

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**THE TURTLE MOUNTAIN BAND OF
CHIPPEWA INDIANS IMPROPERLY
ADMINISTERED SOME LOW-INCOME
HOME ENERGY ASSISTANCE
PROGRAM FUNDS FOR
FISCAL YEARS 2010 THROUGH 2013**

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Office of Inspector General

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

Report in Brief

Date: September 2017
Report No. A-07-16-04233



Why **OIG** Did This Review

The Turtle Mountain Band of Chippewa Indians (TMT) receives more than \$13.6 million in HHS grant funds each year. One source of these funds is 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 TMT administered LIHEAP grant funds in accordance with Federal laws, regulations, and guidance for Federal fiscal years (FYs) 2010 through 2013.

How **OIG** Did This Review

The Administration for Children and Families (ACF) awarded TMT \$10.0 million in LIHEAP grant funds for our audit period. We focused our review on the following areas: (1) prepayments made by TMT to energy suppliers, (2) Federal Financial Reports (FFRs), Carryover and Re-allotment Reports (Carryover Reports), and Household Reports submitted to ACF, and (3) funds returned to TMT from energy suppliers.

We did not perform any statistical sampling or transaction testing. Instead, we reviewed all prepayments made by TMT to energy suppliers; all FFRs, Carryover Reports, and Household Reports submitted to ACF during our audit period; and all refunds of unused LIHEAP funds made to TMT from energy suppliers.

The Turtle Mountain Band of Chippewa Indians Improperly Administered Some Low-Income Home Energy Assistance Program Funds for Fiscal Years 2010 Through 2013

What **OIG** Found

TMT did not administer \$587,248 of LIHEAP grant funds for FYs 2010 through 2013 in compliance with Federal laws, regulations, and guidance because TMT did not have policies and procedures or internal controls in place to prevent those errors. These funds could have been used to provide eligible households additional benefits or for other purposes such as crisis situations, residential weatherization, or energy-related home repairs. Errors we identified included the following:

TMT did not track prepayments made to energy suppliers and was unable to support \$390,450.

TMT inaccurately reported the amount of unobligated grant funds for FY 2011 and as a result did not refund unobligated funds totaling \$137,806.

TMT did not properly account for funds returned by energy suppliers and, as a result, did not refund unobligated funds totaling \$54,311 and could not determine whether an additional \$96,932 was subject to repayment.

For FY 2011, TMT did not refund \$4,681 in LIHEAP funds that were not used to provide home energy assistance because they were improperly held as credit balances to energy suppliers.

What **OIG** Recommends and Turtle Mountain Band of Chippewa Indians' Response

We recommend that TMT refund \$587,248 to the Federal Government and determine how much of the \$96,932 that energy suppliers returned to the tribe should be repaid to the Federal Government. We also make procedural recommendations related to the development and implementation of policies and procedures and internal controls.

TMT did not directly agree or disagree with most of our recommendations, but it disagreed with most of the findings that contributed to our recommended refund. Based on additional documentation that the tribe provided with its written comments on our draft report, we revised the dollar amount of our largest-dollar finding to \$390,450 and its recommended refund. Otherwise, we maintain that our findings and recommendations remain valid.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Turtle Mountain Band of Chippewa Indians (TMT) is a federally recognized Native American tribe located in North Dakota that receives more than \$13.6 million each year in grant funds from the U.S. Department of Health and Human Services (HHS). TMT receives grant funds from several sources, including the Low-Income Home Energy Assistance Program (LIHEAP). HHS awards LIHEAP block grants to States, territories, Indian tribes, and tribal organizations based on the proportion of low-income households and total appropriations for the program. Grantees use LIHEAP grant funds to provide energy assistance payments to low-income households.

This review was done as part of a grant fraud initiative taken on by HHS's Office of Inspector General. The initiative focused on Indian Country grantees that received HHS grants. The 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.¹

OBJECTIVE

Our objective was to determine whether TMT administered LIHEAP grant funds in accordance with Federal laws, regulations, and guidance for Federal fiscal years (FYs) 2010 through 2013.

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

¹ *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 Apr. 13, 2017).

needs.² States, territories, Indian tribes, and tribal organizations may apply to HHS for LIHEAP block grants.

Grantees are to use LIHEAP funds to provide assistance to low-income households in meeting their home energy costs, to intervene in crisis situations, and to provide low-cost residential weatherization and other cost-effective energy-related home repairs (OBRA § 2605(b)(1) and the Manual, section A). LIHEAP grantees must also establish fiscal control, accounting procedures, and procedures for monitoring the disbursement and accounting of Federal LIHEAP funds (OBRA § 2605(b)(10) and the Manual, section A). Further, a LIHEAP grantee must repay to the Federal Government amounts found not to have been expended in accordance with program requirements (OBRA § 2605(g)).

Grantees seeking LIHEAP funds must submit an application to ACF for each FY (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.³ ACF awards LIHEAP block grants for 2-year periods. Federal regulations and implementing guidance from ACF specify the conditions under which unused grant funds may be carried over from one FY to the next (45 CFR § 96.81).

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 the number of households receiving LIHEAP assistance (45 CFR §§ 96.30(b), 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.

Turtle Mountain Band of Chippewa Indians

TMT is a federally recognized Native American tribe located on the Turtle Mountain Indian Reservation in Belcourt, North Dakota. According to a calendar year 2010 Bureau of Indian Affairs Labor Force Report, TMT had 30,722 enrolled members.

TMT's governing body, known as the Tribal Council, comprises eight representatives and a chairman. The tribe is supported by Federal funds and by a percentage of profits of the SkyDancer Casino.

² 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.

³ 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). For this report, we will use the term "LIHEAP plan" to refer to the Detailed Model Plan, the Abbreviated Model Plan, or both.

To determine amounts of energy assistance payments to households, TMT uses a matrix that calculates the benefit amount on the basis of the number of people in each household, the total amount of household income reported in that household's LIHEAP application, and the type of fuel assistance provided (propane, fuel oil, electricity, or wood). Depending on these factors, a percentage of a household's annual energy costs, as estimated by the tribe, is awarded as the benefit amount under the LIHEAP. During our audit period, TMT's LIHEAP award formula allotted households between 10 and 40 percent of their annual energy costs. Federal LIHEAP regulations do not prohibit a tribe from awarding households 100 percent of their annual energy costs, provided that the tribe has not used all of its LIHEAP grant funds. The Manual, section D, "Policy Decisions," states that if a tribe has excess LIHEAP funds, it may allot additional benefits to households or use the funds for other purposes, such as crisis situations or residential weatherization.

Of the Federal grant funding that it receives for the LIHEAP, TMT specifies in its LIHEAP plan that it will use 50 percent for heating assistance, 5 percent for cooling assistance, 10 percent for crisis assistance, 15 percent for weatherization assistance, and 10 percent for administrative costs; 10 percent is carried over to the following FY.⁴

To execute the LIHEAP block grant, TMT established business relationships with home energy suppliers (energy suppliers) for the delivery of services to program beneficiaries. TMT 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 TMT 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 TMT a total of \$9,964,618 in LIHEAP grant funds for FYs 2010 through 2013. We focused our review on the following areas: (1) prepayments made by TMT to energy suppliers; (2) FFRs, Carryover Reports, and Household Reports submitted to ACF; and (3) refunds of unused LIHEAP funds made to TMT from energy suppliers.

We did not perform any statistical sampling or transaction testing. Instead, we reviewed all prepayments made by TMT to energy suppliers; all FFRs, Carryover Reports, and Household Reports submitted to ACF during our audit period; and all refunds of unused LIHEAP funds made to TMT from energy suppliers.

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

⁴ As discussed in the "Unobligated Grant Funds Inaccurately Reported on Carryover Report" section of this report, statutory provisions exist, with restrictions, to permit a 10-percent carryover of grant funds.

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

TMT did not administer \$587,248 of LIHEAP grant funds for FYs 2010 through 2013 in compliance with Federal laws, regulations, and guidance. Specifically, TMT:

- did not track prepayments made to energy suppliers and was unable to support \$390,450 in prepayments made during FYs 2010 through 2013;
- inaccurately reported the amount of unobligated grant funds for FY 2011 in a Carryover Report that it submitted to ACF, and as a result did not refund unobligated funds totaling \$137,806;
- did not refund to the Federal Government amounts returned from energy suppliers totaling \$54,311 that could no longer be obligated because the 2-year grant period had expired;
- did not refund to the Federal Government \$4,681 in funds that were not used to provide home energy assistance because they were improperly held as credit balances to energy suppliers; and
- submitted required reports to ACF that were not in accordance with Federal requirements or that were unsupported.

The table below summarizes the questioned costs associated with the first four findings above.

Table: Summary of Questioned Costs

Condition	Questioned Costs
Unsupported prepayments	\$390,450
Unobligated grant funds in carryover report	137,806
Unobligated grant funds not refunded	54,311
Grant funds not used to provide energy assistance	4,681
Total	\$587,248

In addition to the \$54,311 in grant funds that could no longer be obligated because the 2-year grant period had expired and that we are questioning, TMT could not determine whether an additional \$96,932 was subject to repayment. This situation occurred because TMT did not track from which grant period the \$96,932 originated.

These errors occurred because TMT did not have policies and procedures or internal controls in place to prevent them. The improperly administered LIHEAP grant funds could have been used to provide eligible households additional benefits, or TMT could have used them for other purposes, as described in the Manual, such as crisis situations, residential weatherization, or energy-related home repairs.

UNSUPPORTED LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM PREPAYMENTS

Federal regulations state that fiscal control and accounting procedures must be sufficient to (a) permit preparation of reports required by the statute authorizing the block grant and (b) permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of the statute authorizing the block grant (45 CFR § 96.30(a)).⁵

In addition, grantees must establish appropriate systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under the LIHEAP. The systems and procedures are to address possible waste, fraud, and abuse by clients, vendors, and administering agencies (45 CFR § 96.84(c)).

The Manual, section A, provides flexibility to grantees in designing and administering the LIHEAP. ACF allows each tribe to define what the term “obligation” means to that tribe.⁶ The TMT LIHEAP Director told us that writing checks to energy suppliers at the end of the FY with excess yearend funds constituted “obligating” these funds. Moreover, according to TMT LIHEAP officials, the majority of obligated LIHEAP funds take the form of prepayments to vendors.

Of the \$9,964,618 in LIHEAP funds awarded to TMT for FYs 2010 through 2013, TMT made 60 prepayments to obligate funds totaling \$5,938,405 on the last days of the FYs in which ACF awarded the funds. On the last day of each FY, TMT wrote checks to energy suppliers to prepay for services in the next FY. The TMT LIHEAP Director stated that she believed obligating funds in this manner would prevent TMT from having to return those funds to the Federal Government.

Of the 60 prepayments, TMT could not provide the supporting documentation for 4 prepayments totaling \$390,450 of LIHEAP funds that it obligated during our audit period and that it prepaid to vendors.

TMT relied on the energy suppliers to account for the amounts paid to them and to determine whether any refunds were due to the tribe. We interviewed several TMT energy suppliers, who

⁵ The Manual, section C, “The Law and Its Requirements,” states (page C-2) that where the law refers to a “state,” it usually also means a tribe, tribal organization, or territory. See also 45 CFR § 96.42(a).

⁶ Federal regulations also give grantees the authority to interpret OBRA, including provisions specifying when money is obligated, unless this interpretation is clearly erroneous (45 CFR § 96.50(e)).

told us that TMT LIHEAP officials had requested supporting documentation for these prepayments during our review and that the suppliers had already provided this documentation to TMT on previous occasions.

TMT lacked internal controls to ensure that it could support all obligations and that prepayments made to energy suppliers were used for services for eligible LIHEAP clients. Specifically, TMT did not have internal controls in place to track the prepayments, verify that the energy suppliers used the prepayments to provide services to eligible clients, and ensure that the energy suppliers returned any unused amounts to the program. As a result, TMT did not have assurance that \$390,450 in LIHEAP funds for FYs 2010 through 2013 were used on eligible beneficiaries.

UNOBLIGATED GRANT FUNDS INACCURATELY REPORTED ON CARRYOVER REPORT

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.

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.⁷ 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) and 45 CFR § 96.14(a)(2)).

The Carryover Report that TMT submitted for FY 2011 was inaccurate because, rather than calculating carryover amounts using information in its general ledger, TMT carried over the maximum 10 percent of its grant award for FY 2011. TMT’s total grant award for FY 2011 was \$2,965,442; the tribe reported a carryover amount of \$296,544, which equated to 10 percent of its grant award for that FY (the maximum that the tribe could carry over to FY 2012). However, TMT’s general ledger for FY 2011 reflected unobligated funds totaling \$434,350. Thus, actual unobligated funds for FY 2011 exceeded the allowed carryover limit by \$137,806 (\$434,350 – \$296,544). This amount is subject to repayment.⁸

⁷ Grantees submit this request to ACF by filing a Carryover Report. ACF guidance on the preparation and submission of this report appears in ACF, “Financial Reporting for all LIHEAP Grantees-SF 425 for FY 2010,” LIHEAP Action Transmittal LIHEAP-AT-2010-8 (Oct. 8, 2009), and “Carryover and Reallotment Report,” LIHEAP Action Transmittals LIHEAP-AT- 2011-3 (Jun. 24, 2011), LIHEAP AT 2012-4 (Jul. 12, 2012), and LIHEAP AT 2013-3 (Jul. 24, 2013).

⁸ This amount does not include unobligated funds that were not refunded, as discussed in the “Unobligated Grant Funds Not Properly Refunded” section of this report.

This error occurred because TMT lacked controls to ensure that the reported carryover amount was correctly calculated, based on accurate financial information, and compliant with the limits specified in the OBRA and other Federal requirements.

UNOBLIGATED GRANT FUNDS NOT PROPERLY REFUNDED

At the close of each 1-year statutory period for the obligation of block grant funds, each grantee must report the total amount of allotted funds it obligated during the period and the amount that it requests to be held available for obligation in the next FY (called “carryover funds”) (45 CFR §§ 96.30(b)(1) and 96.81(b)(1)). A grantee’s carryover funds may not exceed 10 percent of the year’s grant allotment (45 CFR § 96.14(a)(2)). Because Federal regulations permit some of the grant funds that remain unobligated at the end of the FY in which they were first awarded to be carried over into the succeeding FY (45 CFR § 96.14(a)), the LIHEAP has a 2-year grant period. No funds may be obligated after the end of the FY following the FY for which they were allotted (45 CFR § 96.14(a)(2)). Any funds not obligated or carried over are unexpended funds and must be repaid to the Federal Government (OBRA § 2607(b) and 45 CFR § 96.14(a)(2)).

Funds Returned After Expiration of 2-Year Grant Period

TMT did not refund unobligated LIHEAP grant funds as required by the OBRA. TMT paid energy suppliers \$197,732 in LIHEAP funds that energy suppliers later returned to the tribe. Of this amount, the tribe could no longer obligate funds totaling \$100,801 because energy suppliers had returned those funds after the 2-year grant period had expired. These unobligated funds are subject to repayment. During our fieldwork, TMT repaid \$46,490 to the Federal Government.⁹ The remaining \$54,311 (\$100,801 – \$46,490) is still subject to repayment.

Funds That May Have Been Returned After Expiration of 2-Year Grant Period

Because TMT did not properly account for the amount returned by the energy suppliers, we could not identify the FY(s) in which the remaining \$96,932 of grant funds originated. Therefore, neither TMT nor we could determine whether the energy suppliers had returned the funds after the 2-year grant period had expired (in which case those funds would be subject to repayment to the Federal Government).

Policies and Procedures and Controls Lacking

TMT lacked policies and procedures to track LIHEAP funds paid to energy suppliers. Instead, TMT relied on the energy suppliers to account for the amounts paid to them and to determine whether any refunds were due to the tribe. Also, TMT lacked controls to ensure that it properly allocated refunds of unused benefits to the applicable FY and to determine whether any of

⁹ During our site visit, TMT received a refund check for \$46,490 from one of the energy suppliers. A TMT official informed us of the check during one of our interviews.

those funds were subject to repayment. To summarize, TMT did not repay the Federal Government funds totaling \$54,311 that energy suppliers refunded to the tribe for unused benefits, and TMT could not determine whether \$96,932 was subject to repayment to the Federal Government.

GRANT FUNDS NOT USED TO PROVIDE HOME ENERGY ASSISTANCE

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

For FY 2011, TMT paid one energy supplier \$4,681 in LIHEAP grant funds that were not used to provide assistance for home energy costs, for crisis situations, for weatherization, or for energy-related home repairs. That energy supplier improperly held these funds as credit balances in individual beneficiary accounts instead of returning the funds to the Federal Government as mandated by the OBRA. If these funds had not been held as credit balances at the energy suppliers, eligible households could have been allotted additional benefits, or TMT could have used these funds for other purposes, as described in the Manual, such as crisis situations, residential weatherization, or energy-related home repairs.

TMT did not track LIHEAP funds paid to energy suppliers and did not have internal controls to ensure that it returned unused LIHEAP benefits to the program. As a result, the tribe did not refund to the Federal Government LIHEAP funds totaling \$4,861 that were not used to provide home energy assistance.

REQUIRED REPORTS NOT SUBMITTED IN ACCORDANCE WITH FEDERAL REQUIREMENTS OR UNSUPPORTED

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)).¹⁰ Accordingly, the due date for the FFR is December 31.

¹⁰ These regulations speak in terms of a requirement that grantees use Standard Form (SF)-269A, Financial Status Report. More recently, this form has been replaced by SF-425, which is the FFR.

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.¹¹

The Carryover Report must be submitted 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.¹²

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)).

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)).

TMT did not submit complete and timely Carryover Reports and FFRs in accordance with Federal requirements. In addition, TMT could not fully support information contained in the FFRs and Household Reports as required by Federal regulations.

Federal Financial Reports and Carryover Reports Not Submitted in Accordance With Federal Requirements

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

- submitted initial and final FFRs for each of the 4 FYs that did not contain the date of the last obligation for the FY,
- did not submit the FYs 2012 and 2013 Carryover Reports before the August 1 due date, and
- did not submit the FYs 2010 through 2013 initial FFRs and the FYs 2010 through 2012 final FFRs within 90 days of the end of the FY (these FFRs were submitted between 8 months and 32 months late).

¹¹ ACF, “Financial Reporting Requirement for ALL LIHEAP Grantees SF 425 Report,” LIHEAP Action Transmittals LIHEAP-AT-2011-02 (Dec. 14, 2010), LIHEAP-AT-2012-01 (Oct. 14, 2011), and LIHEAP-AT-2013-02 (Dec. 21, 2012).

¹² The relevant ACF guidance appears in the LIHEAP Action Transmittals listed in footnote 7.

TMT did not have procedures in place to ensure that the FFRs and Carryover Reports were complete and submitted timely. As a result, TMT did not submit those reports in accordance with Federal requirements.

Federal Financial Reports and Household Reports Unsupported

TMT could not fully support information contained in the FFRs and Household Reports as required by Federal regulations.

Each of the final FFRs for FYs 2010 and 2011 that the tribe originally submitted to ACF showed unobligated balances totaling \$57,025 at the end of the second grant year. However, during our audit TMT revised both of these final FFRs and resubmitted them to ACF to show that there were no unobligated balances for FYs 2010 and 2011.

- The revised final FY 2010 FFR showed a revised amount for total obligations that matched the total grant award.
- The revised final FY 2011 FFR showed an incorrect grant award amount and a revised amount for total obligations that matched that incorrect amount.

TMT was unable to provide documentation to support the amounts in the revised FY 2010 and 2011 FFRs.

In addition, TMT's Household Reports were not adequately supported at the time that they were submitted. The TMT LIHEAP Director stated that the supporting documentation for the Household Reports for FYs 2011 and 2013 was produced after the fact and as a result of our audit. TMT does not maintain client listings electronically. Instead, TMT tracks clients using a manual process. During one interview, the TMT LIHEAP Director told us that to get the information for the Household Reports, LIHEAP personnel would manually review their client files, which number about 1,400. We noted during our site visit, though, that TMT did not properly maintain client application files. During that visit, the TMT LIHEAP Director told us that files for FY 2013 had not been compiled. The FY 2012 files had been started but were not completed.

An example of a best practice used by another tribe's LIHEAP program includes the electronic tracking of the number of clients approved by the program, the benefits they had been awarded, and the amount of benefits used by the energy supplier.

While we were conducting our audit, the TMT LIHEAP Director attempted to compile information from the energy suppliers to support data contained in previously submitted Household Reports. The TMT LIHEAP Director stated that TMT could not give us the supporting documentation for the FYs 2010 and 2012 Household Reports because the support was not yet ready.

TMT did not have sufficient controls in place to ensure that the reported FFR information was based on actual, documented financial information. Also, TMT did not maintain client listings electronically and relied on a manual process to track clients. Therefore, TMT could not ensure that its Household Reports were adequately supported at the time that they were submitted. As a result, we could not verify the accuracy of the amount of unobligated funds reported at the end of FYs 2010 and FYs 2011. Also, we could not determine the accuracy of the 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 TMT:

- refund to the Federal Government \$587,248 in unsupported and unallowable LIHEAP funds;
- determine how much of the \$96,932 that energy suppliers returned to the tribe was returned after the 2-year grant period and repay the Federal Government that amount;
- develop and implement internal controls to ensure that it maintains supporting documentation for all LIHEAP obligations;
- develop and implement internal controls to enable its LIHEAP staff to track and verify that prepayments made to energy suppliers are used for eligible LIHEAP clients and that any unused amounts are returned to the program;
- develop and implement controls to ensure that Carryover Reports accurately report the amount of unobligated funds and are based on accurate financial information;
- develop policies and procedures to track LIHEAP funds paid to energy suppliers, identify any unused funds to be refunded to the tribe, and repay the Federal Government amounts that can no longer be obligated because they exceeded the 2-year grant period;
- develop and implement policies and procedures to ensure that FFRs and Carryover Reports are properly completed and timely submitted to ACF;
- develop and implement controls to ensure that FFRs accurately report the amount of unobligated funds; and
- develop and implement an electronic system to track clients to ensure that Household Reports are properly supported.

AUDITEE COMMENTS

In written comments on our draft report, TMT addressed most of our findings and some of our recommendations, but with two exceptions did not directly agree or disagree with any of our major findings or our recommendations. With respect to the \$4,681 in grant funds that were improperly held as credit balances to energy suppliers (our fourth finding, and a constituent element in the recommended refund conveyed in our first recommendation), TMT concurred with this finding and alluded to a lack of knowledge of program requirements.

Regarding our first finding on unsupported LIHEAP prepayments, whose associated dollar amount constitutes the largest portion of our recommended refund, our draft report's first finding identified five prepayments totaling \$416,500 for which TMT could not provide supporting documentation. In its comments on our first recommendation, the tribe referred to the prepayments by check number and amount, stated that it believes that these prepayments have adequate documentation, and provided additional information to support them.

Regarding the \$137,806 of unobligated grant funds for FY 2011 that exceeded the allowed carryover limit (our second finding), TMT stated that its fiscal yearend (as of September 30) cash balances were negative for FY 2011 and the next 2 FYs. TMT asserted that, consequently, these funds were entirely expended and there was thus no need to return them.

Regarding the \$54,311 of unobligated grant funds that energy suppliers had returned to the tribe after the 2-year grant period had expired (the first part of our third finding), TMT said that through an "honest oversight," program officials did not fully understand the requirements of the grant and consequently used the \$54,311 to fund subsequent transactions.

TMT's other written comments did not relate directly to our other recommendations. However, in the context of our recommendations that deal with the development and implementation of internal controls to ensure that all LIHEAP obligations are supported and that FFRs, Carryover Reports, and Household Reports are completed accurately with the proper support (that is, our third, fifth, seventh, eighth, and ninth recommendations), the tribe said that all LIHEAP funds were expended for the purposes intended. TMT also described its new process for completing these reports and, in reference to our ninth recommendation, stated that it was researching other software to assist its existing electronic filing system in the accurate completion and timely submission of reports: "Our goal is implementing by the end of FY 2017."

In the context of our fourth recommendation, which deals with the development and implementation of internal controls for the tracking and verification of prepayments to energy suppliers, TMT stated that its program's size and number of clients made it difficult to have a complete list of eligible clients and their allotted benefits: "Given that fact, it is almost impossible to get away from prepayments." TMT added that it proposed to use historical data and estimates to determine the amounts it would prepay to each energy supplier, and that after that initial prepayment, it would require the submission of actual bills and the

performance of a season-end reconciliation of the original prepayment amount. The tribe said that this procedure would allow overpayments to be easily determined and requested from the energy supplier.

TMT also said that it had requested information from us on how other tribal programs better administered their programs, but it did not receive any advice or referral.

Notwithstanding the comments summarized above, the tribe did not directly address our second recommendation, which relates to the \$96,932 (as the second part of our third finding) in grant funds that neither TMT nor we were able to determine whether the energy suppliers had returned after the expiration of the 2-year grant period. In addition, TMT did not directly address our sixth recommendation, which deals with the development of policies and procedures to track funds paid to energy suppliers, identify unused funds to be refunded to the tribe, and repay to the Federal Government those amounts that can no longer be obligated.

TMT's comments, excluding 158 pages that we have removed because of their volume and because they contain personally identifiable information, appear as Appendix B. We are separately providing TMT's comments in their entirety to ACF.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing TMT's comments and the additional information it provided, we revised our first finding to specify that we identified four, rather than five, prepayments for which TMT could not provide supporting documentation. Accordingly, we have reduced the questioned costs in that finding (and in our first recommendation) by \$26,050. We accepted the documentation TMT provided showing that one prepayment check for \$25,000 had been voided. For another check for \$2,500, we determined that payments totaling \$1,050 were adequately supported but that the other \$1,450 remained unsupported. For the \$1,450, as well as the other three prepayments, invoices were missing or were for incorrect time periods. Therefore, we continue to question four prepayments totaling \$390,450 and have revised our first finding and our first recommendation accordingly.

Other than revising our recommended refund, we maintain that our findings and recommendations remain valid. Although TMT stated that negative cash balances eliminated the need to refund the \$137,806 in our second finding, our review of the tribe's general ledger for FY 2011 (which involved the documents we reviewed during the audit as well as the additional documents that TMT included with its written comments) identified unobligated grant funds that exceeded the allowed carryover limit by the \$137,806 conveyed in this finding. This amount remains subject to repayment and remains in our first recommendation.

Regarding the \$54,311 of unobligated grant funds in our third finding, which TMT described as an honest oversight and which the tribe said it used to fund subsequent transactions, TMT did not dispute that it spent these funds after the 2-year grant period had expired. Therefore, the

subsequent transactions for which the tribe spent these funds were unallowable, and the \$54,311 must be refunded.

With respect to TMT's statement that it had requested information from us on other tribal programs, our last finding ("Federal Financial Reports and Household Reports Unsupported") refers to a best practice used by another tribe to track LIHEAP clients and their allotments. During our exit conference (before issuance of our draft report), we gave TMT officials information about the other tribe's system and practices. We also explained to TMT officials that because its client files were not complete, we were unable to determine whether clients were receiving LIHEAP benefits without an application on file or without proper approval. TMT's development and implementation of an electronic tracking system along the lines of the other tribe's system (and in accordance with our ninth recommendation) would offer the tribe a more thorough and efficient mechanism to maintain a complete list of its eligible clients and their allotted benefits—a task that TMT in its written comments admitted was difficult.

The tribe's other written comments focused principally on our recommendations concerning Carryover Reports, FFRs, and Household Reports. We continue to recommend that TMT develop and implement controls to ensure that it maintains supporting documentation for all LIHEAP obligations, that it maintains controls to track and verify that its prepayments are used for eligible LIHEAP clients, and that any unused amounts are returned to the program. We also continue to recommend that TMT develop policies and procedures to track LIHEAP funds paid to energy suppliers, identify any unused funds to be refunded to the tribe, and repay to the Federal Government amounts that can no longer be obligated because they exceeded the 2-year grant period.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

ACF awarded TMT a total of \$9,964,618 in LIHEAP grant funds for FYs 2010 through 2013. We focused our review on the following areas: (1) prepayments made by TMT to energy suppliers; (2) FFRs, Carryover Reports, and Household Reports submitted to ACF; and (3) refunds of unused LIHEAP funds made to TMT from energy suppliers.

We did not perform any statistical sampling or transaction testing. Instead, we reviewed all prepayments made by TMT to energy suppliers; all FFRs, Carryover Reports, and Household Reports submitted to ACF during our audit period; and all refunds of unused LIHEAP funds made to TMT from energy suppliers.

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

METHODOLOGY

To accomplish our objective, we:

- interviewed ACF staff who were familiar with the provisions and implementation of the LIHEAP to gain a basic understanding of the program, the grant, and Federal requirements pertaining to fiscal control, accounting, and reporting of the use of grant funds;
- interviewed TMT staff to obtain an understanding of:
 - the policies and procedures for paying energy suppliers on behalf of LIHEAP beneficiaries,
 - the policies and procedures for preparing and submitting LIHEAP financial reports,
 - the policies and procedures for operating the program, and
 - the process for expending excess fiscal yearend LIHEAP funds;
- obtained TMT's FFRs, Carryover Reports, and Household Reports for FYs 2010 through 2013;

- compared the information in the Carryover Reports to the general ledgers to verify the unobligated balances and carryover amounts reported;
- reviewed the FFRs to determine whether they were complete and whether they had been submitted within 90 days of the end of each fiscal yearend;
- reviewed the Household Reports to determine whether they were complete and adequately supported by other documentation;
- interviewed several TMT energy suppliers staff to obtain an understanding of the processes used by the TMT LIHEAP to fund program services;
- reviewed TMT's annual financial statement audit reports for FYs 2010 through 2012;¹³
- requested, for each of the payments made by TMT to energy suppliers for FYs 2010 through 2013, the canceled check copies and supporting documentation for the associated expenditures;
- obtained and reviewed TMT's LIHEAP general ledgers for the audit period to identify refunds received from energy suppliers;
- obtained and reviewed listings of refund checks issued by energy suppliers to TMT to determine whether those refunds were recorded in TMT's general ledgers;
- visited the offices of several energy suppliers, where we obtained (and reviewed) supporting documentation regarding LIHEAP payments that TMT made to those suppliers but that were not completely used for beneficiaries' energy needs;
- obtained and reviewed documentation that TMT requested from energy suppliers after we had initiated this audit;
- reviewed the documentation we obtained to determine whether refund checks from energy suppliers were subject to repayment in accordance with Federal requirements; and
- discussed the results of our review with TMT staff on March 8, 2017.

We performed our audit, which included onsite visits to TMT's Tribal Government Offices in Belcourt, North Dakota, and to several energy suppliers in that area, from July 2014 through November 2015.

¹³ TMT's annual financial statement audit report for FY 2013 was not available at the time of our fieldwork.



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July 13, 2017

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

RE: Report Number A-07-16-04233

After review of your draft report dated March 18, 2017, the Turtle Mountain Band of Chippewa Indians responds to the findings as follows:

- Did not track prepayments made to energy suppliers and was unable to support \$416,500 in prepayments made during FYs 2010 through 2013;

Response: Back-up documentation for checks totaling \$416,500

Check # **403125** for \$2,500 is attached. The attached invoices total \$2,720.

Check # **414815** for \$4,000 is attached. The total exceeds the amount of the check.

Check # **409584** for \$370,000 is attached in 2 segments and exceeds the amount of the check as mentioned in the vendor's email.

Check # **403254** for \$25,000 is attached but was voided on 12/19/2011.

Check # **402894** for \$10,000 is attached.

- Inaccurately reported the amount of unobligated grant funds for FY 2011 in a Carryover Report that it submitted to ACF, and as a result did not refund unobligated funds totaling \$137,806;

Response: The grant's final trial balances from the Tribe's audited financial statements are attached for FY 11, FY 12 and FY 13. From the report(s), it should be noted that cash balances were all negative as of September 30th of each of those year ends. The Tribe is on a reimbursement-basis with its funding agency and did not have funds to return.

- Did not refund to the Federal Government amounts returned from energy suppliers totaling \$54,311 that could no longer be obligated because the 2-year grant period had expired;

Response: The Program Director and Fund Manager did not fully understand the requirements of the grant. It was an honest oversight rather than an effort to circumvent the rules of the program. Consequently, the funds were deposited back into the grant's cash account and were used to fund subsequent transactions.

- Did not refund to the Federal Government \$4,681 in funds that were not used to provide home energy assistance because they were improperly held as credit balances to energy suppliers; and

Response: The Tribe concurs, but as above, sights a lack of knowledge of program requirements.

- Submitted required reports to ACF that were not in accordance with Federal requirements or that were unsupported.

Response: The Tribe makes every effort to review each report for accuracy and timeliness. The amount recorded on the reports is from our general ledger but at times voided checks and/or vendor late submittals alter those numbers.

The Tribe has reviewed the Recommendations and replies accordingly:

- The Tribe believes that the five checks mentioned have adequate documentation and the \$613,298 amount is not owed;
- Despite proper protocol on the use of appropriated funds, the Tribe asserts that all funds were expended for the purposes intended. The review failed to discover benefits being paid for any clients not eligible for the program.
- Due to the size of the program and the number of clients served, it is difficult to have a complete list of eligible clients at the beginning of the program and what amount of

benefits each can receive. Given that fact, it is almost impossible to get away from prepayments. In the exit interview, we requested information on how other tribal programs better administrated their programs. We did not receive any advice or referral.

- The Tribe is proposing to review historical data to receive an estimate on the amount of benefits allowable for each client given the current appropriation amount, an annual estimate of payments to each energy vendor and the average number of clients to each vendor. This data will be used to project the amount of any prepayment to any specific vendor for a period not to exceed 60 days. Beyond the initial prepayment, actual bills will need to be submitted and a second check issued in the amount of those bills only. The process will continue until the season ends where the only reconciliation required will be on the amount of the original prepayment. Any overpayment can be easily determined and requested back from the vendor.
- A new Fund Manager has been assigned and will complete the Carryover Report with the concurrence of the Program Director and Chief Financial Officer.
- The Fund Manager will complete the FFRs with review and signature by Chief Financial Officer.
- The LIHEAP Program has been utilizing Records Management Solutions, an electronic filing system and is researching other software (application intake and database) that would benefit our program in completing and submitting reports in an accurate and timely manner. Our goal is implementing by the end of FY 2017.

Hopefully this addresses your concerns in this matter. The Turtle Mountain Band of Chippewa Indians has limited resources to meet the great demand for services within our population. Thank you and if there are further question you can contact Louis (Buster) Frederick at (701) 477-3273 or 477-3368 and/or email: busterfrederick50@hotmail.com.

Respectfully,

Wayne Keplin (signed)

Wayne Keplin, Chairman
cc: Council
LIHEAP Director