

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**THE THREE AFFILIATED TRIBES
IMPROPERLY ADMINISTERED
LOW-INCOME HOME ENERGY
ASSISTANCE PROGRAM FUNDS
FOR FISCAL YEARS
2010 THROUGH 2014**

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July 2017
A-07-16-04230

Office of Inspector General

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EXECUTIVE SUMMARY

The Three Affiliated Tribes did not comply with Federal laws, regulations, and guidance for the use of \$1.2 million in Low-Income Home Energy Assistance Program funds for fiscal years 2010 through 2014.

WHY WE DID THIS REVIEW

The Three Affiliated Tribes (TAT) is a federally recognized Native American tribe, located in North Dakota, that receives more than \$25 million each year in grant funds from the U.S. Department of Health and Human Services (HHS). TAT receives grant funds from several sources, including the Low-Income Home Energy Assistance Program (LIHEAP). HHS awards LIHEAP block grants to States, territories, Indian tribes, and tribal organizations based on the proportion of low-income households and total appropriations for the program. Grantees use LIHEAP grant funds to provide energy assistance payments to low-income households.

This review was done as part of a grant fraud initiative taken on by HHS's Office of Inspector General. The initiative focused on Indian Country grantees that received HHS grants.

The objective of this review was to determine whether TAT administered LIHEAP grant funds in accordance with Federal laws, regulations, and guidance for Federal fiscal years (FYs) 2010 through 2014.

BACKGROUND

Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA) established the LIHEAP to assist low-income households, particularly those with the lowest incomes that pay a high proportion of household income for home energy, in meeting their immediate home energy needs. States, territories, Indian tribes, and tribal organizations may apply to HHS for LIHEAP block grants. Grantees are to use LIHEAP funds to provide assistance to low-income households in meeting their home energy costs, to intervene in crisis situations, and to provide low-cost residential weatherization and other cost-effective energy-related home repairs (OBRA § 2605(b)(1)). Within HHS, the Administration for Children and Families (ACF), Office of Community Service, administers the LIHEAP.

ACF awarded TAT a total of \$5,722,752 in LIHEAP grant funds for FYs 2010 through 2014.

WHAT WE FOUND

TAT did not administer \$1,221,425 of LIHEAP grant funds for FYs 2010 through 2014 in compliance with Federal laws, regulations, and guidance. Specifically:

- TAT paid three energy suppliers a total of \$657,564 in funds that were not used to provide home energy assistance. These funds should have been repaid to the Federal

Government. Instead, the funds were improperly held as credit balances in individual beneficiary accounts and in separate accounts maintained by each of the energy suppliers.

- TAT did not refund to the Federal Government unobligated funds totaling \$404,048. These funds were not obligated within the 2-year grant period and exceeded the allowed carryover limits.
- TAT inaccurately reported the amount of unobligated grant funds for FYs 2011 through 2013 in Carryover and Re-allotment Reports (Carryover Reports) and Federal Financial Reports (FFRs) that it submitted to ACF, and as a result did not refund unobligated funds totaling \$121,995.
- TAT did not always submit complete and timely FFRs and Carryover Reports in accordance with Federal requirements.
- TAT made benefit payments totaling \$21,147 to 10 beneficiaries who were ineligible because their unreported income, including royalty income, exceeded their eligibility limits. TAT did not provide a definition of income in its LIHEAP plan or an operation manual (i.e., its LIHEAP plans, its formal policies and procedures, or both), as suggested by section D of the Manual.
- TAT made \$13,131 in payments for crisis assistance for lodging that were unsupported or otherwise unallowable.
- TAT paid \$3,540 for energy assistance on behalf of two beneficiaries who were determined eligible on the basis of incorrect income calculations. Moreover, TAT did not obtain sufficient documentation to properly determine the eligibility of 11 beneficiaries for LIHEAP benefits.

TAT did not administer LIHEAP grant funds totaling \$1,221,425 in accordance with Federal laws, regulations, and guidance for FYs 2010 through 2014 because TAT did not have sufficient internal controls in place to prevent the errors and because TAT staff circumvented existing internal controls. These funds could have been used to provide additional benefits to eligible LIHEAP beneficiaries.

WHAT WE RECOMMEND

We recommend that TAT:

- refund to the Federal Government \$1,221,425 for unallowable or unsupported grant funds;
- develop and implement policies and procedures to ensure that energy suppliers are paid only for deliveries of propane that actually take place and that the suppliers refund all unused LIHEAP funds to TAT so that excess funds can be used to provide assistance for

additional benefits and for other purposes, such as crisis situations and residential weatherization, as described in ACF's *LIHEAP Tribal Manual*;

- develop and implement policies and procedures to compare budgeted grant funds with expended grant funds, thereby ensuring that unobligated funds do not exceed the carryover limit at fiscal yearends and any amounts unobligated at the end of the grant period are repaid;
- develop and implement controls to ensure that Carryover Reports and FFRs accurately report the amount of unobligated funds and are properly completed and timely submitted to ACF;
- formalize its definition of income in ways that conform to Federal requirements and guidelines, include this definition in its LIHEAP plans and in its formal policies and procedures, and use this definition when determining eligibility for LIHEAP assistance;
- develop and implement controls to ensure that all applicants for LIHEAP assistance report all wage, royalty, and other income in their applications, and that household income is properly calculated in determining eligibility;
- develop and implement policies and procedures directing staff to maintain complete applications and to maintain receipts and invoices to support payments made to vendors for lodging;
- train staff to understand that applicants who are homeless do not qualify for crisis assistance for lodging; and
- develop and implement controls to ensure that applicants provide sufficient documentation to enable staff to verify the identities of household members.

AUDITEE COMMENTS AND OUR RESPONSE

In written comments on our draft report, TAT did not directly agree or disagree with our recommendations, but it described corrective actions that it had taken or planned to take for all but the first recommendation. TAT also provided additional documentation for some policies and procedures that it said it had recently developed. For the first recommendation, TAT said that its entire staff had changed and asked that we provide specific documentation supporting our recommendation that the tribe refund \$1,221,425 to the Federal Government.

After reviewing TAT's comments and the additional documentation that TAT provided, we maintain that all of our findings and the associated recommendations remain valid. We have provided TAT with specific detailed documentation supporting the findings associated with our recommended \$1,221,425 refund and will continue to work with the tribe to help its staff understand the errors and controls weaknesses that we identified.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Three Affiliated Tribes (TAT) is a federally recognized Native American tribe, located in North Dakota, that receives more than \$25 million each year in grant funds from the U.S. Department of Health and Human Services (HHS). TAT receives grant funds from several sources, including the Low-Income Home Energy Assistance Program (LIHEAP). HHS awards LIHEAP block grants to States, territories, Indian tribes, and tribal organizations based on the proportion of low-income households and total appropriations for the program. Grantees use LIHEAP grant funds to provide energy assistance payments to low-income households.

This review was done as part of a grant fraud initiative taken on by HHS's Office of Inspector General. The initiative focused on Indian Country grantees that received HHS grants.

OBJECTIVE

Our objective was to determine whether TAT administered LIHEAP grant funds in accordance with Federal laws, regulations, and guidance for Federal fiscal years (FYs) 2010 through 2014.

BACKGROUND

Administration for Children and Families

Within HHS, the Administration for Children and Families (ACF) is responsible for promoting the economic and social well-being of children, families, and communities. ACF carries out this responsibility through internal activities and through grants and contracts to State, county, city, and tribal governments, as well as public and private local agencies. Within ACF, the Office of Community Service administers the LIHEAP.

Low-Income Home Energy Assistance Program

Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA) established the LIHEAP to assist low-income households, particularly those with the lowest incomes that pay a high proportion of household income for home energy, in meeting their immediate home energy needs.¹ States, territories, Indian tribes, and tribal organizations may apply to HHS for LIHEAP block grants.

Grantees are to use LIHEAP funds to provide assistance to low-income households in meeting their home energy costs, to intervene in crisis situations, and to provide low-cost residential weatherization and other cost-effective energy-related home repairs (OBRA § 2605(b)(1)) and the Manual, section A). LIHEAP grantees must also establish fiscal control, accounting procedures, and procedures for monitoring the disbursement and accounting of Federal LIHEAP funds (OBRA § 2605(b)(10)) and the Manual, section A. Further, a LIHEAP grantee must repay

¹ The Omnibus Budget Reconciliation Act of 1981, P.L. No. 97-35 (enacted Aug. 13, 1981), section 2602(a), and ACF's *LIHEAP Tribal Manual* (the Manual), section A.

to the Federal Government amounts found not to have been expended in accordance with program requirements (OBRA § 2605(g)).

Grantees seeking LIHEAP funds must submit an application to ACF for each FY. ACF awards LIHEAP block grants with 2-year grant periods. Federal regulations and implementing guidance from ACF specify the conditions under which unused grant funds may be carried over from one FY to the next.

A grant application, also known as a Detailed Model Plan, describes how a prospective grantee proposes to administer grant funds to further its program objectives.² Beginning in FY 2011, prospective grantees were required to supplement their plans with LIHEAP Program Integrity Assessments, in which the prospective grantees specifically addressed how their LIHEAP plans would cover key elements of an effective fraud prevention system.

LIHEAP grantees report the obligation of LIHEAP grant funds to ACF through annual financial reports. These reports include the Federal Financial Report (FFR), which deals with the obligation of funds, and the Carryover and Re-allotment Report (Carryover Report), which involves the carryover of grant funds from one FY to the next (45 CFR § 96.81(b) and the Manual, section J). Implementing guidance from ACF specifies that the carryover of grant funds requires submission of another FFR.

Three Affiliated Tribes

TAT is a federally recognized Native American tribe, comprising the Mandan, Hidatsa, and Arikara Tribes, that is located on the Fort Berthold Indian Reservation in New Town, North Dakota. To be recognized as a member of TAT, an individual must be, by blood, at least a one-eighth descendant of the Hidatsa, Mandan, or Arikara Tribes. For calendar year (CY) 2015, TAT's Office of Tribal Enrollment estimated its membership at 14,823 people.

TAT's governing body, known as the Tribal Business Council, comprises six representatives and a chairman. As a governmental entity, TAT administers many governmental, economic, health, welfare, and educational programs, including the LIHEAP.

To determine amounts of energy assistance payments to households, TAT uses a matrix that calculates the benefit amount on the basis of the number of people in each household, the total amount of household income reported in that household's LIHEAP application, and the type of fuel assistance being provided (propane, fuel oil, electricity). Depending on these factors, a percentage of a household's annual energy costs, as estimated by the tribe, is awarded as the benefit amount under the LIHEAP. During our audit period, TAT's LIHEAP award formula allotted households between 40 and 75 percent of their annual energy costs. Federal LIHEAP regulations do not prohibit a tribe from awarding households 100 percent of their annual energy costs, provided that the tribe has not used all of its LIHEAP grant funds. The Manual, section D, "Policy Decisions," states that if a tribe has excess LIHEAP funds, it may allot additional

² A Detailed Model Plan is due from each grantee every 3 FYs during the period of the grant award. In alternate years, an Abbreviated Model Plan may be submitted. For this report, we will use the term "LIHEAP plan" to refer to the Detailed Model Plan, the Abbreviated Model Plan, or both.

benefits to households or use the funds for other purposes, such as crisis situations or residential weatherization. Of the Federal grant funding that it receives for the LIHEAP, TAT specifies in its LIHEAP plan that it will use 70 percent for heating assistance, 10 percent for crisis assistance, and 10 percent for administrative costs; 10 percent is carried over to the following FY.³

To execute the LIHEAP block grant, TAT established business relationships with home energy suppliers (energy suppliers) for the delivery of propane fuel to program beneficiaries. TAT paid the energy suppliers directly on behalf of LIHEAP beneficiaries under the provisions of the OBRA, section 2605(b)(7). This statutory provision allows LIHEAP grantees such as TAT to pay energy suppliers directly, as long as those suppliers charge each eligible household the difference between the actual cost of home energy and the amount that the grantee paid for home energy assistance.

HOW WE CONDUCTED THIS REVIEW

ACF awarded TAT a total of \$5,722,752 in LIHEAP grant funds for FYs 2010 through 2014. We focused our review on the following areas: (1) FFRs and Carryover Reports submitted to ACF, (2) crisis payments made for lodging, (3) credit balances in accounts maintained by three energy suppliers, and (4) beneficiary eligibility. The periods we reviewed for each area were not the same. Specifically, we reviewed:

- TAT's FFRs and Carryover Reports and associated documentation submitted to ACF for FYs 2010 through 2013;
- documentation related to crisis payments made for lodging and to credit balances in accounts that the three energy suppliers maintained for FYs 2011 through 2013;
- eligibility of a judgmentally selected sample of 45 beneficiaries for FYs 2011 through 2013; and
- eligibility of 12 beneficiaries who received the largest amount of royalty payments (including oil royalties) during FYs 2011 through 2014. We reviewed \$31,584 in total LIHEAP payments made for the selected 12 beneficiaries in FYs 2012 through 2014 (none of these 12 beneficiaries were part of the judgmentally selected sample of 45 beneficiaries mentioned above).

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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology.

³ As discussed below in "Unobligated Grant Funds Inaccurately Reported," statutory provisions exist, with restrictions, to permit a 10-percent carryover of grant funds.

FINDINGS

TAT did not administer \$1,221,425 of LIHEAP grant funds for FYs 2010 through 2014 in compliance with Federal laws, regulations, and guidance. Specifically:

- TAT paid three energy suppliers a total of \$657,564 in funds that were not used to provide home energy assistance. These funds should have been repaid to the Federal Government. Instead, the funds were improperly held as credit balances in individual beneficiary accounts and in separate accounts maintained by each of the energy suppliers.
- TAT did not refund to the Federal Government unobligated funds totaling \$404,048. These funds were not obligated within the 2-year grant period and exceeded the allowed carryover limits.
- TAT inaccurately reported the amount of unobligated grant funds for FYs 2011 through 2013 in Carryover Reports and FFRs that it submitted to ACF, and as a result did not refund unobligated funds totaling \$121,995.
- TAT did not always submit complete and timely FFRs and Carryover Reports in accordance with Federal requirements.
- TAT made benefit payments totaling \$21,147 to 10 beneficiaries who were ineligible because their unreported income, including royalty income, exceeded their eligibility limits. TAT did not provide a definition of income in its LIHEAP plan or an operation manual (i.e., its LIHEAP plans, its formal policies and procedures, or both) as suggested by section D of the Manual.
- TAT made \$13,131 in payments for crisis assistance for lodging that were unsupported or otherwise unallowable.
- TAT paid \$3,540 for energy assistance on behalf of two beneficiaries who were determined eligible on the basis of incorrect income calculations. Moreover, TAT did not obtain sufficient documentation to properly determine the eligibility of 11 beneficiaries for LIHEAP benefits.

Table 1 on the following page summarizes these findings.

Table 1: Summary of Questioned Costs

Condition	Questioned Costs
Funds not used for purposes of the program	\$657,564
Unobligated grant funds not refunded	404,048
Unobligated grant funds inaccurately reported	121,995
Incomplete and untimely financial reports	0
Unallowable benefits to individuals who did not report wage, royalty, and other income	21,147
Inadequately supported or unallowable payments for crisis assistance	13,131
Unallowable benefits due to unsupported or incorrectly calculated eligibility determinations	3,540
Total	\$1,221,425

TAT did not administer LIHEAP grant funds totaling \$1,221,425 in accordance with Federal laws, regulations, and guidance for FYs 2010 through 2014 because TAT did not have sufficient internal controls in place to prevent the errors and because TAT staff circumvented existing internal controls. These funds could have been used to provide additional benefits to eligible LIHEAP beneficiaries.

GRANT FUNDS NOT USED TO PROVIDE HOME ENERGY ASSISTANCE

Federal statute states: “The State shall repay to the United States [Federal Government] amounts found not to have been expended [used] in accordance with this title” (OBRA § 2605(g)).⁴ Grantees are to use LIHEAP funds to provide assistance to low-income households in meeting their home energy costs, to intervene in crisis situations, and to provide low-cost residential weatherization and other cost-effective energy-related home repairs (OBRA § 2605(b)(1)).

To execute the LIHEAP block grant, TAT established business relationships with three energy suppliers for the delivery of propane fuel to program beneficiaries. For FYs 2011 through 2013, TAT paid these energy suppliers a total of \$657,564 in LIHEAP grant funds that were not used to provide assistance for home energy costs, for crisis situations, for weatherization, or for energy-related home repairs. These funds were improperly held as credit balances in individual beneficiary accounts and in separate accounts maintained by each of the energy suppliers instead of being returned to the Federal Government as mandated by the OBRA. The \$657,564 in improperly held funds had two constituent elements.

Energy Suppliers A, B, and C had individual beneficiary accounts with credit balances that together totaled \$288,634. Officials from Energy Suppliers A and B told us that TAT program

⁴ The Manual, section C, “The Law and Its Requirements,” states (page C-2) that where the law [OBRA] refers to a “state,” it usually also means a tribe, tribal organization, or territory. We cite to section 2605(g) of the OBRA for several of the findings in this report. See also 45 CFR Sec. 96.42(a).

officials instructed them to create delivery tickets for deliveries of propane to beneficiaries—deliveries that did not take place—to receive LIHEAP funding from TAT.⁵ These delivery tickets reflected funds totaling \$1,597,797. Over time, Energy Suppliers A and B both used some of these funds to pay for energy assistance actually provided to LIHEAP beneficiaries. However, as of October 2014, the two energy suppliers still had beneficiary accounts with credit balances totaling \$279,706. Energy Supplier C told us that TAT officials gave it no instructions other than to keep the unused funds rather than returning them to TAT. Accordingly, Energy Supplier C maintained beneficiary accounts with credit balances totaling \$8,928.⁶

In addition, Energy Suppliers A and B held unused LIHEAP funds totaling \$368,930 as credit balances in accounts that they maintained. TAT had not designated any of these unused funds to any specific beneficiary(ies)—a practice that made these undesignated funds more vulnerable to being used for other than their intended purposes. The credit balances in these accounts consisted of transfers from individual beneficiary accounts that had been held by Energy Suppliers A and B but that had been closed or become inactive. Officials from Energy Suppliers A and B told us that at the direction of TAT program officials, they transferred unused LIHEAP funds from these closed or inactive individual beneficiary accounts to separate accounts that these energy suppliers maintained, thus creating credit balances. As of October 2014, these accounts had a combined credit balance of unused LIHEAP funds totaling \$368,930. Energy Supplier C did not refund any funds from closed or inactive accounts to TAT, even when a LIHEAP beneficiary was no longer receiving energy assistance.

Table 2 below breaks out, by energy supplier and by location of credit balance, these grant funds that went unused and that should have been repaid to the Federal Government.

Table 2: Credit Balances Maintained by Energy Suppliers (as of October 2014)

Entity Maintaining Credit Balance	Credit Balances in Individual Accounts	Credit Balances Not Associated With Individual Accounts	Total Per Energy Supplier
Energy Supplier A	\$241,603	\$357,236	\$598,839
Energy Supplier B	38,103	11,694	49,797
Energy Supplier C	8,928		8,928
Overall Total	\$288,634	\$368,930	\$657,564

TAT circumvented Federal statute when it directed the energy suppliers to create delivery tickets for deliveries of propane to beneficiaries—deliveries that did not take place—to receive LIHEAP funding and to not return unused funds. If these funds had not been held as credit balances at the energy suppliers, eligible households could have been allotted additional benefits, or TAT could have used these funds for other purposes, as described in the Manual, such as crisis situations, residential weatherization, or energy-related home repairs.

⁵ ACF was notified of this issue in April 2016.

⁶ We were unable to determine whether any of these funds were used to pay for energy assistance in subsequent periods.

UNOBLIGATED GRANT FUNDS NOT REFUNDED

Federal statute states: “The State shall repay to the United States amounts found not to have been expended in accordance with this title” (OBRA § 2605(g)). A grantee “shall obligate and expend block grant funds in accordance with the laws and procedures applicable to the obligation and expenditure of its own funds” (45 CFR § 96.30(a)). Because Federal regulations permit some of the grant funds that remain unobligated at the end of the FY in which they were first awarded to be carried over into the succeeding FY (45 CFR § 96.14(a)) and the Manual, section F, paragraph 3(4)), the LIHEAP has a 2-year grant period.

The Manual, section A, provides flexibility to grantees in designing and administering the program. Accordingly, ACF allows each tribe to define what the term “obligation” means to that tribe. TAT officials told us that TAT considers funds to be obligated when a purchase order, which initiates a payment to a vendor based on a bill, invoice, or propane delivery ticket, has been approved for the expenditure of tribal funds.⁷

TAT did not refund unobligated funds totaling \$404,048 during FYs 2010, 2012, and 2013. All of these funds remained unobligated at the end of the second year of their 2-year grant periods, as reported in the final FFRs that TAT submitted to ACF. Each of these final FFRs accurately stated that the tribe had not obligated its entire grant award within the 2-year grant period.^{8,9} TAT lacked controls to ensure that it refunded to the Federal Government those portions of the grant funds that remained unobligated at the end of the 2-year grant periods. Specifically, TAT lacked policies and procedures to compare budgeted grant funds with expended grant funds on a periodic basis to ensure that unobligated funds do not exceed the carryover limit at fiscal yearends.

UNOBLIGATED GRANT FUNDS INACCURATELY REPORTED

Federal regulations state: “After the close of each statutory period for the obligation of block grant funds [that is, annually] ... each grantee shall report to [HHS]: (i) Total funds obligated ... by the grantee during the applicable statutory periods; and (ii) The date of the last obligation” (45 CFR § 96.30(b)(1)). In addition, each grantee must report “[t]he amount of funds that the grantee requests to hold available for obligation in the next (following) fiscal year, not to exceed 10 percent of the funds payable to the grantee” (45 CFR § 96.81(b)(1)). Funds held available for obligation in the following FY are therefore unobligated funds for the current FY.

⁷ TAT creates a purchase order after an energy supplier has provided a service.

⁸ In addition, TAT did not always submit these FFRs by the required due dates, as discussed below in “Complete and Timely Financial Reports Not Submitted.”

⁹ This amount does not include unobligated funds that were subject to the carryover limits, as discussed below in “Unobligated Grant Funds Inaccurately Reported.”

Accordingly, a LIHEAP grantee may request that an allotted amount for an FY be held available (i.e., be carried over) for that grantee for the following FY.¹⁰ This provision is subject to several Federal requirements pertaining to either the obligation of grant funds, the 2-year grant period, or both:

- The carryover amount may not exceed 10 percent of the amount payable to the grantee for the prior FY and must be spent in the following FY (OBRA § 2607(b)(2)).
- Because Federal regulations permit some of the grant funds that remain unobligated at the end of the FY in which they were first awarded to be carried over into the succeeding FY (45 CFR § 96.14(a)), the LIHEAP has a 2-year grant period.
- No funds may be obligated after the end of the FY following the FY for which they were allotted (45 CFR § 96.14(a)(2)).
- Federal statute states: “The State shall repay to the United States amounts found not to have been expended in accordance with this title” (OBRA § 2605(g)).

These requirements therefore state that, with respect to funds awarded for a 2-year grant period, some funds (up to 10 percent) may be carried over from the first year to the second, but any funds not obligated by the end of that second year must be repaid to the Federal Government.

TAT inaccurately reported the amount of unobligated grant funds for FYs 2011 through 2013 in Carryover Reports and FFRs that it submitted to ACF.

Unobligated Grant Funds Inaccurately Reported on Carryover Reports

The Carryover Reports that TAT submitted for this timeframe were inaccurate because, rather than calculating carryover amounts using information in its general ledger, TAT carried over the maximum 10 percent of its grant awards for FYs 2012 and 2013.

- TAT’s total grant award for FY 2012 was \$970,053; the tribe reported a carryover amount of \$97,005, which equated to 10 percent of its grant award for that FY (the maximum that the tribe could carry over to FY 2013). However, TAT’s general ledger for FY 2012 reflected unobligated funds totaling \$100,265. Thus, actual unobligated funds for FY 2012 exceeded the allowed carryover limit by \$3,260 (\$100,265 – \$97,005).
- TAT’s total grant award for FY 2013 was \$971,586; the tribe reported a carryover amount of \$97,159, which equated to 10 percent of its grant award for that FY (the maximum that the tribe could carry over to FY 2014). However, TAT’s general ledger for FY 2013 reflected unobligated funds totaling \$167,350. Thus, actual unobligated

¹⁰ Grantees submit this request to ACF by filing a Carryover Report. ACF guidance on the preparation and submission of this report appears in ACF, “Financial Reporting for all LIHEAP Grantees-SF 425 for FY 2010,” LIHEAP Action Transmittal LIHEAP-AT-2010-8 (Oct. 8, 2009), and “Carryover and Reallotment Report,” LIHEAP Action Transmittals LIHEAP-AT- 2011-3 (Jun. 24, 2011), LIHEAP AT 2012-4 (Jul. 12, 2012), and LIHEAP AT 2013-3 (Jul. 24, 2013).

funds for FY 2013 exceeded the allowed carryover limit by \$70,191 (\$167,350 – \$97,159).

Thus, for both FYs 2012 and 2013, TAT reported 10 percent of its grant awards as its carryover amounts. However, the tribe’s actual unobligated funds exceeded the combined carryover amounts by \$73,451 (\$3,260 + \$70,191). TAT lacked controls to ensure that the reported carryover amounts were correctly calculated, based on accurate financial information, and compliant with the limits specified in the OBRA and other Federal requirements.

Unobligated Grant Funds Inaccurately Reported on Federal Financial Reports

In FY 2011, TAT submitted a final FFR that inaccurately stated that all grant funds for that FY had been obligated. This error occurred because TAT incorrectly reversed a prior-period adjustment made by its independent auditors. In May 2010, independent auditors recommended that an adjustment be made to account for unused FY 2009 LIHEAP funds. At the beginning of FY 2011, TAT incorrectly reversed that adjustment and recorded an expense in its accounting system. However, TAT was unable to provide documentation to support that those FY 2009 funds had been used. As a result, the unobligated funds were misstated on the final FFR for FY 2011 in the amount of \$48,544.

Lack of Controls To Ensure Accurate Reporting

TAT did not refund unobligated funds totaling \$121,995 (\$73,451 + \$48,544) in accordance with Federal requirements. TAT lacked controls to ensure that it submitted Carryover Reports and FFRs that accurately reported the amount of unobligated funds.

COMPLETE AND TIMELY FINANCIAL REPORTS NOT SUBMITTED

A grantee “shall obligate and expend block grant funds in accordance with the laws and procedures applicable to the obligation and expenditure of its own funds” (45 CFR § 96.30(a)). In addition, “[a]fter the close of each statutory period for the obligation of block grant funds [that is, annually] ... each grantee shall report to [HHS]: (i) Total funds obligated ... by the grantee during the applicable statutory periods; and (ii) The date of the last obligation” (45 CFR § 96.30(b)(1) and the Manual, section J).

Grantees must report this information within 90 days of the close of the applicable statutory grant periods (45 CFR § 96.30(b)(4)).¹¹ Accordingly, the due date for the FFR is December 31 of each CY. Implementing guidance issued annually by ACF instructs LIHEAP grantees to submit a separate FFR if any LIHEAP funds have been carried over from the previous FY.¹² Further, the Carryover Report must be submitted by the August 1 before the end of the FY

¹¹ These regulations speak in terms of a requirement that grantees use Standard Form (SF)-269A, Financial Status Report. More recently, this form has been replaced by SF-425, which is the FFR.

¹² ACF, “Financial Reporting Requirement for ALL LIHEAP Grantees SF 425 Report,” LIHEAP Action Transmittals LIHEAP-AT-2011-02 (Dec. 14, 2010), LIHEAP-AT-2012-01 (Oct. 14, 2011), and LIHEAP-AT-2013-02 (Dec. 21, 2012).

(45 CFR § 96.81(b)). Implementing guidance issued annually by ACF instructs grantees to submit a revised Carryover Report as soon as possible if the reported amounts later prove to be inaccurate.¹³

TAT did not submit complete and timely FFRs and Carryover Reports in accordance with Federal requirements for FYs 2010 through 2013. Specifically, TAT:

- did not always submit FFRs that were certified by an authorized official,¹⁴
- submitted initial and final FFRs that did not contain the date of the last obligation for the relevant FY,
- did not always submit interim and final FFRs within 90 days of the end of the FY, and
- did not always submit Carryover Reports before the August 1 due date.

TAT lacked policies and procedures to ensure that its FFRs and Carryover Reports were complete and submitted timely to ACF.

BENEFITS PAID FOR INELIGIBLE BENEFICIARIES

Federal statute specifies that the State agrees to “... make payments under this title only with respect to ... (B) households with incomes which do not exceed the greater of (i) an amount equal to 150 percent of the poverty level for such State; or (ii) an amount equal to 60 percent of the State median income...” (OBRA § 2605(b)(2)). The 60-percent threshold is also explicitly stated in TAT’s LIHEAP plans.

Federal guidelines to tribes in the Manual, section D, cite to this same section of the OBRA to emphasize the central role that income plays in eligibility determinations and in the calculations and provision of LIHEAP assistance. The Manual states (on page D-5, “Defining Income”):

The law requires that households applying for energy assistance meet income guidelines in order to be eligible for LIHEAP benefits. (Maximum and minimum income guidelines are listed in section 2605(b)(2), see page C-5.) The law does not define for you what items or sources of funds are to be counted as income, so it is important to *define what your tribe will count as income*.

Tribal applicants may want to know the tribe’s definition of income. Most states and tribes *include their definition of income in their program plan or operations manual* so it will be available for easy reference. Once a tribe decides on its definition of income, that definition should be applied in the same way for all applicants. This will ensure that all households are treated the same when the

¹³ The relevant ACF guidance appears in the LIHEAP Action Transmittals listed in footnote 10.

¹⁴ The requirement for certification by an authorized official appears as an instruction on the FFR form (SF-269A or SF-425) itself.

tribe determines whether a household is income eligible for LIHEAP benefits.
[Emphasis added.]

This section of the Manual then discusses the factors to be considered in defining income and explains that base income, which “is usually defined as the gross countable income of all persons living in the household ... normally includes the items listed below” (page D-5). The Manual then lists 24 examples of income, 1 of which is “Lease money.”

The Manual adds (on page D-12, “Setting Payment Levels”):

The requirements of the law ... state that the highest level of assistance must be given to those households which have the *lowest incomes* and highest energy costs or needs in relation to income taking into consideration the size of the family. The basic items of this section of the law to be considered are: energy costs or needs, income and family size. *The tribe should decide* before households apply for assistance how these factors will be taken into account.
[Emphasis added.]

For FYs 2012 through 2014, TAT made unallowable LIHEAP benefit payments totaling \$21,147 to 10 of the 12 judgmentally selected beneficiaries we reviewed. The 10 beneficiaries were, on the basis of their income, partially or entirely ineligible for these benefits.¹⁵ TAT did not provide a definition of income in its LIHEAP plan or an operation manual (i.e., its LIHEAP plans, its formal policies and procedures, or both) as suggested by section D of the Manual. The LIHEAP application form that TAT used asked applicants for LIHEAP assistance to itemize any amounts received under 12 different types of income, 1 of which was lease income.¹⁶ Therefore, we considered the inclusion of lease income on the application form to be the clearest indication that the tribe intended to include lease income in its definition of income that would be taken into account for determining an applicant’s eligibility for LIHEAP assistance.

The 10 beneficiaries received wage, royalty, and other income from FY 2011 through FY 2013 but did not report those sources of income in their LIHEAP applications for at least 1 FY during that timeframe.¹⁷ To illustrate, 1 of the 10 beneficiaries had more than \$750,000 in unreported income during the 3-year period but received \$4,425 in LIHEAP assistance to which that individual was not entitled; see also Appendix B.

These errors occurred because TAT did not have controls to ensure that all applicants for LIHEAP assistance reported all wage, royalty, and other income in their applications. In

¹⁵ We note that 25 U.S.C. § 1408 states that “interests of individual Indians in trust or restricted lands shall not be considered a resource, and up to \$2,000 per year of income received by individual Indians that is derived from such interests shall not be considered income, in determining eligibility for assistance under the Social Security Act [42 U.S.C. 301 et seq.] or any other Federal or federally assisted program.” This statute was mentioned in ACF’s LIHEAP Information Memorandum, LIHEAP-IM-2011-02, issued Dec. 22, 2010.

¹⁶ Royalty income is derived from the sale of lease minerals.

¹⁷ The income received by the beneficiaries for each FY was used to determine their eligibility for the next FY. For example, FY 2011 income was used to determine a beneficiary’s eligibility in FY 2012.

addition, although TAT's LIHEAP application form included 12 general categories of income, the inclusion of a formalized definition of countable income in a program plan or operations manual will make it clearer to both applicants and TAT staff as to what constitutes income for purposes of LIHEAP eligibility.

PAYMENTS MADE AS CRISIS ASSISTANCE FOR LODGING WERE UNSUPPORTED OR UNALLOWABLE

Federal statute states that the State agrees to "... use the funds available under this title to ... (B) intervene in energy crisis situations; (C) provide low-cost residential weatherization and other cost-effective energy-related home repair..." (OBRA § 2605(b)(1)).

ACF guidance states that any activity that is necessary to resolve a crisis in a household's home energy supply, such as providing temporary shelter until the heat can be restored or the furnace replaced, is allowable.¹⁸ ACF officials told us that such assistance, called "crisis assistance for lodging," is not intended to make payments to homeless individuals for overnight lodging, as the requirement for shelter is not the result of an energy crisis in the home.

Most of the crisis assistance payments that TAT made during FYs 2011 through 2013 did not conform to these Federal requirements or to TAT's LIHEAP plans. Of the \$14,097 in payments classified as crisis assistance for lodging that TAT made during this timeframe, \$13,131 was unsupported or otherwise unallowable. Specifically:

- TAT made \$8,505 in payments as crisis assistance for lodging that was inadequately supported. These payments consisted of \$7,739 in payments for 30 individuals whose applications were missing the page on which they had to explain the reason for requesting crisis assistance, \$677 in payments that were not supported with invoices from the hotels in which individuals stayed, and an \$89 payment for which TAT was unable to provide a copy of the check.
- TAT also paid \$4,626 for 15 individuals who were listed as homeless on their applications. These payments were unallowable because they were not used to resolve energy crisis situations in the home.

TAT lacked controls to enable staff to correctly determine whether applicants' situations met the criteria for crisis assistance for lodging. Specifically, TAT did not have policies and procedures requiring staff to evaluate crisis applications to determine whether the applicants qualified for this assistance. Nor did TAT have policies and procedures directing staff to maintain complete applications and to maintain receipts and invoices to support payments made to vendors for lodging. In addition, TAT did not adequately train staff to understand that applicants who are homeless do not qualify for crisis assistance for lodging.

¹⁸ ACF, "Uses of LIHEAP Funds," LIHEAP Information Memorandum LIHEAP-IM-2001-13 (Jan. 10, 2001).

BENEFIT PAYMENTS MADE BASED ON INCORRECTLY CALCULATED OR UNSUPPORTED ELIGIBILITY DETERMINATIONS

Federal statute states that the State agrees to "... make payments under this title only with respect to ... (B) households with incomes which do not exceed the greater of (i) an amount equal to 150 percent of the poverty level for such State; or (ii) an amount equal to 60 percent of the State median income" (OBRA § 2605(b)(2)). TAT's LIHEAP plans indicated that the latter threshold was applicable.

The Social Security Act grants States the discretion to require that individuals disclose their Social Security numbers for the administration of any law, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction.¹⁹ In addition, the Program Integrity Assessment that TAT submitted to ACF states that TAT requires both Social Security cards and tribal enrollment numbers to verify the identities of each applicant and the members of his or her household for energy assistance.

Of the 45 judgmentally selected beneficiaries whose applications we reviewed, we determined that TAT made energy assistance payments totaling \$3,540 on behalf of 2 beneficiaries who were determined eligible on the basis of incorrect income calculations. These beneficiaries were ineligible for LIHEAP assistance because their incomes exceeded 60 percent of the State median household income.

In addition, TAT insufficiently documented the eligibility of 11 of the 45 judgmentally selected beneficiaries we reviewed. In performing these eligibility determinations, TAT did not require that these applicants provide Social Security numbers for themselves and members of their household. Instead, TAT allowed applicants to provide only one form of identification: Social Security number, tribal enrollment number, or birth certificate. This practice was not consistent with the terms of the Program Integrity Assessment that TAT submitted to ACF.²⁰

TAT lacked controls to ensure that household income was properly calculated to determine eligibility. Also, TAT lacked controls to ensure that, in accordance with the Program Integrity Assessment, applicants provided sufficient documentation to enable staff to verify the identities of household members.

RECOMMENDATIONS

We recommend that TAT:

- refund to the Federal Government \$1,221,425 for unallowable or unsupported grant funds;

¹⁹ The Social Security Act, section 205(c)(2)(C)(i), 42 U.S.C. § 405(c)(2)(C)(i).

²⁰ The Program Integrity Assessment states that applicants whose children do not have Social Security cards must furnish birth certificates instead. In all other respects, the tribe's guidelines require two forms of identification.

- develop and implement policies and procedures to ensure that energy suppliers are paid only for deliveries of propane that actually take place and that the suppliers refund all unused LIHEAP funds to TAT so that excess funds can be used to provide assistance for additional benefits and for other purposes, such as crisis situations and residential weatherization, as described in the Manual;
- develop and implement policies and procedures to compare budgeted grant funds with expended grant funds, thereby ensuring that unobligated funds do not exceed the carryover limit at fiscal yearends and any amounts unobligated at the end of the grant period are repaid;
- develop and implement controls to ensure that Carryover Reports and FFRs accurately report the amount of unobligated funds and are properly completed and timely submitted to ACF;
- formalize its definition of income in ways that conform to Federal requirements and guidelines, include this definition in its LIHEAP plans and in its formal policies and procedures, and use this definition when determining eligibility for LIHEAP assistance;
- develop and implement controls to ensure that all applicants for LIHEAP assistance report all wage, royalty, and other income in their applications, and that household income is properly calculated in determining eligibility;
- develop and implement policies and procedures directing staff to maintain complete applications and to maintain receipts and invoices to support payments made to vendors for lodging;
- train staff to understand that applicants who are homeless do not qualify for crisis assistance for lodging; and
- develop and implement controls to ensure that applicants provide sufficient documentation to enable staff to verify the identities of household members.

AUDITEE COMMENTS

In written comments on our draft report, TAT did not directly agree or disagree with our recommendations, but it described corrective actions that it had taken or planned to take for all but the first recommendation. TAT also provided additional documentation for some policies and procedures that it said it had recently developed. For the first recommendation, TAT said that its entire staff had changed and asked that we provide documentation supporting our recommendation that the tribe refund \$1,221,425 to the Federal Government. TAT further stated that “[w]e do understand there are some financial findings that are indisputable” related to the first recommendation and added that it had communicated formally with vendors (that is, energy suppliers) requesting additional information to help the tribe reconcile transactions and balances.

TAT also stated that it had recently developed, in coordination with ACF staff, policies and procedures for its LIHEAP and added that it had developed controls for eligibility determinations. Lastly, TAT stated that it needed additional training and that it had submitted a request for technical assistance and support.

TAT's comments appear as Appendix C, except for the pages related to supporting documentation, for example, TAT's recently developed policies and procedures. We will forward all of the attachments in their entirety to ACF.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing TAT's comments and the additional documentation that TAT provided, we maintain that all of our findings and the associated recommendations remain valid. During the audit, we met with TAT officials and discussed all of the findings with them. At TAT's request, we have provided TAT with specific detailed documentation supporting the findings associated with our recommended \$1,221,425 refund and will continue to work with the tribe to help its staff understand the errors and controls weaknesses that we identified.

In that spirit, we have also evaluated the additional documentation that TAT provided. We note that the tribe's recently developed LIHEAP policies and procedures directly address our fifth recommendation by excluding royalty income in determining eligibility for LIHEAP assistance. However, to fully implement this policy in ways that provide for more consistent administration of its LIHEAP, we encourage TAT to carry this exclusion into related program documents that, at present, do not exclude royalty income:

- TAT's 2017 LIHEAP plan lists "interest, dividends or royalties" as applicable forms of countable income used to determine eligibility.
- TAT's 2017 LIHEAP application form cites lease income as a possible source of income.
- TAT's LIHEAP application instructions cite royalties as an example of what the tribe could use to verify income.

The LIHEAP policies and procedures that the tribe provided also address our last recommendation, by requiring Social Security cards to verify all household members' eligibility for LIHEAP. However, these recently developed policies and procedures did not directly address our other recommendations involving the need to develop and implement policies or controls.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

ACF awarded TAT a total of \$5,722,752 in LIHEAP grant funds for FYs 2010 through 2014. We focused our review on the following areas: (1) FFRs and Carryover Reports submitted to ACF, (2) crisis payments made for lodging, (3) credit balances in accounts maintained by three energy suppliers, and (4) beneficiary eligibility. The periods we reviewed for each area were not the same. Specifically, we reviewed:

- TAT's FFRs and Carryover Reports and associated documentation submitted to ACF for FYs 2010 through 2013;
- documentation related to crisis payments made for lodging and to credit balances in accounts that the three energy suppliers maintained for FYs 2011 through 2013;
- eligibility of a judgmentally selected sample of 45 beneficiaries for FYs 2011 through 2013; and
- eligibility of 12 beneficiaries who received the largest amount of royalty payments (including oil royalties) during FYs 2011 through 2014. We reviewed \$31,584 in total LIHEAP payments made for the selected 12 beneficiaries in FYs 2012 through 2014 (none of these 12 beneficiaries were part of the judgmentally selected sample of 45 beneficiaries mentioned above).

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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

METHODOLOGY

To accomplish our objective, we:

- interviewed ACF staff who were familiar with the provisions and implementation of the LIHEAP to gain a basic understanding of the program, the grant, and Federal requirements pertaining to fiscal control, accounting, and reporting of the use of grant funds;
- interviewed TAT staff to obtain an understanding of:
 - the policies and procedures for paying energy suppliers on behalf of LIHEAP beneficiaries,

- the policies and procedures for preparing and submitting LIHEAP financial reports,
- the policies and procedures for operating the program, and
- the process for expending excess fiscal yearend LIHEAP funds;
- obtained and reviewed TAT's LIHEAP general ledgers for our audit period;
- reviewed TAT's annual financial statement audit reports for FYs 2010 through 2013;
- selected all LIHEAP payments made by TAT to Energy Supplier A and Energy Supplier B for further review;
- obtained and reviewed a list of outstanding TAT LIHEAP credit balances as of October 2014 at Energy Supplier C;
- visited and interviewed energy supplier staff to obtain an understanding of the policies and procedures that the 3 energy suppliers used to monitor the use of program funds and to detect problems;
- obtained and reviewed supporting documentation from the 3 energy suppliers for the current balances of unused program funds;
- obtained and reviewed, for each of the payments that TAT made to 2 of the 3 energy suppliers, the canceled check copies and supporting documentation for the associated expenditures;
- identified any delivery tickets, associated with TAT's payments made to 2 of the 3 energy suppliers, that depicted a delivery of propane that did not actually take place;
- obtained a list of TAT beneficiaries enrolled in the LIHEAP during FY 2013;
- obtained and reviewed data from the U.S. Department of the Interior listing all royalty-related transactions from lands held in trust for individual Native Americans who were enrolled in the LIHEAP during FY 2013;
- judgmentally selected, for further review, 12 TAT beneficiaries enrolled in the LIHEAP during FY 2013 who received the greatest amount of royalties (which included oil royalties) from FYs 2011 through 2014;
- obtained and reviewed, for each of the 12 selected beneficiaries and all adult members of their households, the program applications, supporting documentation, and wage incomes earned from FYs 2011 through 2014;

- calculated, for the 12 selected beneficiaries, actual income from the previous 12 months using wages, disbursements from royalties accounts (less the \$2,000 income exemption), and other wages;
- compared the 12 selected beneficiaries' actual incomes to the eligibility thresholds (60 percent of the State median income) below which beneficiaries would be entitled to receive LIHEAP assistance;
- obtained TAT's FFRs and Carryover Reports for FYs 2010 through 2013;
- reviewed the FFRs to determine whether they were complete and whether they had been submitted within 90 days of each fiscal yearend;
- compared the information in the Carryover Reports with the general ledger to verify the unobligated balances and carryover amounts reported;
- obtained and reviewed supporting documentation for LIHEAP payments made for crisis assistance for lodging during FYs 2011 through 2013 to determine whether payments were made in accordance with Federal requirements;
- judgmentally selected, for further review, a sample of 45 TAT beneficiaries and requested their LIHEAP applications, and any supporting documentation, for FYs 2011 through 2013;
- reviewed the applications from these 45 beneficiaries to determine whether they contained documentation to properly support the eligibility determinations that TAT made;
- determined whether the benefits that these 45 beneficiaries received were calculated properly by reviewing the type of energy used by the households, the income level of the households, and the size of the households, and then compared these to the eligibility matrixes for each specific FY; and
- discussed the results of our review with TAT staff on August 3, 2016, and, at TAT's request, provided TAT with additional documentation supporting our recommended refund on May 25, 2017.

We conducted our audit work, which included fieldwork at TAT's Community Services and Finance Offices in New Town, North Dakota, from March 2014 through May 2015.

APPENDIX B: EFFECT OF UNREPORTED INCOME ON LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM BENEFITS

Table 3: Effect of Unreported Income on Benefits

Beneficiary	Total Unreported Income²¹	Ineligible Amount²²	Excess Benefit Amount²³	Total Unallowable
1	\$(769,918.72)	\$4,425.00	\$0.00	\$4,425.00
2	(598,976.73)	3,480.00	0.00	3,480.00
3	(253,893.91)	2,832.00	0.00	2,832.00
4	(241,537.16)	2,832.00	0.00	2,832.00
5	(209,330.90)	1,593.00	0.00	1,593.00
6	(194,295.21)	1,320.00	240.00	1,560.00
7	(102,393.65)	2,124.00	0.00	2,124.00
8	(53,236.13)	1,416.00	0.00	1,416.00
9	(7,728.16)	0.00	177.00	177.00
10	(5,881.01)	0.00	0.00	0.00
11	(931.32)	0.00	708.00	708.00
12	0.00	0.00	0.00	0.00
Total	(\$2,438,122.90)	\$20,022.00	\$1,125.00	\$21,147.00

²¹ Royalties that are included as income in these amounts have been adjusted by \$2,000, in accordance with 25 U.S.C. § 1408.

²² The amounts in this column represent benefit payments to beneficiaries who were ineligible for the program on the basis of their unreported income.

²³ The amounts in this column represent benefit payments to eligible beneficiaries that exceeded the benefit amounts to which, on the basis of their incomes, they were entitled.

APPENDIX C: AUDITEE COMMENTS



MANDAN, HIDATSA & ARIKARA NATION

Three Affiliated Tribes * Fort Berthold Indian Reservation
404 Frontage Road New Town, ND 58763
Tribal Business Council

Office of the Chairman
Mark N. Fox

April 7, 2017

Report Number: A-07-16-04230

Department of Human and Health Services
Office of Inspector General
Office of Audit Services Region VII
Patrick J. Cogley, Regional Inspector General
601 East 12th Street, Room 0429
Kansas City, MO 64106

Dear Mr. Cogley,

In response to your letter dated March 2, 2016 regarding the DHHS OIG draft report entitled *Three Affiliated Tribes Improperly Administrated Low Income Home Energy Assistance Program Funds for Fiscal Years 2010 through 2014*.

You wrote this is a draft report and it is subject to further review and revision by you. We are requesting additional information from you regarding the findings. As you are aware this Administration was not part of the review therefore we are requesting any and all information related.

It is difficult to perceive the information when you cannot review the specific findings and cases in which you have reviewed to create your draft report. To ensure consideration of our valid views, we are requesting the following information to review and address the findings appropriately.

In your draft report it clearly states in the Executive Summary the following:

- TAT did not refund to the Federal Government unobligated funds totaling \$404,048. These funds were not obligated within the 2-year grant period and exceeded the allowed carryover limits.
- TAT inaccurately reported the amount of unobligated grant funds for FYs 2011 through 2013 in Carryover and Re-allotment Reports (Carryover Reports) and Federal Financial Reports (FFRs) that it submitted to ACF, and as a result did not refund unobligated funds totaling \$121,995.

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Three Affiliated Tribes
Report Number # A-07-16-04230

- TAT did not always submit complete and timely FFRs and Carryover Reports in accordance with Federal requirements.
- TAT made benefit payments totaling \$21,147 to 10 beneficiaries who were ineligible because their unreported income, including royalty income, exceeded their eligibility limits. TAT did not provide a definition in its LIHEAP plan or an operation manual (i.e., its LIHEAP plans, its formal policies and procedures, or both), as suggested by section D of the Manual.
- TAT made \$13,131 in payments for crisis assistance for lodging that were unsupported or otherwise unallowable.

TAT paid \$3,540 for energy assistance on behalf of two beneficiaries who were determined eligible on the basis of incorrect income calculations. Moreover, TAT did not obtain sufficient documentation to properly determine the eligibility of 11 beneficiaries for LIHEAP benefits.

TAT did not administer LIHEAP grant funds totaling \$1,221,425 in accordance with Federal laws, regulations, and guidance for FYs 2010 through 2014 because TAT did not have sufficient internal controls in place to prevent the errors and because TAT staff circumvented existing internal controls. These funds could have been used to provide additional benefits to eligible LIHEAP beneficiaries.

The Office of Inspector General recommends the following and the Tribe's response is stated in red print:

- A refund to the Federal Government \$1,221,425 for unallowable or unsupported grant funds;

Our entire staff has changed since the OIG review; we are requesting additional information specifically to the findings. We do understand there are some financial findings that are undisputable but we need to examine the specific supporting documentation to provide the Tribe's view on the refund recommendation.

The tribe has sent official letters to vendors requesting additional financial information to reconcile actual transactions or balances appropriately and we are waiting for responses. Two of the three letters have been sent to corporate offices and in one instance the letter has been forwarded to the vendors' legal counsel. We have enclosed copies of two letters that have been sent to vendors.

- develop and implement policies and procedures to ensure that energy suppliers are paid only for deliveries of propane that actually take place and that the suppliers refund all unused LIHEAP funds to TAT so that excess funds can be used to provide assistance for additional benefits and for other purposes, such as crisis situations and residential weatherization, as described in ACF's LIHEAP Tribal Manual;

These policies and procedures will be created to ensure the accountability of the program services. We have included a copy of the vendor agreement by our legal counsel working collaboratively with the DHHS ACF LIHEAP Energy Assistance Program Specialist to ensure the vendors are compliant.

- develop and implement policies and procedures to compare budgeted grant funds with expended grant funds, thereby ensuring that unobligated funds do not exceed the carryover limit at fiscal year ends and any amounts unobligated at the end of the grant period are repaid;

See the below explanation.

- develop and implement controls to ensure that Carryover Reports and FFRs accurately report the amount of unobligated funds and are properly completed and timely submitted to ACF;

The internal controls are in place with our Finance Manual however we look forward to changing and adopting the necessary changes by the Finance Department to help the reporting process to be more stringent and compliant.

- formalize its definition of income in ways that conform to Federal requirements and guidelines, include this definition in its LIHEAP plans and in its formal policies and procedures, and use this definition when determining eligibility for LIHEAP assistance;

We have created changes with the DHHS ACF LIHEAP Energy Assistance Program Specialist to improve accountability and eligibility to make eligibility determinations and income calculations with our Model Plan and Policies & Procedures and required income matrix.

The Contact Information:

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[REDACTED]
Energy Assistance Program Specialist
Office Phone: 202 401 4710 Fax #: 202 401 5661
Email: [REDACTED]

This information has recently changed to another individual with the federal funding agency.

- develop and implement controls to ensure that all applicants for LIHEAP assistance report all wage, royalty, and other income in their applications, and that household income is properly calculated in determining eligibility;

The development and internal controls have been developed; we have enclosed the information related to address the eligibility determination that includes the Three Affiliated Tribes Resolution to exclude royalties derived from oil & gas by the Tribes request and authorization.

- develop and implement policies and procedures directing staff to maintain complete applications and to maintain receipts and invoices to support payments made to vendors for lodging;

This is addressed with the recently developed Policies & Procedures for the LIHEAP program.

Train staff to understand that applicants who are homeless do not qualify for crisis assistance for lodging; and

²⁴ Office of Inspector General Note—The deleted text, on this page and the next, has been redacted because it is personally identifiable information.

Training needs to be provided to the program employees to ensure accountability and eligibility are compliant. A request for Technical Assistance and Support has been requested in person at the recent DHHS Tribal Consultation in Washington DC.

We met with [REDACTED] Energy Program Operations Branc Chief, Division of Energy Assistance, AFC; he required attendance of a representative at the 2017 LIHEAP Conference in New Orleans. Our representative attended the conference and was able to meet with our assigned one on one tribal consultation with [REDACTED] EAPS to ensure specific recommendations for improvement.

We need additional training for eligibility determination for our staff to ensure compliance. There has not been any training attended by the TAT LIHEAP Staff in several years, we will ensure adequate training is completed.

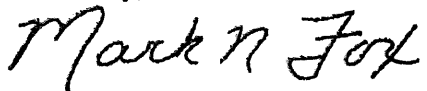
- develop and implement controls to ensure that applicants provide sufficient documentation to enable staff to verify the identities of household members.

This is addressed with the recently developed Policies & Procedures for the LIHEAP program using our income matrix and eligibility requirements.

We have provided supporting documentation of the changes have been developed and are enclosed.

If you have any questions or comments please feel free to contact my office at 701-627-8123 or Mrs. Prairie Rose Chapin, Federal Programs Manager at 701-627-8154 or email prchapin@mhanation.com

Sincerely,



Mark N. Fox
Chairman

CC:

Allen Nygard, Chief Executive Officer
Whitney Bell, Chief Finance Officer
Three Affiliated Tribes Tribal Business Council