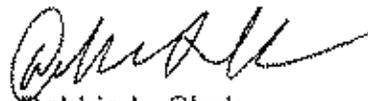


INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

(modified DI-416)

DOCUMENT IDENTIFICATION NUMBER 5 IAM 2	SUBJECT Management Accountability Single Audits	RELEASE NUMBER #71
FOR FURTHER INFORMATION Office of Audit and Evaluation		DATE OCT 20 2005

Chapter 2 Single Audits, Part 5 - Management Accountability, of the Indian Affairs Manual is being revised to reflect the abolishment of the Denver, Colorado, Office of Audit and Evaluation and the relocation of the Washington, D.C. office to Reston, Virginia. Editorial changes are being made to clarify sanctions with regard to delinquent single audit reports. Two new Illustrations are also being added. One is a sample of a certification that expenditures of Federal assistance by a recipient in a particular fiscal year are below the threshold requiring the submission of a single audit report under the provisions of the Single Audit Act and OMB Circular A-133. The other new Illustration is a sample of a request by an awarding official for the National Business Center to issue a bill for collection.



Debbie L. Clark
Deputy to the Assistant Secretary -
Indian Affairs (Management)

FILING INSTRUCTIONS:

Remove: 5 IAM 2, 11/27/00 #00-05

Insert: 5 IAM 2 (Revised)

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2.1 Purpose. The purpose of this chapter is to provide policies and procedures to be followed for requiring, resolving and closing out single audit reports.

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. §458aa et seq., Tribal Self-Governance Act.**
- D. Title 25 U.S.C. §2501 et seq., Tribally Controlled School Act (P.L. 100-297), as amended;**
- E. Title 31 U.S.C., Chapter 75, Requirements for Single Audits;**
- F. Title 25 CFR, Part 900, Contracts under the Indian Self-Determination and Education Assistance Act; and**
- G. 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-87, Cost Principles for State, Local, and Indian Tribal Governments;
 - (3) A-102, Grants and Cooperative Agreements with State and Local Governments;
 - (4) A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;
 - (5) A-133, Audits of States, Local Governments, and Non-Profit Organizations.
- B. Departmental Manual:**
 - (1) Part 360, Departmental Audits; and
 - (2) Part 361, Audit Followup.
- C. Catalog of Federal Domestic Assistance**

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D. Solicitor's Memorandum dated February 4, 1998, on the use of funds advanced to tribal organizations under compacts, contracts, and grants.

2.4 Policy. It is the policy of Indian Affairs to:

- A.** Ensure that single audit reports are submitted in a timely manner,
- B.** Issue management decisions in a timely manner, and
- C.** Ensure that Federal funds are properly safeguarded and are used only for the purposes authorized in the award.

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

Office of Audit and Evaluation
Office of the Chief Financial Officer
2051 Mercator Drive
Reston, Virginia 20191
(703) 390-6578

The Handbook will include material for use by the awarding official in training recipients on the provisions of the Single Audit Act.

2.6 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, Tribally Controlled School grants, or other grant assistance on behalf of the Secretary.

B. Disallowed Cost (sometimes referred to as "sustained 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.

C. Federal Financial Assistance includes assistance that recipients 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.

D. 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 disallowed (sustained) or reinstated.

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

F. Misapplication of Funds means the expenditure of cash provided by Indian Affairs for any purpose other than to pay costs for programs included in an Indian Affairs funding agreement.

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G. Office of Financial Management (PFM) is the Departmental Office that is responsible for report processing and audit follow-up, including closure, of single audit reports received from the Federal Audit Clearinghouse.

H. Questioned Cost means a cost that is questioned by the auditor because of an audit finding:

(1) which resulted from a violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds;

(2) where the costs, at the time of the audit, are not supported by adequate documentation; or

(3) where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

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

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

K. Resolved Audit means that the Department of the Interior, Office of Financial Management (PFM), has accepted the management decision concerning the audit findings.

L. Single Audit means an audit, which is conducted by an independent audit organization, of a non-Federal recipient that includes the recipient's financial statements and Federal awards under the Single Audit Act.

2.7 Responsibilities.

A. Audit Liaison Officer (ALO):

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

(2) Reviews audit reports submitted directly to the Office of Audit and Evaluation and provides comments on the report to the awarding officials;

(3) Assists awarding officials in resolving and closing single audits;

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

(5) Provides technical assistance to recipients and Federal employees as requested;

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(6) Provides notification to awarding officials when recipients have failed to submit single audits; and

(7) Establishes and maintains an automated tracking system to provide management information on the status of single audits that have been filed.

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

(1) Ensure timely resolution of single audit reports;

(2) Take appropriate action when audit findings indicate significant problems or material weaknesses that put Federal resources in jeopardy or when disallowed costs have not been repaid; and

(3) Take appropriate action when an audit has not been performed within the prescribed time.

C. Awarding Officials:

(1) Ensure that all awards include a requirement that the recipient provides two copies of the audited financial statements and single audit report to the Office of Audit and Evaluation. If the recipient does not meet the threshold requirement for obtaining a single audit, the Awarding Official will obtain a certification that a single audit is not required. (Illustration 1);

(2) For good cause and upon the request of a recipient, assist the recipient in obtaining a reasonable extension of time for the submission of the single audit report from the Office of Inspector General if the Department of the Interior is the cognizant/oversight agency for audit, or from the appropriate audit official of the cognizant/oversight audit agency if the Department of the Interior is not the cognizant/oversight agency for the recipient;

(3) Ensure that single audits are completed and reports are received in a timely manner;

(4) Make a management decision within 90 days of the date the audit was issued by the PFM or by the Office of Audit and Evaluation;

(5) Determine allowability of questioned costs;

(6) Using the information contained in the recipient's financial statements, determine whether a misapplication of funds provided by Indian Affairs may have occurred.

(7) Request the National Business Center to issue a bill for collection, if applicable;

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

(9) Identify issues requiring technical assistance and either provide the assistance or assist the recipient in identifying the source of assistance.

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D. Director, National Business Center, Department of the Interior:

(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.

2.8 Sanctions. Single audit reports are due within nine (9) months of the end of the recipient's fiscal year. The Single Audit Act and OMB Circular A-133 provide the authority for imposing sanctions when recipients are delinquent in submitting their single audit reports. Consistent with Indian Self-Determination and Education Assistance Act and the Tribally Controlled Schools Act, Indian Affairs recipients who fail to submit a single audit report by the due date will be subject to the sanctions described below.

A. Warning Letter. If an audit has not been received by either the Federal Audit Clearinghouse or by the Office of Audit and Evaluation within 6 months of the end of the recipient's fiscal year, the awarding official will send the recipient a warning letter similar to that shown in Illustration 2. If an audit has been filed with the Federal Audit Clearinghouse but has not been sent to the Office of Audit and Evaluation, the awarding official will send the recipient a letter similar to that shown in Illustration 3.

B. Level 1 Sanctions. If the recipient fails to submit the single audit report by the due date, the awarding official will place the recipient on Level 1 sanctions. Level 1 sanctions are imposed in the contracting period following the audit report due date. The recipient will be limited to monthly advance payments of all contract funds, including contract support funds. See Illustration 4.

C. Level 2 Sanctions. If the recipient fails to comply with the audit requirements by the close of the recipient's following fiscal year, the awarding official will place the recipient on Level 2 sanctions. Level 2 sanctions are imposed in the 2nd contracting period after the single audit report due date. The Indian tribe or tribal organization will continue to receive monthly advance payments of all contract funds, and all contract support payments will be withheld until the recipient is current with its single audit report submissions. See Illustration 5.

D. Level 3 Sanctions. If the recipient has failed to submit the required single audit report by the end of the year in which Level 2 sanctions were imposed, the awarding official will place the recipient on Level 3 sanctions. Level 3 sanctions will result in the nonemergency reassumption of the contracted programs. See Illustration 6.

2.9 Single Audit Reports Referred to Indian Affairs For Resolution.

A. Awarding Officials are to:

(1) Review available information provided in the recipient's response to the single audit report, 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 report can be resolved with the information at hand. In some cases, the awarding official may be able to make determinations about audit findings and questioned costs based on the recipient's response contained in the single audit report.

(2) Request additional information if the single audit report lacks a response from the recipient or if the awarding official determines that additional supporting material is required. The

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awarding official is to contact the recipient within fourteen (14) calendar days of receipt of the audit report. The letter should request a response from the recipient within thirty (30) calendar days.

(3) **Make a Management Decision.** Failure of the recipient to provide documents supporting the expenditure of Federal funds for questioned items does not relieve the awarding official of the responsibility for issuing a timely 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 PFM or the Office of Audit and Evaluation, as appropriate, by memorandum, with copy to the recipient, and recommend that the single audit report be closed. If an F&D is issued, a copy should be provided to the office issuing the audit report. If notification is addressed to the PFM, a copy should be provided to the Office of Audit and Evaluation. As shown in Illustration 7, however, it is not necessary to prepare an F&D if there are no unresolved findings or disallowed costs.

(b) If there are disallowed costs, the awarding official will issue a formal notice to the recipient, by certified mail, of the findings and determination and of the recipient's appeal rights under 25 CFR 2, 25 CFR 900, and 43 CFR 4 (Illustration 8). The issuing office will be notified of the management decision by memorandum, attaching a copy of the F&D (Illustration 9). At the same time, a request to issue a Bill for Collection should be sent to the National Business Center (Illustration 10).

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 recipient. Copies of the ALO's memorandum to the PFM will be provided to the awarding official who is responsible for providing a copy to the recipient.

2.10 Collection of Disallowed Costs.

A. Debts Owed to the Government. Once the awarding official has determined that certain costs are disallowed, these amounts are debts owed by the recipient to the Bureau of Indian Affairs. The single audit report cannot be closed until the funds are repaid or until the debt is referred to the Department of Treasury.

B. Delinquent Debts. Debts that are 180 days delinquent will be referred to the Department of Treasury for further collection action.

C. Time Limitation. Disallowed costs may not be billed or collected if the F&D is issued more than 365 calendar days following the earlier of the dates that the single audit report was received by either the Office of Inspector General (OIG) or by the Office of Audit and Evaluation.

2.11 Reinstatement of Previously Disallowed Costs. Subsequent to the awarding official's decision to disallow costs, the recipient may provide additional information that 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 National Business Center revise or cancel the Bill for Collection, as appropriate.

2.12 Compromise of Audit Related Debt.

A. Assistant Secretary - Indian Affairs may reduce, forgive, or authorize the write-off of audit related debt when the total amount owed by the recipient is **less than \$5,000**. [Note: The \$5,000 limit includes all debt owed by the recipient to Indian Affairs, not just the amount owed under one audit.] A request to the Assistant Secretary should be submitted through the Regional 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 recipient 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 National Business Center and the Office of Audit and Evaluation.

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

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

2.13 Closure of Single Audit Reports.

A. Single Audit Reports With No Outstanding Disallowed Costs. Management decisions on single audit reports issued by the PFM are reviewed by the PFM. If the response is acceptable, the PFM provides notification to the official who made the management decision.

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

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

B. Single Audit Reports With Disallowed Costs. The PFM tracks the collection efforts of resolved single audit reports with outstanding disallowed costs..

(1) Documentation of collection, compromise, reinstatement of disallowed costs, or transfer of delinquent debts either to the Department of Justice for litigation or to the Department of Treasury for collection actions must be provided to PFM through the ALO.

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

C. Single Audit Reports Lacking a Timely Management Decision. Single audit reports for which the awarding official has not made a management decision within 90 calendar days of issuance by the PFM are considered overdue. The management decision memorandum for these audit reports must be sent through the ALO to PFM. If PFM determines the management decision is 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.

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2.14 Unresolved Single Audit Reports. While the responsibility for a determination regarding the 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 recipient. In a situation where the recipient fails to take action necessary to resolve material audit findings, the single audit report remains unresolved and the awarding official will offer technical assistance to the recipient. In serious situations, the awarding official may also consider the options of placing the recipient on "high risk" status. Recipients identified as high risk are subject to additional monitoring and restricted drawdowns. If the awarding official determines that there has been gross negligence or mismanagement in the handling or use of contract funds, trust funds, trust lands, or interests in trust lands, the awarding official may initiate contract reassumption procedures.

2.15 Safeguarding of Advanced Federal Funds. Funds advanced by Indian Affairs either must be:

- A. Invested in "obligations of the United States" or those guaranteed by the United States.
- B. Invested in registered mutual funds that invest exclusively in the types of securities discussed in A.
- C. Deposited into accounts that are insured by an agency of the United States.
- D. Deposited into accounts that are fully collateralized to ensure the protection of the funds.
- E. If an single audit report indicates that the recipient has failed to comply with this requirement, the awarding official will write to the recipient requesting that the recipient provide evidence that the funds are properly deposited or invested. If the recipient fails to provide such evidence within 30 days, the awarding official will place the recipient on a quarterly payment schedule until the recipient provides evidence that the funds are secured as required by law.

2.16 Misapplication of Federal Funds. A review of the recipient's financial statement will occasionally disclose one or more of the following conditions: a deficit cash balance in the general fund; insufficient balances in cash and investments to cover deferred revenue in the special revenue fund; or amounts "due from" other funds to the special revenue fund. Each of these situations warrants further scrutiny and deficit balances or amounts "due from" other funds should be considered for potential misapplication of funds. If it is determined that Indian Affairs funds have been misapplied, the awarding official will document the misapplication of funds by issuing a F&D to take the following actions:

- A. **Recovery of Misapplied Funds.** If cash provided for Indian Affairs awards has been used for any other purpose by the recipient, the awarding official should recover the Indian Affairs funds that have been misapplied. If a recipient has multiple Indian Affairs awards, the total available cash and investment balances for Indian Affairs awards should be compared to the total Indian Affairs deferred revenue, so long as the recipient has not exceeded the total costs allowed under any of the awards.

In some instances, recipients have advanced funding from more than one Federal agency and may claim that there is sufficient cash to cover the Indian Affairs awards, just not enough to cover all of the other awards. Unless the recipient provides evidence that Indian Affairs funds are maintained in totally separate checking or savings accounts or investments, the awarding official will determine the proportionate share of the cash deficiency that is applicable to Indian Affairs awards and recover

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that amount.

B. Limit Drawdowns. The awarding official will notify the recipient that they will be placed on quarterly drawdowns until such time as a subsequent financial statement audit shows that the cash discrepancies have been corrected.

C. Determine Repayment Schedule and Repayment Method. If the recipient is prepared to fully replenish the cash deficiency within a six-month period, the awarding official may agree to allow the recipient to repay the Special Revenue Fund rather than to repay Indian Affairs. The awarding official will require the recipient to provide proof that repayment has been made and will provide a copy of evidence of repayment to the Office of Audit and Evaluation. At the end of six months, the awarding official will refer any remaining unpaid amounts to the National Business Center with a request that a Bill for Collection be issued. A copy of the requested will be provided to the Office of Audit and Evaluation.



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS

Registered Mail - Return Receipt Requested

REQUEST FOR SUBMISSION OF SINGLE AUDIT

Dear [Tribal Leader]:

The Single Audit Act requires a non-Federal entity that expends \$500,000 or more of Federal awards in a given fiscal year to have a single audit performed for that fiscal year. In addition, Section 450c(f) of the Indian Self-Determination and Education Assistance Act requires the single audit report to be submitted to the Secretary of the Interior.

Under the requirements of OMB Circular A-133, which implements the Single Audit Act, a non-Federal entity is required to submit its single audit report to the Federal Audit Clearinghouse within the earlier of 30 days after receipt of the audit report or 9 months after the end of the period audited. The report for the audit period ended (*date*) will be due by (*date*).

According to the records of the Federal Audit Clearinghouse and the Office of Audit and Evaluation, your Tribe has not submitted its single audit report for the audit period ended (*date*). While your single audit report is not yet due, the purpose of this letter is to remind you of the requirement to submit the audit report and to advise you of the sanctions that the BIA intends to impose if the report is not received by the due date. As shown in the following table, sanctions increase in severity as the period of non-compliance increases. Consequently, if you are already delinquent in the submission of a prior single audit report, the level of sanctions imposed will be higher based on the earliest delinquent audit report.

Sanction	Authority
Level 1 sanctions are imposed in the contracting period following the audit due date. The Indian tribe or tribal organization will be limited to monthly advance payments of all contract funds, including contract support funds.	OMB Circular A-133
Level 2 sanctions are imposed in the 2 nd contracting period after the audit due date. The Indian tribe or tribal organization will continue to receive monthly advance payments of all contract funds, and all contract support payments will be withheld.	OMB Circular A-133
Level 3 sanctions are imposed in the 3 rd contracting period after the audit due date. The BIA will initiate nonemergency program reassumption procedures.	OMB Circular A-133 and 25 USC § 450m

To avoid imposition of these sanctions you are encouraged to submit your single audit by the due date. In addition to the Federal Audit Clearinghouse, you should submit two copies to the Office of Audit and Evaluation, which has been designated by the Assistant Secretary – Indian Affairs as the point of receipt for single audit reports submitted pursuant to the Indian Self-Determination and Education Assistance Act. The Office of Audit and Evaluation's address is:

Office Audit and Evaluation
Department of the Interior
2051 Mercator Drive
Reston, Virginia 20191

Phone: (703) 390-6578
Fax: (703) 390-6325

If you are unable to submit the single audit report by the due date, you may be eligible for an extension of time to file the report. The request for extension should be submitted to your cognizant/oversight agency for audit. The Federal agency that has the most direct expenditures is designated the cognizant/oversight agency. In most cases this is either the Department of the Interior or the Department of Health and Human Services. Their addresses are provided below. The extension request should include the reason for needing an extension, the amount of time needed, and a draft Schedule of Expenditures of Federal Awards for the audit period of the request. The request for an extension must be received before the audit due date and not exceed 3-months. However, you should be aware that an extension may not change the effective date of any sanctions imposed.

Office of Inspector General
Department of the Interior
Reston Plaza 1, Suite 230
12030 Sunrise Valley Drive
Reston, Virginia 20191

Office of Audit Services
Office of Inspector General
Department of Health and Human Services
Lucas Place, Room 514
323 W. 8th Street
Kansas City, Missouri 64105

The purpose of this letter is to advise you of the actions BIA will take in fiscal year 2006 if the audit is not received by the audit due date. If it becomes necessary to impose sanctions, you will receive a formal notice which will include a description of your appeal rights.

Thank you for your immediate attention to this matter.

Sincerely,



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS

Registered Mail - Return Receipt Requested

REQUEST FOR SUBMISSION OF SINGLE AUDIT

Dear [Tribal Leader]:

According to the data base maintained by the Federal Audit Clearinghouse, you have filed your [insert year] single audit report with the Federal Audit Clearinghouse under the requirements of OMB Circular A-133. This is to request that you submit two (2) copies of your single audit report directly to the Office of Audit and Evaluation, Department of the Interior.

The Indian Self-Determination and Education Assistance Act contains the following requirement:

For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this subchapter, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency [sic] audit report required by chapter 75 of Title 31. [Title 25 U.S.C. 450c(f)]

Under the requirements of OMB Circular A-133, recipients are required to file their audit reports with the Federal Audit Clearinghouse and to submit to the Federal Audit Clearinghouse additional copies of the audit report only for those agency for which there is a reportable audit finding. While filing with the Federal Audit Clearinghouse satisfies the requirements of OMB Circular A-133, it may not satisfy the requirements of the Indian Self-Determination Act because the Bureau of Indian Affairs may not receive a copy of the audit report. Consequently, the Assistant Secretary for Indian Affairs has determined that each Indian tribe or tribal organization is to file copies of the Single Audit report with the Office of Audit and Evaluation to meet the requirements of the Indian Self-Determination Act.

Although you have submitted your audit report for FY [insert year] to the Federal Audit Clearinghouse, the Office of Audit and Evaluation has not received a copy of your audit. Consequently, we are requesting that you submit two copies of the completed single audit report to the Office of Audit and Evaluation at the address provided below.

Office Audit and Evaluation
Department of the Interior
2051 Mercator Drive
Reston, Virginia 20191

Phone: (703) 390-6578
Fax: (703) 390-6325

Thank you for your cooperation in this matter.



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS

Registered Mail - Return Receipt Requested

NOTICE OF CHANGE IN PAYMENT METHOD

Dear [Tribal Leader]:

By a letter dated [*insert date of warning letter*], signed by the Regional Director, you were notified that the Bureau of Indian Affairs intended to impose sanctions during fiscal year [*insert subsequent fiscal year*] on Indian tribes or tribal organizations which have failed to meet the statutory and regulatory requirements for annual submission of single audit reports.

The Indian Self-Determination and Education Assistance Act contains the following requirement:

For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this subchapter, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency [sic] audit report required by chapter 75 of Title 31. [Title 25 U.S.C. 450c(f)]

Under the requirements of Office of Management and Budget Circular A-133, recipients are required to file their single audit reports with the Federal Audit Clearinghouse within 9 months of the end of its fiscal year. According to the records of the Federal Audit Clearinghouse and the Office of Audit and Evaluation, your Tribe has not submitted its single audit report for fiscal year [*insert fiscal year*].

This action is taken pursuant to the authority contained in the Single Audit Act and the implementing guidance issued by the Office of Management and Budget through OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*, which provides:

"In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action using sanctions such as:

- (a) **Withholding a percentage of Federal awards until the audit is completed satisfactorily;**
- (b) Withholding or disallowing overhead costs;
- (c) Suspending Federal awards until the audit is conducted; or
- (d) Terminating the Federal award."

The Bureau has determined that because you have failed to submit appropriate audits, we will make payments of all contract funds, including contract support costs, by way of monthly advance installments until all audits have been submitted. Other payment methods will resume upon the Bureau's receiving notification that the tribe has submitted its single audit report for fiscal year [*insert fiscal year*]. Moreover, the Bureau reserves the right to impose additional sanctions, including withholding funds, if audits are not submitted in a timely manner.

Completed audits are to be sent to the Federal Audit Clearinghouse in accordance with the provisions of OMB Circular A-133 and the Office of Audit and Evaluation at the following address.

Office Audit and Evaluation
Department of the Interior
2051 Mercator Drive
Reston, Virginia 20191

Phone: (703) 390-6578
Fax: (703) 390-6325

We suggest that audits be mailed "return receipt requested."



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Registered Mail - Return Receipt Requested

NOTICE OF WITHHOLDING OF CONTRACT SUPPORT FOR FY *[insert fiscal year]*

Dear *[Tribal Leader]*:

You were previously notified that the Bureau of Indian Affairs would impose sanctions as a result of the Tribe's failure to submit the required single audits to the Secretary. The *Indian Self-Determination and Education Assistance Act* contains the following requirement:

For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this subchapter, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency [sic] audit report required by chapter 75 of Title 31. [Title 25 U.S.C. 450c(f)]

Under the requirements of Office of Management and Budget Circular A-133, recipients are required to file their single audit reports with the Federal Audit Clearinghouse within 9 months of the end of the tribe's fiscal year. According to the records of the Federal Audit Clearinghouse and the Office of Audit and Evaluation, your Tribe has not submitted its single audit report for fiscal year *[insert fiscal year of delinquent audit]*. Because you have failed to submit the appropriate audit report, we made payments of all contract funds by way of monthly advance installments during FY *[insert the fiscal year in which monthly payments were made]*.

Withholding of Contract Support

In addition to limiting the Tribe to monthly drawdown of program funds, the Bureau will also withhold all contract support payments during FY *[insert current fiscal year]* until the Tribe submits its audit report *[if more than one year is delinquent letter should be modified to include reports through and including fiscal year [prior fiscal year]]*. This action is taken pursuant to the authority contained in the Single Audit Act and the implementing guidance issued by the Office of Management and Budget through OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*, which provides:

"In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action using sanctions such as:

- (a) Withholding a percentage of Federal awards until the audit is completed satisfactorily;
- (b) **Withholding or disallowing overhead costs;**
- (c) Suspending Federal awards until the audit is conducted; or
- (d) Terminating the Federal award."

Because the Tribe has failed to comply with the audit requirements, we will during FY [*insert current fiscal year*] advance program funds on a monthly basis and withhold all contract support payments until such time as the audit is received by the Office of Audit and Evaluation, Department of the Interior.

Completed audits are to be sent to the Federal Audit Clearinghouse in accordance with the provisions of OMB Circular A-133 and the Office of Audit and Evaluation at the following address.

Office Audit and Evaluation
Department of the Interior
2051 Mercator Drive
Reston, Virginia 20191

Phone: (703) 390-6578
Fax: (703) 390-6325

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, 801 N. Quincy Street, Suite 300, 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.

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 or the Federal District Court within 12 months of the date you receive this decision, pursuant to section 110 of the ISDA, Title 25 U.S.C. § 450m-1, and the Contract Disputes Act, Title 41 U.S.C. § 601 *et seq.*

Sincerely,



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS

Registered Mail - Return Receipt Requested

NOTICE OF INTENT

Dear [Tribal Leader]:

You have previously received three letters notifying you that the Bureau of Indian Affairs would impose sanctions as a result of the tribe's failure to submit the required single audits to the Secretary. The Indian Self-Determination and Education Assistance Act contains the following requirement:

For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this subchapter, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency [sic] audit report required by chapter 75 of Title 31. [Title 25 U.S.C. 450c(f)]

Under the requirements of Office of Management and Budget Circular A-133, recipients are required to file their single audit reports with the Federal Audit Clearinghouse within 9 months of the end of the tribe's fiscal year. According to the records of the Federal Audit Clearinghouse and the Office of Audit and Evaluation, your Tribe has not submitted its single audit report for fiscal year [*insert fiscal year of delinquent audit*]. Because you failed to submit the required single audit report, we have made payments for the last 2 years of all contract funds by way of monthly advances and have withheld all contract support for the past year.

Non-Emergency Reassumption

The Bureau is authorized to initiate non-emergency reassumption procedures if there has been gross negligence in the handling of contract funds [25 CFR § 900.247]. The Tribe's failure to submit the required audit reports is both a breach of the contract provisions and an indication that there may be gross negligence in the expenditure of Federal funds.

This letter constitutes the first of the two notices the Bureau is required to provide prior to program reassumption. The Tribe has 45 days from the date of the receipt of this letter to provide a single audit report covering FY [*insert fiscal year of delinquent audit*] to the Office of Audit and Evaluation .

Completed audits are to be sent to the Federal Audit Clearinghouse in accordance with the provisions of OMB Circular A-133 and the Office of Audit and Evaluation at the following address.

Office Audit and Evaluation
Department of the Interior
2051 Mercator Drive
Reston, Virginia 20191

Phone: (703) 390-6578
Fax: (703) 390-6325

We suggest that audits be mailed "return receipt requested."

Technical Assistance

It is the responsibility of the Tribe to hire a certified public accountant to perform the required audit of the financial statements prepared by the Tribe and to report on the tribe's system of internal controls and compliance with laws and regulations. If the Tribe needs information about auditors who are familiar with the requirements of the *Single Audit Act* and who have experience in auditing Tribal Governments, the Office of Audit and Evaluation maintains a list of audit firms that have been used by other Indian tribes. While we cannot recommend any specific firm, you may obtain a copy of the auditors' mailing list from the Office of Audit and Evaluation.

Second Notice and Appeal Rights

If the audit report is not received within 45 days of your receipt of this letter, a second letter will be sent which will include information on the Tribe's appeal rights.

Sincerely,



5 IAM 2
Illustration 7

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS

June 30, 2000

Memorandum

To: Associate Director, Finance Policy and Operations
Office of Financial Management
(Attention: Deborah Jones)
or
Director, Office of Audit and Evaluation
Office of the Chief Financial Officer

From: BIA Awarding Official

Subject: Single Audit of the New Tribe of Indians for the Fiscal Year Ended September 30, 1995,
(Report No. xxxxxxx)

The subject audit report, issued on April 10, 2000, 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 recipient, 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, 2000

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, 1999 (Report No. 00-A-300 issued April 10, 2000).

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, 801 N. Quincy Street, Suite 300, 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.: xxxxxxx

Audit Period: Fiscal Year Ended September 30, 1999

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-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 1999 by, Certified Public Accountant, in accordance with the Government Auditing Standards. The audit was submitted to the [*Department of the Interior's Office of Financial Management or office of Audit and Evaluation, Office of the Assistant Secretary – Indian Affairs*]. The audit contained six (6) findings and questioned costs which totaled \$22,000. The [*Department of the Interior's Office of Financial Management or office of Audit and Evaluation, Office of the Assistant Secretary – Indian Affairs*] forwarded copies of the audit to the Awarding Official on April 10, 2000, 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.

Tribe's Response: By letter dated May 25, 2000, 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, 2000, 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, 2000, 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, 2000

Memorandum

To: Associate Director, Finance Policy and Operations
Office of Financial Management
(Attention: Deborah Jones)
or
Director, Office of Audit and Evaluation
Office of the Chief Financial Officer

From: BIA Awarding Official

Subject: Single Audit of the New Tribe of Indians for the Fiscal Year Ended September 30, 1999,
Report No. 00-A-300.

The subject audit report, issued on April 10, 2000, 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 recipient. It is my determination that the internal control findings are all resolved. Based on documentation provided by the recipient, I have reinstated \$10,000 of the questioned costs. The attached Findings and Determination notified the recipient that \$12,000 of the questioned costs were disallowed and must be repaid to the Government.

Attachment

cc: New Tribe of Indians
Audit Liaison Officer



5 IAM 2
Illustration 10

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS

June 30, 2000

Memorandum

To: National Business Center, U. S. Department of the Interior
Attention: Michael Pritchett Mail Stop D-2775

From: Awarding Official

Subject: Request for Collection Action

Please issue a Bill for Collection in the sum of \$5,432.10 to the New Tribe of Indians, P.O. Box 555, Atlanta, Georgia 55555, for Single Audit No. xxxxxxxx (received December 25, 1999).

The attached Findings and Determination, dated August 1, 2000, is the basis for this collection action. The refund should be credited to:

XXXXXXXXXXXXXXXXXX

If you have questions, you may contact me at (555-555-5555).

Attachment

cc: Regional Office, Accounting Management
Office of Audit and Evaluation