



U.S. Department of Energy  
Office of Inspector General  
Office of Audits and Inspections

# Audit Report

## Costs Incurred by Selected Tribal Energy Efficiency and Conservation Block Grant Recipients



OAS-RA-13-28

July 2013



**Department of Energy**  
Washington, DC 20585

July 18, 2013

MEMORANDUM FOR THE ASSISTANT SECRETARY FOR ENERGY EFFICIENCY  
AND RENEWABLE ENERGY

A handwritten signature in black ink, appearing to read "Rickey R. Hass".

FROM: Rickey R. Hass  
Deputy Inspector General  
for Audits and Inspections  
Office of Inspector General

SUBJECT: INFORMATION: Audit Report on "Costs Incurred by Selected Tribal  
Energy Efficiency and Conservation Block Grant Recipients"

BACKGROUND

Under the American Recovery and Reinvestment Act of 2009 (Recovery Act), the Department of Energy's (Department) Energy Efficiency and Conservation Block Grant (EECBG) Program received \$3.2 billion to improve energy efficiency and reduce energy use and fossil fuel emissions. The Department's Office of Energy Efficiency and Renewable Energy allocated about \$2.7 billion of the funds using a population-driven formula to over 2,000 entities including states and territories, cities and counties, and Native American tribes. Approximately \$54.8 million of these funds were allocated to 574 individual Native American tribes with awards ranging from \$25,000 to over \$6 million.

The Navajo Tribal Utility Authority (NTUA)<sup>1</sup>, the Cherokee Nation, Muscogee Creek Nation, Choctaw Nation of Oklahoma, and Chickasaw Nation received the largest tribal EECBG grants. The grants totaled \$13.9 million and represented approximately 25 percent of the total EECBG funds awarded to Native American tribes. As of December 31, 2012, approximately \$12 million of these funds had been expended by the five recipients. The Department classified the five recipients as "at risk" for financial capability based on significant deficiencies and/or material weaknesses contained in their most current audit reports issued pursuant to Office of Management and Budget (OMB) Circular A-133. To mitigate its risk, the Department required the recipients to submit requests for reimbursement to the Department for approval rather than allowing the tribes to draw cash advances.

We initiated this audit to determine whether costs incurred by selected tribal recipients were reasonable, allocable and allowable in accordance with applicable laws, regulations and EECBG Program guidance.

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<sup>1</sup> The NTUA, a Navajo Nation Enterprise controlled by the Navajo Nation, was designated as the Agency to administer and direct the EECBG award for the Navajo Nation.

## RESULTS OF AUDIT

Our review identified \$518,994 in questionable costs reimbursed by the Department to two of the five largest tribal recipients of EECBG funds. Specifically, we found:

- NTUA did not follow applicable Federal regulations or have adequate support related to allocability and allowability for \$517,794 in costs reimbursed by the Department for consulting, legal and administrative costs;
- The Choctaw Nation of Oklahoma had been reimbursed \$1,200 by the Department for one duplicative travel expense that was subsequently resolved when we brought the matter to its attention; and
- One tribal recipient that was not included in our sample of transactions at the five largest recipients had a cash advance in the amount of \$11,100 for a period of 17 months in violation of Federal regulations related to disbursement of cash advances.

We did not identify any questioned costs for sample transactions we reviewed at the Cherokee Nation, Muscogee Creek Nation, and Chickasaw Nation.

The majority of questioned costs occurred because NTUA failed to follow its own policies and procedures related to procurement of services, to adequately review legal expenditures charged to the grant prior to seeking reimbursement, and to adhere to Federal regulations requiring the adequate support of allowable administrative charges. NTUA also misinterpreted EECBG Program guidance regarding the allocation of administrative costs. The Choctaw Nation of Oklahoma's duplicate reimbursement request resulted from the tribe not adequately reviewing charges to the grant prior to seeking reimbursement from the Department. The unliquidated cash advance resulted from the tribe drawing in excess of its immediate cash needs and the Department's failure to take corrective action.

## QUESTIONED COSTS DETAILS

We identified \$518,994 in questioned costs reimbursed by the Department to two of the five largest tribal recipients of EECBG funds included in our review. Specifically, we questioned \$517,794 of costs reimbursed to the NTUA for consulting, legal and administrative fees because NTUA had not followed applicable Federal regulations or did not have adequate documentation supporting that the costs were allowable or allocable to the grant. Additionally, we questioned \$1,200 of costs reimbursed to the Choctaw Nation of Oklahoma for a duplicative travel reimbursement; a problem that was resolved shortly after we brought the matter to the tribe's attention.

### NTUA Consulting Services

NTUA did not follow Federal requirements for full and open competition in the procurement of consulting services; therefore, we questioned approximately \$122,364 of NTUA's consulting fees. The consultants were hired to develop and formalize a comprehensive energy strategy for the Navajo Nation. However, NTUA could not provide documentation supporting the

procurement process used to retain the consultants. An NTUA official told us that the consultants were hired without a competitive solicitation and without following NTUA's normal procurement process.

The grant's special terms and conditions required NTUA to follow Federal regulations regarding the procurement of goods and services. The Department's Financial Assistance Regulations, 10 CFR 600.236, require a grant recipient to use full and open competition for all procurement transactions, unless competition is infeasible. Further, grantees are required to maintain sufficient records to detail the significant history of procurements. These records should include, but are not limited to, rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

While NTUA's procurement procedures reflected applicable Federal regulations including those related to full and open competition, NTUA officials told us they did not follow them. Rather, the consultants were hired based on a recommendation by the Navajo Nation Division of Natural Resources. An NTUA official stated that NTUA had been directed by Navajo tribal officials to coordinate the project with the Division of Natural Resources because it had initiated a similar project. In the absence of documentation supporting the justification for procurement of consulting services without open and full competition, the Department lacked assurance that the associated costs represented the best use of taxpayer funds.

#### NTUA Legal Costs

NTUA had identified, but had not taken action to reverse charges for legal costs that were unrelated to its grant; therefore, we questioned \$77,090 in NTUA legal costs, \$31,706 of which were included in our transaction sample. NTUA officials could not provide adequate documentation to reconcile the amount of legal costs that were allocable to the EECBG Program. A law firm was hired to provide legal services for EECBG-related activities as well as other non-EECBG activities, including renewable energy projects and other Recovery Act grants. After discovering charging anomalies during our test work, we learned that numerous invoices were paid over a 1-year period to the law firm and that an NTUA accountant had identified costs associated with other activities that were erroneously charged to the grant. The accountant attempted to reconcile the amount that should have been allocable to EECBG; however, at the time of our site visit, the analysis was not completed and adjustments had not been made to the grant. Subsequently, the NTUA EECBG program manager told us the analysis had been completed. However, despite several requests, NTUA had not provided the analysis or evidence of adjustments to the grant. Accordingly, we questioned the entire \$77,090 in legal costs claimed by the recipient and reimbursed by the Department.

#### NTUA Administrative Costs

NTUA was unable to substantiate that its administrative costs were reasonably allocated to the EECBG grant. Therefore, we question \$318,340 in administrative costs charged to the grant, of which \$27,489 was included in our transaction sample. OMB Circular A-87 notes costs must be adequately documented to be allowable under Federal awards. Further, it requires recipients to prepare and retain a proposal and related documentation in support of administrative costs charged to a Federal award. The EECBG Program guidance also allowed grant recipients to use

up to 10 percent of their award for administrative costs. NTUA incorrectly interpreted the EECBG Program guidance to mean it could apply a flat 10 percent rate to its direct costs. As such, and consistent with its incorrect application of the guidance, NTUA was unable to provide documentation related to actual administrative costs allocable to the grant. A Department official stated that the EECBG Program planned to limit the administrative costs to approximately \$265,000. This will require NTUA to adjust its budgets and financial reports to reflect this amount since NTUA had claimed approximately \$53,000 of additional administrative costs. We continue to question the \$318,340 until NTUA has made the proper adjustments and the Department has reviewed and approved these adjustments.

#### Unliquidated Cash Advance

During the course of our review, we also noted that one tribal recipient, not included in our sample of transactions at the five largest recipients, had a cash advance in the amount of \$11,100 for a period of 17 months in violation of Federal regulations related to disbursement of cash advances.

Federal regulations require grant recipients to minimize the time elapsed between the receipt of funds and their disbursement. EECBG Program Guidance 10-013 further clarifies that grant recipients should not request funds unless they anticipate disbursing the funds within 30 calendar days of receipt. While the recipient continuously disclosed the outstanding cash balance in its required quarterly financial report to the Department, the Department project officer approved the reports without inquiring about the cash balance and taking corrective action. Because the advance was not disbursed in accordance with Federal regulations, we questioned the balance of \$11,100. In response to our January 2013 inquiry on the unliquidated advance, the Department stated it would work with the recipient to recoup the funds. Further, Department officials stated they were aware certain recipients had drawn and held funds in excess of their needs, and in March 2013, issued EECBG Program Guidance 13-001 reemphasizing the need to adhere to regulations regarding advances and remittance of interest earned, if applicable.

#### Weaknesses in Controls over Reimbursement Requests

The questioned costs we identified at NTUA were the result of its failure to follow its own policies and procedures related to procurement of services, to adequately review legal expenditures charged to the grant prior to seeking reimbursement, and to adhere to Federal regulations requiring the adequate support of allowable administrative charges. As previously noted, NTUA also misinterpreted EECBG Program guidance regarding the allocation of administrative costs.

The Choctaw Nation of Oklahoma's duplicate reimbursement request occurred because the tribe did not adequately review charges to the grant prior to seeking reimbursement from the Department.

#### Questioned Reimbursement Costs

As a result of these issues, we questioned approximately \$518,994 in Recovery Act funds that may have been used in a wasteful or inefficient manner, resulting in fewer funds available for

eligible activities. Additionally, by not liquidating cash advances in a timely manner, the funds were susceptible to being expended on unallowable costs and were at increased risk of fraud, waste and abuse.

## RECOMMENDATIONS

To address the issues identified during our review we recommend the Assistant Secretary for Energy Efficiency and Renewable Energy:

1. Direct the Contracting Officer to resolve identified questioned costs at NTUA; and
2. Direct project officers to closely monitor cash advances to ensure that the funds are disbursed by recipients in a timely manner, in accordance with Federal regulations.

## MANAGEMENT REACTION

The Department, the Choctaw Nation of Oklahoma, and the NTUA provided responses to our audit report. These responses are included in Attachment 3. Choctaw Nation of Oklahoma concurred with our finding and asserted it had taken corrective action.

NTUA officials provided a response that was in general disagreement with the findings in the report. Specifically, they asserted infeasibility regarding the failure to follow Federal regulations because the consultants were pre-selected by the Navajo Nation. In addition, with regard to questioned legal expenses, officials noted they were transitioning NTUA's grant accounting system and asserted the legal expenditures were accurate and properly allocated to the grant. Finally, in addressing questioned administrative costs, NTUA officials noted that while they do not have an approved indirect cost rate with the Department, they did conduct annual cost studies of administrative and general expenditures which were capped at below 10 percent in accordance with EECBG award terms.

Department officials concurred with the findings and recommendations and had been working with the tribal recipients to ensure all corrective actions were implemented. For the NTUA questioned costs, Department officials stated NTUA worked with the cognizant Project Officer on the three cost categories. For the questioned consulting and legal costs, officials asserted NTUA restored the questioned costs to the grant. In regards to the administrative expenses, officials stated that NTUA had provided the Office of Inspector General with detailed information to support those costs. The Department also stated that it would work with NTUA to ensure that administrative costs are appropriately allocated through the end of the grant period. In addition, Department officials noted that Project Officers were closely monitoring cash advances to ensure they are timely disbursed in accordance with Federal regulations and are also providing updated guidance to recipients. The Department recently issued Program Guidance 10-013 clarifying that recipients should request funds only when they anticipate disbursing them within 30 days of receipt.

## AUDITOR COMMENTS

The Department's corrective actions, planned and taken, are responsive to our recommendations.

Although NTUA officials asserted that the sole source procurement was out of their control, we noted that the contractual agreements were between the NTUA and the consultants, and NTUA paid them directly using grant funds. As such, NTUA had a responsibility to perform the due diligence required by Federal regulations which should have included sole source justifications for the procurements, if applicable. With regard to the questioned legal expenditures, NTUA officials noted an accounting system change but did not correlate this to the legal expenses questioned. As noted in our report, our review of the costs charged to the grant included expenses unrelated to the grant. During the course of our audit, NTUA officials acknowledged the discrepancy and stated their intent to perform a reconciliation of the costs. To date, the reconciliation has not been provided to us. The Department noted in its response that NTUA allocated the consulting and legal costs to a non-Recovery Act activity and the funds were restored to the grant.

Concerning questioned administrative costs, NTUA officials confirmed they did not have an approved indirect cost rate. We requested support for the administrative costs on multiple occasions throughout the audit, and just prior to the issuance of the draft report, NTUA provided information it asserted supported about \$265,000 of the \$318,340. Subsequent to the management response, a Department official stated that the EECBG Program planned to limit the administrative costs to approximately \$265,000. We continue to question the costs until NTUA has made the proper adjustments and the Department has reviewed and approved these adjustments.

#### Attachments

cc: Deputy Secretary  
Acting Under Secretary of Energy  
Chief of Staff

## **OBJECTIVE, SCOPE AND METHODOLOGY**

### **OBJECTIVE**

The objective of this audit was to determine whether costs incurred by selected tribal recipients were reasonable, allocable and allowable in accordance with applicable laws, regulations and Energy Efficiency and Conservation Block Grant (EECBG) Program guidance.

### **SCOPE**

The audit was performed from November 2011 through May 2013. The scope of the audit was limited to EECBG formula grants awarded to tribal recipients. We conducted work at the Department of Energy's (Department) Energy Efficiency and Renewable Energy Tribal Energy Program office located in Golden, Colorado, and at five tribes: Navajo Tribal Utility Authority (NTUA), Cherokee Nation, Muscogee Creek Nation, Choctaw Nation of Oklahoma, and Chickasaw Nation located in Arizona and Oklahoma.

### **METHODOLOGY**

To accomplish the audit objective, we:

- Reviewed applicable laws, regulations and program guidance applicable to the EECBG Program.
- Interviewed key Department officials to discuss their responsibilities related to the oversight of EECBG tribal activities, including review and approval of reimbursements.
- Selected the five largest and high-risk tribal grant recipients, representing approximately 25 percent of the total EECBG funding provided to Native American tribes. Between January 2010 and December 2011, the Department disbursed \$5.8 million to these 5 recipients, consisting of 710 expenditures. We judgmentally selected 114 expenditures totaling \$3.3 million, consisting of 30 judgmentally selected expenditures per recipient. For recipients with less than 30 expenditures, we selected all transactions. The characteristics used in selecting this sample included: (1) duplicate amounts; (2) variety of EECBG activities; (3) different cost categories (contractual, supplies, personnel); and (4) wide range of expenditure amounts. For NTUA, in some cases, these expenditures contained multiple cost items associated with various EECBG activities and projects, and as a result, our audit sample increased from 114 to 154 expenditures. Our testing at the entities we reviewed identified 23 questionable transactions totaling \$182,759. These transactions included \$181,559 in reimbursements to NTUA for consulting, legal and administrative fees as well as the \$1,200 duplicate travel payment to the Choctaw Nation of Oklahoma. Because we did not use a statistical sample, we could not project to the population; however, after identifying questionable NTUA reimbursements, we expanded our work at that tribal recipient and identified an additional \$336,235 in questioned costs associated with legal and administrative fees.

- Conducted field site visits to the five tribal recipients where we interviewed key personnel, reviewed and analyzed supporting documentation, including invoices, general ledgers, and requests for payment, for the sample of reimbursed expenditures, and confirmed existence of selected physical assets purchased with EECBG funds.

We conducted this performance audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Accordingly, the audit included tests of controls and compliance with laws and regulations to the extent necessary to satisfy the objective. We considered the *GPR Modernization Act of 2010* as necessary to accomplish the objective, and determined it was not applicable to our audit scope. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. We conducted a limited reliability assessment of computer-processed data and we deemed the data to be sufficiently reliable. We held exit conferences with the Department and NTUA on July 9, 2013. The Choctaw Nation of Oklahoma waived the exit conference.

## **PRIOR REPORTS**

Under the American Recovery and Reinvestment Act of 2009, the Office of Inspector General has initiated a series of audits and examinations designed to evaluate the Department of Energy's Energy Efficiency and Conservation Block Grant Program. Our series of reports include the following:

- Audit Report on [\*The Department of Energy's American Recovery and Reinvestment Act Energy Efficiency and Conservation Block Grant Program – State of Colorado and County of Boulder, Colorado\*](#) (OAS-RA-13-16, March 2013).
- Examination Report on [\*Connecticut Department of Energy and Environmental Protection – Energy Efficiency and Conservation Block Grant Program Funds Provided by the American Recovery and Reinvestment Act of 2009\*](#) (OAS-RA-13-14, February 2013).
- Examination Report on [\*Texas State Energy Conservation Office – Energy Efficiency and Conservation Block Grant Program Funds Provided by the American Recovery and Reinvestment Act of 2009\*](#) (OAS-RA-13-13, February 2013).
- Examination Report on [\*City of Los Angeles-Energy Efficiency and Conservation Block Grant Program Funds Provided by the American Recovery and Reinvestment Act of 2009\*](#) (OAS-RA-13-12, February 2013).
- Examination Report on [\*North Carolina State Energy Office – Energy Efficiency and Conservation Block Grant Program Funds Provided by the American Recovery and Reinvestment Act of 2009\*](#) (OAS-RA-13-09, February 2013).
- Audit Report on [\*The Department's Implementation of Financial Incentive Programs under the Energy Efficiency and Conservation Block Grant Program\*](#) (OAS-RA-L-13-02, December 2012).
- Examination Report on [\*The Department of Energy's American Recovery and Reinvestment Act Energy Efficiency and Conservation Block Grant Program – Efficiency Maine Trust\*](#) (OAS-RA-13-04, November 2012).
- Examination Report on [\*County of Los Angeles – Energy Efficiency and Conservation Block Grant Program Funds Provided by the American Recovery and Reinvestment Act of 2009\*](#) (OAS-RA-13-02, October 2012).
- Examination Report on [\*California Energy Commission – Energy Efficiency and Conservation Block Grant Program Funds Provided by the American Recovery and Reinvestment Act of 2009\*](#) (OAS-RA-13-01, October 2012).

- Audit Report on [\*The Department of Energy's Energy Efficiency and Conservation Block Grant Program Funded under the American Recovery and Reinvestment Act for the City of Philadelphia\*](#) (OAS-RA-12-09, April 2012).
- Special Report on [\*Lessons Learned/Best Practices during the Department of Energy's Implementation of the American Recovery and Reinvestment Act of 2009\*](#) (OAS-RA-12-03, January 2012).
- Audit Report on [\*The State of Nevada's Implementation of the Energy Efficiency and Conservation Block Grant Program\*](#) (OAS-RA-12-02, November 2011).
- Audit Report on [\*The Department of Energy's Energy Efficiency and Conservation Block Grant Program Funded under the American Recovery And Reinvestment Act for the State of Pennsylvania\*](#) (OAS-RA-L-11-11, September 2011).
- Management Alert on [\*The Status of Energy Efficiency and Conservation Block Grant Recipients' Obligations\*](#) (OAS-RA-11-16, September 2011).
- Audit Report on [\*The Department of Energy's Implementation of the Energy Efficiency and Conservation Block Grant Program under the Recovery and Reinvestment Act: A Status Report\*](#) (OAS-RA-10-16, August 2010).

**MANAGEMENT COMMENTS****Department of Energy**

Washington, DC 20585

**JUN 21 2013**

MEMORANDUM FOR: **RICKEY R. HASS**  
**DEPUTY INSPECTOR GENERAL**  
**FOR AUDITS AND INSPECTIONS**  
**OFFICE OF INSPECTOR GENERAL**

FROM: **KATHLEEN B. HOGAN**   
**DEPUTY ASSISTANT SECRETARY**  
**FOR ENERGY EFFICIENCY**  
**ENERGY EFFICIENCY AND RENEWABLE ENERGY**

SUBJECT: **Response to Office of Inspector General Draft Audit Report on "Costs Incurred by Selected Tribal Energy Efficiency and Conservation Block Grant Recipients"**

The Office of Energy Efficiency and Renewable Energy (EERE) appreciates the opportunity to review and make comments related to the Office of Inspector General's (OIG) May 2013 Draft Audit Report on Costs Incurred by Selected Tribal Energy Efficiency and Conservation Block Grant Recipients. EERE provides guidance and support to all grantees pursuant to Code of Federal Regulations (CFR), 10 CFR Part 600 and 2 CFR Part 225 (A-87). Also, when applicable, EERE will provide grantees with guidance pursuant to 2 CFR Part 220 (A-21), 2 CFR Part 230 (A-122), and 10 CFR 420. EERE seeks to ensure compliance with Federal regulations through ongoing monitoring and communications with grantees.

During the audit, the OIG identified \$518,994 in questioned costs reimbursed by the Department to two of the five largest tribal recipients of EECBG funds; also the OIG audit team noted that one tribal recipient had a cash advance in the amount of \$11,100 for a period of 17 months, in violation of Federal regulations related to disbursement of cash advances.

Based on the findings above, the OIG made two recommendations for DOE's oversight of the Tribal EECBG recipients. EERE concurs with the OIG's recommendations and has been working with the Tribal governments to ensure that all corrective actions are implemented.

The responses below address the OIG recommendations:



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**OIG Recommendation 1:** Direct the Contracting Officer to resolve identified questioned costs at the Navajo Tribal Utility Authority (NTUA).

**EERE Response:** There were three cost categories that OIG identified as areas of concern at NTUA: (1) consulting costs; (2) legal costs; and (3) administrative costs.

NTUA worked with the cognizant Project Officer to resolve all of these cost categories. EERE gathered cost allocation data from NTUA and provided the information to OIG for review and concurrence on May 6, 2013. The grantee indicated that they had performed the following actions to resolve the questioned costs:

1. Consulting costs: The OIG found that NTUA may not have followed its own procurement procedures in securing a consultant to perform energy efficiency consulting and design work. NTUA charged the consulting costs to another non-ARRA activity. Funds associated with those costs were restored to the grant and charged to another eligible EECBG activity (retrofit/weatherization of NTUA public buildings) that had run over-budget.
2. Legal costs: The OIG found that NTUA did not have accurate records documenting what legal work was performed directly in relation to the EECBG projects. NTUA charged the legal costs to another non-ARRA activity. Funds associated with those costs were restored to the grant and charged to another eligible EECBG activity (retrofit/weatherization of NTUA public buildings) that had run over-budget.
3. Administrative costs: The OIG found that NTUA did not supply sufficient documentation to support the administrative costs charged to the award. NTUA provided OIG detailed information to substantiate their administrative costs on May 6, 2013.

EECBG continues to work with NTUA to ensure that all OIG recommendations are resolved accordingly. The cognizant EECBG Project Officer and Contracting Officer will continue to provide oversight and support to NTUA to ensure that administrative costs are appropriately allocated through the end of the grant period and perform appropriate reviews as needed to ensure that NTUA remains in compliance with federal and contractual requirements.

**OIG Recommendation 2:** Direct project officers to closely monitor cash advances to ensure that they are timely disbursed by recipients in accordance with Federal regulations.

**EERE Response 2:** EECBG continues to ensure that all Project Officers closely monitor cash advances and provide grant recipients with updated guidance on cash advances. EECBG Program Guidance 10-013 clarifies that grant recipients should not request funds unless they anticipate disbursing the funds within 30 calendar days of their

receipt. In addition, in March 2013, EECBG issued guidance on remitting interest earned on advance Federal funds and the process for returning interest earned back to DOE. This guidance provided supplemental information and served as a reminder to all grantees of the necessity to timely disburse funds and remit interest earned on drawn down funds as required. EECBG continues to provide training to staff on proper oversight and best practices as we close out the EECBG awards. Project Officers continue to closely monitor cash advances to ensure that they are timely disbursed by recipients in accordance with Federal regulations.



NAVAJO TRIBAL UTILITY AUTHORITY  
AN ENTERPRISE OF THE NAVAJO NATION

June 18, 2013

Mr. Rickey R. Hass  
Deputy Inspector General for Audits and Inspections  
Office of Inspector General  
Department of Energy

**Re: NTUA Response to Draft Audit Report**

Dear Mr. Hass:

NTUA appreciates this opportunity to provide a response to the aforementioned Draft Audit Report. NTUA recognizes that its response may not be incorporated, but it in any event provides the following clarifications with respect to the questions raised in your letter dated May 20, 2013.

1. Questions Cost Details:

- a. NTUA Consulting Services – NTUA recognizes that your office has questioned the procurement procedures taken with respect to the hiring of the consultants for the work associated with preparing the Navajo Nation Energy Policy. In that respect, your office questions approximately \$122,364 of cost incurred as a result.

Clarification: NTUA did not conduct a competitive procurement because to do so was infeasible, as the Navajo Nation, the entity for whom the services were provided had already selected the vendors that it wished to use in preparing its Navajo Nation Energy Policy prior to the award of the grant. NTUA as grants manager facilitated the payment of the vendors and compliance with grant terms, but was in no way in a position to direct the Navajo Nation, a sovereign entity, to fire the vendors the Navajo Nation selected for the purpose of conducting a competitive solicitation for services that the Navajo Nation sought autonomy in selecting its vendor. As grants manager, NTUA, did inform the Navajo Nation and the vendors of the Federal regulations required under the EECBG.

- b. NTUA Legal Costs. NTUA recognizes that your office questions \$77,090 in legal costs that were applied against the grant.

Home Office: P.O. BOX 170 FT. DEFIANCE, AZ 86504 (928) 729-5721	KAYENTA P.O. BOX 37 KAYENTA, AZ 86033 (928) 697-3574	TUBA CITY P.O. BOX 398 TUBA CITY, AZ 86045 (928) 283-5421	SHIPROCK P.O. BOX 1749 SHIPROCK, NM 87420 (505) 368-4639	CHINLE P.O. BOX 549 CHINLE, AZ 86503 (928) 674-5470	FORT DEFIANCE P.O. BOX 587 FT. DEFIANCE, AZ 86504 (928) 729-5727	DILCON HC 63 BOX D WINSLOW, AZ 86047 (928) 657-3258	CROWNPOINT P.O. BOX 1825 CROWNPOINT, NM 87313 (505) 786-5586
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Mr. Rickey R. Hass  
Page 02  
June 18, 2013

Clarification: NTUA's accounting process was going through a transition in setting up its grant accounting management system utilizing the SAP software; however, NTUA does not view its realignment of legal expenses, as inappropriate against the grant. These administrative charges were properly and in the correct amount applied against the grant. Further, the charges received from the vendor were segregated out to identify expenses incurred related to the grant.

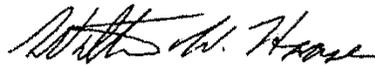
- c. NTUA Administrative Costs: NTUA recognizes that your office has questioned \$318,340 in administrative costs charged to the grant.

Clarification: NTUA has an annual rate base analysis to determine the appropriate Administrative and General rate to use. This process is described within the letter dated May 1, 2013 from NTUA's CFO. This procedure demonstrates that NTUA does adequately document how it applies its administrative costs. Under the EECBG grant, NTUA capped the application of administrative costs at below 10%, pursuant to the terms of the grant.

Based upon the clarifications provided above, we request that your office modify your report accordingly. If you have any other questions, please feel free to contact the undersigned, or Terry Battiest. Thank you.

Sincerely,

Navajo Tribal Utility Authority



Walter W. Haase, P.E.  
General Manager



**Choctaw Nation of Oklahoma**  
**Gregory E. Pyle, Chief**  
**PO Drawer 1210**  
**Durant, OK 74701**

**Date:** June 11, 2013

**For:** Office of Inspector General (IG-1)  
  
Department of Energy  
Washington, DC 20585

**From:** Sonya K. Diggs  
Senior Accounting Manager, Government  
Choctaw Nation of Oklahoma

**Subject:** Response to Inspector General's Draft Audit Report, "The Department of Energy's American Recovery and Reinvestment Act Energy Efficiency and Conservation Block Grant Program- Choctaw Nation of Oklahoma"

Thank you for the opportunity to review and respond to the subject draft report.  
Please see the Choctaw Nation of Oklahoma's response to the report's recommendation below:

**Result of Audit:**

The Choctaw Nation had been reimbursed \$1,200 by the Department of Energy for one duplicative travel expense which was subsequently resolved when we brought the matter to its attention.

**Management Response:**

Concur

**Action Plan:**

The questioned travel voucher was submitted for reimbursement on draw # 49 and #52 and deducted from draw #60. The Choctaw Nation agrees they were reimbursed for a duplicative reimbursement but resolved it by deducting from a later reimbursement of expenditures. The Choctaw Nation agreed to the correction action recommendation of further review of all expenditures submitted for reimbursement for any duplicative charges. The Choctaw Nation Managing Accountant of Government funds reviewed all future requests for reimbursement.

**Estimated Completion Date:**

Already completed by draft report submission.

*Sonya K. Diggs*  
*Senior Accounting Manager,*  
*Government*  
*Choctaw Nation of Oklahoma*

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