Issue Date February 20, 2008
Audit Report Number 2008-SE-1002

TO: Kevin Fitzgibbons, ONAP Administrator, Eastern Woodlands Office of Native American Programs, 5API

Joan S. Hobbs

FROM: Joan S. Hobbs, Regional Inspector General for Audit, Region X, 0AGA

SUBJECT: Oneida Housing Authority, Oneida, Wisconsin, Did Not Properly Recognize and Use Program Income from Native American Housing Assistance and Self-Determination Act-Assisted 1937 Act Housing Projects

HIGHLIGHTS

What We Audited and Why

We audited Oneida Housing Authority (Authority) as part of our review of the Office of Native American Programs' guidance on calculating program income for United States Housing Act of 1937 (1937 Act) housing projects assisted by the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). The objective of the audit was to determine whether the Authority calculated program income for NAHASDA-assisted 1937 Act properties in accordance with applicable U.S. Department of Housing and Urban Development (HUD) guidance, regulations, and requirements and to observe uses of revenue from NAHASDA-assisted 1937 Act properties.

What We Found

The Authority did not implement its accounting policies and procedures for allocating income from 1937 Act properties receiving NAHASDA Indian Housing Block Grant (Block Grant) program assistance between its local and Block Grant programs. It failed to track Block Grant rehabilitation or capital expenses for each property and restrict nonprogram income from its Mutual Help program. As a result, more than $2.2 million in combined low-rent and Mutual Help housing receipts were inappropriately classified as nonprogram income during the period July 1, 2002, through June 30, 2007, and the proceeds from the sale of Mutual Help units were not restricted to eligible uses. These conditions occurred because management in place before 2007 did not ensure that policies and procedures for determining and administering program income were implemented.

The Authority's financial auditor identified from $60,000 to $100,000 in local fund disbursements for 2006 board expenses as abusive. Those costs, paid from the local fund, which contained nonprogram income from 1937 Act units, included excessive board meetings and training sessions and travel and lodging costs for meetings and conventions at locations which were more costly than alternatives that would have been appropriate. The independent auditor also noted excessive per diem payments, payments of hotel costs for days with no business activities, room upgrades, and vehicle upgrades.

In response, the Oneida Business Committee adopted a resolution using emergency action to amend the Oneida Housing Ordinance, dissolved the Authority's board, and placed supervision of the Authority under the tribe's general manager.

What We Recommend

We recommend that HUD (1) require the Authority to implement policies and procedures to determine program income in accordance with HUD requirements, (2) evaluate the Authority's computation of low rent program income and determine whether the estimated unit labor costs are adequate to document the total cost of rehabilitation or capital costs or reclassify the $990,590 in nonprogram income as Block Grant program income, (3) evaluate the Authority's computation of Mutual Help program income and determine whether the estimated unit labor costs are adequate to document the total cost of rehabilitation or capital costs or reclassify the $1,238,290 in nonprogram income as Block Grant program income, (4) require the Authority to implement policies and procedures restricting the use of nonprogram income from Mutual Help proceeds of sale to eligible activities, and (5) require the Authority to restrict nonprogram income from Mutual Help proceeds of sale to eligible activities.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We provided our discussion draft to the Authority and HUD's Eastern Woodlands Office of Native American Programs on January 15, 2008, and held an exit conference on January 25, 2008. The Authority generally agreed with our recommendations. The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVES

On April 20, 1963, the Oneida Tribal Council passed a tribal ordinance establishing the Oneida Housing Authority (Authority). The mission of the Authority is to develop, maintain, and operate affordable housing in safe, sanitary, and healthy environments on the Oneida Tribe of Indians of Wisconsin Reservation for occupancy by low-income Oneida families and elderly/disabled residents. On March 26, 1998, the Oneida Business Committee designated the Oneida Housing Authority as the tribally designated housing entity for the purpose of receiving assistance under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

The Authority developed, maintained, and operated low-rent and Mutual Help program units assisted under the United States Housing Act of 1937 (1937 Act), as amended. On October 1, 1997, NAHASDA reorganized the system of housing assistance provided to Native Americans by the U.S. Department of Housing and Urban Development (HUD), eliminating several separate programs of assistance, and replaced them with a NAHASDA Indian Housing Block Grant (Block Grant) program. For those units previously assisted under the 1937 Act, the Block Grant program provided for continued operating and maintenance assistance.

The Authority used Block Grant program funds to operate and maintain low-rent units and rehabilitate Mutual Help units that were previously assisted under the 1937 Act. In fiscal year 2007, the Authority had 194 low-rent and 67 Mutual Help units. Regulations at 24 CFR [*Code of Federal Regulations*] 1000.62(a) govern how rents collected from low-rent units and proceeds of sale from Mutual Help units are allocated between the Block Grant program income and the Authority as nonprogram income. The regulation states that Block Grant program income does not include any amounts generated from the operation of 1937 Act units unless the units are assisted with grant amounts and the income is attributable to such assistance. Public and Indian Housing (PIH) Notice 2000-18 provides guidance on accounting for program income generated by the use or disbursement of Block Grant funds.

On July, 18, 2007, the Oneida Business Committee adopted a resolution using emergency action to amend the Oneida Housing Ordinance, dissolved the Authority's board, and placed supervision of the Authority under the tribe's general manager. This action was taken after the committee considered the fiscal year 2006 independent auditor's report on the Authority, questions from HUD, results of tribal audits of the Authority as directed by the tribe's audit committee, and the audit committee's recommendations for action.

Our objective was to determine whether the Authority calculated program income for Block Grant-assisted 1937 Act properties in accordance with applicable HUD guidance, regulations, and requirements and to observe uses of revenue from Block Grant-assisted 1937 Act properties.

RESULTS OF AUDIT

Finding 1: The Authority Could Not Properly Account for Block Grant Program Income

The Authority did not implement its accounting policies and procedures for allocating income from 1937 Act properties receiving Block Grant program assistance between its local and Block Grant programs. It failed to track Block Grant rehabilitation or capital expenses for each property and restrict nonprogram income from its Mutual Help program. Authority officials told us that this condition occurred because prior officials did not ensure that policies and procedures for determining program income and its use were implemented. As a result, more than $2.2 million in combined low-rent and Mutual Help housing receipts were inappropriately classified as nonprogram income during the period July 1, 2002, through June 30, 2007, and the proceeds from the sale of Mutual Help units were not restricted to eligible uses.

HUD Requirements

Regulations at 24 CFR 1000.62(a) state that program income does not include amounts generated from the operation of 1937 Act units unless the units are assisted with grant funds and the income is attributable to such assistance. For low-rent units receiving Block Grant program assistance, PIH Notice 2000-18 provides that the tribally designated housing entity may retain as nonprogram income the lesser of total income or 46 percent of the allowable expense level for the recipient times the number of units. For Mutual Help units receiving Block Grant program assistance, the notice provides that the tribally designated housing entity may retain the proceeds of the sale of units as nonprogram income. However, HUD restricts the use of nonprogram income from Mutual Help unit sales to housing activities, community facilities, or economic development activities that benefit the community.

Section 3.4 of the notice also states that all income from a 1937 Act low-rent or Mutual Help unit is NAHASDA program income once cumulative NAHASDA funding for rehabilitation and capital expenditure meets or exceeds 40 percent of the maximum allowable dwelling construction and equipment cost, effective with the October 1, 1997, enactment of NAHASDA. According to the notice, the 40 percent threshold is only a concept for accounting for program income and has no effect in determining what is eligible formula current assisted stock under the Block Grant formula.

On July 9, 2002, HUD issued guidance to remind grant recipients of the program income requirements pertaining to 1937 Act units supported with Block Grant funds. The guidance noted that, in the absence of an accounting system meeting the requirements of PIH Notice

2000-18 to allocate income attributable to the 1937 Act and Block Grant programs, all income would be program income and would be required to be used for Block Grant program purposes. PIH Notice 2000-18 also requires that the accounting system track the total income by project and the total Block Grant-funded rehabilitation by unit.

HUD Program Income Requirements Not Followed

In March 2002, HUD's Eastern Woodlands Office of Native American Programs (EWONAP) conducted a monitoring review of the Authority. The review found that the Authority did not determine program income or apply income toward eligible NAHASDA expenses in accordance with PIH Notice 2000-18. EWONAP recommended that the Authority determine the amount of program income currently on hand and set up financial systems that track the receipt and use of funds to identify program income. In response, the Authority completed its first computation of program income and established policies and procedures for allocating income from 1937 Act properties between the local and Block Grant programs. Those policies and procedures included (1) tracking Block Grant rehabilitation or capital expenses for each 1937 Act unit and (2) restricting the use of funds derived from the proceeds of sale of 1937 Act Mutual Help units.

Policies Not Implemented

Between July 2002 and June 2007, the Authority computed program income from rents collected from its low-rent units and sales proceeds of its Mutual Help units, but it did not ensure that required internal reviews and approvals were completed, nor did it properly track the Block Grant-funded rehabilitation or capital expenses provided to those units. The Authority's failure to implement its policies and procedures for program income was recognized after the tribe's general manager started supervising the Authority on July 18, 2007. Current Authority officials told us that the best evidence available indicated that the policies and procedures were adopted in July 2002 but were not implemented, and the actual cumulative labor costs for 1937 Act unit rehabilitation were not tracked by the Authority.

Further, the Authority's updated record of unit rehabilitation and capital costs did not include insurance proceeds used for rehabilitation or capital expenses as Block Grant funded. There had been only one insurance claim made since the start of the Block Grant program. That claim was made in August 2004 for fire damage. The Authority received the insurance proceeds, credited them to the Block Grant program as required, and used the proceeds, totaling about $28,000, to repair the unit. The repairs exceeded 40 percent of the applicable dwelling construction and equipment costs of about $25,000. Once rehabilitation and/or capital expenses exceeded 40 percent of the dwelling construction and equipment costs, PIH Notice 2000-18 required the Authority to recognize all income from the unit as program income. Instead, it continued to classify about $1,000 per year as nonprogram income from the unit.

The Authority recently hired a consultant to update the calculation of program income, including the reconstruction of cumulative Block Grant-funded rehabilitation or capital items provided to 1937 Act units. However, since labor costs had not been tracked by unit, the consultant had to use estimated unit labor costs, developed by the Authority and based on a cost allocation computed from the total rehabilitation labor costs and estimated number of hours to complete the work at each size unit.

Calculation of Nonprogram Income

For the period July 2002 through June 2007, the Authority collected more than $2.4 million in gross income from its low-rent units and more than $1.2 million from sales of Mutual Help units. Based on the updated calculation, the Authority classified as nonprogram income $990,590 from the low-rent program and over $1.2 million from the Mutual Help program for a total of more than $2.2 million. However, as noted above, the cumulative actual unit rehabilitation labor costs were not available for the updated computation, thus the updated computation did not meet the requirements established in PIH Notice 2000-18 and Office of Native American Programs Guidance No. 2002-12.

Proceeds of Sale Not Restricted to Eligible Uses

The Authority did not implement its accounting policies and procedures for restricting the use of funds derived from the proceeds of sale of 1937 Act Mutual Help units. During the period July 1, 2002, through June 30, 2007, the Authority classified as nonprogram income more than $1.2 million of proceeds of sale from the Mutual Help program. HUD established restrictions on the use of proceeds of sale from Mutual Help units in the NAHASDA Notice of Revised Transition Requirements, published April 1, 1999, on page 15778 of the *Federal Register*. HUD restricted the use of these funds to housing activities, community facilities, or economic development activities that benefit the community. However, after classification as nonprogram income, the Authority commingled the $1.2 million in restricted use nonprogram income with unrestricted nonprogram income.

Uses of Nonprogram Income[1]

The independent auditor's report on management advisory comments, dated November 9, 2006, provided in connection with the fiscal year 2006 Authority audit, identified abusive local fund expenditures totaling from $60,000 to $100,000. The report noted examples of board abuse in the use of local funds, including

- Excessive board meetings and training sessions,
- Travel and lodging costs for meetings and conventions at locations which were more costly than alternatives that would have been appropriate to satisfy the business objectives,
- Excessive per diem payments,
- Payment of hotel costs for days with no business activities,
- Room upgrades, and
- Vehicle upgrades that did not appear proper.

Our review of Authority records obtained from HUD identified abusive expenditures that were consistent with the findings of the independent auditor. Those records showed that

- $120,000 was paid in stipends for board meetings and board member participation in appeals, interviews, bids, screenings, and training during calendar year 2006. There were a total of 987 stipends paid to the seven board members during the year, an average of more than 11 meetings per month.
- During calendar year 2006 training in Honolulu, Hawaii, board members were paid $200 a day per diem for meals and incidental expenses, twice the federal rate of $100.
- During calendar year 2006 training in Honolulu, Hawaii, six board members stayed an extra three days, at Authority expense, when no training was conducted.
- Four of the five board members that attended calendar year 2006 ethics training in New England rented cars. The costs ranged from $216 to $1,067 for a premium automobile.

In response to the independent auditor's report and questions from HUD, the tribe's audit committee directed a series of audits of the Authority. After completion of phase I of the audits, the audit committee submitted the first 11 reports and recommendations to the tribe's business committee for action. The business committee dissolved the Authority's board and placed the Authority under the supervision of the tribe's general manager. The general manager appointed an interim executive director. Under the interim executive director, the Authority updated its computation of program income and was in the process of implementing policy and procedures for program income and the local fund.

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[1] Since the Housing Authority failed to track Block Grant rehabilitation or capital expenses for each property and restrict nonprogram income that it removed from its Mutual Help program, all of the income from the 1937 Act properties should be considered as program income. Therefore, the use of this income is reported.

The source of the local funds used for abusive expenditures was primarily the nonprogram funds collected from low-income Native Americans renting or purchasing units previously assisted under the 1937 Act. The units being rented were developed with HUD assistance and received NAHASDA operating assistance, and the Block Grant program includes restrictions on the use of Mutual Help proceeds of sale from units being purchased.

Conclusion

Since the Authority did not have a system in place to track actual dwelling construction and equipment costs for its 1937 Act units at the unit level, it could not ensure the accuracy of its program income calculation for its 1937 Act units assisted with Block Grant funds. Further, this deficiency errs in favor of attributing income to the 1937 Act, resulting in more funds becoming nonprogram income since the 40 percent threshold for dwelling construction and equipment costs is cumulative. Any failure to identify dwelling construction and equipment costs for its 1937 Act units delays transition of 1937 Act unit rentals to 100 percent Block Grant program income. Unless the records can be accurately reconstructed for all units, the effect of the failure is permanent.

According to HUD guidance on the required accounting system, more than $2.2 million in nonprogram income from the 1937 Act low-rent and Mutual Help units must be reclassified as program income unless the program income accounting system is shown to be accurate and complete. Any expenditure from these funds must be restricted to Block Grant-eligible activities.

Recommendations

We recommend that HUD

1A Require the Authority to implement policies and procedures to determine program income in accordance with HUD requirements.

1B Evaluate the Authority's updated computation of program income for low rent units, including the Block Grant-funded rehabilitation and/or capital expenses, and determine whether the estimated unit labor costs are adequate to document the total cost of Block Grant-funded rehabilitation and/or capital expenses, by 1937 Act unit, from 2002 forward or reclassify $990,590 of nonprogram income as Block Grant program income.

1C Evaluate the Authority's updated computation of program income for Mutual Help units, including the Block Grant-funded rehabilitation and/or capital expenses, and determine whether the estimated unit labor costs are adequate to document the total cost of Block Grant-funded rehabilitation and/or capital expenses, by 1937 Act unit, from 2002 forward or reclassify $1,238,291 of nonprogram income as Block Grant program income.

1D Require the Authority to reduce the number of 1937 Act units capable of producing nonprogram income by the one unit that received insurance proceeds during 2004, resulting in Block Grant-funded rehabilitation or capital expenses exceeding 40 percent of the dwelling, construction, and equipment costs.

1E Require the Authority to implement policies and procedures restricting the use of nonprogram income from Mutual Help proceeds of sale to those eligible activities specified in HUD’s requirements.

1F Require the Authority to restrict nonprogram income from Mutual Help proceeds of sale earned through June 30, 2007, including amounts classified as nonprogram income from July 2002 through June 2007, to the eligible activities specified in HUD’s requirements.

SCOPE AND METHODOLOGY

Our objective was to determine whether the tribe complied with criteria for program income from Block Grant-assisted 1937 Act housing projects and to observe uses of revenue from Block Grant-assisted 1937 Act properties. The criteria are contained in NAHASDA implementing regulations found in 24 CFR 1000.62, HUD's Office of Native American Programs' guidance, and external requirements such as those from the General Accounting Office and the Office of Management and Budget. The audit steps were designed to gain an understanding of the 1937 Act income and related use restrictions, the accounting for associated program income, and support relied upon to calculate program and nonprogram income.

To accomplish our objectives, we reviewed the Authority's calculation of program income from Block Grant-assisted 1937 Act housing projects and related supporting data at its offices in Oneida, Wisconsin. We reviewed sufficient cost accounting system information to confirm whether the accounting system was capable of tracking rehabilitation and/or capital expenditures at the housing unit level, as required, when the tribe chose to recognize nonprogram income. We also reviewed the system to track the transition of unit income from a 1937 Act identity to a Block Grant identity. Finally, we observed the use of nonprogram income generated from Block Grant-assisted 1937 Act units. Our observations included review of the Authority's fiscal year 2006 financial audit and the independent auditor's report on management advisory comments. We determined the scope, quality, and timing of the independent auditors's work was adequate for our intended use. We included comments by the independent auditor in our finding.

We reviewed the Authority's dwelling construction and equipment cost report for program income calculation and identified 144 Mutual Help and low-rent units which had rehabilitation and/or capital expenses. The report did not identify any units that exceeded the 40 percent dwelling construction and equipment cost limit. We then randomly selected a sample of 12 low-rent and Mutual Help units, six low-rent units that had rehabilitation work performed, two low-rent units that did not have rehabilitation work performed, two Mutual Help conveyed units, and two nonconveyed Mutual Help units. We then performed site visits to the sample units to verify that the rehabilitation work shown in the Authority's dwelling construction and equipment cost report had been performed for the six low-rent units and to determine whether there had been any rehabilitation work performed on the 12 sample units that was not shown on the Authority's dwelling construction and equipment cost report.

The results of the site visits showed that the rehabilitation work shown on the Authority's dwelling construction and equipment cost report had been performed for the six low-rent units and no rehabilitation work had been performed on the 12 sample units that were not shown on the Authority's dwelling construction and equipment cost report. We also identified one insurance claim for fire damage. We found that the cost of the rehabilitation for this unit exceeded the 40 percent dwelling construction and equipment cost limit; however, the Authority did not include the rehabilitation costs in the dwelling construction and equipment cost report or increase the number of units producing only program income.

The audit was conducted between August 6 and December 18, 2007. Our review covered the period July 1, 2002, to June 30, 2007, which corresponds to the financial reporting period restated by the Authority in 2007 to reclassify Block Grant program income as nonprogram income.

We performed our review in accordance with generally accepted government auditing standards.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:

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

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

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

- The system for calculating and tracking the use of program income and nonprogram income.

- The cost accounting system dedicated to identifying and collecting the cost of individual tasks and assigning those costs to an end unit of production.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weaknesses

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

- The Authority did not implement its policies and procedures for determining program income, and its accounting system did not track cumulative NAHASDA rehabilitation labor expenses for each property, as required, to properly allocate the property's share of income attributable to the Block Grant program.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Unsupported 1/
1B	$ 990,590
1C	$1,238,290

1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures. The finding questions the Authority's $990,950 calculation of low rent nonprogram income for the period July 1, 2002, through June 30, 2007, and $1,238,290 calculation of Mutual Help nonprogram income for the period July 1, 2002 through June 30,2007. Until the Authority sets up an accounting system to track rehabilitation labor costs for its 1937 Act low rent and Mutual Help units, at the unit level, back to 2002, all income associated with the Block Grant-assisted 1937 Act low rent and Mutual Help units must be considered program income. The questioned amounts represents the revenue generated by Block Grant-assisted 1937 Act low rent housing and Mutual Help housing units which were classified as nonprogram income.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

<u>Ref to OIG Evaluation</u> **<u>Auditee Comments</u>**

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Office of Inspector General
Region X
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909 First Avenue, Suite 126
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February 1, 2008

Re: Auditee's Response to OIG Draft Audit Report Number 2008-SE-XXXX

Dear Ms. Hobbs:

The Oneida Housing Authority ("Authority") wishes to thank the Office of Inspector General for the opportunity to respond to the Draft Audit Report dated January 15, 2008, by participating in an exit interview on January 25, 2008 and by providing our Auditee's Response. Throughout the audit process, the Authority has found OIG officials to be courteous and professional. We look forward to working with the Department of Housing and Urban Development ("HUD"), Eastern/Woodlands Office of Native American Programs ("ONAP"), to continuously improve our program following this audit.

Pursuant to your direction, we hereby submit our Auditee's Response for your consideration. There are three changes we are requesting regarding specific terminology. These changes, in italics, are intended to clarify our discussion in the Exit Conference. Again, the majority of the current calculated nonprogram income is unspent. Those unspent funds would move from the unrestricted net assests to the restricted net assets of the Housing Authority, if such conclusions are reached by ONAP within the next 120 days. The proposed changes are as follows:

On page 2 in the OIG Draft Report-

Comment 1

> "We recommend that HUD (1) require the Authority to implement policies and procedures to determine program income in accordance with HUD requirements, (2) evaluate the Authority's computation of program income and determine whether the estimated unit labor costs are adequate to document the total cost of

Comment 1

Comment 1

Comment 1

Comment 1

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> rehabilitation or capital costs or ~~return~~ *re-characterize* the $2.2 million in nonprogram income *as program income within* the Block Grant program, …"

On page 9 in the OIG Draft Report –

> "According to HUD guidance on the required accounting system, more than $2.2 million in nonprogram income from the 1937 Act low-rent and Mutual Help units must be ~~repaid~~ *moved to an appropriate account* unless the program income accounting system is shown to be accurate and complete."

On page 9 in the OIG Draft Report –

> "Evaluate the Authority's updated computation of program income, including the Block Grant-funded rehabilitation and/ or capital expenses, and determine whether the estimated unit labor costs are adequate to document the total cost of Block Grant-funded rehabilitation and/or capital expenses, by 1937 Act unit, from 2002 forward or ~~return~~ *re-characterize as program income within* the Block Grant program $2,228,881, which was previously ~~withdrawn~~ *identified* from 1937 Act low-rent and Mutual Help revenue as nonprogram income."

In addition to the requested language change above, we also respond to the finding and recommendations of the OIG Draft Report as set forth below.

- **Finding 1: The Authority Could not Properly account for Block Grant Program Income**

Authority Response: The Authority recognizes that its prior Board of Directors and staff may not have properly maintained all appropriate accounting systems to segregate program from non-program income. We concur that after the initial development of the accounting procedures and calculation for the program income was established, resulting from the ONAP monitoring review dated April, 2002; that the continuation of tracking labor costs specific to the 1937 Act units was not maintained. However, once the Oneida Business Committee, the governing body of the Tribe, became aware of the potential accounting problem, it took specific actions to correct any failings. To that end, in June 2007 a consultant has been retained by the Authority to ensure that proper accounting procedures are utilized in the future and a process to track labor costs by unit became effective July 1, 2007. We disagree with the implied violation of the proceeds from the sale of Mutual Help units not being restricted to eligible uses and contend that these funds have not been transferred to the nonprogram funds and remain unused.

- **Recommendations on Page 9 of OIG Draft Report**

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- (1A) Require the Authority to implement policies and procedures to determine program income in accordance with HUD requirements.
- (1C) Require the Authority to reduce the number of 1937 Act units capable of producing nonprogram income by the one unit that received insurance proceeds during 2004, resulting in Block Grant-funded rehabilitation or capital expenses exceeding 40% of the dwelling, construction and equipment costs.

Comment 2

The policies and procedures for the program income calculation adopted by the Board in 2002, were reviewed and updated with the consultant in August 2007, followed with the implementation of the necessary accounting system for the tracking of the labor costs associated with the individual units. The existing procedures for the tracking of construction materials and equipment costs for the units were found to be appropriate and complete for the time period of July 2002 through June 2007. Based on our review of HUD Notice PIH 2000-18 and regulations at 24 CFR part 1000.62 and 1000.134 insurance proceeds are not specifically defined as program or nonprogram income. Therefore, we believe the definition of insurance proceeds is open to interpretation and believe that further clarification of this finding is needed during the resolution phase of this audit with Eastern/Woodland ONAP.

- (1B) Evaluate the Authority's updated computation of program income.

Stemming from the ONAP monitoring review in March 2002, a consultant was retained to draft policy and procedures and to calculate the program income calculation from November 1, 1997 forward. For the time period from November 1, 1997 to June 30, 2002, nonprogram income of $1.8 million was established and accepted by Eastern/Woodland ONAP, withdrawn and placed into a Certificate of Deposit investment held for nonprogram purposes.

Comment 3

Comment 1

From July 1, 2002 through period ending September 30, 2007, the current updated program income calculation has earmarked an approximate $2.6 million as nonprogram income. We have been informed that the labor estimates utilized for the reconstruction of the program income calculations are consistent with methodology previously accepted by the ONAP office in Denver. We will work closely with Eastern/Woodlands ONAP to reaffirm this methodology. Of the current calculated amount of nonprogram income subsequent to June 2002 until today, only $0.8 million has been transferred from the Block Grant funds and placed into the Certificate of Deposit investment held for nonprogram purposes, and $1.8 million continues to remain within the Block Grant funds.

Comment 1

The remaining nonprogram income has remained within the NAHASDA funds and has been reported within the restricted net assets of the Housing Authority. Presently, the preliminary unaudited Net Assets of the Housing Authority represents restricted net assets of $4.8 million and unrestricted net assets of $2.1 million for period ending September 30, 2007. Included within the restricted net assets is the portion of nonprogram income currently under question. Bank balances for the cash and the

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investments for the nonprogram funds are $2.1 million as of September 30, 2007. Since inception, total cash transferred to the nonprogram fund has been $2.6 million.

The Authority recognizes the seriousness of the allegations of misuse of nonprogram funds referenced in this section. Nonprogram related expenses incurred by the Authority Board members during calendar years 2006 and 2007 have been calculated and will be considered payable to the Oneida Housing Authority. Efforts to collect the repayments from the former Board members are ongoing. Also in 2006, $100,000 of the nonprogram funds was utilized for the establishment of a home repair program which the Authority recognizes as an acceptable use of funds

- (1D) Require the Authority to implement policies and procedures restricting the use of nonprogram income from Mutual Help proceeds of sale to those eligible activities specified in HUD's requirements

Comment 1

Comment 4

Policy and procedures guiding the nonprogram funds has been drafted and will be reviewed for the inclusion of specific eligible activities for the proceeds from sale of Mutual Help units. As noted above, $1.8 million relating to the time period June 2002 through September 2007, cash related to the nonprogram income calculation was not transferred to the Certificate of Deposit investment held for nonprogram purposes, therefore, the amounts specific to sale of the mutual help units continue to be restricted within the Block Grant funds. To date, there have not been amounts spent from the proceeds of sale of mutual help units.

In conclusion, to ensure that policies and procedures are incorporated and monitored appropriately, the future of the Housing Authority is being considered as a program of the Tribe. Thank you again for this opportunity to improve our Housing Authority program.

Sincerely,

Susan M. House
Interim Program Manager

cc: Kevin, Fitzgibbons, Administrator, Eastern Woodlands Office of Native American Programs, 5API
Joseph P. Galvan, Field Office Director, 5AMA
Oneida Business Committee
Deborah Thundercloud, General Manager, Oneida Tribe of Indians of Wisconsin

OIG Evaluation of Auditee Comments

Comment 1 We changed the terminology used in the report from removed, return and repaid to recognized, classify, and reclassified. The unspent nonprogram income recognized by the Authority makes reclassification of the funds a viable method to resolve the recommendations included in the report. The recommendations were reworded to reflect the changed terminology.

Comment 2 As indicated in the report, the Authority received insurance proceeds for one unit, credited them to the Block Grant program as required, and used the proceeds, totaling about $28,000, to repair the unit. Once the proceeds were credited to the Block Grant program they were to be treated like Block Grant funds and used in accordance with NAHASDA requirements. Accordingly, the rehabilitation work must be treated as NAHASDA funded. Question and answer 15 in NAHASDA Guidance No. 2001-03T states

> **Q.15: Are insurance proceeds from an IHBG assisted unit owned by the recipient (e.g., from a house owned by the recipient that was destroyed by a fire) considered program income?**
> A. 15: No, insurance proceeds are not considered program income. However, the insurance proceeds from an IHBG assisted unit are considered applicable credits to the recipient's IHBG program in accordance with OMB Circular A-87, Section C.4 and must be treated like IHBG funds and used in accordance with NAHASDA requirements. Insurance proceeds from an IHBG assisted unit are considered applicable credits regardless of which funds (IHBG or non-IHBG) were used to purchase the insurance.

Comment 3 At the time of our audit, HUD had not made a determination on the adequacy of the Authority's reconstruction of the program income computation and supporting documentation. Accordingly, recommendation 1B was retained but was restated as two separate recommendations, 1B addressing 1937 Act low rent units and 1C addressing 1937 Act Mutual Help units.

Comment 4 The Authority did not have procedures in place to track uses of nonprogram income recognized from Mutual Help proceeds of sale separately from uses of nonprogram income recognized from rental of low rent units. Accordingly, the program that generated program income used by the Authority cannot be specifically identified. Therefore, we did not revise recommendation 1D. However, as noted in comment 1 we revised the terminology in the report. Also, we recognized that the remaining balance of nonprogram income recognized by the Authority exceeded the total amount of nonprogram income from Mutual Help proceeds of sale.