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

The provisions of clause (ii) of this subparagraph do not exempt a State or local government from compliance with any provision of a Federal statute or regulation that requires such government to maintain records concerning Federal financial assistance provided to such government or that permits a Federal agency or the Comptroller General access to such records.

“(2) For purposes of this section, a State or local government shall be considered to receive Federal financial assistance whether such assistance is received directly from a Federal agency or indirectly through another State or local government.

“(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

“(2) If a State or local government is required—

“(A) by constitution or statute, as in effect on the date of enactment of this chapter, or

“(B) by administrative rules, regulations, guidelines, standards, or policies, as in effect on such date,

to conduct its audits less frequently than annually, the cognizant agency for such government shall, upon request of such government, permit the government to conduct its audits pursuant to this chapter biennially, except as provided in paragraph (3). Such audits shall cover both years within the biennial period.

“(3) Any State or local government that is permitted, under clause (B) of paragraph (2), to conduct its audits pursuant to this chapter biennially by reason of the requirements of a rule, regulation, guideline, standard, or policy, shall, for any of its fiscal years beginning after December 31, 1986, conduct such audits annually unless such State or local government codifies a requirement for biennial audits in its constitution or statutes by January 1, 1987. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

“(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, such standards shall not be construed to require economy and efficiency audits, program results audits, or program evaluations.

“(d)(1) Each audit conducted pursuant to subsection (a) for any fiscal year shall cover the entire State or local government's operations except that, at the option of such government—

“(A) such audit may, except as provided in paragraph (5), cover only each department, agency, or establishment which received, expended, or otherwise administered Federal financial assistance during such fiscal year; and

“(B) such audit may exclude public hospitals and public colleges and universities.

“(2) Each such audit shall encompass the entirety of the financial operations of such government or of such department, agency, or establishment, whichever is applicable, and shall determine and report whether—

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98 STAT. 2331

"(AXi) the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles; and

"(ii) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon the financial statements;

"(B) the government, department, agency, or establishment has internal control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

"(C) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon each major Federal assistance program. In complying with the requirements of subparagraph (C), the independent auditor shall select and test a representative number of transactions from each major Federal assistance program.

"(3) Transactions selected from Federal assistance programs, other than major Federal assistance programs, pursuant to the requirements of paragraphs (2)(A) and (2)(B) shall be tested for compliance with Federal laws and regulations that apply to such transactions. Any noncompliance found in such transactions by the independent auditor in making determinations required by this paragraph shall be reported.

"(4) The number of transactions selected and tested under paragraphs (2) and (3), the selection and testing of such transactions, and the determinations required by such paragraphs shall be based on the professional judgment of the independent auditor.

"(5) Each State or local government which, in any fiscal year of such government, receives directly from the Department of the Treasury a total of \$25,000 or more under chapter 67 of this title (relating to general revenue sharing) and which is required to conduct an audit pursuant to this chapter for such fiscal year shall not have the option provided by paragraph (1)(A) for such fiscal year.

"(6) A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered to be an audit for the purpose of this chapter.

"(e)(1) Each State and local government subject to the audit requirements of this chapter, which receives Federal financial assistance and provides \$25,000 or more of such assistance in any fiscal year to a subrecipient, shall—

"(A) if the subrecipient conducts an audit in accordance with the requirements of this chapter, review such audit and ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government; or

"(B) if the subrecipient does not conduct an audit in accordance with the requirements of this chapter—

"(i) determine whether the expenditures of Federal financial assistance provided to the subrecipient by the State or local government are in accordance with applicable laws and regulations; and

"(ii) ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial

41 USC 6701 et
seq.

assistance provided to the subrecipient by the State or local government.

"(2) Each such State and local government shall require each subrecipient of Federal assistance through such government to permit, as a condition of receiving funds from such assistance, the independent auditor of the State or local government to have such access to the subrecipient's records and financial statements as may be necessary for the State or local government to comply with this chapter.

Report

"(f) The report made on any audit conducted pursuant to this section shall, within thirty days after completion of such report, be transmitted to the appropriate Federal officials and made available by the State or local government for public inspection.

(g) If an audit conducted pursuant to this section finds any material noncompliance with applicable laws and regulations by, or material weakness in the internal controls of, the State or local government with respect to the matters described in subsection (d)(2), the State or local government shall submit to appropriate Federal officials a plan for corrective action to eliminate such material noncompliance or weakness or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(b) of this title.

31 USC 3512

31 USC 7503

"§ 7503. Relation to other audit requirements

"(a) An audit conducted in accordance with this chapter shall be in lieu of any financial or financial and compliance audit of an individual Federal assistance program which a State or local government is required to conduct under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

"(b) Notwithstanding subsection (a), a Federal agency shall conduct any additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any State or local government (or subrecipient thereof) to constrain, in any manner, such agency from carrying out such additional audits.

"(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or enter into contracts for the conduct of, audits and evaluations of Federal financial assistance programs, nor limit the authority of any Federal agency Inspector General or other Federal audit official.

"(d) Subsection (a) shall apply to a State or local government which conducts an audit in accordance with this chapter even though it is not required by section 7502(a) to conduct such audit.

"(e) A Federal agency that performs or contracts for audits in addition to the audits conducted by recipients pursuant to this chapter shall, consistent with other applicable law, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

“§ 7504. Cognizant agency responsibilities -

31 USC 7504

“(a) The Director shall designate cognizant agencies for audits conducted pursuant to this chapter.

“(b) A cognizant agency shall—

“(1) ensure that audits are made in a timely manner and in accordance with the requirements of this chapter;

“(2) ensure that the audit reports and corrective action plans made pursuant to section 7502 of this title are transmitted to the appropriate Federal officials; and

“(3XA) coordinate, to the extent practicable, audits done by or under contract with Federal agencies that are in addition to the audits conducted pursuant to this chapter; and (B) ensure that such additional audits build upon the audits conducted pursuant to this chapter.

“§ 7505. Regulations

31 USC 7505

“(a) The Director, after consultation with the Comptroller General and appropriate Federal, State, and local government officials, shall prescribe policies, procedures, and guidelines to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such policies, procedures, and guidelines.

“(b)(1) The policies, procedures, and guidelines prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to programs of Federal financial assistance for the cost of audits. Such criteria shall prohibit a State or local government which is required to conduct an audit pursuant to this chapter from charging to any such program (A) the cost of any financial or financial and compliance audit which is not conducted in accordance with this chapter, and (B) more than a reasonable proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

“(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit (A) the ratio of (i) the total charges by a government to Federal financial assistance programs for the cost of audits performed pursuant to this chapter, to (ii) the total cost of such audits, to exceed (B) the ratio of (i) total Federal financial assistance expended by such government during the applicable fiscal year or years, to (ii) such government's total expenditures during such fiscal year or years.

“(c) Such policies, procedures, and guidelines shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

“§ 7506. Monitoring responsibilities of the Comptroller General

31 USC 7506

“The Comptroller General shall review provisions requiring financial or financial and compliance audits of recipients of Federal assistance that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chap-