



Issue Date	March 7, 2010
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Audit Report Number	2010-DE-1002
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TO: Randall Akers, Administrator, Northern Plains Office of Native American Programs, 8API

FROM: //signed//
Ronald J. Hosking, Regional Inspector General for Audit, 8AGA

SUBJECT: Fort Belknap Indian Community in Harlem, MT, Did Not Properly Administer Its Indian Housing Block Grant Funds

HIGHLIGHTS

What We Audited and Why

We audited the Fort Belknap Indian Community (Fort Belknap) because the Northern Plains Office of Native American Programs received information indicating financial irregularities in the administration of Indian Housing Block Grant (block grant) funds. The objective of the audit was to determine whether Fort Belknap administered its Federal funds in a manner consistent with program guidance, regulations, and the terms and conditions of the Federal award for its (1) U.S. Department of Housing and Urban Development (HUD)-accepted Indian housing plan, (2) block grant program, (3) submission of audited financial statements, (4) tenant accounts receivable, and (5) monthly equity payment accounts.

What We Found

Fort Belknap did not administer its Federal funds in a manner consistent with program guidance, regulations, and the terms and conditions of the Federal award. It did not ensure that it (1) only completed renovation work in its HUD-accepted Indian housing plan, (2) used block grant funds for only allowable costs, (3)

submitted its audited financial statements when required, (4) pursued collection of its past due tenant accounts receivable, and (5) properly established and maintained its monthly equity payment accounts.

What We Recommend

We recommend that the Northern Plains Office of Native American Programs provide training to Fort Belknap on the proper administration of block grant funds. We also recommend that it ensure that Fort Belknap (1) recovers \$182,940 in funds expended for renovation work not listed in its HUD-accepted Indian housing plans from the homeowners receiving that assistance or from other non-Federal sources; (2) repays \$31,958 in unallowable costs from non-Federal sources; (3) receives training regarding HUD financial reporting requirements; (4) recovers more than \$1 million in tenant accounts receivable, and (5) maintains a separate monthly equity payment account for every mutual help program home buyer and identifies and returns \$300,000 in misspent payments to the correct home buyers.

We also recommend that the Northern Plains Office of Native American Programs refer Fort Belknap to the Departmental Enforcement Center for appropriate administrative sanctions and civil actions. We further recommend that it enforce the remedies in 24 CFR (Code of Federal Regulations) 1000.532 and 1000.538 for substantial noncompliance. These remedies range from adjusting the amount of block grant funds Fort Belknap will receive to providing a replacement tribally designated housing entity for the recipient.

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 provided the discussion draft of the audit report to Fort Belknap on January 22, 2010, and requested its comments by February 6, 2010. Fort Belknap provided its written response on February 15, 2010, within the granted extension time. It did not agree 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. The attached exhibits were too voluminous to include in the audit report. These documents were provided to the HUD Northern Plains Office of Native American Programs under separate cover.

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BACKGROUND AND OBJECTIVE

In December 1999, the Fort Belknap Indian Community Council (Council) elected to administer its U.S. Department of Housing and Urban Development (HUD) funds by creating the Fort Belknap Housing Department (Housing Department) instead of using the Fort Belknap Housing Authority (Housing Authority). Before its elimination, the Housing Authority reported to a board of commissioners and was a tribally designated housing entity. In contrast, the Housing Department is now a tribal department that reports to the Council and is not considered by HUD to be a tribally designated housing entity. Fort Belknap is located in Harlem, MT.

Fort Belknap received more than \$2.5 million in Indian Housing Block Grant (block grant) funds in 2008. The block grant program is a formula grant that provides a range of affordable housing activities on Indian reservations and in Indian areas. Eligible activities include housing development, assistance to housing developed under the block grant program, housing services to eligible families and individuals, crime prevention and safety, and model activities that provide creative approaches to solving affordable housing problems.

Fort Belknap had 246 low-rent housing units and 118 mutual help housing units as of September 30, 2008. The mutual help homeownership opportunity program allows Indian housing authorities to help low-income Indian families achieve ownership of a home in return for fulfilling the home buyer's obligations. These home-buyer obligations include making monthly payments based on income and providing all maintenance of the home. The monthly payment provides that the minimum required payment must equal the administrative charge. The administrative charge is comprised of the Indian housing authority's allowable operating expenses. If the required monthly payment exceeds the administrative charge, the amount of the excess is to be credited to the home buyer's monthly equity payments account.

The Northern Plains Office of Native American Programs conducted an on-site monitoring review of Fort Belknap's block grant program in June 2007. It identified findings related to late submission of audited financial statements, and the monthly equity payments account balances could not be verified. We identified similar deficiencies during our audit.

In September 2009, the Assistant Secretary for Public and Indian Housing notified Fort Belknap that HUD was imposing remedies on its block grant program because it failed to comply with 24 CFR (Code of Federal Regulations) 1000.544 and 1000.548 and Office of Management and Budget (OMB) Circular A-133 regarding its audits for Federal fiscal years ending September 30, 2006, 2007, and 2008. Fort Belknap has requested an administrative hearing.

The objective of the audit was to determine whether Fort Belknap administered its Federal funds in a manner consistent with program guidance, regulations, and the terms and conditions of the Federal award for its (1) HUD-accepted Indian housing plan, (2) block grant program, (3) submission of audited financial statements, (4) tenant accounts receivable, and (5) monthly equity payment accounts.

We are also performing an American Recovery and Reinvestment Act of 2009 capacity review. The results of the review will be issued in a separate report.

RESULTS OF AUDIT

Finding 1: Fort Belknap Completed Renovation Work in Violation of Its Indian Housing Plans

Fort Belknap used block grant funds for renovation work on homes that were not in its HUD-accepted 2006, 2007, and 2008 Indian housing plans (plans). This noncompliance occurred because the Housing Department and the Council were not aware that renovation work on mutual help, conveyed mutual help, and other non-HUD homes had to be listed in the HUD-accepted plan. As a result, more than \$182,000 in HUD funds was not available for its intended purposes.

Block Grant Funds Used for Activities Not Accepted in Plan

Fort Belknap used block grant funds for renovation work on homes that were not in its accepted 2006, 2007, and 2008 plans. According to Sections 102(b)(2)(A) and 233 of the Native American Housing and Self-Determination Act of 1996, Fort Belknap must use block grant funds for housing activities described in the plan for rehabilitation of housing. Between 2006 and 2008, Fort Belknap was awarded more than \$7 million in block grant funds.

Fort Belknap spent more than \$182,000 on renovation work on 23 mutual help, conveyed mutual help, and other non-HUD homes that were not listed in the HUD-accepted plans.

Type of housing	Number of units	Amount
Mutual help	1	\$18,465
Conveyed mutual help	15	\$88,201
Non-HUD homes	7	\$76,274
Total	23	\$182,940

The following are examples of block grant funds that were spent for renovation work that was not in Fort Belknap's accepted plans.

Fort Belknap spent nearly \$18,500 to complete renovation work on a mutual help home.



Fort Belknap spent nearly \$1,500 to purchase materials to build a handicap ramp on a non-HUD home. This home has since been abandoned, and the Housing Department used plywood from its inventory to board it up.



Fort Belknap spent more than \$58,000 on a U.S. Department of Interior home.



Housing Department and Council Not Aware of Requirements

The noncompliance described above occurred because the Housing Department and the Council were not aware that renovation work on mutual help, conveyed mutual help, and other non-HUD homes had to be listed in the HUD-accepted plan. During discussions, staff members explained that their understanding of the requirements was that if the expense was housing related, it was allowable.

Funds Not Available for Intended Purposes

As a result of the noncompliance, more than \$182,000 in HUD funds was not available for its intended purposes. Block grant funds are intended to be used for housing development, housing services to eligible families and individuals, crime prevention and safety, and model activities as detailed in its accepted plans. Instead, Fort Belknap used the funds for activities that were not in its accepted plans.

Recommendations

We recommend that the Administrator of the Northern Plains Office of Native American Programs

- 1A. Ensure that Fort Belknap recovers the \$182,940 in funds expended for renovation work not listed in its HUD-accepted plans from the homeowners receiving that assistance or from other non-Federal sources.
- 1B. Provide training to the Council and Housing Department related to the identification and acceptance process for renovation work on mutual help, conveyed mutual help, and other non-HUD homes.
- 1C. Enforce the remedies outlined in 24 CFR 1000.532 and 1000.538 for substantial noncompliance. These remedies range from adjusting the amount of block grant funds Fort Belknap will receive to providing a replacement tribally designated housing entity for the recipient.

Finding 2: Fort Belknap Completed Purchases in Violation of Cost Principles for Federal Awards

Fort Belknap used block grant funds for unallowable expenses. This noncompliance occurred because the Housing Department was not completely familiar with Federal rules that restrict the use of HUD funds to certain tasks. As a result, authorized participants of the mutual help and low-rent programs lost the benefit of at least \$31,000 in program funding.

Unallowable Expenses

Fort Belknap used block grant funds for unallowable expenses. Of the more than \$9 million in block grant funds awarded to Fort Belknap between 2006 and 2009, we identified more than \$31,000 in unallowable expenses. These expenses were not necessary and reasonable for proper and efficient performance and administration of the block grant as stipulated in OMB Circular A-87. Regulations at 24 CFR Part 1000 require Fort Belknap to comply with OMB Circular A-87. The following table is a summary of the unallowable expenses.

Unallowable expense	Amount expended
Bank overdraft fees	\$13,420
Expenses paid for non-HUD homes and units	\$13,599
Building caskets, building rough boxes, and burial services	\$2,593
Penalties and interest	\$1,644
Non-housing-related activities	\$702
Total	\$31,958

Housing Department Not Familiar with Federal Requirements

The Housing Department was not completely familiar with Federal rules that restrict the use of HUD funds to certain tasks. Based on discussions with the Housing Department and the Council, they believed that as long as the expense was housing related or somehow tied to a youth activity, it was allowable.

Lost Benefits

Authorized participants of the mutual help and low-rent programs lost the benefit of at least \$31,000 in program funding. Block grant funds are intended to be used

for housing development, housing services to eligible families and individuals, crime prevention and safety, and model activities that provide creative approaches to solving affordable housing problems. Instead, these funds were spent on bank overdraft charges, penalties and interest, expenses for non-HUD homes, and non-housing-related expenses.

Recommendations

We recommend that the Administrator of the Northern Plains Office of Native American Programs

- 2A. Ensure that the Housing Department repays \$31,958 in unallowable costs from non-Federal funds.
- 2B. Provide training to the Housing Department and Council regarding eligible costs.
- 2C. Enforce the remedies outlined in 24 CFR 1000.532 and 1000.538 for substantial noncompliance. These remedies range from adjusting the amount of block grant funds Fort Belknap will receive to requiring it to obtain a replacement tribally designated housing entity for the recipient.

Finding 3: Fort Belknap Did Not Submit Its Audited Financial Statements When Required

Fort Belknap did not submit its Housing Department's 2006, 2007, and 2008 audited financial statements when required. This noncompliance occurred because the Council did not understand HUD financial reporting requirements. As a result, Fort Belknap was not able to demonstrate to HUD and other stakeholders that it complied with all applicable requirements and had the capacity to perform in compliance with those requirements.

Audited Financial Statements Not Submitted

Fort Belknap did not submit its Housing Department's 2006, 2007, and 2008 audited financial statements when required. According to OMB Circular A-133, the audited financial statements are due 9 months after the end of the audit period. Regulations at 24 CFR Part 1000 require Fort Belknap to comply with OMB Circular A-133.

Fort Belknap submitted the Housing Department's 2006 audited financial statements to HUD. However, they were more than 2 years late and were noncompliant because the independent auditor was unable to express an opinion due to the lack of adequate accounting records. Fort Belknap submitted the Housing Department's 2007 and 2008 audited financial statements to HUD. However, the 2007 audited financial statements were more than 1 year late and the 2008 audited financial statements were more than 5 months late. Both are noncompliant because the independent auditor was unable to express an opinion due to the lack of adequate financial records.

Council Not Clear on Financial Reporting Requirements

The Council informed us that it did not fully understand its financial reporting responsibilities to HUD. Fort Belknap had requested a hearing regarding HUD's consideration that its 2006 audited financial statements were noncompliant. It is also working to provide HUD with an opinion from an independent public accountant certifying that the financial and accounting systems for Fort Belknap meet the requirements of 24 CFR Part 85 and generally accepted accounting principles.

Program Compliance Not Demonstrated

Fort Belknap was not able to demonstrate to HUD and other stakeholders that it was performing in compliance with all applicable requirements and that it had the capacity to perform in compliance with those requirements.

Recommendations

We recommend that the Administrator of the Northern Plains Office of Native American Programs

- 3A. Provide training to Fort Belknap regarding HUD financial reporting requirements.

Finding 4: Fort Belknap Did Not Pursue Collection of Its Past Due Tenant Accounts Receivable

Fort Belknap did not pursue collection of its past due tenant accounts receivable. This condition occurred because the Housing Department did not have written policies and procedures for collecting them. As a result, the Housing Department was not able to serve as many people as possible.

Collection of Past Due Accounts Not Pursued

Fort Belknap did not pursue collection of its past due tenant accounts receivable. The Housing Department's mutual help admissions and occupancy policy for its mutual help program requires each homeowner to make monthly housing payments on or before the first day of each month. The mutual help and occupancy agreement between the Housing Department and the homeowner requires the Housing Department to establish and adopt written policies and use its best efforts to obtain compliance to ensure the prompt payment and collection of required home-buyer payments. The Housing Department has begun to take action to collect tenant accounts receivable by pursuing collection through wage agreements with the tenants and working with the Tribal Court. However, the outstanding tenant accounts receivable balance exceeded \$1 million as of September 30, 2008.

Written Policies and Procedures Not Available

The condition described above occurred because the Housing Department did not have written policies and procedures for collecting tenant accounts receivable. It was working to develop and implement written policies and procedures for collecting them when we completed our audit.

Increased Tenant Accounts Receivable

The Housing Department was not able to serve as many people as possible. Tenant accounts receivable represent funds that the Housing Department can use to support its mission of providing decent, safe, and sanitary housing for eligible families. They increased about \$156,000 during the audit period, reaching more than \$1 million as of September 30, 2008.

Recommendations

We recommend that the Administrator of the Northern Plains Office of Native American Programs

- 4A. Ensure that the Housing Department develops and implements policies and procedures for collecting tenant accounts receivable.
- 4B. Ensure that the Housing Department recovers the \$1,043,553 in tenant accounts receivable.
- 4C. Enforce the remedies outlined in 24 CFR 1000.532 and 1000.538 for substantial noncompliance. These remedies range from adjusting the amount of block grant funds Fort Belknap will receive to providing a replacement tribally designated housing entity for the recipient.

Finding 5: Fort Belknap Did Not Maintain Equity Accounts on Its Home Buyers

Fort Belknap did not maintain monthly equity payment accounts on its mutual help program home buyers and inappropriately used account money to meet daily operating expenses. This noncompliance occurred because the Housing Department did not understand the monthly equity payment account requirements. As a result, it was unable to use \$300,000 in monthly equity payments for its intended purposes.

Monthly Equity Payment Accounts Not Maintained

Fort Belknap did not maintain monthly equity payment accounts on its mutual help program home buyers and inappropriately withdrew \$300,000 in account money to meet daily operating expenses. The mutual help and occupancy agreement requires the Housing Department to maintain a separate account for each home buyer and restricts the home-buyer funds. According to Office of Native American Programs Guidance 2003-07, the amount of the home buyer's monthly payment that exceeds the administrative fee is to be transferred to the home buyer's equity account. Contrary to this guidance, the Housing Department created a separate account for only those home buyers with a balance at the time the account was created and used the restricted home-buyer funds for daily operating expenses.

Housing Department Did Not Understand Requirements

The Housing Department did not understand it was required to maintain a separate monthly equity payment account for every mutual help program home buyer and that the accounts were restricted for the home buyers' use. We confirmed through discussions with the Housing Department that it did not understand the requirements.

Funds Not Available for Maintenance Work

The Housing Department was unable to use \$300,000 in monthly equity payments for home-buyer-related items such as maintenance work, charges for unit improvements requested by the home buyer, and the balance of the home purchase prices. It should have used the money for these types of items instead of spending it on daily operating expenses of the Housing Department.

Recommendations

We recommend that the Administrator of the Northern Plains Office of Native American Programs

- 5A. Provide training to the Housing Department regarding the establishment and use of monthly equity payment accounts.
- 5B. Ensure that the Housing Department maintains a separate monthly equity payment account for every mutual help program home buyer and identifies and returns the \$300,000 in misspent payments to the correct home buyer accounts.
- 5C. Refer this matter to the Departmental Enforcement Center for pursuit of all applicable administrative and civil actions.
- 5D. Enforce the remedies outlined in 24 CFR 1000.532 and 1000.538 for substantial noncompliance. These remedies range from adjusting the amount of block grant funds Fort Belknap will receive to providing a replacement tribally designated housing entity for the recipient.

SCOPE AND METHODOLOGY

Our audit period was January 1, 2006, to December 31, 2008. We expanded our scope when we identified deficiencies that extended outside our original audit period. To accomplish our objective, we reviewed the Office of Native American Programs and Fort Belknap criteria, contracts, and records relating to the block grant program and the Housing Department's low-rent and mutual help programs. We also met with the Northern Plains Office of Native American Programs staff, Council members and staff, and Housing Department staff.

To determine whether the Fort Belknap used its block grant funds for allowable costs, we reviewed all three of the Housing Department's expenditure reports, a listing of 15,725 transactions, which covered the period October 10, 2005, through September 30, 2009. We reviewed the three reports for transactions that were questionable. Questionable transactions were identified by looking at the transaction description and the vendor name to determine whether the expenditure appeared to be unallowable or was a type of transaction or vendor we believed justified review. Transaction descriptions included social activities, penalties, interest, overdraft fees, handicap ramps and bathrooms, and mention of "non-HUD" or "not approved by HUD." Vendors included grocery stores and nonpayroll payments to individuals. We used OMB Circular A-87 to determine what costs were unallowable.

Of the 15,725 transactions, we selected 1,907 questionable transactions to review. We reviewed the supporting documentation and bank statements for the selected transactions. Because there was a pattern of bank overdraft fees, we expanded our review beyond the 1,907 questionable transactions. We reviewed the bank statements covering January through September 2006 and October through December 2008.

In addition to the 1,907 transactions, we reviewed support for costs associated with building caskets, building rough boxes, burial services, and work performed on non-HUD houses. These costs were identified during discussions with Housing Department staff regarding the unusually high materials cost listed in its trial balances. We reviewed the Housing Department's Indian housing plans for Federal fiscal years 2006, 2007, and 2008 to determine what activities were accepted. We also reviewed the Housing Department's emergency assistance policy, maintenance policy, comprehensive housing policies, mutual help admissions and occupancy policy, and financial procedures manual.

To determine whether the Housing Department properly established and maintained the monthly equity payment accounts on its home buyers, we reviewed the Housing Department's mutual help admissions and occupancy policy and its monthly equity payment account transactions by account report. We also reviewed the Housing Department's equity account bank statement, dated December 31, 2005, and the bank statement for its operating account, dated December 30, 2005.

To determine whether the Housing Department used effective collection policies and procedures to maintain adequate control over its tenant accounts receivable, we reviewed the trial balances and the accounts' detail reports for Federal fiscal years 2006, 2007, and 2008.

We relied on automated data as described above only for background purposes and to report the tenant accounts receivable balances. The data were the best available at the time of the report and were sufficient to meet our audit objective. Therefore, we did not assess the reliability of the data.

We also identified an opportunity for Fort Belknap to put more than \$182,000 to better use if it trains its administrators and staff regarding the identification and acceptance process for renovation work on certain types of housing. We further identified an opportunity for Fort Belknap to put more than \$1 million to better use if it improves controls over tenant accounts receivable collections and recovers the funds so that they may be used to benefit program participants.

We performed our on-site audit work from August through October 2009 at the Housing Department's offices at Fort Belknap in Harlem, MT.

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

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following controls are achieved:

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They 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 administering its Indian housing plan.
- Controls over using its block grant funds for allowable costs.
- Controls over submitting its audited financial statements.
- Controls over administering its tenant accounts receivable.
- Controls over establishing and maintaining its monthly equity payment accounts.

We assessed the relevant controls identified above.

A significant weakness exists if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weaknesses

Based on our review, we believe that the following items are significant weaknesses:

- Fort Belknap did not adequately train its personnel (findings 1, 2, 3, and 5).
- Fort Belknap did not have written policies and procedures for collecting tenant accounts receivable (finding 4).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Ineligible 1/	Funds to be put to better use 2/
1A	\$182,940	
2A	\$31,958	
4B		\$1,043,553
5B	\$300,000	

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

2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. Fort Belknap could have put \$1,043,553 to better use for program participants if it had pursued collection of the funds so that funds were available when participants needed them for appropriate purposes.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Fort Belknap Indian Community



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Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community and
to represent the Assiniboine and the Gros Ventre
Tribes of the Fort Belknap Indian Reservation)

February 13, 2010

Ronald J. Hosking
Regional Inspector General for Audit
US Department of Housing and Urban Development
Office of Inspector General – Region VIII Office of Audit
UMB Plaza – 24th Floor
1670 Broadway
Denver, Colorado 80202-4801

Re: Your Letter of January 22, 2010 Regarding Fort Belknap Tribal Housing Program

Dear Mr. Hosking:

Thank you for the opportunity to respond to your DISCUSSION DRAFT AUDIT REPORT prepared following your review of the Council's administration of their Indian Housing Block Grant provided under the Native American Housing Assistance and Self Determination Act of 1996 (P.L. 104-330 as amended).

We acknowledge that the report has identified several areas of administration that require improvement. Going forward, this administration is committed to correcting deficiencies, instituting policies which will maintain corrections and proactively reviewing our administration efforts to prevent problems in the future.

At the same time, because your findings could result in questioned and potentially, disallowed costs, we believe it is important to address areas of findings with which we disagree. We understand that our comments will be considered by your office in issuing a final report. We also understand that we will have an opportunity to resolve findings with HUD representatives, should findings proceed after consideration of our responses. Our responses to the findings are as follows:

FT. BELKNAP HOUSING DEPARTMENT OIG FINDING RESPONSES. PAGE 1

Ref to OIG Evaluation

Auditee Comments

Comment 1

Finding 1: “Fort Belknap Completed Renovation Work in Violation of Its Indian Housing Plan.”

1. We respectfully disagree. This finding is not valid inasmuch as its premise is that HUD approves Indian Housing Plans. As stated in the Draft Report: *“The objective of the audit was to determine whether Fort Belknap administered its Federal funds in a manner consistent with program guidance, regulations, and the terms and conditions of the Federal award for its (1) HUD-approved housing plan.....”* (See draft report, p. 4) Our position is that HUD does not “approve” Indian Housing Plans; it simply reviews them for completeness. (Sec. 103. Review of Plans) In fact, Sec. 103 (e) SELF-DETERMINED ACTIVITIES PROGRAM sub-part (2) specifically prohibits HUD from approving or disapproving Indian Housing Plans and their specific activities. As long as Fort Belknap provided services to income eligible families, they were not in violation of the Act. We believe the services cited as “improper” in this Finding were provided to low income individuals, and were therefore allowable.

We maintain that the plan was comprehensive enough to include the activities singled out in this audit report. A substantial portion of the work was completed for individuals who had become handicapped, were elderly and on fixed incomes or were facing financial crisis, activities prioritized by our program and within the purposes of NAHASDA.

Additionally and/or alternatively, as necessary, we propose to simply amend the IHP for the years in question to reflect the units worked on as being within the technical coverage of the plan. Your staff has advised that the work questioned was within allowable actions, had it been included in the technical detail of the IHP.

Comment 2

2. In reviewing the totals set forth in draft Finding No. 1, the totals of questioned expenditures is listed in the draft report as \$232,865. However, in support detail later provided, this total is not supported, and the total should actually be **\$225, 418**. Additionally, our detail reflects that at least **\$49,925** of the amounts attributed to the non-HUD home expenditures was reimbursed **See Exhibit #1**. We did ask for additional time to adequately review the detail of the proposed findings, and believe there are several other areas of information which could correct proposed findings. Our request was for an additional 60 days. We were provided two weeks additional time.

Comment 3

Ref to OIG Evaluation

Auditee Comments

Comment 4

3. Additionally, and/or alternatively, you will note from the Independent Auditor documents, our internal accounting information and conclusions now submitted for each year, that substantially more money was spent in Housing Activities than was received in NAHASDA grant funds:

2006: Expenditures/Expenses:	\$3,682,350
Operating Grants	<u>\$2,356,537</u>
Expenditures above Grant amounts:	\$1,325,813*
	2006 OIG Questioned Costs: \$87,519
	(Reflects reduction of \$49,925; see pg. 2)
2007: Expenditures/Expenses:	\$2,170,968
Operating Grants	<u>\$1,747,487</u>
Expenditures above Grant amounts:	\$ 423,481**
	2007 OIG Questioned Costs: \$ 1652
2008: Expenditures/Expenses:	\$3,547,471
Operating Grants	<u>\$2,725,540</u>
Expenditures above Grant amounts:	\$ 821,931***
	2008 OIG Questioned Costs: \$94,320
2009: Expenditures/Expenses:	\$2,626,569
Operating Grants	<u>\$2,405,132</u>
Expenditures above Grant amounts:	\$ 221,437****
	2009 OIG Questioned Costs: \$ 4037

*Source: REDW Fort Belknap Indian Community Housing Department Audit Reporting Package, FY 2006, p. 4

**Source: REDW Fort Belknap Indian Community Single Audit Reporting Package, FY 2007, p. 20

*** Source: REDW Fort Belknap Indian Community Single Audit Reporting Package, FY 2008, p. 4

****Source: FBHD Profit and Loss Statement, 2/11/10, page 6. (This P & L is subject to change) (2009 Audit is not completed—deadline for completion; 6/30/2010)

(These numbers include totals from both draft finding #1 & #2.)

Ref to OIG Evaluation

Auditee Comments

OIG Finding	Total	FBHD Response	Total
#1 Renovation	\$232,865	Add error/reimbursements	\$175,493.72
#2 Unallowable and Unsupported Costs	\$32,206.88 \$803	Bank fees \$0 Non-HUD homes \$13,598.64 Caskets \$2,416.97 Non-housing activities \$701.74 Penalties \$1,644.47 Unsupported Costs \$0	\$18,361.82 \$0
TOTAL	\$265,874.88	TOTAL	\$193,855.54

In our meeting with your representatives on January 29, 2010, regarding this draft report, we inquired whether other income was reviewed in the audit process. We were advised that it was not; only NAHASDA income was considered.

Our position is that questioning these costs is not reasonable, in any event, when the audits reflect that each year, substantial non-program or non-grant income had to be spent to support the expenditure levels recorded. If the only reported income had been NAHASDA income, perhaps it would be reasonable to conclude that the questioned expenditures were made out of NAHASDA income.

However, when the Independent Auditor reports that significant non-grant income was expended, as set forth above, we do not agree that it is appropriate to simply presume the questioned expenditures were made from the NAHASDA source, or that such expenditures, if proven to be drawn from NAHASDA sources were not reimbursed from non-grant sources. We strongly contest a recommendation to "pay back" NAHASDA funds, when the record does not support a finding that NAHASDA funds were spent on the questioned areas.

To avoid this confusion in the future, our plan is to more closely monitor our expenditures and the revenue sources of expenditures by separating income into separate accounts, tracking transfers into checking accounts with more complete paperwork and improving the detail in our IHP to be certain that funds expended for the purposes contested in this audit report are provided for in the IHP. A closer evaluation of expenditures will be made also to maximize expenditures on established priorities.

Ref to OIG Evaluation

Auditee Comments

Comment 5

Finding 2: “Fort Belknap Completed Purchases in Violation of Cost Principles for Federal Awards”

We do not agree with the findings set forth in Finding 2. We offer the same responses to this proposed finding as to that found in Finding 1, rather than restating all of the same points. \$13,599 of the questioned expenditures in this category are the same type as those itemized in Finding 1.

Comment 6

We do not dispute that bank overdraft fees, penalties and related interest should not be paid from grant funds. Inasmuch as it appears substantial non-program income was expended, beyond the NAHASDA grant, we do not agree that NAHASDA funds were spent improperly, for the cited purposes.

There appear to be math errors in the totals provided for our review of the detail provided to support the alleged bank overdraft finding. We have reviewed the detailed LOCS draws for this time period, and find no reference to bank overdraft fees being drawn for these amounts. We have been provided with no detail which supports this assertion. At the same time, there was sufficient non-grant income deposited in the same account to meet all of these fees. See also, argument set forth above. We therefore contest this finding that alleges these fees were paid out of grant funds.

Comment 7

There were no burial services provided by any housing funds, whether grant funds or otherwise. The only backhoe work provided to the individuals noted was for digging up a water line (\$176). See **Exhibit #2**.

Comment 8

We have found additional information which reflects that Housing was reimbursed for “non-housing-related activities” (\$249) See **Exhibit #3**. Also, we did locate documentation for all of the three transactions totaling \$800 referenced. See **Exhibit #4**. (This actually totaled more than \$903).

Comment 9

Regarding expenditures made on “Tax Credit” housing units, we have been specifically advised by HUD staff that these expenditures are allowable. This activity has been included in our IHP. To avoid confusion, we will pursue clarification with HUD representatives, and better document the agreed upon advice.

To avoid this confusion in the future, our plan is to more closely monitor our expenditures and the revenue sources of expenditures by separating income into separate accounts, tracking transfers into checking accounts with more complete paperwork and improving the detail in our IHP to be certain that funds expended for the purposes

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Auditee Comments

Comment 10

contested in this audit report are provided for in the IHP. A closer evaluation of expenditures will be made also to maximize expenditures on established priorities.

Finding 3: "Fort Belknap did not submit its audited Financial Statements when required"

The Housing Department is now in compliance with audit requirements. Valid, Independent audits have been completed and forwarded to HUD for 2006, 2007 & 2008. Work on the 2009 audit is ongoing, and it should be delivered before the June 30, 2010 deadline. We do acknowledge that the 2006, 2007 & 2008 independent audits were submitted late.

In our January 29, 2010 meeting with your staff, we were advised that HUD was not accepting our audits, as there were no opinions given in the audits regarding Housing financial statements. Our view is that there were substantial opinions about Fort Belknap Housing Department provided by the auditor, meeting audit requirements. See the following language:

Comment 11

2006:

"...In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of the Fort Belknap Indian Community Housing Department, as of September 30, 2006 in conformity with accounting principles generally accepted in the United States of America..." See REDW letter, p. 2, 2006 Audit.

See also the following, regarding compliance:

"...As part of obtaining reasonable assurance about whether the Department's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly we do not express such an opinion. The results of our tests disclosed no instance of noncompliance or other matters that are required to be reported under Government Auditing Standards....." See REDW Letter, p. 16, 2006 Audit. (Emphasis added)

2007:

"...In our opinion, the financial statements referred to in the first paragraph present fairly in all material respects, the financial position of the Department's major

governmental funds as of September 30, 2007, and the financial position of the business-type activities and proprietary fund as of September 30, 2007, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America...." See REDW letter, p. 2, 2007 Audit.

See also the following, regarding compliance:

*"....As part of obtaining reasonable assurance about whether the Department's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly we do not express such an opinion. **The results of our tests disclosed no instance of noncompliance or other matters that are required to be reported under Government Auditing Standards.....**" See REDW Letter, p. 52, 2007 Audit. (Emphasis added)*

2008:

".....In our opinion, the financial statements referred to in the first paragraph present fairly, in all material respects, the financial position of the Department's business-type activities, major governmental funds and proprietary fund as of September 30, 2008, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America...." See REDW letter, p. 2, 2008 Audit.

See also the following, regarding compliance:

*"....As part of obtaining reasonable assurance about whether the Department's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly we do not express such an opinion. **The results of our tests disclosed no instance of noncompliance or other matters that are required to be reported under Government Auditing Standards.....**" See REDW Letter, p. 51, 2008 Audit.*

You will note in the financial statements, that the Housing Department is listed in the Business-type activities portion of the information. This distinguishes it from the governmental activities portion of the information, on which the auditors provide no opinion. This supports the Council's view that the 2006, 2007 & 2008 Independent audits, as submitted for the Housing Department, meet standards, although admittedly, there are findings which need attention. The 2006 Independent Audit had been submitted at the time of your office's 2009 visit.

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Auditee Comments

Comment 12

Our plan going forward is to continue to improve financial documentation and bookkeeping efforts, to timely reconcile and close out accounts at year end and, thereby, to timely enable future audits. We are also separately working with HUD staff to memorialize an agreement, with specific actions, to avoid untimely audits in the future.

Finding 4: "Did Not Pursue Collection of its past due Tenant Accounts Receivable"

We respectfully disagree with this finding. This finding is based in Fort Belknap policy rather than any statutory or regulatory requirement under NAHASDA. Ongoing efforts are in place to review the efficacy of policy. We do have updated policies drafted and have consulted with HUD trainers on this language. Because many individuals are the lowest of the low-income, (under HUD standards), collection of rent/house payments is an ongoing challenge. We do not agree that there have been no efforts to collect past due Tenant Accounts Receivable.

In the time period examined, 2006-2008, completed Independent audits reflect that **\$667,348** in income was received from tenants/home buyers. We have cases pending in Tribal Court right now to address concerns. Staff is also actively working with individual tenants/home buyers to execute income assignments and "wage" agreements. Presently, 120 wage agreements exist with individuals paying past due amounts. **See itemization of efforts, Exhibit #5.**

We have evaluated Tenant Account Receivables to determine the collectability of accounts. We intend to obtain expert advice on the handling of bookkeeping of accounts which appear to be uncollectable because of the death of a tenant, the tenant no longer living in the area and related bars to collection. We are actively collecting all accounts at this time, some with more success than others. These efforts will be a priority and ongoing.

Finding 5: "Fort Belknap did not maintain Equity Accounts on its home buyers"

MEPA/VEPA or homeowner Equity Accounts have been maintained for homebuyers. Updated accounts exist for 119 identified account holders. It is acknowledged that in late 2005, approximately \$300,000 was transferred from the MEPA holding account and was utilized for operating expenses. This followed an approved past practice whereby HUD officials had authorized this strategy, as long as the funds were reimbursed from the first draw on the next years monies. This happened in the previous year, but HUD officials refused to allow the draw for reimbursement in 2006-7.

Comment 13

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Auditee Comments

The MEPA holding account currently reflects a balance of \$34,080. The attached summaries of these accounts have been updated to post various expenses incurred by account holders as well as contributions made. **See Exhibit #6.** The current balance after these adjustments is \$123,717.01. Additional bookkeeping adjustments to these accounts need to be approved by the Housing Board in the amount of \$44,132.95. **See Exhibit #7.** These adjustments will reduce the current total of all accounts (adjusting previous posting errors) so that the current account balance should be \$79,584.06. An additional effort is being made, with Housing Board approval and advance notice to account holders to offset past due Tenant Accounts Receivables, as authorized in MHOAs with these account holders against MEPA balances. (This will have the added benefit of reducing the current TARS balances) It is anticipated that this action will result in the balance of all accounts totaling at or below the current cash balance of the MEPA holding account.

These accounting updates have been actively ongoing for the last year. The balances in the MEPA holding account have shown artificially high for more than seven years. It appears that expenses were met for home buyer requests for draws on MEPA accounts through the rental income account, and posting to the MEPA accounts lagged. Simply stated, the \$300,000 drawn from the MEPA holding account was unreimbursed rental/home purchase income, used to initially fund the activities for which home buyer requests were made, and once the accounting entries are properly made, there may actually be additional funds to be drawn from the current balance of the MEPA holding account.

The entry details for each account are available for review, as necessary. The process described above is acknowledged to be extraordinary, and will not be repeated. Keeping accounts current is now happening, and will prevent a reoccurrence of this problem in the future. While individual account holders were not adversely impacted, as they received all contracted services, some confusion on account balances was created by this process. A specific effort will be made to individually inform account holders of account balances and explain credits and debits, as necessary. While MHOAs enable the debiting of MEPA accounts, as house payments become past due, because of the tardiness of this process, individuals will be informed before the anticipated transfers are entered.

The demand to repay monies to these accounts is not justified or appropriate, inasmuch as individuals have already received the benefit of their account balances. This can be affirmatively demonstrated with documentary evidence for each posting.

SUMMARY

Under the **What We recommend** section, we agree with recommendation for training. This has been actively pursued by the Council and its Housing Department staff in the last several months. These efforts are welcome and will continue. Additionally, we have hired CPA services to identify problem areas and recommend permanent corrections throughout our system. We are prepared to work closely with HUD-ONAP staff to address concerns to prevent reoccurrence of problems. We disagree with recommendations to collect or repay amounts identified. We disagree that this report should be issued with the stated findings.

NAHASDA granted tribes a tremendous amount of discretion in determining on what activities that they spend their Indian Housing Block Grant Funds. For example, there is no prohibition whatsoever on spending money on conveyed Mutual Help units or for that matter Mutual Help Units still under contract, providing that the families are income eligible. The same can be said for spending block grant funds on non HUD units such as mobile homes. If the families are income eligible, the Tribe can provide services. In this case, several of the activities were not included in the Indian Housing plan but the correct action would be to amend the Indian Housing Plan if a concern exists.

Regardless, for the findings where expenditures were questioned, substantial non-grant income was spent in the same time frame to meet expenses incurred. We disagree that funds were wrongfully spent out of grant income, regardless of status of the IHP.

We respectfully request that the findings offered be withdrawn. We will actively work with HUD-ONAP staff to address efficacy of policy, training and upgrading of our finance records. WE ALSO ASK THAT YOU DO NOT PUBLISH OUR EXHIBITS, AS THEY CONTAIN INFORMATION ON PRIVATE INDIVIDUALS.

Thank you for your consideration.


Tracy King, President
Fort Belknap Indian Community Council

OIG Evaluation of Auditee Comments

Fort Belknap's written response along with its verbal response at the exit conference indicates general disagreement with the findings and recommendations.

- Comment 1** We agree that HUD reviews a plan to ensure it is in compliance with the Native American Housing and Self-Determination Act of 1996 (NAHASDA), the regulations, and program guidance before they accept it. We have changed the wording in the audit report from "HUD-approved" to "HUD-accepted." We do not agree that the Indian housing plans (plans) were comprehensive enough to include the activities singled out in the audit report. Section 102(b)(2) of NAHASDA identifies required information in a plan and this was not present in any of the HUD-accepted plans dealing with this issue. In addition, Section 233 of NAHASDA requires eligible housing activities to be described in a plan. Fort Belknap indicates if necessary, it will simply amend the plans for the years in question to reflect the units worked on. However, a plan may not be amended if all of the funds for that plan have been expended. We verified with HUD that all of the funds for the three plans have been expended so they may not be retroactively amended.
- Comment 2** We adjusted the amount of questioned costs based on the additional documentation Fort Belknap provided showing that it reimbursed the Housing Department \$43,825 for labor costs and \$6,100 in material costs on the U.S. Department of Interior home listed in the finding under the non-HUD homes category.
- Comment 3** During our review, we gave Fort Belknap officials ample opportunity and time to provide us with adequate support for the reported deficiencies. Through-out our review, we briefed various current and former Council members and Housing Department officials on the results of the audit as discrepancies were identified and they were given the opportunity to provide additional documentation. Upon issuance of the final audit report, the Council and Housing Department will have ample time to work with HUD on implementing and resolving the recommendations.
- Comment 4** Fort Belknap makes a general statement that substantially more money was spent on housing activities besides NAHASDA grant funds. However, it did not provide documentation other than that indicated in Comment 2 that shows non-program income was used to reimburse the Housing Department for completed renovation work on homes that were not in its HUD-accepted 2006, 2007, and 2008 plans.
- Comment 5** The questioned costs identified in this finding were separate from those identified in finding number one. These costs are related to renovation work and other expenses based upon different issues and are not a duplication of those questioned costs identified in finding number one. Fort Belknap and the Housing

Department will work with HUD to implement the recommendations in the finding and will be given the opportunity by HUD to provide any additional documentation necessary to resolve the finding.

- Comment 6** The \$13,420 in bank overdraft fees were specifically identified on the bank account used by the Housing Department that receives Indian Housing Block Grant funds from HUD during our audit period. In addition, penalties and interest were identified on the Housing Department's 2007 and 2008 Expenditure Reports. We were not provided with any additional supporting documentation to indicate that non-program income was used to pay for these costs.
- Comment 7** We reviewed 18 Housing Department work orders on eight individuals related to this issue along with the statement provided by Fort Belknap in its exhibit number two. We also visited the Clerk and Records Office in the Blaine County Courthouse located in Chinook, Montana to verify the date of death of the nine individuals receiving burial services. In one instance, three work orders were issued on the exact date of death of the individual receiving burial services and the remaining 15 work orders were issued shortly after the date of death of the individuals receiving burial services. The statement provided by Fort Belknap in its exhibit number two was for services provided four days after this individual died. This same individual was not a tenant in the Housing Department's low-rent housing program or its mutual help housing program. In addition, none of the eight remaining individuals in question was a tenant in the Housing Department's low-rent housing program or its mutual help housing program. The majority of the work orders stated they were for building cabinets for deceased individuals. One work order was for building a rough box and another work order was for the delivery of cabinets to a funeral home located in Chinook, Montana. We also verified with Housing Department officials that housing funds were used for burial services.
- Comment 8** We adjusted the amount of non-housing related activities based on additional documentation Fort Belknap provided showing that it reimbursed the Housing Department \$249 for training of a Tribal Council Member. In addition, we eliminated the unsupported expenses based on additional documentation provided by Fort Belknap.
- Comment 9** We agree that working with HUD representatives should prevent the issues identified in this finding from occurring again.
- Comment 10** We adjusted the finding to reflect that the auditee has now submitted its 2006, 2007, and 2008 audited financial statements to HUD. The auditee acknowledges it submitted its 2006, 2007, and 2008 audited financial statements late, which supports the conclusions in the finding.
- Comment 11** The auditee believes statements made by the independent auditor supports its view that the Housing Department is now meeting HUD audit requirements. The

documentation they provided did not support this statement. HUD determined the 2006 audited financial statements were non-compliant because the independent auditor was unable to express an opinion due to the lack of adequate accounting records. In addition, the proposed Settlement Agreement between the auditee and HUD regarding the 2007 and 2008 audited financial statements indicates HUD still considers the auditee to be non-compliant because both audits contained disclaimers of opinion due to the lack of adequate financial records. We verified that the financial statements support HUD's determination. This supports our recommendation that HUD provide the auditee with training regarding HUD financial reporting requirements.

Comment 12 The Housing Department did not have written policies and procedures for collecting its past due tenant accounts receivables. We acknowledge in the finding that the Housing Department is now taking action to collect its past due tenant accounts receivables. In addition, HUD Program Guidance No. 2002-11 states Sections 203 and 207 of NAHASDA requires that grant recipients adopt written policies dealing with rents and home buyer payments. The Housing Department's low-rent housing program policy did not address the collection of rental payments. In addition, while the Housing Department's mutual help program policy did address the collection of home buyer payments, the Housing Department elected not to follow its policy on this subject.

Comment 13 Fort Belknap acknowledged that \$300,000 was transferred from the monthly equity payment account (MEPA) and used for daily operating expenses. Fort Belknap provided documentation to show the actions it has taken to start accounting for the \$300,000 that was used to fund daily operating expenses. Fort Belknap's concern is that they do not believe that returning the misspent payments to the correct home buyers is justified or appropriate because affected individuals have already received the benefits of their account balances. The results in our finding are based on the records maintained at the time of our review. Fort Belknap will need to verify with HUD on those individuals who have already received the benefits of their account balances. Fort Belknap will also need to return the remaining misspent payments to the correct home buyers who have not already received the benefits of their account balances.