



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

**AUDIT OF CONTRACT Nos.
AI3AV00621 AND AI2AV00769/
AI5AV00265 BETWEEN THE BUREAU
OF INDIAN AFFAIRS AND THE LOWER
BRULE SIOUX TRIBE**



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

DEC 16 2016

Memorandum

To: Michael Black
Director, Bureau of Indian Affairs

From: Chris Stubbs *Chris Stubbs*
Director, Office of Financial and Contract Audits

Subject: Final Report – Audit of Contract Nos. A13AV00621 and
A12AV00769/A15AV00265 Between the Bureau of Indian Affairs and the Lower
Brule Sioux Tribe
Report No. 2015-ER-069-A

This memorandum transmits the results of our audit of the Lower Brule Sioux Tribe's (LBST) interim incurred costs on Contract Nos. A13AV00621 and A12AV00769/A15AV00265 with the Bureau of Indian Affairs (BIA).

We identified \$385,127 in questioned costs, in addition to inadequate oversight by BIA. We made four recommendations to help BIA resolve the questioned costs and improve its oversight activities with LBST.

In its October 25, 2016 response to our draft report (see Appendix 3), BIA stated that it reviewed the questioned costs and determined all questioned costs to be allowable. BIA did not state if it concurred with our findings or recommendations and did not provide sufficient support for allowing the questioned costs. As a result, we disagree with BIA's response to the questioned costs and consider all four recommendations unresolved. We will refer our recommendations to the Office of Policy, Management and Budget for resolution and tracking implementation (see Appendix 4). Additionally, we provided LBST with a copy of this report.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

If you have any questions regarding this report, please call me at 202-208-5745.

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Results in Brief

We audited interim costs incurred between October 2012 and March 2015 by the Lower Brule Sioux Tribe (LBST) on Contract Nos. A13AV00621 and A12AV00769/A15AV00265 with the Bureau of Indian Affairs (BIA) to determine if costs claimed by LBST were allowable, allocable, and reasonable, and if BIA adequately oversaw the agreement and in accordance with applicable Federal laws and regulations and BIA guidelines.

We did not identify any unreasonable costs, but we found \$385,127 in unallowable and questioned costs. The questioned costs we identified included unsupported payments to related parties and vendors, unsupported internal transactions in LBST's accounting system, and unallowable payments to vendors. In addition, we found that BIA did not adequately oversee the contracts in accordance with Federal laws and regulations and BIA guidelines, resulting in LBST claiming costs that were unsupported and unallowable.

We made four recommendations to help BIA resolve the questioned costs and improve its oversight activities of LBST.

Objectives

In our audit of the Lower Brule Sioux Tribe's (LBST) Contract Nos. A13AV00621 and A12AV00769/A15AV00265 with the Bureau of Indian Affairs (BIA), we focused on two objectives:

1. Were the costs claimed by LBST allowable, allocable, and reasonable according to applicable Federal laws and regulations and BIA guidelines?
2. Did BIA oversee the agreement adequately and in accordance with applicable Federal laws and regulations and BIA guidelines?

Appendix 1 includes the details of our audit scope and methodology. Appendix 2 explains why we conducted this audit.

Findings

We did not identify any unreasonable costs claimed by LBST on these contracts. We found, however, that LBST claimed \$385,127 in costs that were not allowable or allocable on contract nos. A15AV00265/A12AV00769.¹ We found that these questioned costs resulted primarily from deficient internal controls. We also found that BIA did not adequately oversee the agreement in accordance with applicable Federal laws and regulations and BIA guidelines.

We tested \$1,270,876 of \$2,974,507 in interim costs claimed by LBST from October 1, 2012, through March 31, 2015.

Questioned Costs – \$385,127

The questioned costs we identified included—

- \$359,582 in unsupported payments to related parties and vendors; and
- \$22,877 in unsupported internal transactions.
- \$2,668 in unallowable payments (see Figure 1).

Description	Claimed Costs Sampled	Questioned Costs	Revised Claimed Costs
Unsupported Payments			
Related parties	\$138,900	\$135,386	\$3,514
Vendors	632,282	224,196	408,086
Subtotal	\$771,182	\$359,582	\$411,600
Unsupported Internal Transactions			
Indirect Costs	\$497,026	\$22,877	\$474,239
Subtotal	\$497,026	\$22,877	\$474,239
Unallowable Payments			
Unallowable per Tribe policy	\$2,668	\$2,668	—
Subtotal	\$2,668	\$2,668	
Total Cost to BIA	\$1,270,876	\$385,127	\$885,749
Total Questioned Costs		\$385,127	

Figure 1. Questioned costs associated with BIA Contract Nos. A15AV00265/A12AV00769.

¹ We did not conduct an interim cost audit of Contract No. A13AV00621 because it was a firm-fixed-price contract.

Unsupported Payments to Related Parties and Vendors – \$359,582

LBST was unable to provide support for \$359,582 in payments to related parties and vendors. Unsupported payments are payments for goods and services without documentation that describes how the money was spent.

LBST paid a related party, the Lower Brule Employment Enterprise (LBEE), \$170,756 for repairs and maintenance of the facilities management program. Of that amount, we identified \$135,386 in unsupported costs across 21 invoices. LBEE did not have any agreement or contract with LBST for the work it completed on the maintenance of the facilities. Further, LBST could not provide us with adequate support for the LBEE invoices.

For example, an invoice for removing and installing a new sidewalk listed only the total amount of \$13,020 with no support. Support for this invoice should have included timesheets, materials used, and supplies purchased (see Figure 2 on next page). We identified the same issue of no support on all 21 invoices we reviewed.

Lower Brule Sioux Tribe
Lower Brule Employment Enterprise
P.O. Box 247
Lower Brule, SD 57548

Invoice

Date 8/4/2014
Invoice # 1577

Bill To
Lower Brule Facilities
Facilities Building

Ship To
BILLED

P.O. # HIGH SCHOOL
Terms

Ship Date 8/4/2014
Due Date 8/4/2014
Other

Item	Description	Qty	Price	Amount
concrete	material and labor to install new sidewalk at High School	30	400.00	12,000.00
Equipment	in yds.	10	50.00	500.00
Equipment	removal of sidewalk with skid steer	8	65.00	520.00
	move gravel and disposal of old sidewalk			
			Subtotal	\$13,020.00
			Sales Tax (0.0%)	\$0.00
			Total	\$13,020.00
			Payments/Credits	\$0.00
			Balance Due	\$13,020.00

Figure 2. Invoice for removing and installing new sidewalk, totaling \$13,020.

In addition, LBST paid vendors \$1,688,495 for goods and services related to the facilities management program. Of that amount, we identified \$224,196 in unsupported costs. LBST did not provide adequate support documentation for these goods and services. Adequate support documentation means the invoices would have included the direct costs associated with the contract for each invoice. Each invoice should have costs that are allocable, allowable, and reasonable. For example, LBST paid \$158,741 for insurance of the facilities. The insurance

payment covered 99 facilities within LBST. The invoice from Kelly Insurance Agency did not break out the payments for each building. The invoice dollar amount was based on the total real and personal property insured. LBST allocated the costs to each building and handwrote a dollar amount by each facility within the invoice. LBST did not have any support for the insurance payment or the allocation justification (see Figure 3).

INDICATE ALL LOCATIONS THAT ARE VACANT AND/OR UNOCCUPIED AND DATE OCCURRED

PREPARED BY
Tribal First
P.O. Box 609015
San Diego, CA 92160 619-541-1900

Page 1
Includes B & M

LOWER BRULE SIOUX TRIBE (TSPIP)

May 08, 2013

Real Property Trend Factor: 0.00%
Personal Property Trend Factor: 0.00%

Loc #	2nd Id	Address, City, Zip	Occupancy	Construction	Auto Spill	Year Year	Year	Zone	Real Prop	Pers Prop	BI/ Rents	Year	Real Property	Personal Property	BI/ Rents	Totals	
1	A	TRIBAL COLLEGE	3,200-SQ. FT.	Class: D	No	1990		EO:	Yes	Yes	Yes		2012	\$250,000	\$20,190	\$0	\$400,190
		202 BIA ROUTE NO. 10	COLLEGE	ALL CONCR (WOOD FRAME)				Flood:	Yes	Yes	Yes		2013	\$300,000	\$20,190	\$0	\$400,190
		LOWER BRULE SD 57548	REQUIRED PRC ADJUSTMENT	Notes: Separate college and library combined into one building in 2011.				Real Notes:									
		1-1	08-29														
		1-10 Code 8	08-29														
		4:	Log														

Quoted Notes: Precisions ZIP Code

1095

Figure 3. One example of the handwritten invoice amounts without documenting the allocation.

LBST paid another vendor \$1,695 for diesel fuel for building #357, which is not part of the facilities management program. The A15AV00265/A12AV00769 contract stated that the scope of work was to provide the necessary personnel, supplies, materials, equipment, facilities, and management services for 29 buildings at LBST, but it did not list building #357 as one of those 29 buildings. We discussed building #357 with LBST's [REDACTED], and he stated that this contract did not manage building #357. He did not know why LBST would have paid expenses for building #357 under this contract. We determined that BIA did not reconcile the buildings on the invoices with the buildings listed on the contract (see Figure 4 on next page).

ACS FINANCIAL SYSTEM 8/09/2014 15:08:38			J/E Edit Listing		LOWER BRULE SIOUX TRIBE GL302L-V07.24 PAGE 9	
DATA-JE-ID.....	LINE#	FUND & ACCOUNT.....	DESCRIPTION.....	REFER	AMOUNT	ERRORS AND WARNINGS.....
TRAN-DATE.....		FORMULA.....	TRANSACTION DESCRIPTION.....			
		PROJECT.....	GENERAL EXPLANATION.....	PAYM		
			AUTHORIZED WARRANTS PAYABLE			
			IDC THRU 09/30/2013		23,609.51 CR	
			AJE - SEPTEMBER 2013 TL			
			INDIRECT COST			
			IDC THRU 09/30/2013		4,514.27	
			AJE - SEPTEMBER 2013 TL			
			INDIRECT COST			
			IDC THRU 09/30/2013		10,611.67	
			AJE - SEPTEMBER 2013 TL			

Figure 5. Example of the journal entry support for internal transactions.

Unallowable Payments to Vendors – \$2,668

LBST made \$2,668 in unallowable payments to vendors. Unallowable payments are payments for goods and services that the Federal Acquisition Regulation (FAR) or governing policy does not permit.

LBST charged telephone expenses as both direct and indirect costs against the contract. LBST's policy is to charge telephone expenses as indirect costs. LBST followed its policy and included telephone service as an indirect cost, but also charged the telephone expenses as direct costs, resulting in duplicate charges. As a result, we questioned \$2,668.

Significant Deficiencies in the Internal Controls

In summary, these questioned costs occurred because BIA did not have effective monitoring procedures over the contractor's invoice and payment process, and LBST did not provide the supporting documentation needed to support the total costs it billed to the two contracts. More specifically, LBST did not have effective internal controls to prevent and detect significant deficiencies:

- LBST did not have adequate internal controls over recording and processing journal entries.
- LBST did not have proper internal controls over expenditures to ensure that unallowable expenses, such as duplicate payments, are identified.
- LBST did not have adequate supporting documentation for the claimed costs for these Federal funds.
- LBST relied on inadequate documentation for travel expenses, subcontractor costs, and vendor invoices.
- LBST did not have internal controls to prevent double billings.
- LBST did not have internal controls to properly allocate direct and indirect costs to the appropriate agreement.

Recommendations

We recommend that BIA:

1. Resolve the \$359,582 in unallowable costs for unsupported payments to related parties, subcontractors, and vendors;
2. Resolve the \$22,877 in unsupported internal transactions; and
3. Resolve the \$2,668 in unallowable payments to vendors.

Inadequate Oversight by BIA

We found deficiencies in BIA's internal controls regarding the post-award process for contract A13AV00621. The contract file was incomplete; it did not have all of the attachments included within the contract and the BIA awarding official (AO) and LBST could not provide the attachments identified within the contract. The contract stated that LBST must provide BIA with progress and financial reports on a quarterly basis. LBST did not submit any progress or financial reports to BIA for this contract. For example, BIA did not have any copies of the SF-425s financial report submitted for this contract.

Without receiving progress reports on contract A13AV00621, the AO had no way of knowing if the contract was on time or within scope. The contract stated that when the awarding official's technical representative recommended payment, the invoice would be sent to the AO for approval. After the AO approved the invoice, it would be transmitted to the bank for release of funds. The AO received, reviewed, and approved the two progress payments. The bank account should have been restricted based on the requirements of the contract. The AO thought the bank account was a restricted account, but the bank account was never set up the way the contract outlined. LBST drew down the money without the approval from the AO or submitting any additional progress reports. This left LBST vulnerable to fraud and misuse of funds.

Recommendation

We recommend that BIA:

4. Strengthen internal controls over post-award monitoring.

Conclusion and Recommendations

Conclusion

We identified deficiencies throughout our testing of LBST's claimed costs, and found that LBST claimed costs that were unallowable and unallocable. In addition, BIA did not adequately oversee the contract in accordance with Federal laws and regulations and BIA guidelines. BIA did not have effective monitoring procedures over the contractor's invoice and payment process, and LBST did not provide the supporting documentation needed to support the total costs it billed to the two contracts. As a result, we identified \$385,127 in questioned costs that leave LBST vulnerable to fraud and misuse of funds.

Our recommendations will help BIA account for and monitor the funds awarded by the Federal Government.

Recommendations Summary

We recommend that BIA:

1. Resolve the \$359,582 in unallowable costs for unsupported payments to related parties, subcontractors, and vendors.
2. Resolve the \$22,877 in unsupported internal transactions.
3. Resolve the \$2,668 in unallowable payments to vendors.
4. Strengthen internal controls over post-award monitoring.

In its October 25, 2016 response to our draft report (see Appendix 3), BIA stated that it reviewed the questioned costs and determined all questioned costs to be allowable. BIA did not state if it concurred with our findings or recommendations and did not provide sufficient support for allowing the questioned costs. As a result, we disagree with BIA's response identifying all questioned costs as allowable. We consider all four recommendations unresolved.

We will refer all four recommendations to the Office of Policy, Management and Budget for resolution and tracking implementation (see Appendix 4).

Appendix I: Scope and Methodology

Scope

We focused on the Lower Brule Sioux Tribe's (LBST) claimed costs incurred under Contract Nos. A13AV00621 and A12AV00769/A15AV00265 with the Bureau of Indian Affairs (BIA). LBST costs totaled \$2,974,507 for October 1, 2012, through March 31, 2015. We tested \$1,270,876 of the costs claimed in that timeframe. Our audit included LBST's compliance with applicable Federal regulations, BIA policies and procedures, and contract terms and conditions. We conducted our fieldwork from June 2015 through April 2016.

Methodology

We conducted this 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.

To accomplish our objectives, we—

- interviewed the BIA awarding official's technical representative;
- interviewed LBST employees and other appropriate individuals;
- reviewed required reports and cash management practices;
- reviewed the Code of Federal Regulations pertaining to claimed costs;
- reviewed support for LBST's claimed costs, including direct costs, indirect costs (overhead), and general and administrative expenses;
- reviewed LBST's three most recent Office of Management and Budget single audit reports;
- reviewed LBST's response to an internal control questionnaire sent by our office;
- reviewed the contracts for compliance requirements;
- reviewed the support related to LBST compliance;
- reviewed LBST's policies and procedures for its management and accounting system; and
- conducted site visit in Lower Brule, SD.

We also evaluated the internal controls over transactions recorded in LBST's accounting and payroll systems and tested their operation and reliability. We did not project the results of the tests to the total population of recorded transactions.

To test the accuracy of the computer-generated general ledger provided by LBST, we performed several analytical tests on the data. We relied on computer-

generated data to test other direct costs and payroll costs, and to verify amounts drawn down by LBST.

Appendix 2: Why We Conducted This Audit

We conducted this audit because of several compelling factors:

- A Human Rights Watch report in 2015 that examined financial mismanagement and possible corruption at the Lower Brule Sioux Tribal (LBST) Council.² The report detailed how the Tribe had diverted millions of dollars in Federal funds away from key social programs without explaining how those funds were spent, and that its mismanagement of scarce financial resources had directly affected basic services on which many tribal members rely.
- Our own analysis on LBST's single audit reports for fiscal years (FYs) 2011, 2012, and 2013, which revealed three findings that were repeated each year, including the finding that LBST had commingled Federal funds with tribal funds. The FY 2013 single audit report had nine findings, of which seven were significant deficiencies and two were material weaknesses. These significant and recurring findings suggest a problem with accountability and internal controls.
- In April 2015, the Acting Chairman of the Lower Brule Sioux Tribal Council sent a memorandum to the Bureau of Indian Affairs (BIA) asking for a freeze in flow of money to the Tribe based on expressed concerns about "the transparent, accountable, and appropriate use of Federal funds provided to the Tribe." The Acting Chairman stated that the Tribe had refused to provide financial information requested by the tribal council, preventing proper oversight and accountability. Further, the Acting Chairman found the situation "extremely troubling" and encouraged Federal investigation into the Tribe's financial operations.

Background

BIA entered into a Public Law 93-638 self-determination contract with LBST (No. A13AV00621) for the two-phased construction of the Lower Brule Fire Management Office and Engine Bays. In Phase I, the Tribe was awarded a firm-fixed-price contract for \$1 million on September 11, 2013, for the engineering design of the new facility, including but not limited to soil studies, excavation, and ground work. Phase II of the project was awarded on February 19, 2015, for \$1.75 million to complete construction of the fire station. The period of performance across both awards is September 11, 2013, to September 30, 2016. This project was funded by the National Interagency Fire Center (NIFC); BIA is a pass-through entity that awarded the agreement with NIFC money.

² Human Rights Watch, "Secret and Unaccountable: The Tribal Council at Lower Brule and Its Impact on Human Rights," January 12, 2015, <https://www.hrw.org/report/2015/01/12/secret-and-unaccountable/tribal-council-lower-brule-and-its-impact-human-rights>.

BIA entered into a Public Law 93-638 contract with LBST (Nos. A15AV00265/A12AV00769) for LBST's facilities management program. The award is funded every year through a modification to the original agreement. Every 3 years, BIA reissues a new contract number for that year's funding. The Tribe provides the necessary personnel, supplies, materials, equipment, facilities, and management services to accomplish the goals and objectives of this contract, as well as operates and administers the reservation's Facilities Management Operations and Maintenance, Education, Non-Education, Quarters Maintenance, and Detention Center buildings.

Appendix 3: Response to Draft Report

The Bureau of Indian Affairs' response to our draft report follows on page 16.

**GPRO Self Determination Response to OIG Report
Lower Brule Sioux Tribe Facilities Management Contracts
A12AV00769/A15AV00265 and
Fire Management Hall Construction Project A13AV00621**

The draft OIG Report dated August 23, 2016 identified \$385,127 in questioned costs for the referenced contracts at Lower Brule Sioux Tribe. I have reviewed the questioned costs and have determined that all questioned costs should be reinstated. Items of concern include:

Lower Brule Employment Enterprises (LBEE) - Unsupported Payments to Related Parties (Questioned Costs - \$135,386)

LBEE is a business in Lower Brule and provides general contracting and construction services to LBST. When submitting invoices to LBST for payment LBEE does not include sufficient support documentation to substantiate the work being performed. Although the work performed is inspected and verified by the LBST [REDACTED], the invoices need support documents to validate the work being performed. The Tribe's [REDACTED] will ensure future invoices will include support documents before being paid. This item will be discussed with the Tribal Council to ensure LBEE submits invoices with supporting documents.

Kelly Insurance Agency – Unsupported Payments to Vendors (Questioned Costs = \$158,741)

A specialist from the Finance Office explained the process used by Kelly Insurance Agency to determine payments for insurance. The insurance company provides the printout for each facility within LBST which lists the value of each property and a hand written premium amount for each facility. The Finance Office will now include a spreadsheet showing payments allocable to each program but will also encourage Kelly Insurance Agency to provide a report without hand written amounts and a calculation for determining premiums.

Other Vendors & GSA Vehicle Lease/Mileage – Unsupported Payments to Vendors (Questioned Costs = \$63,760)

During the review, I was able to look at additional supporting documentation missing during the OIG review. All payments to other vendors are determined to be supported.

A specialist from the Finance Office explained the process used to determine payments to GSA from the Facilities Management Program. Support documents show all vehicles leased by the Tribe but did not show a breakdown of costs allocable to each program. The finance specialist was able to explain the amounts charged to the Facilities Management contract. It was also agreed that on future purchase orders, the description on the purchase order would include the vehicle tag numbers to determine the amount allocable to each program.

Indirect Cost Calculations – Unsupported Internal Transactions (Questioned Costs = \$22,877)


A specialist from the Finance Office explained the journal voucher process used to determine funds transferred to the Indirect Cost Pool from each program. Indirect Cost calculations are completed on a quarterly basis. Total expenditures for each program for each quarter minus exclusions (capital expenditures and equipment) is multiplied by the indirect cost rate to

determine the amount allocable for each program. The Finance Office will now include a spreadsheet and expense report to support the IDC calculations for each quarter.

Unallowable Payments to Vendors (Questioned Costs = \$2,688)

Telephone expenses were charged as both direct and indirect costs against the contract. The Facilities Management contract has a line item in their budget to cover communication expenses, therefore it is allowable to charge telephone expenses to the program. Telephone expenses for the detention facility are charged to indirect cost. (See attached budget).

Submitted by:


Yvonne LaRocque

10/25/16
Date

Appendix 4: Status of Recommendations

Recommendation	Status	Action Required
I, 2, 3, and 4	Unresolved	We will refer these recommendations to the Assistant Secretary for Policy, Management and Budget for resolution and tracking implementation.

Report Fraud, Waste, and Mismanagement



Fraud, waste, and mismanagement in Government concern everyone: Office of Inspector General staff, departmental employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and mismanagement related to departmental or Insular Area programs and operations. You can report allegations to us in several ways.



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