



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Operating efficiently and effectively

Regions 1 and 5 Need to Require Tribes to Submit More Detailed Work Plans for Grants

Report No. 20-P-0335

September 29, 2020



Report Contributors:

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Abbreviations

C.F.R. Code of Federal Regulations
EPA U.S. Environmental Protection Agency
OIG Office of Inspector General
PPG Performance Partnership Grants

Cover Image: The EPA provides financial assistance to tribes to help them develop and implement environmental programs. (EPA image)

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At a Glance

Why We Did This Project

The U.S. Environmental Protection Agency provides financial assistance to states and tribes to help them develop and implement environmental programs. For example, the EPA's Indian Environmental General Assistance Program awards grants to federally recognized tribes and tribal consortia for planning, developing, and establishing environmental protection programs in Indian Country.

The Office of Inspector General conducted this audit to determine whether the costs claimed under selected individual Indian tribal grants are reasonable, allocable, and allowable in accordance with applicable laws, regulations, and grant terms and conditions.

This report addresses the following:

- *Operating efficiently and effectively.*

This project addresses a top EPA [management challenge](#):

- *Overseeing states, territories, and tribes responsible for implementing EPA programs.*

Address inquiries to our public affairs office at (202) 566-2391 or OIG_WEBCOMMENTS@epa.gov.

List of [OIG reports](#).

Regions 1 and 5 Need to Require Tribes to Submit More Detailed Work Plans for Grants

What We Found

EPA Region 1 and EPA Region 5 can improve internal controls for determining whether grant costs are reasonable, allowable, and allocable for the Passamaquoddy Tribe and the Fond du Lac Band Tribe by requiring them to submit more detailed work plans.

Inadequate work plans in Regions 1 and 5 put tribal grants at risk for unsupported costs.

Federal law and EPA policies require detailed work plans in the management and administration of grants. Without adequate controls and adherence to federal requirements, regional tribal grants are at risk, and the regions have limited assurance that costs charged to the grants were reasonable, allowable, and allocable.

We found that work plans from these Tribes lacked adequate details regarding supply-related components, such as laptops and computer services, or funding amounts. We identified \$22,868 in questioned costs. In Region 1, we identified \$16,533 in questioned costs for the Passamaquoddy Tribe grant. In Region 5, we identified \$6,335 in questioned costs for the Fond du Lac Band Tribe grant.

Recommendations and Planned Agency Corrective Actions

We recommend that the respective regional administrators require the Passamaquoddy Tribe in Region 1 and the Fond du Lac Band Tribe in Region 5 to submit detailed work plans that include estimated funding amounts for each work plan component, determine the allowability of unsupported costs identified during our audit, and recover the costs as appropriate. Regions 1 and 5 concurred with our recommendations and provided acceptable planned corrective actions and estimated completion dates. We consider the recommendations resolved with corrective actions pending.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

September 29, 2020

MEMORANDUM

SUBJECT: Regions 1 and 5 Need to Require Tribes to Submit More Detailed Work Plans for Grants Report No. 20-P-0335

FROM: Sean W. O'Donnell 

TO: Dennis Deziel, Regional Administrator
Region 1

Kurt Thiede, Regional Administrator
Region 5

This is our report on the subject audit conducted by the Office of Inspector General of the U.S. Environmental Protection Agency. The project number for this audit is OA&E-FY19-0314. This report contains findings that describe the problems the OIG has identified and corrective actions that the OIG recommends. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Region 1's Mission Support Division's Grants Management Office and Region 5's Mission Support Division's Acquisition and Assistance Branch are primarily responsible for the subjects covered in this report.

In accordance with EPA Manual 2750, Regions 1 and 5 provided acceptable corrective actions and estimated milestone dates in response to OIG recommendations. All recommendations are resolved, and no final response to this report is required. However, if you submit a response, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Purpose

The U.S. Environmental Protection Agency’s Office of Inspector General conducted an audit of the EPA’s Indian tribal grants. The objectives of our audit were to determine whether the costs claimed under the selected Indian tribal grants were allowable, allocable, and reasonable in accordance with applicable laws, regulations, and grant terms and conditions.

Top Management Challenge

This audit addresses the following top management challenge for the Agency, as identified in OIG Report No. [20-N-0231](#), *EPA’s FYs 2020–2021 Top Management Challenges*, issued July 21, 2020:

- Overseeing states, territories, and tribes responsible for implementing EPA programs.

Background

Congress passed a law authorizing the Indian Environmental General Assistance Program in 1992. This law authorized the EPA to provide grants to federally recognized tribes and tribal consortia to plan, develop, and establish environmental protection programs in Indian Country and to develop and implement solid and hazardous waste programs on tribal lands. The EPA awarded approximately \$63 million in General Assistance Program grants to tribes in 2019 to help achieve the Agency’s mission of protecting human health and the environment.

Under traditional environmental program grants (sometimes called “categorical” grants), states receive funds to implement various water, air, waste, pesticides, and toxic substances programs. Environmental program grant funds can only be spent on activities that fall within the statutory and regulatory boundaries of that program.

States and tribes wanted greater flexibility in how they use and manage the grant funds they receive from the EPA. In 1996, Congress authorized the EPA to award Performance Partnership Grants, or PPGs, which allow states, certain interstate agencies, and tribes to combine two or more environmental program grants into a single grant.

A PPG offers financial assistance for several environmental programs with greater flexibility. These grants provide tribes the ability to allocate the resources to their most pressing environmental needs.

Grant Work Plans Establish Grant Terms and Conditions

A work plan forms the basis for negotiating grant terms and conditions. It identifies how and when the applicant will use funds from environmental program grants and is the foundation from which to manage and evaluate performance under the grant agreement to produce specific outputs and outcomes.

Per 40 C.F.R. § 35.507, *Work Plans*, specific regulatory requirements for work plans include:

- Components to be funded under the grant.
- Estimated work years and funding amounts for each work plan component.
- Commitments or tasks associated with each work plan component and a time frame for accomplishment, as established in the grant agreement.

Allowable Grant Costs

Federal grant awards are governed by 2 C.F.R. Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. According to Section 200.403, *Factors affecting allowability of costs*, allowable grant costs under federal awards must meet the following general criteria:

- Be necessary and reasonable for the performance of the federal award.
- Conform to any limitations or exclusions outlined in these principles or the federal award.
- Be consistent with the policies and procedures that apply.
- Be accorded consistent treatment.
- Be determined in accordance with generally accepted accounting principles, except as otherwise provided for state and local governments and Indian tribes.
- Not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed program in either the current or prior period.
- Be adequately documented.

Reasonable Grant Costs

Under 2 C.F.R. § 200.404, *Reasonable costs*:

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

Allocable Grant Costs

Per 2 C.F.R. § 200.405, *Allocable costs*:

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

In addition, an allocable cost must be:

- Incurred specifically for the federal award.
- Beneficial to both the federal award and other work of the nonfederal entity and distributed in proportions that may be approximated using reasonable methods.
- Necessary to the overall operation of the nonfederal entity and assignable in part to the federal award in accordance with the principles in the regulations.

Responsible Offices

The Office of Grants and Debarment within the Office of Mission Support and the regional EPA offices oversee the management of grants.

The Office of International and Tribal Affairs leads the EPA's international and tribal engagements, working across the Agency's programs and regions to develop and implement the policies and programs that protect public health and the environment. Within that office, the American Indian Environmental Office leads the EPA's efforts to protect human health and the environment of federally recognized tribes by supporting the implementation of federal environmental laws consistent with the federal trust responsibility, the government-to-government relationship, and the EPA's 1984 Indian Policy.

Region 1's Mission Support Division's Grants Management Office and Region 5's Mission Support Division's Acquisition and Assistance Branch are responsible for the management and oversight of grants within their respective regions.

Scope and Methodology

We conducted this performance audit from September 2019 to July 2020 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 objectives.

As detailed in Appendix A, we assessed the internal controls necessary to satisfy our audit objectives.¹ In particular, we assessed the internal control components and underlying principles—as outlined in the U.S. Government Accountability Office’s Green Book—significant to our audit objectives. Any internal control deficiencies we found are discussed in this report. Because our audit was limited to the internal control components and underlying principles deemed significant to our audit objectives, it may not have disclosed all internal control deficiencies that may have existed at the time of the audit.

At the beginning of our audit, as of September 6, 2019, the EPA had 1,261 open regional tribal grants totaling \$521,568,905. We analyzed the universe of open tribal grants provided by the Office of Grants and Debarment and categorized the regions based on the total amount of open grants awarded. We selected Region 1 and Region 5 grants for review because the grants these regions awarded were a lower dollar amount than the grants awarded by the other regions. We did not review grants that were involved in an OIG Hotline complaint, part of an open OIG investigation, awarded through the Superfund program, or considered high risk. From the remaining grants, we selected tribes with PPG grants where most of the awarded amount was expended. As shown in Table 1, we reviewed grants awarded to two tribes.

Table 1: PPG grants selected

Region	Awarded amount	Obligation amount ^a	Percent drawdown	Location	Tribe
1	\$815,560	\$702,560	86%	Maine	Passamaquoddy
5	1,124,030	1,070,090	95%	Minnesota	Fond du Lac Band
Total	\$1,939,590	\$1,772,650			

Source: OIG analysis of active Office of Grants and Debarment tribal grants. (EPA OIG table)

^a For federal awards, payments made against the grant during the grant period.

To address our objectives, we reviewed relevant laws, regulations, procedures, and guidance. We reviewed electronic files for the grants selected in the EPA’s Integrated Grants Management System. We also reviewed hard copy grant files from Regions 1 and 5. We analyzed award documents, work plans, progress reports, and other relevant documents. We consulted with EPA grant specialists and project officers regarding questions that arose based on our grant file reviews

¹ An entity designs, implements, and operates internal controls to achieve its objectives related to operations, reporting, and compliance. The U.S. Government Accountability Office sets internal control standards for federal entities in GAO-14-704G, *Standards for Internal Control in the Federal Government* (also known as the “Green Book”), issued September 10, 2014.

and site visits to the Tribes. We interviewed the Tribes' grants management and staff.

Prior Reports

We reviewed the following EPA OIG reports for background purposes:

- Report No. [2007-4-00078](#), *Cheyenne River Sioux Tribe Outlays Reported Under Five EPA Assistance Agreements*, issued September 24, 2007. The Tribe's internal controls were not sufficient to ensure that the outlays reported complied with federal cost principles, regulations, and grant conditions. In some instances, the Tribe also was not able to demonstrate that it had completed all work under the agreements and achieved the intended results of the agreements. In March 2020, the Agency indicated that "all work under the agreements in question from the 2007 audit were completed." The OIG has not independently verified this. In addition, to close the audit, the Agency executed an exception from the "provisions in 40 CFR Part 31, 40 CFR Part 35, Subpart O, and Office of the Management and Budget Circular A-87 codified at 2 CFR 225 to resolve questioned costs."
- Report No. [15-2-0165](#), *Walker River Paiute Tribe Needs to Improve Its Internal Controls to Comply with Federal Regulations*, issued June 11, 2015. Walker River Paiute Tribe's accounting system and written policies and procedures complied with federal regulations. Testing disclosed multiple instances where the Tribe's actual practices did not comply with federal regulations related to personnel costs, indirect costs, and in-kind contributions. The audit also found incomplete grant tasks remaining from an EPA General Assistance Program grant from fiscal years 2008 through 2012. The Agency indicated that all corrective actions were completed subsequent to the issuance of the report.
- Report No. [15-P-0166](#), *Improved Oversight of EPA's Grant Monitoring Program Will Decrease the Risk of Improper Payments*, issued June 11, 2015. Advanced administrative monitoring oversight was not always effective for ensuring grant recipient costs are allowable, allocable, and reasonable. EPA guidance and reference materials do not clearly state that advance administrative monitoring reviews are to assess whether the reviewed costs meet the requirements of applicable federal cost principles. The Agency indicated that all corrective actions were completed subsequent to the issuance of the report.

Results

Work plans from Region 1's Passamaquoddy Tribe and Region 5's Fond du Lac Band Tribe lacked adequate details on the supply-related components, such as

laptops and computer services, or funding amounts. Insufficiently detailed work plans in Regions 1 and 5 put grants at risk for unsupported costs. Without adequate work plans, there is limited assurance that the costs charged to the grants are in accordance with the terms and conditions of the grants.

Our audit of the costs claimed under the tribal grants identified \$22,868 in questioned costs. We identified \$16,533 in questioned costs for the Region 1 Passamaquoddy Tribe grant and \$6,335 in questioned costs for the Region 5 Fond du Lac Band Tribe grant.

Work Plans Lacked Information Needed for Evaluation of Grant Performance

The grant work plans from the Passamaquoddy Tribe in Region 1 and the Fond du Lac Band Tribe in Region 5 lacked sufficient detail, which negatively impacts the Agency's ability to fully evaluate whether the intent and the performance of the grants have been achieved.

The *EPA Assistance Agreement Almanac* requires that applicants for EPA nonconstruction grants submit:

- A detailed budget narrative that describes proposed costs by object class, such as personnel and travel, and provides detailed information supporting these costs.
- A work plan narrative that justifies the financial, facility, equipment, and other resource needs requested in the application and provides technical and other information required by program-specific regulations and requirements.

The Almanac also requires that program offices conduct cost reviews to assess whether proposed costs are allowable, reasonable, and allocable. Project officers must conduct cost reviews of all competitive and noncompetitive applications. The offices that manage grants in the regions and headquarters have the final responsibility for ensuring that budget information is complete and that costs are consistent with federal cost principles and applicable federal and EPA policies, including whether costs are allowable, reasonable, and allocable.

The work plan submitted for the Passamaquoddy Tribe lacked the required details for supply-related components. In accordance with 40 C.F.R. § 35.507, items such as supplies to be purchased under grants must include the specific work plan components to be funded under the grant. However, the Passamaquoddy Tribe did not specify laptops, computers, and cell phones, along with related charges, as expenses in the work plan. The Tribe explained that it categorized related cell phone charges as utilities and categorized laptops and computers as office supplies. The Tribe stated that Region 1 did not require these details. The Tribe's

environmental director did say, however, that the Region 1 project officer said that in future applications, the expenses would need to be listed in the work plan according to the regulatory requirements. Yet, our analysis of the Tribe's subsequent grant application, which covers fiscal years 2019–2021, noted that the work plan again lacked details for supply-related components.

The Fond du Lac Band Tribe's work plan did not contain estimated funding amounts for any of the work plan components. According to the Region 5 project officer, regional staff had not been enforcing the regulatory requirements. Also, as far as the Region 5 project officer knew, those work plans are what the tribes in Region 5 had been accustomed to submitting.

The work plans submitted by both Tribes did not include all the components required by 40 C.F.R. § 35.507. In addition, neither region fully adhered to the Almanac when conducting cost reviews of grantee applications. As a result, the regions cannot determine whether proposed costs are allowable, allocable, and reasonable.

Questioned Costs

The Passamaquoddy Tribe charged the grant \$16,533 worth of items that were not specified in the approved budget and work plan, such as meals, cell phones, computer equipment, and supplies. The Fond du Lac Band Tribe did not have adequate supporting documentation for some expenditures that were charged to the grant, such as contractual services and fuel costs. Those expenditures totaled \$4,297. We also questioned two invoices totaling \$2,038 incurred for previous grant expenditures under the PPG period from April 1, 2015 through March 31, 2017, but charged to the PPG period from April 1, 2017 through September 30, 2019.

Conclusions

We found that Region 1 and Region 5 need to improve their review of work plans for the Passamaquoddy Tribe and the Fond du Lac Band Tribe as well as require the Tribes to provide detailed work plans. Without adequate work plans and adherence to federal requirements, regional tribal grants are at risk, and the regions have limited assurance that costs charged to the grants are reasonable, allowable, and allocable.

Recommendations

We recommend that the Region 1 regional administrator:

1. Determine the allowability of the \$16,533 in unsupported costs claimed by the Passamaquoddy Tribe and recover costs as appropriate.

2. For future grants, require the Passamaquoddy Tribe to submit detailed work plans that include estimated funding amounts for each work plan component.

We recommend that the Region 5 regional administrator:

3. Determine the allowability of the \$6,335 in unsupported and ineligible costs claimed by Fond du Lac Band Tribe and recover costs as appropriate.
4. For future grants, require the Fond du Lac Band Tribe to submit detailed work plans that include estimated funding amounts for each work plan component.

Agency Response and OIG Assessment

Regions 1 and 5 concurred with our recommendations and provided acceptable planned corrective actions and estimated completion dates.

Region 1 Response

For Recommendation 1, Region 1 agreed to request and review “additional documentation from the tribe to support the charges cited in the draft report ... to determine whether the charges were allowable, allocable, and reasonable in accordance with applicable laws, regulations, and grant terms and conditions, and initiate cost recovery if deemed appropriate.” The OIG agrees with the proposed corrective actions, and Recommendation 1 is resolved with corrective actions pending.

For Recommendation 2, Region 1 agreed to “continue to assist tribes in improving the level of detail provided within an approved workplan while also allowing for flexibilities outlined in grant regulations ... provide a targeted training session for tribes to improve their workplan submissions, with a specific focus on alignment of workplan components with budgeted costs.” The OIG agrees with the proposed corrective actions, and Recommendation 2 is resolved with corrective actions pending. Region 1’s full response is in Appendix B.

Region 5 Response

Our draft report identified \$11,308 in unsupported costs claimed by the Fond du Lac Band Tribe. In our draft report, we recommended that Region 5 determine the allowability of these unsupported costs and recover costs as appropriate. Based on the Agency’s response and our subsequent discussions with Region 5, we agree that \$4,973 of the costs questioned in our draft report were supported or eligible. Thus, we recommend that Region 5 determine the allowability of \$6,335 in questioned costs and recover costs as appropriate. Region 5 concurred with these

amounts and plans to recover these costs by March 31, 2021. The OIG agrees with the proposed corrective actions, and Recommendation 3 is resolved with corrective actions pending.

For Recommendation 4, Region 5 stated:

In addition to ensuring workplan requirements are met for Fond du Lac, Region 5's Tribal & Multi-media Programs Office is committed to regularly educating all grantees on grant rules and requirements and had planned to provide a training specifically on workplan component costs in March 2020. This training was cancelled due to COVID-19 but will be rescheduled in FY2021.

The OIG agrees with the proposed corrective actions, and Recommendation 4 is resolved with corrective actions pending. Region 5's full response is in Appendix C.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	7	Determine the allowability of the \$16,533 in unsupported costs claimed by the Passamaquoddy Tribe and recover costs as appropriate.	R	Regional Administrator Region 1	12/30/20	\$17
2	8	For future grants, require the Passamaquoddy Tribe to submit detailed work plans that include estimated funding amounts for each work plan component.	R	Regional Administrator Region 1	2/28/21	
3	8	Determine the allowability of the \$6,335 in unsupported and ineligible costs claimed by the Fond du Lac Band Tribe and recover costs as appropriate.	R	Regional Administrator Region 5	3/31/21	\$6
4	8	For future grants, require the Fond du Lac Band Tribe to submit detailed work plans that include estimated funding amounts for each work plan component.	R	Regional Administrator Region 5	3/31/21	

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

Internal Control Assessment

This table identifies which internal control components and underlying principles are significant to our audit objectives.

Which internal control <u>components</u> are significant to the audit objectives?		Which internal control <u>principles</u> are significant to the audit objectives?	
	Control Environment The foundation for an internal control system. It provides the discipline and structure to help an entity achieve its objectives.		1. The oversight body and management should demonstrate a commitment to integrity and ethical values.
			2. The oversight body should oversee the entity's internal control system.
			3. Management should establish an organizational structure, assign responsibilities, and delegate authority to achieve the entity's objectives.
			4. Management should demonstrate a commitment to recruit, develop, and retain competent individuals.
			5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.
X	Risk Assessment Management assesses the risks facing the entity as it seeks to achieve its objectives. This assessment provides the basis for developing appropriate risk responses.		6. Management should define objectives clearly to enable the identification of risks and define risk tolerances.
		X	7. Management should identify, analyze, and respond to risks related to achieving the defined objectives.
		X	8. Management should consider the potential for fraud when identifying, analyzing, and responding to risks.
X	Control Activities The actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system, which includes the entity's information system.		9. Management should identify, analyze, and respond to significant changes that could impact the internal control system.
		X	10. Management should design control activities to achieve objectives and respond to risks.
		X	11. Management should design the entity's information system and related control activities to achieve objectives and respond to risks.
	Information and Communication The quality information management and personnel communicate and use to support the internal control system.	X	12. Management should implement control activities through policies.
			13. Management should use quality information to achieve the entity's objectives.
			14. Management should internally communicate the necessary quality information to achieve the entity's objectives.
X	Monitoring Activities management establishes and operates to assess the quality of performance over time and promptly resolve the findings of audits and other reviews.		15. Management should externally communicate the necessary quality information to achieve the entity's objectives.
		X	16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.
		X	17. Management should remediate identified internal control deficiencies on a timely basis.

Source: Based on internal control components and principles outlined in GAO-14-704G, *Standards for Internal Control in the Federal Government* (also known as the "Green Book"), issued September 10, 2014. (EPA OIG table)

Region 1 Response to Draft Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION I
 5 POST OFFICE SQUARE, SUITE 100
 BOSTON, MASSACHUSETTS 02109-3912

SUBJECT: Region 1 Response to Draft Report: *Regions 1 and 5 Need to Require Tribes to Submit More Detailed Workplans*
 OIG Project No. OA&E-FY19-0314 |

FROM: Dennis Deziel, Region 1 Regional Administrator

TO: Michael D. Davis, Director, Efficiency Directorate, Office of Audit and Evaluation

DENNIS
 DEZIEL

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 Date: 2020.08.25
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Region 1 is in receipt of the Office of Inspector General's draft report: *Regions 1 and 5 Need to Require Tribes to Submit More Detailed Workplans*. Prior to the issuance of this draft report, representatives from the Office of Inspector General conducted a performance audit of a Passamaquoddy Tribe – Pleasant Point partnership performance grant (PPG15 – BG99107315) in 2019-2020. The draft report contains the following summary findings and recommendations pertaining to this grant:

- *The Passamaquoddy Tribe charged the grant for items such as meals, cell phones, computer equipment and supplies, totaling \$ 16,533 which were not specified in the approved budget and work plan. Determine the allowability of the \$16,533 in unsupported costs claimed by the Passamaquoddy Tribe and recover costs as appropriate.*
- *Require the Passamaquoddy Tribe to submit detailed work plans, which include estimated funding amounts for each work plan component.*

Region 1 concurs with the findings in the OIG's draft report and proposes a phased approach of corrective actions to address the OIG's recommendations as follows.

Recommendation 1#: Determine the allowability of \$16,533 in unsupported costs claimed by the Passamaquoddy Tribe and recover costs as appropriate.

Due to travel restrictions and lack of physical access to tribal records related to the current COVID-19 situation, Region 1 proposes the following approach:

- (1) Request additional documentation from the tribe to support the charges cited in the draft report and provide the tribe with a date by which the supporting information is to be

submitted. **Completion date:**
September 30, 2020

(2) Conduct an initial review of the submitted information, and if necessary, conduct a site visit to the tribe to jointly review the tribal files and obtain additional information as necessary. **Completion date:**
November 30, 2020

(3) Conduct a final review of the information obtained, determine whether the charges were allowable, allocable, and reasonable in accordance with applicable laws, regulations, and grant terms and conditions, and initiate cost recovery if deemed appropriate.
Completion date: December 31, 2020

Proposed Completion Date for Recommendation #1: December 31, 2020.

OIG RESPONSE 1: Region 1 agreed with Recommendation 1 and provided acceptable corrective actions and estimated completion dates. We consider this recommendation resolved with corrective actions pending.

Recommendation 2#: Require the Passamaquoddy Tribe to submit detailed work plans, which include estimated funding amounts for each work plan component.

Region 1 is committed to conducting additional training for all grantees to provide guidance on developing detailed and approvable workplans. Region 1 hosted a training webinar for all Region 1 tribes on April 23, 2020 to provide instruction on the level of detail needed within an acceptable workplan.

Additionally, EPA hosted a draft workplan review session for the Passamaquoddy Tribe – Pleasant Point on May 21, 2020 to provide feedback on the Tribe’s draft workplan prior to final submission. Staff from Passamaquoddy Tribe - Pleasant Point participated in both the training webinar and the workplan review session and have been working in partnership with EPA staff to negotiate the most recent workplan.

Region 1 will continue to assist tribes in improving the level of detail provided within an approved workplan while also allowing for flexibilities outlined in grant regulations, guidance and the EPA strategic plan. Region 1 plans to provide a targeted training session for tribes to improve their workplan submissions, with a specific focus on alignment of workplan components with budgeted costs.

OIG RESPONSE 2: Region 1 agreed with Recommendation 2 and provided an acceptable corrective action and estimated completion date. We consider this recommendation resolved with corrective actions pending.

Proposed Completion Date for Recommendation #2: February 28, 2021.

Please inform Region 1 if the proposed completion dates are acceptable to the Office of Inspector General. If you have any questions concerning this memorandum, please contact Valerie Bataille, Region 1 Audit Follow-up Coordinator, of my staff at 617-918-1674.

cc: Arthur Johnson, Director, Mission
Support Division Fred Weeks, Deputy
Director, Mission Support Division
Cheryl Scott, Grants Management Officer
Michael Stover, Indian Program Manager
Valerie Bataille, Audit Follow-Up Coordinator/ Management &
Program Analyst Diane Culhane, Grants Specialist
Sandra Brownell, Chief, Grants and Program Support Branch
Cassandra Schwartz, Project Officer, Passamaquoddy Tribe – Pleasant Point

Region 5 Response to Draft Report

MEMORANDUM

SUBJECT: Response to Office of Inspector General’s Draft Report: *Regions 1 and 5 Need to Require Tribes to Submit More Detailed Workplans.*

Project No. OA&E-FY19-0314

FROM: Kurt A. Thiede
Regional Administrator
Region 5

**KURT
THIEDE** Digitally signed
by KURT THIEDE
Date: 2020.08.25
16:24:45 -05'00'

TO: Michael D. Davis, Director
Efficiency Directorate
Office of Audit and Evaluation

Thank you for the opportunity to respond to the findings and recommendations in the draft audit evaluation report titled “*Regions 1 and 5 Need to Require Tribes to Submit More Detailed Workplans,*” transmitted on July 14, 2020. This Memorandum covers portions of the report specific to Region 5 and the Fond du Lac Tribe. As requested, it addresses factual accuracy of the draft report; and responds to each finding and recommendation that includes a timeframe for action.

FACTUAL ACCURACY

1. At a Glance Page, What We Found, first paragraph: We do not fully agree with the accuracy of the statement that “the workplans from these Tribes lacked adequate details on the work to be performed, time frame for completion, and funding amounts.” Although we agree that the funding amounts for each component were missing, we believe that the details for the work to be performed and the time frame for completion were adequately detailed in the Fond du Lac Performance Partnership Grant workplan.
2. Page 5, Results: We do not fully agree with the accuracy of the statement that “the workplans from these Tribes lacked adequate details on the work to be performed, time frame for completion, and funding amounts.” Although we agree that the funding amounts for each component were missing, we believe that the details for the work to be performed and the time frame for completion were adequately detailed in the Fond du Lac Performance Partnership Grant workplan.
3. Page 6, third paragraph: “The Fond Du Lac Tribe’s work plan lacked detail in all the components because Region 5 did not require it.” We recognize that the regional Performance Partnership Grant (PPG) workplan template did not include a column or

row to enter workplan component costs but, all other required details are included in the regional PPG template that is shared with tribal governments.

4. Page 6, fourth paragraph: “In addition, neither region adhered to the Almanac when conducting cost reviews of grantee applications.” We do not agree with this statement. A cost review was conducted by the Project Officer for the Fond du Lac grant application. They adhered to the EPA Assistance Almanac requirements detailed at the bottom of page five of the report, including utilization of the budget narrative.

OIG RESPONSE 3: We revised the final report to indicate that the Fond du Lac Band Tribe’s work plan did not contain estimated funding amounts for any of the work plan components.

5. The format in which vendors submitted invoices of certain costs was questioned, such as having an invoice submitted via email. EPA does not review and approve each transaction that a grantee makes, so we rely on them to follow their own internal policies and procedures regarding procurement and payment for goods and services. We have reviewed the supporting documentation for the invoices in question and believe that the tribal government followed their internal procedures to verify the validity of the invoices. We believe that the invoice in question does not lack documentation to prevent a reviewer from discerning whether a payment was proper as found in:

2 CFR §200.53 Improper payment.

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

OIG RESPONSE 4: We recognize that the electronic form of records is acceptable. However, as indicated in OIG Response 7, there was a lack of adequate information contained in the electronic invoice.

RESPONSE TO SPECIFIC REPORT RECOMMENDATIONS

Number	Recommendation	Intended Corrective Action(s)	Estimated Completion & Contacts
1	Determine the allowability of the \$11,309 in unsupported costs claimed by Fond Du Lac Tribe and recover costs as appropriate.	<p>(a) We concur with the following cost recovery recommendations: \$2,037 from 9/16/16 Invoice charged on 6/1/17.</p> <p>(b) We do not concur with the following cost recovery recommendation: \$9,271.47 of expenditures classified as “entertainment costs” (as explained in Note 1 below) and “contractual services” (as explained in Note 2 below).</p>	<p>Complete by end of 1st Quarter FY21: <i>Request</i> reimbursement of \$2,037 costs</p> <p>Complete by end of 2nd quarter FY21: <i>Recovery</i> of \$2,037 costs</p>
2	Require the Fond du Lac Tribe to submit detailed work plans, which include estimated funding amounts for each work plan component.	We concur with this recommendation. (And see Note 3 below.)	Complete by end of 2 nd Quarter FY21: Inclusion of workplan component costs in workplan.

OIG RESPONSE 5: We agree with the proposed corrective actions to recover the \$2,037 in costs by March 31, 2021.

Note 1: Some costs have been classified as “entertainment costs”. The Region, in consultation with the Office of Regional Counsel, classified the costs of traditional tribal dancers and drummers as “education and outreach” costs. These activities occurred in conjunction with a conference opening ceremony and had a spiritual and cultural component, which we do not classify as “entertainment.” The drummers, dancers, and keynote speaker served to educate the conference attendees about the cultural diversity and history of the Tribe along with the value and meaning of environmental protection to the Tribe. The invoices associated with the costs described above contained acceptable information to allow the payments as they did not fit the description in 2 CFR §200.53 of “improper payment.”

OIG RESPONSE 6: Our review of the work plan recognized that the activity and costs were approved by the regional counsel. The invoice indicated those that were paid by check and those that were paid in cash. We therefore concur with Region 5 that the supporting documentation is adequate. We revised our report to delete the \$4,700 cost associated with these activities from our total questioned costs.

Note 2: Although the invoice related to the questioned “Contractual Costs,” was contained in the body of an email and not on official letterhead, it still contained the basic necessary elements to satisfy Federal regulations for receipt of award-related information. This position is consistent with 2 CFR 200.335 - Methods for collection, transmission & storage information, which states in part:

In accordance with the May 2013 Executive Order on Making Open & Machine Readable the New Default for Government Information, the Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies.

OIG RESPONSE 7: We reviewed the information provided by Region 5 and 2 C.F.R. § 200.335, which states that the electronic form of records is acceptable. The invoice, however, did not contain a company letterhead, business address, or contact information. Additionally, the invoice identified per diem for two people but lacked details, such as names and locations, which makes it difficult to verify the accuracy of the per diem charge. At the exit conference on September 4, 2020, the Region agreed with our position and stated that it plans to request and recover the \$4,205 in unsupported costs associated with these contractual services by March 31, 2021. We agree with the proposed corrective actions.

Note 3. In addition to ensuring workplan requirements are met for Fond du Lac, Region 5’s Tribal & Multi-media Programs Office is committed to regularly educating all grantees on grant rules and requirements and had planned to provide a training specifically on workplan component costs in March 2020. This training was cancelled due to COVID-19 but will be rescheduled in FY2021.

OIG RESPONSE 8: Region 5 agreed with Recommendation 4 and provided an acceptable corrective action and estimated completion date. We consider this recommendation resolved with corrective action pending.

We appreciate the efforts of the audit team and consideration of our comments on the initial draft of this report. If you have any questions regarding this response, please contact Alan Walts,

Director, Tribal & Multi-media Programs Office at (312) 353-8894 or walts.alan@epa.gov,
William Massie, Chief, Acquisition and Assistance Branch at (312) 886-5855 or
massie.william@epa.gov or Farah Martinez, Region 5 Audit Follow-up Coordinator at (312)
886-6142 or martinez.farah@epa.gov.

Cc:

Debra Coffel, Office of Inspector General
Juliana Ilieva, Office of Inspector General
Heather Layne, Office of Inspector General
Cara Lindsey, Office of Inspector General
Detravion White, Office of Inspector General

Subsequent Information Provided by Region 5

NOTE: Region 5 provided the following information to us via email on September 2, 2020, and confirmed at our exit conference on September 4, 2020, that the information should be included as part of its response:

1) July 2018 Invoice submitted by employee for fuel expenses did not have receipt attached for fuel purchase (Unsupported \$92.08)

Action: EPA agrees that this invoice was not properly supported by a copy of the receipt that reflected the entire purchase cited in the accounting report. The remaining \$92.08 will be included in our request to recover costs.

OIG RESPONSE 9: We agree with the proposed corrective actions to recover the \$92.08 of the \$9,271.47 in questioned costs. At our September 4, 2020 meeting, Region 5 provided a milestone date of March 31, 2021, for the recovery of costs. We agree with the proposed corrective actions.

2) February 2019 Online invoice for \$274.39 submitted by employee for 2018 Chevrolet Suburban accessories (Ineligible \$274.39)

Action: EPA does not agree that the costs associated with this invoice are ineligible. The vehicle is used in the day to day implementation of the activities outlined in the workplan. The work is often completed in the harsh weather conditions found in the upper midwest. The work conducted involves employees moving in and out of waterways, contaminated sites, and other terrain. The purchase and use of floor liners and cargo liners is a low cost solution to address not only the health and safety of the staff operating the vehicles, but it increases the longevity of the vehicles used by the department and the equipment loaded into the truck bed. Based on this information, the Project Officer believes the costs are eligible.

OIG RESPONSE 10: We find Region 5's explanation for these costs reasonable and in support of the claimed costs. We revised our report to delete the \$274.39 associated with this invoice from our total questioned costs.

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