



U.S. Department of Housing and Urban Development
**Southwest District Office of Inspector
General**
1600 Throckmorton, Room 406
Post Office Box 2905
Fort Worth, Texas 76113-2905
(817)978-9309 FAX (817)978-9316
<http://www.hud.gov/oig/oigindex.html>

May 26, 1998

98-FW-259-1811

Memorandum For: Mr. Wayne Sims, Administrator
Southern Plains Office of Native American Programs, 6IPI

From: D. Michael Beard
District Inspector General, 6AGA

Subject: Congressional Inquiry
Withdrawal of Funds from HUD Grants
Cherokee Nation of Oklahoma

In response to a request from Senators Don Nickles and Jim Inhofe and Representative Tom Coburn, we reviewed the Cherokee Nation's use of HUD grant funds. The members of Congress requested we review expenditures for compliance with the intent of Congress and the Administration. Accordingly, the review objective was to find out whether the Nation had misused grant funds drawn down from HUD. We will provide a copy of this report to the members of Congress and to the Cherokee Nation.

To achieve the objective, we reviewed drawdowns from HUD and charges to grant programs for the period October 1, 1996, through December 31, 1997. For the 15-month period, we reconciled the Nation's drawdown data to HUD's records. We made a cursory review of all drawdowns and expenses. We judgmentally selected major or curious items to review supporting documentation in detail. The detailed review included \$134,670 of the \$1.2 million charged to HUD programs. We reviewed grant agreements and applicable HUD regulations and cost standards. The review included interviews of staff at HUD's Office of Native American Programs in Oklahoma City, Oklahoma, and the Nation's accounting and program staff in Tahlequah, Oklahoma. In addition, we reviewed documents and talked to officials concerning an allegation that the Nation renovated a house that was ineligible for a HUD grant program. We also looked for ineligible lobbying payments during the period October 1, 1995 through December 31, 1997. We conducted the audit in accordance with Government Auditing Standards.

If you have any questions, please call Jerry R. Thompson, Assistant District Inspector General for Audit.

SUMMARY

We found no evidence to indicate the Cherokee Nation had misused grant funds drawn down from HUD. For HUD grants, program expenses exceeded drawdowns by more than \$230,000 as of December 31, 1997. The house Nation officials renovated was eligible for grant funds. Also, we found no evidence that officials had used HUD funds to pay for lobbying activities.

The Nation had not fully implemented its American Fundware accounting system at the time of our review. As a result, the new system could not produce a complete report of receipts and expenses, financial management reports, or a reliable general ledger for fiscal periods since September 30, 1996. This significantly impacts management's ability to make financial decisions. However, the Nation is taking steps to correct this problem. The Nation's accounting staff prepared a report of receipts and expenses for each HUD grant for our review by using data from both the old and the new systems.

BACKGROUND

The Cherokee Nation is the second largest federally recognized Native American tribe in the United States. It is located within the 14 counties of northeastern Oklahoma. The boundary runs northerly and southeasterly from Tulsa, Oklahoma, to the Kansas and Arkansas state borders. The Cherokee Nation's jurisdictional area, which consists of 9,234 square miles and includes all of nine counties and parts of five other counties, was established following the historical boundaries of the Cherokee Nation after the Treaty of 1866.

The Nation has a tripartite form of government. The Principal Chief has the executive power and is responsible for the execution of tribal laws. The Legislative Branch consists of 15 tribal council members. The Council convenes monthly to propose and adopt legislation and to conduct other business. The Judicial Branch consists of the Judicial Appeals Tribunal and the Cherokee Nation District Court. The Tribunal hears and resolves disagreements arising under the constitution or any Council enactment. The District Court hears all cases under the jurisdiction of the Nation's judicial code.

The Nation's existing automated financial accounting system has been the subject of criticism in recent audit reports and in a report issued by an independent commission engaged by the Tribal Council. The Nation bought a new financial accounting computer system to address these concerns. During Fiscal Year 1997, staff partially implemented the new system but serious problems resulted. The Nation has engaged Deloitte & Touche, LLP, to assist the Nation's staff in producing financial and management reports for Fiscal Year 1997, and to assist with the implementation of the new accounting system.

Special revenue funds account for funds from specific revenue sources. Composed primarily of federal, state, and private grants and contracts, the Nation uses the funds to finance specified activities as required by law or administrative regulations. For Fiscal Year 1996,

revenues totaled \$82,107,000. Expenditures totaled \$82,463,000. As a result, the Nation had a deficiency of revenues of \$356,000 for the year. Of the total, the Housing and Urban Development fund had revenues and expenditures of \$1,160,000 and \$1,188,000, respectively, a \$28,000 deficiency of revenues.

During the 15-month period from October 1, 1996, through December 31, 1997, the Nation had four grant programs funded by HUD: Congregate Housing Services, Emergency Shelter, Community Development Block Grant, and HOME. The Nation drew down \$948,846 in grant funds and charged over \$1.2 million in expense to these programs during this period.

The last single audit report on the Cherokee Nation of Oklahoma covered the fiscal year ended September 30, 1996. By memorandum dated December 4, 1997, the Office of Inspector General of the Department of Interior advised HUD that it had reviewed the report, the report meets applicable requirements, and it does not contain any findings related to direct funding provided by HUD. Deloitte & Touche, LLP, Certified Public Accountants, did the audit.

RESULTS OF REVIEW

We did not find any indications that Nation officials had misused HUD funds, although staff had made mistakes in calculating drawdown amounts and applying receipts and expenses to programs. Also, we did not find any validity to the allegation that a house renovated by the Nation was ineligible. Although the accounting system was not capable of providing timely and accurate financial information, the Nation is taking steps to correct the problem.

Cherokee Nation had not misused HUD funds.

For the 15 month period, we reviewed drawdowns of grant funds and expenses charged to the Nation's Congregate Housing Services, Emergency Shelter, Community Development Block Grant, and HOME programs. During the audit period the Nation drew \$948,846 from and charged \$1,230,916 to programs as shown below:

<u>PROGRAM</u>	<u>RECEIPTS</u>	<u>EXPENSE</u>
Congregate Housing Services	\$ 80,418	\$ 123,526
Emergency Shelter	107,725	104,463
CDBG Program	453,107	535,062
HOME Program	<u>307,596</u>	<u>467,865</u>
Total	<u>\$948,846</u>	<u>\$1,230,916</u>

In reviewing receipts we noted that two drawdown calculations for Congregate Housing Services funds were incorrect. This occurred because accounting staff mistakenly used the wrong amounts and had not adjusted a drawdown request for an amount that staff had previously requested but not received. As a result, the Nation received two amounts that staff could not justify at the time of the withdrawal. These mistakes amounted to \$12,249 in January 1997 and \$9,761 in May 1997. However, later draw downs have corrected the mistakes. From the

inception of each of the grants to December 31, 1997, total expense charged to HUD grants exceeded total grant receipts by \$230,000.

We also noted accounting staff mistakenly recorded a receipt from a Congregate Housing Services grant as a Community Development Block Grant receipt. As a result, Nation's records for revenues from the programs were over and understated \$13,680.61, which is a classification error that does not change the total receipts from HUD grants. We told officials about the error.

In reviewing expenses we noted where staff mistakenly charged an instructor fee to the Emergency Shelter Program. This occurred because program staff had used the wrong cost code. As a result, staff caused emergency shelter expense to be overstated \$990. Accounting has since corrected the error.

Allegations of the Nation inappropriately remodeling a house are invalid.

An area newspaper reported questions about the legality of remodeling a non-Indian's house. Reportedly, the Nation's community development program spent more than \$22,500 in HUD funds to remodel the home of the mother of a tribal councilor. The tribal councilor's father was a registered Cherokee but passed away during the first week of January 1998, before work on the house started on January 10, 1998.

After reviewing the file on the questioned house renovation and talking to the Director of the Community Development Department, we concluded that the renovation complies with HUD requirements. The renovation is not excessive, was approved before the tribal councilor became a councilor, and, if the father of the councilor had lived, the cost of renovation apparently would not be a matter of discussion. Because he died before the contractor started work and his family did not report his death until after construction started, some people have questioned why officials let the contractor finish the work. Government regulations do not limit renovation assistance to persons of registered Indian heritage nor do Community Development Department policies cover the situation when a death occurs before an approved renovation is completed. Therefore, officials did not violate requirements.

Accounting System was not capable of producing timely and accurate financial information.

Nation officials knew the new American Fundware accounting system did not work as it should. In 1994, the Council hired a firm to implement the accounting system. Implementation started in 1996. However, after 2 years and paying the firm about \$100,000, the system still had problems. The payroll system had numerous errors. These errors caused unreliable payroll data and errors in Federal W-2 forms, state unemployment, and travel reimbursement reports. Officials also had not closed the old accounting system and put remaining account balances into the new system. Without the transfer of balances the new system could not produce complete reports of receipts and expenses or other financial management reports. The lack of such reports hinders management's ability to make financial management decisions.

The Council approached American Fundware about completing implementation, but their price exceeded what the Council would pay at the time. On January 26, 1998, the Council authorized funding of \$2 million to resolve the Nation's accounting system problems and close out the books for Fiscal Year 1997. On February 10, 1998, the Council engaged Deloitte & Touche, LLP, to assist the Nation's staff in reconciling and closing its financial records for Fiscal Year 1997, and to provide project coordination, management, and technical support in making the accounting system functional.

MANAGEMENT CONTROLS

In planning and performing our audit, we considered management control systems of the Cherokee Nation to determine our auditing procedures and not to provide assurance on management controls. Management controls include the plan of organization, methods, and procedures adopted by management to ensure that its goals are met. Management controls include the processes for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

We concluded the following management control categories are relevant to our objectives:

- Validity and reliability of data
- Compliance with laws and regulations

We obtained an understanding of management controls through inquiries of accounting and program staffs. We also reviewed the Nation's organization chart and its policies and procedures for use of federal fund resources.

Since the Nation had not accomplished closeout of its financial records for Fiscal Year 1997, and financial reporting as required, we believe the incomplete implementation of the Nation's accounting system is a significant weakness in the Nation's Management Controls. As indicated in the Results of Review section of this report, the Nation has taken steps to correct this weakness in management controls.

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441 G St. NW, (Room 2474), Washington, DC 20548
Attn: Judy England-Joseph (2)
Mr. Pete Sessions, Govt Reform & Oversight Comm., U.S. Congress,
House of Rep., Washington, D.C. 20515-4305
The Honorable Fred Thompson, Chairman, Comm. on Govt Affairs,
U.S. Senate, Washington, D.C. 20510-6250
The Honorable John Glenn, Ranking Member, Comm. on Govt Affairs,
U.S. Senate, Washington, D.C. 20510-6250
Cindy Sprunger, Subcomm. on Gen. Oversight & Invest., Room 212,
O'Neill House Ofc. Bldg., Washington, D.C. 20515
Inspector General
Cherokee Nation