



# Muscogee (Creek) Nation, Okmulgee, OK

## Indian Housing Block Grant Program



**To:** Wayne Sims,  
Administrator, Southern Plains Office of Native American Programs, 6IPI

**From:** //signed//  
William W. Nixon,  
Acting Regional Inspector General for Audit, 6AGA

**Subject:** The Muscogee (Creek) Nation, Okmulgee, OK, Did Not Always Comply With  
HUD Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) results of our review of the Muscogee (Creek) Nation's Indian Housing Block Grant funds.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 817-978-9309.



**Audit Report Number: 2016-FW-1003**

**Date: July 8, 2016**

**The Muscogee (Creek) Nation, Okmulgee, OK, Did Not Always Comply With HUD Requirements**

## Highlights

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### What We Audited and Why

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We audited the Muscogee (Creek) Nation's use of U.S. Department of Housing and Urban Development (HUD) funds in accordance with the Office of Inspector General's goal to ensure the integrity and soundness of HUD's Public and Indian Housing programs and to follow up on weaknesses identified in other reviews. The audit objective was to determine whether the Nation complied with HUD requirements when it housed families and procured contracts under its Indian Housing Block Grant program.

### What We Found

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The Nation did not (1) obtain HUD's approval to lease to a non-low-income family, (2) charge the non-low-income family the proper amount of rent, (3) require a participant to recertify her income and family composition, (4) require a manager to remove herself from a conflict of interest situation, (5) support the fairness and reasonableness of its contracts, (6) have complete procurement documents, (7) include mandatory clauses in its procurement contracts, (8) collect sufficient income information for one participant, and (9) maintain supporting documents for two housing inspections. These conditions occurred because the Nation's staff did not follow its or HUD's requirements. In addition, the Nation's payments and rents policy did not comply with Federal regulations. As a result, it could not ensure that it used Indian Housing Block Grant funds to provide safe, efficient, and affordable housing to its eligible citizens. These deficiencies resulted in more than \$219,000 in questionable expenditures.

### What We Recommend

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We recommend that the Administrator of the Southern Plains Office of Native American Programs require the Nation to (1) repay \$120,581 to its Indian Housing Block Grant program, from non-Federal funds, for housing not approved by HUD, (2) support or repay \$13,878 in uncollected rent to its Indian Housing Block Grant program from non-Federal funds, (3) revise its payments and rents policy to prevent undercharging rent, and (4) support or repay to its Indian Housing Block Grant program, from non-Federal funds, \$85,380 spent on questionable procurements. Further, we recommend that the Nation improve its controls over recertification of participants and inspections of homes and revise its contracts and leases.

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# Background and Objective

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The Muscogee (Creek) Nation is a Federally recognized Indian tribe. Since 1867, the Nation has continued its constitutional organization of three branches<sup>1</sup> with distinct separation of power. The executive branch oversees the daily operations of the tribe. The Principal Chief appoints the Nation's Secretary of Housing, who governs the Nation's housing division. The Nation established its housing division in 1965. Its mission is to provide safe, efficient, and affordable housing to eligible citizens. It provides housing opportunities through its rental, home ownership, and emergency home repair programs.

Under the Native American Housing Assistance and Self-Determination Act of 1996,<sup>2</sup> the U.S. Department of Housing and Urban Development (HUD) provides Indian Housing Block Grants for Indian tribes to develop and operate low-income housing programs. These formula grants assist the Nation in designing, implementing, and administering its housing programs.

Table 1 shows the Indian Housing Block Grant financial assistance that HUD authorized for the Nation during the review period.

**Table 1: Indian Housing Block Grant awards for fiscal years reviewed**

<b>Year awarded</b>	<b>Grant amount</b>
2013	\$13,736,974
2014	14,927,912
2015	14,989,805
<b>Total</b>	<b>43,654,691</b>

The audit objective was to determine whether the Nation complied with HUD requirements when it housed families and procured contracts under its Indian Housing Block Grant program.

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<sup>1</sup> Executive, judicial, and legislative

<sup>2</sup> Regulations at 25 U.S.C. (United States Code) Section 4101 et seq.

# Results of Audit

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## **Finding: The Nation Did Not Always Follow Federal Requirements and Its Own Policies**

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The Muscogee (Creek) Nation did not (1) obtain HUD's approval to lease to a non-low-income family, (2) charge the non-low-income family the proper amount of rent, (3) require a participant to recertify her income and family composition, (4) require a manager to remove herself from a conflict of interest situation, (5) support that its contracts were fair and reasonable, (6) have complete procurement documents, (7) include mandatory clauses in its procurement contracts, (8) collect sufficient income information for one participant, and (9) maintain supporting documents for two housing inspections. These conditions occurred because the Nation's staff members did not follow its or HUD's requirements. In addition, the Nation's payments and rents policy did not comply with Federal regulations. As a result, it could not ensure that it used Indian Housing Block Grant funds to provide safe, efficient, and affordable housing to its eligible citizens. These deficiencies resulted in more than \$219,000 in questionable expenditures.<sup>3</sup>

### *The Nation Did Not Get HUD's Approval To Lease to a Non-Low-Income Family*

The Nation entered into a lease with option to purchase agreement with a family whose income exceeded the median income without HUD approval.<sup>4</sup> This noncompliant action occurred because the Nation waived its requirements. As a result, it incurred \$120,581 in ineligible expenditures.

The Nation's lease with option to purchase program allowed low-income participants to purchase their own homes. The Nation could use grant funds to provide housing assistance to families with income that exceeded the median income with HUD approval.<sup>5</sup>

In April 2010, the Nation spent \$150,835<sup>6</sup> to purchase and repair a home for a low-income participant under a lease purchase agreement.<sup>7</sup> In February 2014, the Nation waived its requirements and let the participant transfer the home to his nephew, whose annual income of \$86,357 exceeded the median income (\$51,520) for a family of two. Since it did not obtain HUD's approval for this transfer, the \$120,581 Indian Housing Block Grant funds spent on the property were ineligible.

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<sup>3</sup> \$120,581 housing not approved by HUD, \$13,878 uncollected rent, and \$85,380 questionable procurements

<sup>4</sup> Regulations at 24 CFR 1000.110(c) required HUD approval for this agreement.

<sup>5</sup> Regulations at 24 CFR 1000.110(c)

<sup>6</sup> Consisting of \$120,581 Indian Housing Block grant funds and \$30,254 program income

<sup>7</sup> The Nation amortized the \$150,835 loan amount for 25 years with a \$1,007 monthly payment.

### *The Nation Did Not Charge the Proper Amount of Rent to a Non-Low-Income Family*

The Nation did not require a non-low-income family to pay market rent under a lease purchase agreement. Under Federal regulations, the Nation needed to use a specific formula to calculate rent, not to exceed market rent.<sup>8</sup> Instead, it charged the family its maximum rent of only \$350 each month for 20 months.<sup>9</sup> This occurred because the Nation's payments and rents policy did not comply with Federal requirements,<sup>10</sup> which resulted in collecting \$13,878<sup>11</sup> less in rent than was due from the family. Additionally, it could save \$7,880<sup>12</sup> during the next year by complying with the Federal rent requirements for non-low-income families.

### *The Nation Did Not Take Corrective Action When a Participant Did Not Recertify as Required*

The Nation did not take corrective action when a participant did not recertify during 2014 and 2015 as required by its policy.<sup>13</sup> As a result, the participant did not provide required employment and family composition information when her employment changed. In addition, the Nation did not know whether the participant was living in the home. Immediately after the violations occurred, the Nation failed to prepare a required corrective action plan. This condition occurred because the Nation's housing management department did not have procedures for following up on participants that did not recertify. Further, the lease agreement did not state that the participant must use the home as a principal residence. As a result, the Nation did not know whether it had accurate income and family composition to calculate and collect the proper amount of rent. If the Nation continued to disregard its recertification requirements for this participant, she would only pay \$6,000 for this \$56,700 home according to her 5-year agreement.

### *The Nation Allowed a Manager To Remain in a Conflict of Interest Situation Resulting in an Improper Lease Agreement*

A former manager in the housing management department did not disclose or recuse herself from managing her brother's lease agreement with the Nation despite HUD regulations.<sup>14</sup> The former manager notarized and approved documents contained in the participant's file while representing the Nation. In fact, she allowed her sister-in-law to violate the agreement without any consequences. After the sister-in-law notified the department that she and one son moved out of the home,<sup>15</sup> the department did not remove her from the lease purchase agreement. Further, the former manager, who was a housing counselor at the time, did not require her brother, the other leaseholder, to include the sister-in-law's income in the family income. Contrary to Federal

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<sup>8</sup> Regulations at 24 CFR 1000.110(d)(1)

<sup>9</sup> The Nation's policy set the maximum monthly rent for this three-bedroom home at \$350.

<sup>10</sup> Regulations at 24 CFR 1000.110(d)(1) required a specific calculation for the minimum monthly rent.

<sup>11</sup> This market rent was less than the rent calculated at 30 percent of adjusted monthly income.

<sup>12</sup> Twelve times the difference between the \$1,006.70 monthly loan payment and the \$350 monthly rent collected

<sup>13</sup> Tribal Resolution 14-103, Program Eligibility, Admissions, and Occupancy Policy, required participants to recertify annually and whenever employment or family composition changed.

<sup>14</sup> Regulations at 24 CFR 1000.30 required the Nation to disclose publically the nature of the assistance involving the former manager and to notify HUD.

<sup>15</sup> The former manager notarized the written notification.

regulations,<sup>16</sup> the Nation did not notify HUD of the situation. Because the former manager managed her brother’s agreement with the Nation, she retained benefits for her family, including herself. The lease agreement listed her as the guardian of her nephew who was the successor under the agreement upon the participants’ death, incapacity, or divorce.

*The Nation Did Not Support That Its Contracts Were Fair and Reasonable*

The Nation did not support that four of its contracts were fair and reasonable as required.<sup>17</sup> The contracts were between 33 and 79 percent greater than the Nation’s independent cost estimates. This condition occurred because the Nation did not have procedures to document that it justified contracts that significantly exceeded its independent cost estimates. Therefore, the Nation spent \$47,225 for unsupported construction costs.

Table 2 shows the contracts that significantly exceeded the independent cost estimates with no sufficient price analyses in the files.

**Table 2: Contracts exceeding independent cost estimates**

Contract number	Contract amount	Estimated amount	Amount contract exceeded estimate	Percentage contract exceeded estimate
2014-013	\$ 37,050	\$ 27,800	\$ 9,250	33%
2014-023	101,000	76,200	24,800	33%
2015-022	16,100	11,825	4,275	36%
2015-027	20,200	11,300	8,900	79%
Total			47,225	

When the Nation received proposals that were significantly greater than its independent cost estimates, it should have performed additional price analyses or included information in the contract files to explain the differences between the contract prices and the estimated costs.

For one contract, the Nation estimated a construction cost of \$76,200 and appropriately used small purchase procedures for procuring the contract. The contract files showed four proposals. The Nation accepted the lowest proposal of \$101,000, which increased to \$109,100 because of unforeseen repairs. However, the Nation did not perform a full price analysis as required by 24 CFR 85.36.<sup>18</sup> As a result, the documents in the contract file did not show why the contract, which was the lowest proposal, exceeded the Nation’s \$76,200 cost estimate by 33 percent. Three other contracts were between 33 and 79 percent greater than the Nation’s estimates as well. Since the Nation did not determine why the excessive differences existed between the rewarded contracts and its estimates, it may have incurred \$47,225 in unreasonable expenditures.

<sup>16</sup> Regulations at 24 CFR 1000.30

<sup>17</sup> Regulations at 24 CFR 85.36(f)(1) required the Nation to support that its contract prices were reasonable.

<sup>18</sup> HUD guidelines and Federal Acquisition Regulations offered various techniques of price analyses.

### The Nation's Procurement Files Were Incomplete

The Nation's procurement files were not all complete and it had to search its records to provide required documents. For example, files did not include selection of procurement method, independent cost estimates, and information related to the bidding process. The Nation located these missing documents outside the procurement files; however, it could not locate required price quotations<sup>19</sup> for a \$38,155 contract.<sup>20</sup> HUD required complete and accurate records to support that the Nation appropriately spent Federal funds. It also required the Nation to manage its contracts so that it had essential documents to support its procurements<sup>21</sup> for at least 3 years.<sup>22</sup> However, the Nation did not maintain the integrity of its contract files because it lacked a comprehensive system to ensure contract file completeness and proper ordering of file contents.

### The Nation's Procurement Contracts Omitted Most Mandatory Clauses

The Nation's procurement contracts omitted most contract clauses required by Federal regulations<sup>23</sup> and the Nation's procurement policy.<sup>24</sup> This condition occurred because the Nation's contract management procedures did not include steps to ensure that its contracts included required clauses that would protect the rights of the Nation and ensure compliance with Federal laws. Although omission of these clauses did not result in noticeable adverse effects, failure to include these items violated requirements and could negatively affect the Nation.

### One Housing Management Department File Did Not Contain Sufficient Income Information

A housing counselor disregarded Federal requirements<sup>25</sup> and the Nation's own policy<sup>26</sup> by not requiring a participant<sup>27</sup> to complete an unemployment statement before entering into a lease. The participant's file contained a checklist which showed that the counselor had requested a notarized unemployment statement before occupancy. However, the participant did not sign an unemployment statement. This condition occurred because the Nation did not have procedures in place to conduct and document income verifications. Since the manager did not follow up on requested documents, the Nation could not support that the housing management department had procedures to ensure that it received all required documents and that its staff used all its resources to correctly calculate the rent.

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<sup>19</sup> Regulations at 24 CFR 85.36(d)(1)

<sup>20</sup> Contract 2015-003

<sup>21</sup> Regulations at 24 CFR 1000.502 required the Nation to ensure that it complied with applicable Federal regulations.

<sup>22</sup> Regulations at 24 CFR 1000.552

<sup>23</sup> Section 3 of the HUD Act of 1968 and 24 CFR 85.36(i) list provisions that the Nation must include in its contracts to protect the Nation's rights and to ensure compliance with Federal laws.

<sup>24</sup> Tribal Resolution 06-128, Section 14C

<sup>25</sup> Regulations at 24 CFR 1000.128 required the Nation to verify income.

<sup>26</sup> Tribal Resolution 14-103, Part One, Section III.C required the Nation to keep complete and accurate verification records.

<sup>27</sup> Participant account number N-100-1011-01

## *The Housing Management Department Could Not Support That It Conducted Required Housing Inspections*

The Nation could not support that it conducted required move-in inspections for two of seven leases reviewed.<sup>28</sup> The Nation said that the participants signed the inspection reports but could not provide the inspection records. This condition occurred because the Nation did not have controls in place to conduct and document move-in inspections for every lease with option to purchase home. Because of these errors, the Nation could not support that it used Indian Housing Block Grant funds to provide two homes that were decent, safe, and sanitary.<sup>29</sup> The Nation stated that it has since implemented a new process for its housing management counselors to keep files open until completed at move-in.

### **Conclusion**

The Nation did not obtain HUD approval for leasing a home to a non-low-income family and then charged the family improper rents. It also allowed two families to violate their agreements without taking action. Additionally, its housing manager worked directly with relatives to retain a lease agreement and inappropriately lower their rents. Further, the Nation did not always procure contracts as required and did not include required clauses in its contracts. In addition, one counselor did not require a participant to complete an unemployment statement and the housing management department did not keep inspection documents in two of seven participants' files. These conditions occurred because the Nation's staff members did not follow its or HUD's requirements. In addition, the Nation's payments and rents policy did not comply with Federal regulations. Because of these conditions, the Nation had more than \$219,000 in questionable expenditures.

### **Recommendations**

We recommend that the Administrator of the Southern Plains Office of Native American Programs require the Nation to

- 1A. Repay its Indian Housing Block Grant program, from non-Federal funds, \$120,581 spent on the home leased to a non-low-income family.<sup>30</sup>
- 1B. Support or repay its Indian Housing Block Grant program, from non-Federal funds, \$13,878 in rents not collected.
- 1C. Revise its payments and rents policy regarding minimum rental payments to comply with 24 CFR 1000, which would save at least \$7,880 during the next year.

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<sup>28</sup> Participant account numbers LP-048-4344-02 and N-103-1038-01

<sup>29</sup> Regulations at 24 CFR 1000 required the Nation to provide housing that was decent, safe, and sanitary.

<sup>30</sup> Participant account number N-091-9147-01

- 1D. Require the participant who did not recertify<sup>31</sup> to enter into a corrective action plan to provide income and occupancy information for 2014 through 2016 and verify whether she owes the Nation for unreported income or reduced family composition. If she refuses to enter into or comply with the plan, terminate the lease agreement according to the agreement's requirements.
- 1E. Provide support that it has improved its controls over recertification of participants.
- 1F. Revise its lease with option to purchase agreements to include a requirement for participants to use the property as a principal residence during the contract term.
- 1G. Provide support that it has relinquished the sister-in-law's<sup>32</sup> rights as a potential homebuyer, if she no longer lives there, or retroactively included her and the eldest son's income in the family income when calculating the monthly rental payments and amounts owed.
- 1H. Support or repay \$47,225,<sup>33</sup> from non-Federal funds, to its Indian Housing Block Grant program for contracts that exceeded the Nation's independent cost estimates.
- 1I. Provide support that it has instituted procedures to document that contracts with winning proposals are reasonable when they are significantly more than the independent cost estimates.
- 1J. Support or repay \$38,155,<sup>34</sup> from non-Federal funds, to its Indian Housing Block Grant program for a contract file that did not have price quotations to support full and open competition.
- 1K. Provide support that it has controls in place to ensure contract files are complete including developing procedures for personnel to complete a contents document for every contract file to note inclusion of the required documents for a more efficient contract file system with supervisory approval.
- 1L. Amend its procurement contracts to include all required clauses on a prospective basis.
- 1M. Provide support that it has controls in place to conduct and document income verifications.
- 1N. Provide support that it has controls in place to ensure that members of its staff conduct and document move-in inspections for every lease with option to purchase home.

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<sup>31</sup> Participant account number LP-057-5060-02

<sup>32</sup> Participant account number N-083-8321-01

<sup>33</sup> Contracts 2014-013, 2014-023, 2015-022, and 2015-027

<sup>34</sup> Contract 2015-003

# Scope and Methodology

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We conducted the audit at the Nation's office at 2951 N. Wood Drive, Okmulgee, OK, and our offices in Fort Worth, TX, and Oklahoma City, OK, from October 2015 to February 2016. The review scope was from October 1, 2013, to September 30, 2015.

To achieve our objective, we

- Reviewed relevant laws, regulations, and other HUD requirements,
- Reviewed the Nation's procurement and eligibility, admissions, and occupancy policies,
- Reviewed the independent public accountant audit report for the Nation's fiscal year ended September 30, 2014,
- Reviewed HUD's fiscal year 2013 monitoring review report of the Nation,
- Interviewed responsible HUD and Nation officials, and
- Reviewed and tested available electronic financial data and determined that it was sufficient for selecting samples.

We also selected and reviewed samples whose findings we did not plan to project to the unproved universe as follows.

We selected and reviewed a nonstatistical sample of 9 of 385 (2 percent) files for housing participants that either may be related to officials or employees or had identity of interest concerns, which we considered high risk. The Nation had specific concerns about two participants and gave us information on another two participants that were related to the housing management department manager. The remaining five were possibly related to the Nation's officials and staff members.

Using the Nation's contract logs, we selected and reviewed a nonstatistical sample of 34 of 70 (49 percent) contracts that totaled \$1,178,615 of \$2,102,416 (56 percent). The selection included all contracts more than \$50,000 and contracts whose change orders were more than 10 percent of the original contracts. Additionally, we selected groups of contracts with the same contractors and similar locations that could be split bids. We reviewed 20 contracts to determine compliance with requirements. We reviewed the remaining 14 contracts for evidence of split bids.

We selected and reviewed a nonstatistical sample of 7 of 68 (10 percent) single-family homes leased by the Nation. Using the Nation's lists of housing participants, we included only those participants whose move-in dates fell within the audit scope. We did not evaluate the reliability of the Nation's housing lists because we used them for sample selection only. We obtained a random sample for the selected participants because we were determining what types of errors existed and did not plan to project findings to the universe. We reviewed the selected sample for compliance with the Nation's eligibility, admissions, and occupancy policies.

We conducted the 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# Internal Controls

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Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

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

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

## **Relevant Internal Controls**

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

- Policies and procedures in place intended to ensure that the Nation properly administered its HUD-funded procurement and housing programs in compliance with HUD requirements.
- Policies and procedures in place intended to ensure that the Nation's resource use was consistent with laws and regulation.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

We evaluated internal controls related to the audit objective in accordance with generally accepted government auditing standards. Our evaluation of internal controls was not designed to provide assurance regarding the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion on the effectiveness of the Nation's internal control.

# Appendixes

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## Appendix A

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**Schedule of Questioned Costs and Funds To Be Put to Better Use**

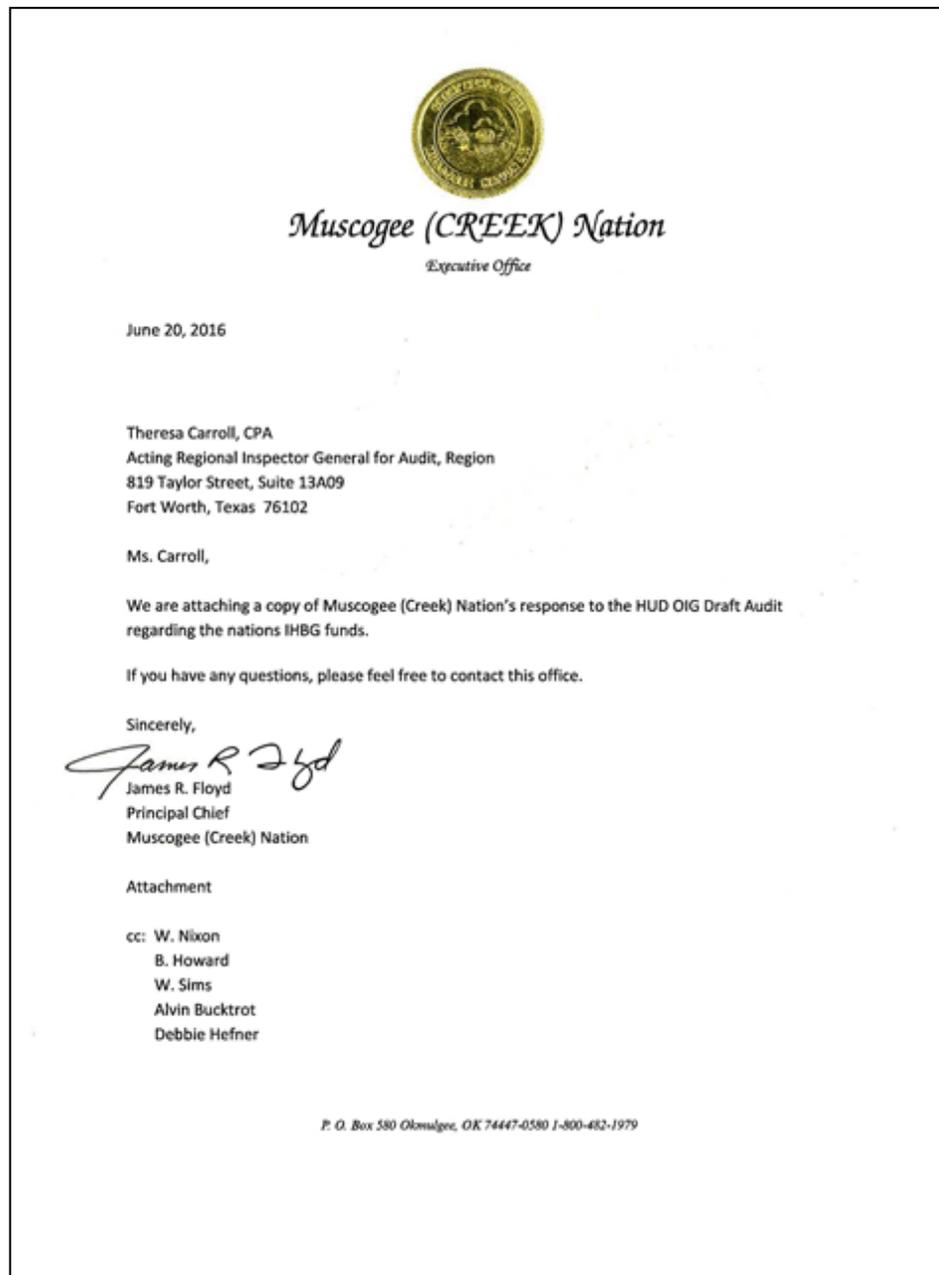
<b>Recommendation number</b>	<b>Ineligible 1/</b>	<b>Unsupported 2/</b>	<b>Funds to be put to better use 3/</b>
1A	\$120,581		
1B		\$13,878	
1C			\$7,880
1H		47,225	
1J		38,155	
<b>Totals</b>	<b>120,581</b>	<b>99,258</b>	<b>7,880</b>

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.
- 2/ 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 the 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.
- 3/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include costs not incurred by implementing recommended improvements. In this instance, the Nation will realize cost savings of \$7,880 in the next 12 months by requiring a participant to pay the correct rent amount.

## Appendix B

### Auditee Comments and OIG's Evaluation

#### Auditee Comments



**Ref to OIG  
Evaluation**

**Auditee Comments**

Comment 1

Muscogee (Creek) Nation Response to HUD OIG Draft Audit

1. The Nation did not get HUD's approval to lease to a non-low income family.  
Response: The Department of Housing did not get HUD approval before allowing a non-low income family to participate in the program. The Admissions & Occupancy policy will be updated to include HUD approval for non-low income participants. The policy will be sent to National Council for review and approval.

Comment 2

The Nation disagrees that \$120,581.00 be repaid out of non-federal funds. The home was acquired for a participant that was low income and qualified for the program. All federal guidelines were followed when the home was acquired and it remained low income for the period 6/1/2010 to 03/31/2014. Because the home remained low income for a period of almost four years we believe a prorated amount is repaid. Attachment 1

Comment 1

2. The Nation did not charge the proper amount of rent to a non-low income family.  
Response: The Department of Housing is in the process of notifying non-low income participants that rents will be calculated according to 24 CFR 1000.110(d)(1). The Nation is updating its Payments and Rents policy to include non-low income rent calculations. The policy will be sent to National Council for review and approval.

Comment 3

We disagree that \$13,878 be repaid for uncollected rent. The home will be repaid out of non-federal funds. Therefore the home is not subject to any Federal requirements so uncollected rents do not apply.

Comment 1

3. The Nation did not take corrective action when a participant did not recertify as required.  
Response: Housing staff will receive further in house training on the re-certification process and a participant's failure to comply with the requirements outlined in the Admissions and Occupancy Policy. The participant has since recertified. Attachment 2

Comment 4

The Lease with Option to Purchase agreement has been updated to include the requirement of using the home as the principal residence. Attachment 3 Section 4.3

Comment 5

Comment 6

4. The Nation allowed a Manager to remain in a Conflict of Interest situation resulting in an improper lease agreement.  
Response: Procedures have been implemented requiring Housing personnel to recuse themselves from participating in any involvement in managing a family member's file. All counselors have read and signed the conflict of interest statement. Attachment 4

Comment 7

5. The Nation did not support that its contracts were fair and reasonable.  
Response: We disagree with this comment. In each contract file is a Procurement File Documentation for Small Purchases (Attachment 5) which outlines the rationale for the method of procurement, the selection of contract type, the basis for contractor selection or

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**Ref to OIG  
Evaluation**

**Auditee Comments**

Comment 7

rejection, and the basis for price. We believe the basis for price justifies why the contract was chosen even though it exceeded the cost estimate. When all bids received are comparable in price, we believe them to be fair and reasonable.

The draft states we did not perform a full price analysis as required, we also disagree with this statement. An independent cost estimate was performed on each contract and according to HUD's Quick Guide to Cost and Price Analysis for HUD Grantees and Funding Recipient's, a price analysis is essentially a price comparison. It is the evaluation without analyzing any of the separate cost elements that it is composed of. It also states for small purchases comparing price or rate quotes from an adequate number of qualified vendors is sufficient.

We believe we have complied with all the requirements of 85.36 (f)(1) because an independent cost estimate was performed, an adequate number of comparable bids were received, which we believe to be fair and reasonable, and it compares with previous bids received for the same service, therefore repayment of costs exceeding the independent cost estimate should not be repaid.

Comment 8

6. The Nation's procurement files were incomplete.

Response: We disagree with this statement. Out of the 34 contracts selected for review one file was incomplete. This contract was chosen for Davis Bacon review by the single auditors in 2015, and the missing procurement section was in the file at that time. Also, there were no findings regarding our contracts for the 2015 single audit. We are unsure how a complete section became missing from the contract file, but we believe when the files were taken apart to be scanned by the HUD OIG auditor the complete procurement section was misfiled. We are still in the process of going through all of the tenant and contract files that were selected for review to see if we can locate the missing section.

With that one exception, our contract files are complete and each file contains the proper information and in the same order as noted on the checklist in each file. The Department of Housing has a single audit each year and has undergone numerous HUD Monitoring Reviews as well as another OIG review of two years of contract files and there is not a history of any documents missing. In fact we have been praised that our files are complete and in good order. The contract in question had a contract checklist in the file verifying that all required documents were in place. We believe this missing section to be a single incident of human error and we should not be required to repay the \$38,155.

Comment 9

A supervisory approval has been added to the checklist as another means to ensure that all required documents are in the contract file. Attachment 6

Comment 10

7. The Nation's procurement contracts omitted most mandatory clauses.

Response: A contract attachment has been added to include the required clauses. Attachment 7

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**Ref to OIG  
Evaluation**

**Auditee Comments**

Comment 11

8. One Housing Management Department file did not contain sufficient income verification.  
Response: An audit checklist (Attachment 8) was implemented on June 13, 2016, to ensure that all required verifications are complete and in the file so rents can be calculated correctly upon move in and re-certification.

The participant has signed the required unemployment statement. Attachment 9

Comment 1

9. The Housing Management Department could not support that it conducted required housing inspections.  
Response: The Nation has implemented procedures for keeping files open and a check list is in place to ensure required documents are in the file before move in. We will begin using the check list upon the next move in. Attachment 10

## OIG Evaluation of Auditee Comments

- Comment 1 We appreciate that the Nation has agreed to improve its policies and procedures, including training its staff. The Nation will need to provide supporting documentation to HUD that it implemented the policies and procedures to close the recommendation.
- Comment 2 The Nation believes it should repay only a prorated amount of the purchase and repair costs for the home since an eligible participant lived in the home before the ineligible participant. While the Nation's position may be reasonable, HUD will need to decide whether proration of the \$120,581 that the Nation spent on the home is acceptable to address the deficiency.
- Comment 3 The Nation believes that since it will repay the cost (prorated) of the home that it no longer is responsible for the uncollected rent. We maintain our position that the Nation should repay these funds. The Nation used program funds to purchase and repair the home, which was subject to 24 CFR 1000.110, and should have collected the rents in accordance with the requirements.
- Comment 4 The Nation responded that the participant recently recertified. However, it did not provide sufficient documents to support the recent recertification. Further, it did not provide the necessary documents to address whether the participant entered into a corrective action plan to provide income and occupancy information for 2014 and 2015. In addition, it did not provide information on whether the participant owed the Nation for unreported income or reduced family composition. The Nation will need to provide supporting documentation to HUD to close the recommendation.
- Comment 5 We appreciate that the Nation has agreed to update its lease with option to purchase agreement. The Nation will need to implement its updated lease agreement and submit supporting documentation to HUD to close the recommendation.
- Comment 6 While we appreciate the Nation's actions to implement procedures, it did not address the recommendation that it provide support that it has relinquished the participant's rights as a potential homebuyer, if she no longer lives there, or retroactively included her and the eldest son's income in the family income when calculating the monthly rental payments and amounts owed. The Nation will need to provide supporting documentation to HUD to close the recommendation.

## OIG Evaluation of Auditee Comments

- Comment 7 The Nation believed that the bids justified the price and that it performed an independent cost estimate. We maintain our position.
- The purpose of independent cost estimates is to determine whether the contractors' bids are reasonable. When bids are significantly greater (30 percent or more in this instance) than the independent cost estimates, the bids do not appear reasonable or assumptions used for the independent cost estimates seem incorrect. As a result, the Nation should have analyzed the differences and included their analyses in the contract files rather than assumed that the bids were fair and reasonable because they were comparable to each other. These actions ignore the independent cost estimate that the Nation performed. As discussed in the report, the Nation did not have support to explain the significant differences between its independent cost estimates and the awarded contracts.
- Comment 8 The Nation needs to provide supporting documentation to HUD that it performed full and open competition for this contract to close the recommendation.
- Comment 9 We appreciate that the Nation has agreed to improve its policies and procedures. However, the provided attachment did not include a space for supervisory approval. The Nation will need to provide support to HUD that it has implemented the policies and procedures to close the recommendation.
- Comment 10 We appreciate that the Nation has agreed to implement a contract attachment to include the required clauses. While most required clauses were added to the contract attachment example provided, the attachment did not include the retention clause required by 24 CFR 85.36(i)(11). The Nation needs to provide supporting documentation to HUD to close this recommendation.
- Comment 11 We appreciate that the Nation has agreed to correct the deficiency and improve its policies and procedures. The Nation will need to provide supporting documentation to HUD to close the recommendation.