

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**THE FORT PECK ASSINIBOINE  
AND SIOUX TRIBES IMPROPERLY  
ADMINISTERED SOME LOW-INCOME  
HOME ENERGY ASSISTANCE  
PROGRAM FUNDS FOR  
FISCAL YEARS 2011 THROUGH 2015**

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## Report in Brief

Date: August 2018

Report No. A-07-18-04106

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES  
**OFFICE OF INSPECTOR GENERAL**



### Why OIG Did This Review

The Fort Peck Assiniboine and Sioux Tribes (known collectively as the Fort Peck Tribes) are federally recognized Native American tribes located in Montana that receive more than \$9.0 million each year in grant funds from HHS. The Fort Peck Tribes receive grant funds from several sources, including the Low-Income Home Energy Assistance Program (LIHEAP). We undertook a grant fraud initiative that focused on Indian Country grantees that received HHS grants.

Our objective was to determine whether the Fort Peck Tribes administered LIHEAP grant funds in accordance with Federal laws, regulations, and guidance.

### How OIG Did This Review

The Fort Peck Tribes were awarded \$4.1 million in LIHEAP grant funds during our audit period. We focused our review on the following areas: (1) Federal Financial Reports (FFRs), Carryover Reports, and Household Reports submitted to the Administration for Children and Families (ACF); (2) funds held as credit balances at an energy supplier; and (3) benefits awarded to beneficiaries who received royalty income.

We judgmentally selected for review 34 beneficiaries enrolled in the tribes' LIHEAP during Federal fiscal year (FY) 2013 who received the greatest amount of royalty income from FYs 2011 through 2014.

## The Fort Peck Assiniboine and Sioux Tribes Improperly Administered Some Low-Income Home Energy Assistance Program Funds for Fiscal Years 2011 Through 2015

### What OIG Found

The Fort Peck Tribes did not administer \$436,765 of LIHEAP grant funds for FYs 2011 through 2015 in compliance with Federal laws, regulations, and guidance. Specifically, the Fort Peck Tribes inaccurately reported the amount of unobligated grant funds in the FYs 2011 through 2015 FFRs and in the FYs 2011 and 2013 Carryover Reports that they submitted to ACF, and as a result, did not refund unobligated funds totaling \$378,506. The tribes also made unallowable benefit payments totaling \$30,621 to 28 of the 34 judgmentally selected beneficiaries we reviewed. These beneficiaries were partially or entirely ineligible because their unreported royalty income caused their income to exceed the tribes' LIHEAP eligibility limits.

Furthermore, the tribes did not refund to the Federal Government \$27,638 in funds that were not used to provide home energy assistance because those funds were improperly held as credit balances by a home energy supplier. In addition, the tribes submitted required reports to ACF that were not in accordance with Federal requirements or that were unsupported.

### What OIG Recommends and Fort Peck Tribes' Comments

We recommend that the Fort Peck Tribes refund \$436,765 to the Federal Government. We also make procedural recommendations related to the development and implementation of internal controls and policies and procedures and to the maintenance of supporting documentation.

The Fort Peck Tribes agreed with our findings regarding the \$30,621 in payments to ineligible beneficiaries and the submission of required reports. The Fort Peck Tribes disagreed with our findings regarding the inaccurate reporting of the \$378,506 in unobligated grant funds and the \$27,638 in funds improperly held as credit balances. Based on additional documentation that the tribes provided after the issuance of our draft report, we reduced the dollar amount in the finding on credit balances and, accordingly, in our first recommendation. Otherwise, we maintain that our findings and recommendations remain valid, and we encourage the tribes to continue to implement corrective actions in response to our procedural recommendations.

**TABLE OF CONTENTS**

INTRODUCTION.....1

    Why We Did This Review .....1

    Objective .....1

    Background .....1

        Administration for Children and Families .....1

        Low-Income Home Energy Assistance Program .....1

        Fort Peck Assiniboine and Sioux Tribes .....3

    How We Conducted This Review .....3

FINDINGS.....4

    Unobligated Grant Funds Inaccurately Reported .....5

        Federal Requirements.....5

        Unobligated Grant Funds Inaccurately Reported on  
        Federal Financial Reports.....5

        Unobligated Grant Funds Inaccurately Reported on  
        Carryover Reports .....6

        Lack of Controls To Ensure Accurate Reporting .....7

    Benefits Paid for Ineligible Beneficiaries .....7

    Grant Funds Not Used To Provide Home Energy Assistance.....8

    Required Reports Not Submitted in Accordance With  
    Federal Requirements or Unsupported .....9

        Federal Requirements.....9

        Federal Financial Reports, Carryover Reports, and  
        Household Reports Not Submitted in Accordance  
        With Federal Requirements .....10

        Household Reports Unsupported .....11

RECOMMENDATIONS .....11

AUDITEE COMMENTS .....12

OFFICE OF INSPECTOR GENERAL RESPONSE .....13

APPENDICES

A: Audit Scope and Methodology .....14

B: Effect of Unreported Income on Low-Income Home Energy  
Assistance Program Benefits .....17

C: Auditee Comments .....19

## INTRODUCTION

### WHY WE DID THIS REVIEW

The Fort Peck Assiniboine and Sioux Tribes (known collectively as the Fort Peck Tribes) are federally recognized Native American tribes located in Montana that receive more than \$9.0 million each year in grant funds from the U.S. Department of Health and Human Services (HHS). The Fort Peck Tribes receive 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.

We performed this review 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 U.S. Government Accountability Office (GAO) has also evaluated Federal grant awards to Indian tribes. In calendar year 2017, GAO added Federal Indian education, health, and energy programs to its High Risk List because of ineffective administration and inefficiently developed Indian energy resources.<sup>1</sup>

### OBJECTIVE

Our objective was to determine whether the Fort Peck Tribes administered LIHEAP grant funds in accordance with Federal laws, regulations, and guidance.

### 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

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<sup>1</sup> *Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others* (GAO-17-317), Feb. 15, 2017. See <http://www.gao.gov/products/GAO-17-317> (accessed Feb. 13, 2018).

needs.<sup>2</sup> 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). The Manual, section D, “Policy Decisions,” states that if a tribe has excess LIHEAP funds, it may allot additional benefits to households or use the funds for other purposes, such as crisis situations or residential weatherization. Further, a LIHEAP grantee must repay 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 fiscal year (FY) (OBRA § 2605(a)(1)). 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.<sup>3</sup> ACF awards LIHEAP block grants for 2-year periods (OBRA § 2602(c)). 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 (45 CFR § 96.81).<sup>4</sup>

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, the Carryover and Re-allotment Report (Carryover Report), which involves the carryover of grant funds from one FY to the next, and a report on the households assisted (Household Report), which includes data on the number of households receiving LIHEAP assistance (45 CFR §§ 96.81(b) and 96.82(b) and the Manual, section J). Implementing guidance from ACF specifies that the carryover of grant funds requires submission of another FFR.<sup>5</sup>

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<sup>2</sup> 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.

<sup>3</sup> 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 (the Manual, section E).

<sup>4</sup> ACF’s annual implementing guidance for our audit period appears in ACF, “Carryover and Re-allotment Report,” LIHEAP Action Transmittals LIHEAP-AT-2011-3 (Jun. 24, 2011), LIHEAP-AT-2012-4 (Jul. 12, 2012), LIHEAP-AT-2013-3 (Jul. 24, 2013), LIHEAP-AT-2014-02 (Jul. 14, 2014), and LIHEAP-AT-2016-01 (Nov. 10, 2015).

<sup>5</sup> This implementing guidance refers to the Standard Form (SF)-425 report (which is the FFR) and appears in ACF, “Financial Reporting for All LIHEAP Grantees SF 425 Report,” LIHEAP Action Transmittals LIHEAP-AT-2012-01 (Oct. 14, 2011) and LIHEAP-AT-2013-02 (Dec. 21, 2012).

## **Fort Peck Assiniboine and Sioux Tribes**

The Fort Peck Tribes are federally recognized Native American tribes located on the Fort Peck Reservation in Poplar, Montana. The Montana Governor's Office of Indian Affairs currently estimates that 11,786 people are enrolled Fort Peck tribal members. The Fort Peck Tribes' governing body, known as the Tribal Executive Board, comprises 12 voting members in addition to a chairman, vice-chairman, secretary-accountant, and sergeant-at-arms.

To determine amounts of energy assistance payments to households, the Fort Peck Tribes use a matrix that calculates the benefit amount based on 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 provided (natural gas, electricity, propane, fuel oil, or wood). In addition to an energy assistance payment, an eligible household may receive up to \$2,000 per year in emergency assistance to resolve a crisis situation. Furthermore, eligible households may receive up to \$6,000 per year in emergency assistance under LIHEAP weatherization for circumstances that present an imminent threat to the health and safety of the residents of the household.

Of the Federal grant funding that they receive for the LIHEAP, the Fort Peck Tribes specified in their Detailed Model Plan for FY 2011 that they would use 65 percent for heating assistance, 10 percent for crisis assistance, 15 percent for weatherization assistance, and 10 percent for administrative costs. In the Detailed Model Plan for FY 2012 through FY 2014, the Fort Peck Tribes specified that they would use 60 percent of the Federal grant funding for heating assistance, 20 percent for crisis assistance, 10 percent for weatherization assistance, and 10 percent for administrative costs.

To execute the LIHEAP block grant, the Fort Peck Tribes established business relationships with home energy suppliers (energy suppliers) for the delivery of services to program beneficiaries. The Fort Peck Tribes 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 the Fort Peck Tribes 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 the Fort Peck Tribes \$4,096,788 in LIHEAP grant funds during our audit period of FYs 2011 through 2014. We focused our review for the audit period on funds held as credit balances at an energy supplier and on benefits awarded to beneficiaries who received royalty income. However, in FY 2015 the tribes transferred LIHEAP funds from their LIHEAP account to

their General Revenue account.<sup>6</sup> Therefore, we expanded our audit period to FY 2015 to analyze the FFRs, Carryover Reports, and Household Reports that the tribes submitted to ACF for that FY.

To review the benefits awarded to beneficiaries who received royalty income, we judgmentally selected 34 beneficiaries enrolled in the tribes' LIHEAP during FY 2013 who received the greatest amount of royalty income from FYs 2011 through 2014.

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.

## FINDINGS

The Fort Peck Tribes did not administer \$436,765 of LIHEAP grant funds for FYs 2011 through 2015 in compliance with Federal laws, regulations, and guidance. Specifically, the Fort Peck Tribes:

- inaccurately reported the amount of unobligated grant funds in the FYs 2011 through 2015 FFRs and in the FYs 2011 and 2013 Carryover Reports that they submitted to ACF and, as a result, did not refund unobligated funds totaling \$378,506;
- made unallowable benefit payments totaling \$30,621 to beneficiaries who were partially or entirely ineligible because their unreported royalty income caused their income to exceed the tribes' LIHEAP eligibility limits;
- did not refund to the Federal Government \$27,638 in funds that were not used to provide home energy assistance because they were improperly held as credit balances by an energy supplier; and
- submitted required reports to ACF that were not in accordance with Federal requirements or that were unsupported.

These errors occurred because the Fort Peck Tribes did not have policies and procedures or other internal controls in place to prevent them. The improperly administered LIHEAP grant funds could have been used to provide eligible households additional benefits, or the Fort Peck

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<sup>6</sup> Although several Native American tribes comprise the Fort Peck Tribes, these are regarded as a single grantee under the LIHEAP. Accordingly, this report refers to such terms as "LIHEAP account," "General Revenue account," and "accounting system" in the singular rather than the plural.

Tribes could have used them for other purposes as described in the Manual, such as crisis situations, residential weatherization, or energy-related home repairs.

## **UNOBLIGATED GRANT FUNDS INACCURATELY REPORTED**

### **Federal Requirements**

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)(2)). 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.

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)). Therefore, any funds not obligated by the end of that second year must be repaid to the Federal Government.

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.<sup>7</sup> The carryover amount may not exceed 10 percent of the amount payable to the grantee for the prior FY and must be obligated in the following FY (OBRA § 2607(b)(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)).<sup>8</sup>

### **Unobligated Grant Funds Inaccurately Reported on Federal Financial Reports**

The Fort Peck Tribes inaccurately reported the amount of unobligated grant funds for FYs 2011 through 2015 in the FFRs they submitted to ACF. For FYs 2011, 2013, 2014, and 2015, the Fort Peck Tribes reported obligated amounts that were not reflected in the tribes’ income

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<sup>7</sup> Grantees submit this request to ACF by filing a Carryover Report; see also footnote 4 earlier in this report.

<sup>8</sup> 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 one of our findings later in this report. See also 45 CFR sec. 96.42(a).

statements, as depicted in Table 1 below.<sup>9</sup> As a result, the tribes misstated their unobligated funds for FYs 2011 through 2015 by \$325,841. The tribes did not obligate these funds within the 2-year grant periods and should have refunded the \$325,841 to the Federal Government.

**Table 1: Grant Funds Reported as Obligated but Not Reflected in Income Statements**

	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>Totals</b>
<b>Grant Award</b>	\$1,351,363	\$941,231	\$878,604	\$925,590	\$826,687	\$4,923,475
<b>Reported Obligations (FFR)</b>	1,351,363	895,171	790,744	922,482	825,571	4,785,331
<b>Total Actual Obligations (Income Statement)</b>	1,168,954	930,432	785,351	863,043	803,794	4,551,574
<b>Unobligated Funds</b>	(182,409)	(10,799)	(93,253)	(62,547)	(22,893)	(371,901)
<b>Tribes Refunded</b>						46,060
<b>Unobligated Funds</b>						\$(325,841)

Of the amount left unobligated during our audit period, in FY 2015 the tribes transferred \$218,994 from their LIHEAP account to their General Revenue account in their accounting system. (As of December 31, 2017, the money was still in the General Revenue account.) The tribes labeled this amount “excess revenue over multiple FYs.” By transferring these funds into their General Revenue account, the tribes increased the risk that the funds could have been used for purposes other than the provision of home energy assistance.

**Unobligated Grant Funds Inaccurately Reported on Carryover Reports**

The Fort Peck Tribes inaccurately reported the amount of unobligated funds that they carried over for FYs 2011 and 2013 in the Carryover Reports they submitted to ACF. Specifically:

- The Fort Peck Tribes inaccurately reported a grant award for FY 2011 of \$1,350,477; the tribes also reported an unobligated balance of \$116,600 to carry over to the following FY. However, the actual award amount for FY 2011 was \$1,351,363, and the actual unobligated amount (as reflected in the tribes’ income statement, after accounting for the previous year’s carryover amount) was \$182,409. This exceeded the allowed carryover limit by \$47,273 and should have been refunded to the Federal Government.

<sup>9</sup> For FY 2012, the Fort Peck Tribes incorrectly reported the amount of LIHEAP funds left unobligated at the end of the 2-year grant period. However, the tribes refunded \$46,060 to ACF in FY 2014, so we did not include that amount in our questioned costs.

- The Fort Peck Tribes' total grant award for FY 2013 was \$878,604; the tribes also reported an unobligated balance of \$86,604 to carry over to the following FY. The actual unobligated amount (as reflected in the tribes' income statement, after accounting for the previous year's carryover amount) was \$93,253. This exceeded the allowed carryover limit by \$5,392 and should have been refunded to the Federal Government.

### **Lack of Controls To Ensure Accurate Reporting**

These errors occurred because the Fort Peck Tribes lacked controls to verify that they submitted FFRs and Carryover Reports that accurately reported the amounts of unobligated funds and to ensure that they repaid to the Federal Government amounts that could no longer be obligated because those amounts exceeded the 2-year grant period. Without such controls, the tribes did not base the amount of obligated expenditures on current-year expenses in their income statements and did not separately track expenses attributed from the previous year's carryover amount. Separate tracking of these expenses would have allowed the tribes to correctly identify amounts that were unobligated in the current year.

As a result, the Fort Peck Tribes did not refund unobligated funds totaling \$378,506 (\$325,841 + \$47,273 + \$5,392) in accordance with Federal requirements. Of that amount, the tribes transferred \$218,994 out of their LIHEAP account, which increased the risk that those funds could have been used for purposes other than those of the Federal grant award.

### **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)). According to the Fort Peck Tribes' Detailed Model Plans, the tribes used the 150-percent threshold for FYs 2011 and 2012 and the 60-percent threshold of the State median household income for FYs 2013 and 2014.

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

The Fort Peck Tribes' Detailed Model Plans for FYs 2011 through 2014 stated that the tribes would check an applicant's royalty income when determining eligibility for LIHEAP. Therefore, the tribes' definition of income included royalty income.

For FYs 2011 through 2014, the Fort Peck Tribes made unallowable LIHEAP benefit payments totaling \$30,621 to 28 of the 34 judgmentally selected beneficiaries we reviewed.<sup>10</sup> These beneficiaries were partially or entirely ineligible because they did not report royalty income on their LIHEAP application for at least 1 FY, and the unreported royalty income caused their income to exceed the tribes' LIHEAP eligibility limits. Of this amount, 24 clients who were not eligible for the program in at least 1 FY received unallowable benefits totaling \$26,457. In addition, 13 clients who were eligible for LIHEAP benefits in at least 1 of the FYs in our audit period received LIHEAP benefit amounts totaling \$4,164 that exceeded the allowable amounts.<sup>11</sup> To illustrate, 1 of the 28 beneficiaries had \$172,013 in unreported royalty income during the 4-year period but received \$3,448 in LIHEAP assistance to which the individual was not entitled; see also Appendix B.

Although the tribes included royalty income in their definition of income for LIHEAP eligibility, the tribes lacked controls to verify that applicants reported all royalty income on their applications. As a result, the Fort Peck Tribes did not refund the Federal Government \$30,621 for unallowable LIHEAP benefit payments.

## **GRANT FUNDS NOT USED TO PROVIDE HOME ENERGY ASSISTANCE**

The Fort Peck Tribes paid energy suppliers directly on behalf of LIHEAP beneficiaries under the provisions of the OBRA, section 2605(b)(7). 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)). 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

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<sup>10</sup> 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.

<sup>11</sup> Nine of these thirteen clients were also included in the 24 ineligible beneficiaries because they received LIHEAP benefits but were not eligible in at least 1 of the FYs between FY 2011 and 2014. The other four clients were eligible for the program in all FYs but received amounts that exceeded the allowable benefit amounts for which they actually qualified.

residential weatherization and other cost-effective energy-related home repairs (OBRA § 2605(b)(1)).

For FY 2014, the Fort Peck Tribes paid one energy supplier a total of \$27,638 in LIHEAP grant funds that were not used to provide assistance for home energy costs, for emergency crisis situations, for weatherization, or for energy-related home repairs. These funds were improperly held as credit balances in individual beneficiary accounts at the energy supplier instead of being returned to the Federal Government as mandated by the OBRA.

The Fort Peck Tribes did not have policies and procedures to ensure that (1) energy suppliers returned unused LIHEAP benefits to the program and that (2) amounts that could no longer be obligated because they exceeded the 2-year grant period were repaid to the Federal Government. When asked about the credit balances held by the energy supplier, the tribes informed us that the credit balances should stay in the individual beneficiaries' accounts until they are used. However, the tribes did not have a process for tracking these credit balances to ensure that they were used for eligible beneficiaries.

Moreover, the tribes did not attempt to collect refunds from the energy supplier to return the unused funds to their LIHEAP account. During our site visit, officials at the energy supplier told us that they had tried to refund the grant funds to the tribes, but Fort Peck Tribes officials refused the funds and, instead, directed the energy supplier to credit those funds back to beneficiaries' individual accounts.

As a result, the tribes did not refund to the Federal Government LIHEAP funds totaling \$27,638 that they did not use to provide home energy assistance.

## **REQUIRED REPORTS NOT SUBMITTED IN ACCORDANCE WITH FEDERAL REQUIREMENTS OR UNSUPPORTED**

### **Federal Requirements**

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)(2) 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)).<sup>12</sup> Accordingly, the due date for the FFR is December 31.

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<sup>12</sup> These regulations speak in terms of a requirement that grantees use the SF-269A, Financial Status Report. More recently, this form has been replaced by the SF-425, which is the FFR (footnote 5).

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.<sup>13</sup>

The tribe must submit the Carryover Report by August 1 before the end of the FY (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.<sup>14</sup>

An Indian tribe or tribal organization that received direct funding from HHS shall submit to HHS, as part of its LIHEAP grant application, data on the number of households receiving LIHEAP assistance during the 12-month period corresponding to the FY preceding the FY for which funds are requested (45 CFR § 96.82(b)). Implementing guidance from ACF specifies that, for FYs 2011 through 2014 these data were due by December 15 after the end of the FY.<sup>15</sup> For FY 2015, these data were due (again according to implementing guidance from ACF) by December 31 after the end of the FY.<sup>16</sup>

A grantee must also have “[f]iscal control and accounting procedures . . . sufficient to . . . permit preparation of reports required” by OBRA and “permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of [OBRA’s] restrictions and prohibitions” (45 CFR § 96.30(a)).

### **Federal Financial Reports, Carryover Reports, and Household Reports Not Submitted in Accordance With Federal Requirements**

The Fort Peck Tribes did not submit complete and timely FFRs, Carryover Reports, and Household Reports in accordance with Federal requirements for FYs 2011 through 2015. Specifically, the Fort Peck Tribes:

- did not always submit initial and final FFRs within 90 days of the end of the FY,
- submitted initial and final FFRs that did not contain the date of the last obligation for the relevant FY,
- did not always submit Carryover Reports before the August 1 due date, and

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<sup>13</sup> The relevant ACF guidance appears in the LIHEAP Action Transmittals listed in footnote 5.

<sup>14</sup> The relevant ACF guidance appears in the LIHEAP Action Transmittals listed in footnote 4.

<sup>15</sup> ACF, “Household Report for FY 2011,” LIHEAP Action Transmittal LIHEAP-AT-2011-6 (Jul. 25, 2011); ACF, “Household Report – Short and Long Form for FY 2012,” LIHEAP Action Transmittal LIHEAP-AT-2012-7 (Aug. 3, 2012); ACF, “Household Report for FY 2013,” LIHEAP Action Transmittal LIHEAP-AT-2013-4 (Aug. 22, 2013); ACF, “Household Report for FY 2014,” LIHEAP Action Transmittal LIHEAP-AT-2014-5 (Aug. 27, 2014).

<sup>16</sup> ACF, “LIHEAP Revised Reporting Instructions for the Household Report FY 2015,” LIHEAP Action Transmittal LIHEAP-AT-2016-2 (Nov. 30, 2015).

- did not always submit Household Reports before the December due dates.

The Fort Peck Tribes lacked policies and procedures to ensure that their FFRs, Carryover Reports, and Household Reports were complete and submitted timely to ACF. As a result, the Fort Peck Tribes did not submit those reports in accordance with Federal requirements.

### **Household Reports Unsupported**

The Fort Peck Tribes could not provide supporting documentation for the Household Reports in accordance with Federal requirements for FYs 2011 through 2015.

The Fort Peck Tribes did not maintain supporting documentation for the Household Reports they submitted to ACF. During our audit period, the tribes did not maintain a client listing that they could use to assist in the completion of these reports. In addition, the tribes' previous LIHEAP director had filed the FYs 2011, 2012, and 2014 Household Reports; the current director could not locate the supporting documents for those reports or for the FY 2015 report. Therefore, we could not determine the accuracy of the Fort Peck Tribes' FYs 2011 through 2015 Household Reports.

ACF uses the information from the Household Reports in its annual LIHEAP Report to Congress. When grantees submit inaccurate information, the Report to Congress could present misleading information on the effectiveness of the program.

## **RECOMMENDATIONS**

We recommend that the Fort Peck Tribes:

- refund to the Federal Government \$436,765 for grant funds that remained unobligated after the 2-year grant period;
- develop and implement controls to verify that FFRs and Carryover Reports accurately report the amount of unobligated funds in the current year and to ensure that the tribes repay to the Federal Government amounts that can no longer be obligated because those amounts exceeded the 2-year grant period;
- develop and implement controls to verify that all applicants for LIHEAP assistance report all royalty income in their applications;
- develop and implement policies and procedures to track credit balances in beneficiaries' accounts held by energy suppliers to ensure that all unused LIHEAP funds are returned to the tribes 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 ensure that FFRs, Carryover Reports, and Household Reports are properly completed and timely submitted to ACF; and
- maintain documentation, to include an up-to-date client listing and data on the number of households receiving LIHEAP assistance, to support the information reported in the Household Reports that they submit to ACF.

### **AUDITEE COMMENTS**

In written comments, the Fort Peck Tribes agreed with two of our four findings. Specifically, the tribes agreed with the second finding regarding benefits paid to ineligible beneficiaries<sup>17</sup> and stated that they had established internal controls to ensure that applicants for LIHEAP assistance provide documentation of each source of income at the time of application. The tribes also agreed with the fourth finding regarding the submission of complete and timely reports and described a records management policy and procedure that it planned to implement.

The Fort Peck Tribes disagreed with the dollar amount that we questioned in our first finding, which related to the inaccurate reporting of unobligated grant funds, and said that we had not taken the allowable carryover amounts into consideration. The Fort Peck Tribes' written comments included a spreadsheet to support this statement.

In addition, the Fort Peck Tribes disagreed with our third finding related to grant funds improperly held as credit balances and stated that some of the individuals that an energy supplier's report had listed as having credit balances were not LIHEAP clients. The tribes added that their Detailed Model Plan for FY 2014 instructed households receiving LIHEAP assistance to monitor their credit balances to ensure that they received the full credit and use of their benefits. The tribes stated that clients could not apply for LIHEAP benefits until they had used all of the credits at the vendor (that is, the energy supplier). Furthermore, the tribes described planned corrective action in the form of an internal policy and procedure for the management of credit balances.

In focusing on our findings in its written comments, the Fort Peck Tribes did not directly agree or disagree with our recommendations. However, they described corrective actions that they had taken or planned to take for all but the second and fifth recommendations.

The Fort Peck Tribes' comments appear in their entirety as Appendix C.

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<sup>17</sup> The \$30,621 in questioned costs associated with this finding form part of the recommended refund in our first recommendation; the procedural corrective actions relate to our third recommendation.

## OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the Fort Peck Tribes' comments and the additional documentation that the tribes provided after issuance of our draft report, we reduced the dollar amount in our third finding, and the recommended refund in our first recommendation, by \$2,778. We based this reduction on additional documentation that the tribes provided, which showed that some of the individuals that an energy supplier had reported as having credit balances during FY 2014 also received funds from non-Federal programs that year (and accordingly were described as "not LIHEAP clients" in the tribes' written comments).<sup>18, 19</sup>

The Fort Peck Tribes stated that clients could not apply for LIHEAP benefits until they had used all of the credits at the energy supplier. However, as stated in our finding, the tribes did not have a process for tracking funds held as credit balances. Therefore, the tribes had no way to ensure that these funds were used only for eligible beneficiaries, which increased the risk that those funds could then have been used to provide benefits to beneficiaries who no longer qualified for assistance under LIHEAP. Accordingly, the tribes should have collected refunds from the energy supplier, returned unused LIHEAP benefits to the program, and repaid the Federal Government amounts that could no longer be obligated because they exceeded the 2-year grant period.

Other than the reduced dollar amount discussed above, we maintain that our findings and recommendations, as they appear in this final report, remain valid. With respect to our first finding, we disagree with the Fort Peck Tribes' assertion that we did not take the allowable carryover amounts into consideration. Our discussion emphasizes that we used the tribes' income statements to calculate the correct carryover amounts; our calculations, accordingly, included the 10-percent carryover amounts. The spreadsheet that the tribes included with their written comments, which show the unobligated amounts for FYs 2011 and 2013, is incorrect because its calculations included the carryover amounts twice.

We continue to recommend that the Fort Peck Tribes refund the \$378,506 (\$325,841 + \$52,665) in unobligated funds inaccurately reported on the FFRs and Carryover Reports. Of this amount, \$218,994 in LIHEAP funds is, as of December 31, 2017, still in the tribes' General Revenue account.

We commend the Fort Peck Tribes for the development of the corrective actions described in their written comments. These actions, when fully implemented and monitored, should bring about compliance with our third, fourth, and sixth recommendations. We encourage the tribes to develop and implement corrective actions for our second and fifth recommendations as well.

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<sup>18</sup> After submitting their written comments on our draft report, the Fort Peck Tribes provided us with additional information showing the amount of funds received from non-Federal programs.

<sup>19</sup> By reducing the dollar amount associated with our third finding, we also reduced the questioned costs in our first recommendation from \$439,543 (in our draft report) to \$436,765.

## APPENDIX A: AUDIT SCOPE AND METHODOLOGY

### SCOPE

ACF awarded the Fort Peck Tribes \$4,096,788 in LIHEAP grant funds during our audit period of FYs 2011 through 2014. However, in FY 2015 the tribes transferred LIHEAP funds from their LIHEAP account to their General Revenue account. Therefore, we expanded our audit period to include FY 2015 to analyze the FFRs, Carryover Reports, and Household Reports that the tribes submitted to ACF for that FY.

We focused our review on the following areas: (1) FFRs, Carryover Reports, and Household Reports submitted to ACF; (2) funds held as credit balances at an energy supplier; and (3) benefits awarded to beneficiaries who received royalty income.

To review the benefits awarded to beneficiaries who received royalty income, we judgmentally selected 34 beneficiaries enrolled in the tribes' LIHEAP during FY 2013 who received the greatest amount of royalty income from FYs 2011 through 2014.

We performed our audit, which included onsite visits to the Fort Peck Tribes' tribal government offices in Poplar, Montana, and to an energy supplier in that area, from July 2016 through May 2017.

### 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 Fort Peck Tribes staff to obtain an understanding of:
  - the Fort Peck Tribes' policies and procedures for paying energy suppliers on behalf of LIHEAP beneficiaries,
  - their policies and procedures for preparing and submitting LIHEAP financial reports,
  - their policies and procedures for operating the program, and
  - their process for expending excess fiscal yearend LIHEAP funds;

- obtained and reviewed the Fort Peck Tribes' Detailed Model Plans for FYs 2011 through 2014 and evaluated the tribes' eligibility determinations in the context of the different income thresholds specified in those plans;<sup>20</sup>
- obtained the Fort Peck Tribes' FFRs, Carryover Reports, and Household Reports for FYs 2011 through 2015;
- obtained and reviewed the Fort Peck Tribes' income statements for FYs 2011 through 2015;
- compared the information in the FFRs and Carryover Reports to the tribes' income statements to verify the unobligated balances and carryover amounts reported;
- reviewed the FFRs and Carryover Reports to determine whether they were complete and timely submitted;
- reviewed the Household Reports to determine whether they were complete and adequately supported by other documentation;
- obtained and reviewed data from the U.S. Department of Interior listing all royalty-related transactions from lands held in trust for individual Native Americans who were enrolled in LIHEAP during FY 2013;
- judgmentally selected, for further review, 34 beneficiaries enrolled in 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 34 selected beneficiaries and all adult members of their households, the program applications and supporting documentation from FYs 2011 through 2014;
- interviewed staff at one of the Fort Peck Tribes' energy suppliers to obtain an understanding of the processes used by the Fort Peck Tribes' LIHEAP to fund program services;
- visited one energy supplier office, where we obtained (and reviewed) supporting documentation regarding unused LIHEAP benefits held as credit balances; and
- discussed the results of our review with Fort Peck Tribes staff on January 30, 2018.

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<sup>20</sup> We explain the different thresholds and the associated timeframes in "Benefits Paid for Ineligible Beneficiaries" earlier in this report.

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

**Table 2: Effect of Unreported Income on Benefits**

<b>Beneficiary</b>	<b>Total Unreported Income</b>	<b>Ineligible Amount<sup>21</sup></b>	<b>Excess Benefit Amount<sup>22</sup></b>	<b>Total Unallowable</b>
1	\$(24,867.76)	\$572.00	\$119.00	\$691.00
2	(12,703.67)	560.00	0.00	560.00
3	(85,332.76)	1,392.00	457.00	1,849.00
4	(86,441.25)	1,954.00	0.00	1,954.00
5	(67,394.41)	560.00	0.00	560.00
6	(7,086.24)	0.00	346.00	346.00
7	(48,243.77)	691.00	334.00	1,025.00
8	(30,715.08)	572.00	0.00	572.00
9	(5,994.09)	0.00	0.00	0.00
10	(53,078.39)	691.00	236.00	927.00
11	(49,104.67)	3,336.00	202.00	3,538.00
12	(26,766.27)	572.00	0.00	572.00
13	(36,636.04)	837.00	210.00	1,047.00
14	(12,179.82)	1,437.00	0.00	1,437.00
15	(5,209.06)	0.00	0.00	0.00
16	(4,800.00)	0.00	0.00	0.00
17	(23,600.37)	560.00	0.00	560.00
18	(86,910.12)	572.00	0.00	572.00
19	(83,495.25)	691.00	0.00	691.00
20	(47.04)	0.00	168.00	168.00
21	(40,248.65)	2,620.00	101.00	2,721.00
22	(172,012.65)	3,448.00	0.00	3,448.00
23	(89,435.88)	1,251.00	0.00	1,251.00
24	0.00	0.00	0.00	0.00
25	(53,935.96)	0.00	413.00	413.00
26	(45,773.28)	0.00	811.00	811.00
27	(146,373.20)	754.00	0.00	754.00
28	(49,500.87)	1,166.00	424.00	1,590.00
29	(32,703.07)	572.00	0.00	572.00
30	(12,180.67)	478.00	0.00	478.00

<sup>21</sup> The amounts in this column represent benefit payments to beneficiaries who were ineligible for the program on the basis of their unreported income.

<sup>22</sup> 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.

<b>Beneficiary</b>	<b>Total Unreported Income</b>	<b>Ineligible Amount</b>	<b>Excess Benefit Amount</b>	<b>Total Unallowable</b>
31	(64,544.94)	784.00	0.00	784.00
32	(1,825.75)	0.00	0.00	0.00
33	(31,717.53)	387.00	343.00	730.00
34	(13,650.77)	0.00	0.00	0.00
<b>Total</b>	<b>\$(1,504,509.28)</b>	<b>\$26,457.00</b>	<b>\$4,164.00</b>	<b>\$30,621.00</b>

# FORT PECK TRIBES

Assiniboine & Sioux

July 2, 2018

Patrick J. Cogley  
Regional Inspector General  
for Audit Services  
Office of Audit Services  
Kansas City, MO 64106

RE: Report Number: A-07-18-04106

Dear Mr. Cogley:

We have reviewed the Draft Report “The Fort Peck Assiniboine and Sioux Tribes Improperly Administered Some Low-Income Home Energy Assistance Program Funds Fiscal Year 2011 Through 2015”, issued by U.S. Department of HHS, General Audit Services in April 2018.

Additionally, we received an email from Debra Keasling on April 27, 2018, to approving our request for an extension in responding to this audit.

This response is written as follows:

- The HHS recommendation/finding is reprinted.
- Our response states whether we agree or disagree with each of the recommendations. This indication is at the beginning of each response in bold **red**.
- Our response to the recommendation/finding is written in **red**.

The Fort Peck Tribes did not administer \$439,543 of LIEHEAP grant funds for FY2 2011 through 2015 in compliance with Federal laws, regulations, and guidance.

1. Specifically, the Fort Peck Tribes inaccurately reported the amount of unobligated grant funds in the FYs 2011 through 2015 FFRs and in the FYs 2011 and 2013 Carryover Reports that they submitted to ACF, and as a result did not refund unobligated funds totaling \$373,506.<sup>22</sup>

Remedy: Return unobligated carryover funds totaling \$378,506 to the Federal Government.

## **Disagree**

We disagree with this finding because the total expenditures listed on the OIG spreadsheet are only for that specific fiscal year, the allowable 10% carryover is not taken into consideration, which would thereby reduce the amount for which the tribe is liable. FY11 shows \$182,409.99 in unobligated funding, of this amount \$135,136.30 (10% of the award) is allowed to be carried over and subsequently expended in FY12. Our calculation reduces the unobligated amount in FY11 to \$47,272.69 (\$182,408.99 less allowable carryover of \$135,136.30. Attachment 1 is a

<sup>22</sup> Office of Inspector General Note—This dollar amount is a typographical error and should read “\$378,506.”

spreadsheet for FY11 through FY15 exhibiting the OIG's analysis with the tribes assertion that the 10% allowable carryover be considered, thereby reducing the total amount of unobligated funds to \$52,665.08 for total years in the audit.

2. The tribes also made unallowable benefit payments totaling \$30,621 to 28 of the 34 judgmentally selected beneficiaries we reviewed. These beneficiaries were partially or entirely ineligible because their unreported royalty income cause their income to exceed the tribes "LIHEAP eligibility limits.

### **Agree**

The OIG derived the amount of \$30,621 from Office of Special Trustee Individual Indian Money accounts for the judgmentally selected beneficiaries.

3. The Tribes did not refund to the Federal Government \$30,416 in funds that were not used to provide home energy assistance because those funds were improperly held as credit balances by a home energy supplier.

### **Disagree**

We disagree with the total of \$30,416 in unused credits for individuals listed on the October 1, 2014 [REDACTED]<sup>23</sup> aging report. First, the aging report lists 80 names with credit balances, however not all individual listed were LIHEAP clients. The listing has names of recipients of Tribal energy assistance and [REDACTED] awardees. Secondly, our 2014 model plan, Section 2605(b)(7)(A), paragraph 3 states "The households benefits will be sent to the vendor and a line of credit will be established, which the HOUSEHOLD WILL BE INSTRUCTED TO MONITOR to be sure they receive full credit/use of their benefits." The funds were awarded in the clients name, and the client with a credit balance could not apply for benefits until the credit was used—the balance of the award would be considered in the overall benefit to the client for the next program year.

4. The tribes submitted required reports to ACF that were not in accordance with Federal requirements or that were unsupported.

### **Agree**

The Community Service Programs long term Director, who personally managed the LIHEAP retired due to medical reasons, and unfortunately the former grant and contract manager was unable to keep up with overload of contracts and grants. This has now be resolved with an expanded contracts/grants office.

5. The OIG recommends procedural recommendations related to the development and implementation of internal controls and policies and procedures and to the maintenance of supporting documentation.

<sup>23</sup> Office of Inspector General Note—The deleted text here and below has been redacted because it is proprietary information.

**Agree**

The Community Service Program and office of Contracts/Grants manger have implemented greater oversight on the LIHEAP program. The application form and process has been reformatted to include a release form the applicant must sign to ensure the program can access income information for documentation. Internal controls have been established through ensuring that the applicant for low income energy assistance provides documentation of each source of income at the time of application. In addition, the LIHEAP Coordinator specifically requests ledger sheets from the Office of Special Trustee for every applicant and household members listed on application.

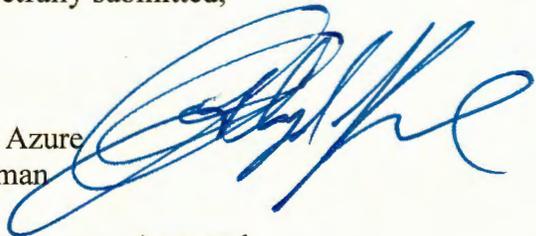
An internal policy and procedure is being implemented concerning credit balances at local vendors mandating that if the propane is not delivered to the propane tank by September 1<sup>st</sup> of each year, the funds must be returned to the program. Full benefits are no longer being issued, but are sent in partial payment based on estimate of time to use the benefit for energy payments. These policies and procedures are draft and will be approved by Tribal resolution by September 1, 2018.

The program is in a new facility and has established a process for files, prior to 2015, the program moved twice at which time files were inadvertently misplaced. The Fort Peck Tribes has approved a Records Management Policy and Procedure for which a records maintenance schedule is being drafted. The schedule will include individual client files and mandates for file retention.

In summary, we are requesting the U.S. Department of Health & Human Service, Office of Inspector General, consider the Fort Peck Tribes responses to the audit findings, thereby reducing the amount assessed for FY11 through FY15 from \$439,543 to \$89,890.85.

Respectfully submitted,

Floyd Azure  
Chairman



Attachements: As stated

Federal Financial Reports (FFRs): Analysis of Compliance with Reporting Requirements						
		FY11	FY12	FY13	FY14	FY15
Grant Award		\$ 1,351,363.00	\$ 941,231.00	\$ 878,604.00	\$ 925,590.00	\$ 826,687.00
Source: Award Letter						
<b>OIG ANALYSIS WITH CORRECT CALCULATION</b>						
Income Statement - Obligated Expenses as of end of specific FY listed above	CORR, line 34	\$ 1,275,727.53	\$ 1,065,568.46	\$ 796,150.05	\$ 950,902.94	\$ 866,341.31
Prior CO (from CORR, line 35 or 36)	CORR, line 35 or 36	\$ 106,773.52	\$ 135,136.30	\$ 10,798.84	\$ 87,860.40	\$ 62,547.46
Total Actual Obligations (Does not include allowable CO of 10% expended in next fiscal year)		\$ 1,168,954.01	\$ 930,432.16	\$ 785,351.21	\$ 863,042.54	\$ 803,793.85
Differences of Expenditures (FFR - IC)-per OIG	Effect	\$ (182,408.99)	\$ (10,798.84)	\$ (93,252.79)	\$ (62,547.46)	\$ (22,893.15)
Allowable amount of carryover expended in next fiscal year. These amounts were taken from Carryover Analysis prepared by OIG ( lines 36 or 37)		135,136.30	10,798.84	87,860.40	62,547.46	22,893.15
Excess funding that needs to be reimbursed		(47,272.69)	(0.00)	(5,392.39)	(0.00)	\$ 0.00
						\$ (371,901.23)
					\$ 319,236.15	
						46,060.03
						\$ (325,841.20)
					\$ (52,665.08)	
<p>According to this report, the total expenditures listed are only for that specific fiscal year, the allowable carryover is not taken into consideration on this spreadsheet. Total expenditures are listed incorrect on this spreadsheet. FY11 shows 182,408.99 in unobligated funding, of this amount only 135,136.30 (10% of the award) is allowed to be carried over and was expended in the next fiscal year. Reducing the unobligated amount to 47,272.69 (182,408.99 less allowable CO 135,136.30) This is the same with each fiscal year on this spreadsheet. The allowable carryover by the granting agency is not calculated in the total expenditures for that grant. After factoring in the allowed carryover by the granting agency, the the amount owed by Fort Peck should be 52,665.08.</p>						

ATTACHMENT I