



Issue Date December 6, 2011

Audit Report Number 2012-AT-1003

TO: Kevin Fitzgibbons, Administrator, Eastern-Woodlands Office of Native American Programs, Chicago, IL

//signed//

FROM: James D. McKay, Regional Inspector General for Audit, Atlanta Region, 4AGA

SUBJECT: The Lumbee Tribe of North Carolina Did Not Follow Some Requirements for Its Native American Housing Block Grants Received Under the American Recovery and Reinvestment Act of 2009

HIGHLIGHTS

What We Audited and Why

We audited the Lumbee Tribe of North Carolina's administration of its Native American Housing Block Grants received under the American Recovery and Reinvestment Act of 2009. We selected the tribe for audit because it received a \$4.7 million formula grant and a \$4 million competitive grant, the largest Native American Housing Block Grants awarded in North Carolina under the Recovery Act.

Our objective was to determine whether the tribe administered its Native American Housing Block Grants in compliance with Recovery Act and other applicable requirements, specifically, whether it had (1) expended funds on a timely basis for eligible activities that were adequately supported, (2) followed Federal and tribal procurement requirements, and (3) followed Recovery Act reporting requirements.

What We Found

The tribe followed most Recovery Act requirements. It selected eligible projects, met expenditure deadlines, maintained adequate documentation to support expenses, complied with procurement requirements, and submitted its required quarterly reports in a timely manner. However, its program administration was deficient in some areas.

The tribe (1) did not charge expenses to the correct grant, (2) requested duplicate reimbursement for the same mobile home rehabilitation, and (3) could not support the expenditure and jobs created figures in its most recent quarterly reports. These conditions occurred because the tribe had not implemented adequate financial controls to ensure that only eligible expenses were charged to the grants and did not follow all Recovery Act reporting requirements. As a result, it incurred \$40,041 in ineligible expenses and did not accurately report Recovery Act accomplishments.

What We Recommend

We recommend that the Administrator of the Eastern-Woodlands Office of Native American Programs require the tribe to (1) correct the \$40,041 in expenses on the reimbursement requests, (2) identify any other ineligible expenses and submit corrected reimbursement requests, and (3) establish controls to ensure that accurate and supported information is included on the Recovery Act quarterly reports. We also recommend that the Administrator perform a follow-up review of the tribe's identification of other ineligible expenses.

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

Auditee's Response

We discussed the findings with tribal officials during the audit. We provided the draft report to the tribe on November 9, 2011, and discussed the findings with tribal officials at an exit conference on November 17, 2011. The tribe provided its written comments on November 17, 2011. Tribal officials expressed general agreement with the findings and recommendations.

The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVE

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009. The purpose of the Recovery Act was to jumpstart the Nation's ailing economy with a primary focus on creating and saving jobs in the near term and investing in infrastructure to provide long-term economic benefits. This legislation included a \$510 million appropriation for Native American Housing Block Grants for tribes to develop, acquire, or rehabilitate affordable housing units or develop and improve the infrastructure on reservations to support affordable housing. Of that amount, \$255 million was disbursed based on a formula, and more than \$242 million was allocated competitively.

The Lumbee Tribe of North Carolina is the largest American Indian tribe in the eastern United States with more than 55,000 enrolled tribal members. It is governed by a constitution adopted by the voting members of the tribe. The tribal government, represented by a tribal chairperson, a 21-member tribal council, and a tribal supreme court, constitutes the executive, legislative, and judicial branches, respectively. In 1885, the tribe won formal recognition from the State of North Carolina, and in 1956 the United States enacted legislation that acknowledged the tribe while forbidding any customary Federal Indian benefits. The tribe is currently seeking full Federal recognition.

The tribe received \$4.7 million in formula funds and \$4 million in competitive funds under the Recovery Act on May 20, 2009, and August 12, 2009, respectively. The Recovery Act required obligating 100 percent of funds within one year, expending 50 percent within two years, and 100 percent by the third year. It required recapturing funds not expended by the two and three year deadlines. The tribe's formula activities included the construction of a boys and girls club, five transitional homes, a community center, and an elderly site with 12 units and a community center, along with the rehabilitation of 50 existing homes. Its competitive activities included the rehabilitation of 190 existing homes.

Our objective was to determine whether the tribe administered its Native American Housing Block Grants in compliance with Recovery Act and other applicable requirements, specifically, whether it had (1) expended funds on a timely basis for eligible activities that were adequately supported, (2) followed Federal and tribal procurement requirements, and (3) followed Recovery Act reporting requirements.

RESULTS OF AUDIT

Finding: The Tribe Did Not Follow Some Recovery Act Requirements

Although the tribe followed most Recovery Act requirements, its program administration was deficient in some areas. The tribe (1) did not charge expenses to the correct grant, (2) requested duplicate reimbursement for the same mobile home rehabilitation, and (3) could not support the expenditure and jobs created figures in its most recent quarterly reports. These conditions occurred because the tribe had not implemented adequate financial controls to ensure that only eligible expenses were charged to the grants and did not follow all Recovery Act reporting requirements. As a result, it incurred \$40,041 in ineligible expenses and did not accurately report Recovery Act accomplishments.

The Tribe Followed Most Recovery Act Requirements

The tribe followed most major Recovery Act requirements for both its formula and competitive Native American Housing Block Grants. It

- Selected eligible construction and rehabilitation projects ,
- Met expenditure deadlines by expending more than \$3.6 million, or about 76 percent, of its formula funds and all of its competitive funds within the two year requirement,
- Maintained adequate documentation to support expenses,
- Complied with Federal and tribal procurement requirements, and
- Submitted quarterly reports on time and with required information.

The Tribe Expended Funds for Ineligible Activities

The tribe expended formula and competitive grant funds for ineligible activities such as expenses charged to the incorrect grant and a duplicate expense for a mobile home rehabilitation. We reviewed 15 (valued at \$1.18 million) of the 104 (valued at \$8.02 million) reimbursement requests for the tribe's Native American Housing Block Grants as of July 31, 2011. The 15 reimbursement requests consisted of 10 formula grant requests and 5 competitive grant requests. We found that \$40,041, or approximately 3.4 percent, of the \$1.18 million reviewed was for ineligible activities. This condition occurred because the tribe did not have adequate financial controls.

The Tribe Charged Expenses to Incorrect Grants

The tribe charged formula grant expenses to the competitive grant and vice versa. This condition occurred because the tribe had not developed adequate financial controls. It had not created a cost allocation plan resulting in \$21,938 for payroll, employee benefits, and gasoline or vehicle expenses being charged to the incorrect grant. The tribe created an allocation plan during our review. The tribe did not ensure another \$5,603 in mischarged construction expenses was fully corrected. Although it corrected the mischarge in its accounting general ledger, it did not correct the formula and competitive grant expenses reported to HUD.

The Tribe Requested Duplicate Reimbursement for a Mobile Home Rehabilitation

The tribe included a \$12,500 expense for a mobile home rehabilitation on two different competitive grant reimbursement requests. The tribe's director of finance was not aware that the same expense was included on two requests until we asked for supporting documentation.

The Tribe Did Not Accurately Report Expenditures or the Number of Jobs Created

Section 1512(c) of the Recovery Act required recipients of funds to report quarterly on the Internet at FederalReporting.gov. The recipients were to report on the nature and status of their projects and the number of jobs created or retained. We reviewed the tribe's formula and competitive reports through the quarter ending June 30, 2011, for timeliness, completeness, and accuracy. Its quarterly reports were generally timely and complete, but the expenditure amounts and information relating to the creation and retention of jobs were not accurate.

The tribe reported that it had expended more than \$3.4 million on formula grant activities as of June 30, 2011; however, it had actually expended more than \$3.6 million. The tribe accurately reported that the competitive grant of \$4 million was fully expended. The formula grant expenditure amount was more than the tribe reported because its staff used amounts from an un-reconciled general ledger.

The tribe reported on June 30, 2011, that it had created a total of 186 jobs using formula grant funds and an additional 3 jobs using the competitive grant funds. When we asked for support, we found that the tribe was not aware of the guidance in Office of Management and Budget Memorandum M-10-08 for calculating the jobs figures. It adopted the guidance during our review and decreased the 186 jobs to 73 and the 3 jobs to 2.

The tribe stated that it would revise the June 30, 2011, quarterly reports to show the corrected expenditure amount and jobs figures.

Conclusion

Although the tribe followed most Recovery Act requirements, its program administration was deficient in some areas. This condition occurred because the tribe had not implemented adequate financial controls to ensure that eligible expenses were charged to the grants and did not follow all Recovery Act reporting requirements. As a result, it incurred \$40,041 in ineligible costs and did not accurately report Recovery Act accomplishments.

Recommendations

We recommend that the Administrator of the Eastern-Woodlands Office of Native American Programs

- 1A. Require the tribe to submit corrected reimbursement requests for the \$40,041 charged to the incorrect grant or for expenses charged more than once.
- 1B. Require the tribe to review for accuracy the expense reimbursement requests that we did not review, identify any additional ineligible expenses, and submit any needed corrected reimbursement requests.
- 1C. Require the Tribe to provide assurance that appropriate controls are in place to ensure that accurate and supported expenditure and job numbers are included on the quarterly reports required by the Recovery Act.
- 1D. Perform a follow-up of the tribe's expense review in recommendation 1B.

SCOPE AND METHODOLOGY

Our objective was to determine whether the tribe administered the Native American Housing Block Grants in compliance with Recovery Act and other applicable requirements, specifically, whether it had (1) expended funds on a timely basis for eligible activities that were adequately supported, (2) followed Federal and tribal procurement requirements, and (3) followed Recovery Act reporting requirements.

To accomplish our objectives, we reviewed

- The Recovery Act, Native American Housing Block Grant program regulations, financial management regulations at 24 CFR (Code of Federal Regulations) 85.20, procurement regulations at 24 CFR 85.36, Office of Management and Budget Memorandum M-10-08, and the Eastern-Woodlands Office of Native American Program's correspondence and files pertaining to the tribe's Native American Housing Block Grants.
- The tribe's policies and procedures manuals; planned uses of the Native American Housing Block Grants; Recovery Act budgets, obligations, and expense reimbursements requests; contracts that the tribe identified as awarded for Native American Housing Block Grants; reports submitted to FederalReporting.gov; the tribe's most recent independent public accountant report; and the tribe's organizational charts.

We interviewed tribe employees and the Eastern-Woodlands Office of Native American Programs staff members involved with oversight of the tribe's grant administration. We selected several nonstatistical samples as described below. The results from these samples pertain only to the items sampled and cannot be projected to the universe as a whole.

We selected a nonstatistical random sample of 10 formula grant expense reimbursement requests (from a universe of 70) and reviewed the expenses for eligibility, timeliness, and adequacy of support. Our sample covered \$640,766, or approximately 16 percent of the total formula grant expenses as of July 31, 2011. We reviewed procurements from these same 10 draws for compliance with Federal and tribal requirements.

We selected a nonstatistical random sample of 5 competitive grant expense reimbursement requests (from a universe of 34) and reviewed the expenses for eligibility, timeliness, and adequacy of support. Our sample covered \$537,433, or approximately 13 percent of the total competitive grant expenses as of July 31, 2011. We reviewed procurements from these same five draws for compliance with Federal and tribal requirements.

We tested all electronic data relied upon during the performance of the various review steps. We conducted tests and procedures to ensure the integrity of computer-processed data that were relevant to our audit objective. The tests included but were not limited to comparisons of computer-processed data to invoices and other supporting documentation. We found the electronic data to be generally reliable.

We performed our onsite work from August 16 through September 30, 2011, at the tribe's administrative offices located at 6984 NC Highway 711, West Pembroke, NC. The review generally covered the period March 2009 through July 2011 and was expanded as determined necessary.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

INTERNAL CONTROLS

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

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

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

Relevant Internal Controls

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

- Controls over program operations.
- Controls over compliance with laws and regulations.

We assessed the relevant controls identified above.

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

Significant Deficiency

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

- The tribe's controls over its expenditure of grant funds and its reporting process did not ensure that Recovery Act funds were used as required (finding).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Ineligible 1/
1A	\$40,041

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



Lumbee Tribe of North Carolina

HONORABLE TRIBAL CHAIR WOMAN SHARON HUNT

November 17, 2011

Mr. James D. McKay, Regional Inspector General
US Department of Housing And Urban Development
Region 4 Office of Inspector General
Richard B. Russell Federal Building
75 Springs Street SW, Room 330
Atlanta, GA 30303-3388

Dear Mr. McKay:

This letter is a follow up to discuss the preliminary OIG Audit Findings. We thoroughly enjoyed having the opportunity to work with your HUD staff. Their professionalism was greatly appreciated during their audit of our stimulus finds.

We kindly ask that you please consider the unique nature of the NAHASDA Program and that we have worked closely with our ONAP staff to administer the Stimulus Funds in a manner that is consistent with NAHASDA Regulations which differ from the Public Housing Programs.

Attached is our response to the individual findings of the OIG Audit.

We thank you in advance for your understanding of the issues and unique situation the Tribe has found itself in, in administering the Stimulus Funds.

If you have any questions or concerns, please don't hesitate to call our office for assistance at (910) 522-2221.

Sincerely,

A handwritten signature in blue ink that reads "Tammy R. Maynor".

Tammy R. Maynor
Director of Governmental Affairs

The Lumbee Tribe of North Carolina has a great working relationship with the Eastern Woodlands Office of Native American Programs Office Staff and has consistently worked to ensure that audits are timely, reports are accurate and submitted in a timely fashion and that we adhere to HUD guidelines and policy.

Comment 1

The Tribe was awarded approximately 4.7 million dollars from stimulus funds under the formula. When the Tribe received its notification of the award we were asked to submit a list of eligible projects that were shovel- ready. There was no requirement that we show any of the administrative costs associated with any of the projects listed on the form. Clearly, there were administrative costs incurred in constructing a 20,000 square foot Boys and Girls Club, a 6,000 square foot community center, an elderly site, fifty rehabs, and construct five transitional homes. We believe these projects should carry its share of the administrative costs. However, we do understand that the costs were charged against the incorrect grant and are therefore considered ineligible.

Comment 2

Your report stated that the Tribe requested duplicate re-imbusement for a mobile home replacement. After researching this issue with the finance office we have determined that the duplicate was for the rehabilitation of a mobile home. As a matter of fact, the finance office received a call on the day they were drawing down funds that they had a last minute draw to submit and they verbally made the finance department aware of the request. The finance office documented in LOCCS the request; yet, the draw was submitted for the next draw down and paid at that time. The finance director realized there were additional funds in LOCCS after all invoices were paid and she used the additional funds for the proposed housing activities in the IHP for stimulus funds.

The Lumbee Tribe as a result of this will take the following corrective action to avoid this in the future:

- a. All draw downs from any payment management systems shall be based upon actual invoices that have been keyed into the MIP software system by accounts payable.

The Tribe reported that it had expended more than 3.4 million on formula grant activities as of June 30, 2011; however, it had actually expended more than 3.6 million. After working with the finance office we have determined that a keying error occurred in submitting the report to federalreporting.gov. To ensure this does not happen again in the future, the tribe has implemented the following system: the Housing Director shall review all reports prior to their final submission.

On the issue relating to the actual amount of jobs created, we do concur with this finding. While the Housing Department was aware of the OMB Guidance and was calculating the jobs correctly, the finance department was not aware and was

calculating actual job by person versus by the hours as required by OMB. The finance office has corrected this error with federalreporting.gov. To correct this issue in the future there must be a finance person involved in all new grants and trainings related to new grants. The finance office must be kept abreast of all program requirements.

I feel confident stating that the issues identified would have been addressed or corrected if we had hired additional finance staff to administer the financial portion of the stimulus grant. Moreover, additional staff is necessary in the finance department to ensure more oversight in the financial process. Increasing the staff would also strengthen the internal controls. Currently, our Finance Director spends her time doing the day to day work that is needed for the office to function. She should be providing guidance, conducting random samplings to ensure bank recons are complete, reviewing the general ledger, reviewing federal reports, and etc.

To address this finding the Lumbee Tribe has hired a new accounting technician that has a four year degree in finance from East Carolina University and 10 years of work experience and we are getting ready to hire an additional accounting technician with relevant work experience.

Comment 3

Finally, you did state that the Lumbee Tribe followed most Recovery Act requirements in that we selected eligible projects, met expenditure deadlines, maintained adequate documentation to support expenses, complied with procurement requirements and submitted reports in a timely manner. These are great accomplishments in that we administered an additional 8.7 million dollars in addition to the current NAHASDA funds with minimal staffing. The Lumbee Tribe opted to put more funds into the programs and activities rather than hire permanent full time staff to assist in the administration of the stimulus funds.

Again, we humbly, ask that you consider the unique nature of the Tribe and that while we may have applied administrative costs against the incorrect grant, this is something that is easily corrected when dealing with NAHASDA funds and does not equate to an audit finding so long as there is adequate documentation to demonstrate that the cost are for eligible activities. As a matter of fact, we are encouraged to draw down the oldest money first; therefore, the money from one grant year may be used for another year's project. The only requirement is that we need to internally document this so that we can accurately report on the Annual Performance Report.

We do appreciate the opportunity to comment on the preliminary report and more importantly, we want to thank you for assisting us in improving our housing program. We also want to thank you for being such a wonderful staff to work with during this lengthy and detailed process.

As you are already aware, our office administers several tribal programs to enrolled tribal members and many times you had to wait until Mr. Mitchell Locklear, Ms. Sharon Bell and I were free to meet with you; so thank you for your patience and understanding.

If we can be of any further assistance please do not hesitate to contact us at your convenience.

Sincerely,

A handwritten signature in blue ink that reads "Tammy R. Maynor". The signature is written in a cursive, flowing style.

Tammy R. Maynor
Director of Governmental Affairs

OIG Evaluation of Auditee Comments

- Comment 1** We agree the projects would have administrative costs. The tribe budgeted administrative costs for both the formula and competitive grants, and recorded administrative expenses. Administrative and other expenses charged to an incorrect grant are ineligible; however, since the grants have not been closed out the tribe can correct the charges through accounting adjustments.
- Comment 2** We changed the report to show this was a mobile home rehabilitation and not a replacement.
- Comment 3** We recognize the tribe's continuing efforts to strengthen internal controls. During the audit, the tribe started corrective actions on control weaknesses that we found. The above control improvements, along with those in our recommended actions, will help the tribe to further improve its stewardship over federal funds.