



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

THE BLACKFEET TRIBE GENERALLY COMPLIED WITH BUREAU OF INDIAN AFFAIRS AGREEMENTS

This is a revised version of the report prepared for public release.



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

Memorandum

SEP 28 2018

To: Darryl LaCounte
Acting Director, Bureau of Indian Affairs

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

Subject: Final Audit Report – The Blackfeet Tribe Generally Complied with Bureau of Indian Affairs Agreements
Report No. 2017-FIN-065

This memorandum transmits the findings of our audit of the Blackfeet Tribe's compliance with its agreements with the Bureau of Indian Affairs (BIA). We make four recommendations to help the BIA oversee the Blackfeet Tribe's compliance with its law enforcement and tribal court agreements.

In response to our draft report, the BIA concurred with three of our recommendations and did not concur with one recommendation. Based on this response, we consider three recommendations resolved but not implemented and one recommendation unresolved. We will forward them to the Office of Policy, Management and Budget to track their implementation and resolution. The BIA's response to our draft report is included in Appendix 3.

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

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.

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Results in Brief

We audited four agreements for law enforcement, tribal court, and the general assistance services, between the Blackfeet Tribe and the Bureau of Indian Affairs (BIA) to determine whether: (1) the BIA oversaw the agreements in accordance with applicable Federal laws and regulations and BIA guidelines; (2) the costs were reasonable, supported, allowable, and allocable under Federal laws, regulations, and provisions of the contract; and (3) the Blackfeet Tribe complied with contract terms, Federal laws, and BIA guidance.

We found that the BIA oversaw the law enforcement, tribal court and general assistance agreements with the Blackfeet Tribe. During our audit, we tested \$2,271,160 in interim costs claimed by the Blackfeet Tribe from October 1, 2014, through June 30, 2017, and determined the costs claimed were reasonable, supported, allowable and allocable.

We identified payroll errors and instances where tribal employees earned overtime during pay periods where paid leave was taken. These deficiencies occurred because the Tribe does not have an automated payroll system and has not developed a comprehensive overtime policy. As a result, we identified \$50,366 in funds that can be put to a better use. In addition, we found that the Blackfeet Tribe complied with the agreements for the general assistance agreement but could improve compliance with its law enforcement and tribal court agreements.

We make four recommendations to help the BIA oversee the Blackfeet Tribe's compliance with its law enforcement and tribal court agreements.

Introduction

Objective

Our objective was to determine whether the Blackfeet Tribe complied with four agreements with the Bureau of Indian Affairs (BIA) pertaining to law enforcement, tribal court, and general assistance. Specifically, we determined whether:

1. The BIA oversaw the agreements in accordance with applicable Federal laws and regulations and BIA guidelines.
2. Costs were reasonable, supported, allowable and allocable under Federal laws, regulations, and provisions of the contract.
3. The Blackfeet Tribe complied with contract terms, Federal laws, and BIA guidance.

Appendix 1 includes the details of our audit scope and methodology.

Background

The Blackfeet Reservation is in northwestern Montana and is home to the Blackfeet tribe. The Blackfeet Tribe has approximately 17,000 enrolled members. The Blackfeet Tribe entered into four agreements with the BIA to provide the following governmental services to the Blackfeet Tribe and its members:

- **Law Enforcement (Agreement No. A16AV00120):** The Tribe and the BIA entered into this agreement to provide law enforcement services, including uniform police, and radio communications and dispatch are provided for the Blackfeet Tribe to ensure the safety of residents, visitors, and property within the Blackfeet Reservation.
- **Tribal Court (Agreement Nos. A12AV00929 and A16AV00003):** The Tribe and BIA entered into these agreements to operate the Blackfeet Tribal Court and the Blackfeet Family Court. The Tribe was required to develop Tribal Court rules, policies and operating procedures.
- **General Assistance (Agreement No. A14AV00170):** This agreement was awarded to provide financial assistance and counseling to eligible Indian residents so that they may become self-sufficient.

Financial Processes Improved

The Blackfeet Tribe made substantial improvements to its financial processes and reporting. On November 2, 2015, the BIA placed the Blackfeet Tribe on Level I sanctions for failing to submit its single audit report within required time frames. Consistent with 2 C.F.R. § 200.338, recipients who fail to submit a Single Audit report by the due date are subject to three levels of sanctions, with the most severe calling for the BIA to initiate nonemergency reassumption procedures (see Figure 1).

Sanction Level	Actions Imposed
Level 1	Involves limiting the payment of all grant funds, including contract support costs, to monthly advance installments until all delinquent audits have been submitted
Level 2	Involves limiting the payments of all grant funds to monthly advance installments and withholding contract support payments until all required audit reports are submitted
Level 3	Results in the nonemergency reassumption of the contracted programs

Figure 1. Different levels of sanctions can be imposed for failure to complete and submit a single audit report within required timeframes. Source: 2 C.F.R. § 200.338.

The BIA previously designated the Tribe as high risk after the Tribe's 2011 single audit determined that BIA funds were not properly safeguarded. In 2015, the Tribe used a \$10-million loan to restore unspent U.S. Department of the Interior funds. The Tribe also hired a contract financial officer to oversee and improve financial operations. As a result of these efforts and improved compliance, the BIA lifted the Level I sanctions from the Blackfeet Tribe on February 10, 2016.

Findings

We found that the BIA oversaw the law enforcement, tribal court, and general assistance agreements with the Blackfeet Tribe. We also tested \$2,271,160 in interim costs claimed by the Blackfeet Tribe from October 1, 2014, through June 30, 2017, and determined the costs claimed by the Blackfeet Tribe were reasonable, supported, allowable and allocable.

We identified payroll errors and instances where tribal employees earned overtime during pay periods where paid leave was taken. These deficiencies occurred because the Tribe does not have an automated payroll system and has not developed a comprehensive overtime policy. As a result, we identified \$50,366 in funds that can be put to a better use.

In addition, we found that the Blackfeet Tribe complied with the agreements for the general assistance agreement but could improve compliance with its Law Enforcement and Tribal Court agreements.

Oversight Provided by the BIA

The BIA oversaw the law enforcement, tribal court, and general assistance agreements with the Blackfeet Tribe in accordance with applicable Federal laws and regulations and BIA guidelines. After the BIA imposed sanctions and designated the Blackfeet Tribe as high risk in 2015, the Tribe improved its financial processes and reporting. As required by the agreements with the Blackfeet Tribe, the BIA provided continuous oversight by conducting annual program evaluations and issuing corrective action reports to the Tribe when deficiencies were identified.

We found that the BIA adequately oversaw the law enforcement, tribal court, and general assistance agreements with the Blackfeet Tribe. For each agreement, the BIA conducted annual program evaluations to verify that the Tribe complied with its agreements and issued corrective action reports for deficiencies identified.

Claimed Costs Were Reasonable, Supported, Allowable and Allocable

The Blackfeet Tribe claimed costs on its law enforcement, tribal court, and general assistance agreements with the BIA that were allowable, allocable and reasonable. We tested \$2,271,160 in interim costs claimed by the Blackfeet Tribe from October 1, 2014, through June 30, 2017.

We reviewed payroll and operating costs for the law enforcement and tribal court agreements. We found the Tribe's overtime policy allows employees to earn overtime pay during the same pay period paid leave is taken. We reviewed the client files of 83 participants from the general assistance agreement, which represented \$416,570 and determined the Tribe complied with all requirements for individuals to participate in the general assistance program.

Program	Agreement No.	Total Value	Amount Reviewed	Funds that Can Be Put to Better Use
Law Enforcement	AI6AV00120	\$5,233,576	\$984,426	\$47,585
Tribal Court	AI2AV00929	1,371,550	372,049	1,754
Tribal Court	AI6AV00003	2,175,808	498,115	1,027
General Assistance	AI4AV00170	1,677,542	416,570	-
Total		\$10,458,476	\$2,271,160	\$50,366

Figure 2. Interim costs reviewed and the total value of the Blackfeet Tribe's agreements with the BIA.

Avoidable Overtime Costs

We found that the Blackfeet Tribe's overtime policy allows employees to earn overtime during a pay period in which annual leave is taken, even though there is an opportunity to avoid paying overtime. According to tribal policies, overtime has to be justified and authorized by a supervisor. We found that both law enforcement and tribal court employees claimed overtime during pay periods in which they used paid leave.

We also identified errors and adjustments in our review of the Tribe's payroll records. Blackfeet law enforcement personnel did not obtain approval for overtime claimed. The Blackfeet Tribe does not use an automated timekeeping system, and instead employees manually input their hours into an excel spreadsheet or a printout of the spreadsheet.

Employees claimed overtime on 285 of the 332 (86 percent) timesheets we reviewed. Of the 285 overtime justification forms that accompanied the employees' timesheets, 67 (23 percent) did not have employees' signatures and 52 (18 percent) did not have a supervisor's signature. Further, we identified 63 (22 percent) instances where the amounts listed on the justification forms did not match the amounts claimed on the timesheets.

We identified \$50,366 in overtime costs that the Tribe could have avoided if its overtime policy did not allow employees to earn overtime during a pay period in which annual leave is taken.

Recommendations

We recommend the BIA:

1. Work with the Blackfeet Tribe to ensure that overtime is approved and justified.
2. Work with the Blackfeet Tribe to develop payroll policies that prohibit employees from taking leave and earning overtime in the same pay period.

Compliance with BIA Agreements Could Be Improved

We found that the Tribe complied with the terms of its general assistance agreement, but not the law enforcement or tribal courts agreements. Blackfeet law enforcement personnel did not comply with the terms of the law enforcement agreement when they worked more than 12 hours in a 24-hour period. In addition, the Blackfeet Tribe did not comply with all terms of its tribal court agreement.

Law Enforcement Life and Safety Risks

Of the 332 timesheets reviewed, we identified 179 instances where Blackfeet law enforcement personnel did not comply with the terms of the agreement when they worked more than 12 hours in a 24-hour period. Pursuant to the law enforcement agreement, individual officers are not allowed to work more than 12 hours in a 24-hour period. Law enforcement personnel assume greater life and safety risks when they work more than 12 hours in a 24-hour period. The Blackfeet Tribe's law enforcement program does not have procedures or controls in place to prevent employees from working more than 12 hours in 24-hour period.

Recommendation

We recommend the BIA:

3. Work with the Blackfeet Tribe to ensure the Tribe understands the requirement that law enforcement personnel work no more than 12 hours during a 24-hour period.

Tribal Court Agreement Noncompliance

We found that the tribal court did not comply with all terms of the tribal court agreement. Specifically, the tribal court did not develop the Blackfeet Tribal Court Manual, implement the Judicial Code of Ethics, and revise the Blackfeet Law and Order Code.

Pursuant to the tribal court agreement, the Blackfeet Tribe was responsible for developing a Blackfeet Tribal Court Manual, creating and implementing the Judicial Code of Ethics, and revising the Blackfeet Law and Order Code. The Blackfeet tribal court did not comply with programmatic requirements of its agreement with the BIA because of employee turnover. Completing the Tribal Court Manual, a Judicial Code of Ethics, and a Law and Order Code will help ensure that Blackfeet tribal court staff understand how division, unit, and individual responsibilities fit into the overall goal and structure of the Court and the Blackfeet Tribal Business Council.

Recommendation

We recommend the BIA:

4. Work with the Blackfeet Tribe to develop the Blackfeet Tribal Court Manual, implementing the Judicial Code of Ethics, and revising the Blackfeet Law and Order Code.

General Assistance Agreement Compliance

The Blackfeet Tribe complied with the requirements of its general assistance agreement. The goal of the general assistance program is to increase self-sufficiency by providing financial assistance. To participate in the general assistance program, the agreement and 25 C.F.R. § 20.300 require that each recipient work with a social service employee to verify residency, employment, tribal membership, and develop an individual self-sufficiency plan.

We reviewed 83 client files to determine whether the Blackfeet Tribe collected the required documentation. We verified that the Tribe completed the required steps to qualify participants in the general assistance program. Tribal personnel sufficiently documented participants' applications for assistance, employment and income verification, proof of residency, and tribal membership identification. We also verified whether recipients were continuously reviewed for eligibility. We found that the Blackfeet Tribe adequately obtained and reviewed required documentation from clients and completed periodic reviews of its clients to determine eligibility in the general assistance program.

Conclusion and Recommendations

Conclusion

The BIA provided oversight of its agreements with the Blackfeet Tribe. As a result of sanctions imposed by the BIA, the Blackfeet Tribe has made improvements to its financial operations and compliance with its agreements with the BIA. We determined the Blackfeet Tribe claimed \$2,271,160 in interim costs that were allocable, allowable and reasonable.

We identified deficiencies with the Tribe's current overtime policy, which allows employees to earn overtime and take paid leave during the same pay period. We identified \$50,366 in overtime costs the Tribe could have avoided if it implemented a comprehensive overtime policy.

Tribal law enforcement personnel have not complied with requirements that limit the number of hours an officer can work in a 24-hour period. In addition, the Blackfeet tribal court program should develop the Blackfeet Tribal Court Manual, implement the Judicial Code of Ethics, and revise the Blackfeet Law and Order Code to comply with its BIA agreements.

Recommendations Summary

We recommend the BIA:

1. Work with the Blackfeet Tribe to ensure overtime is approved and justified.

Bureau Response: The BIA concurred with this recommendation and provided the names of officials responsible for implementation as well as target dates for completion.

OIG Reply: We consider this recommendation resolved but unimplemented.

2. Work with the Blackfeet Tribe to develop payroll policies that prohibit employees from taking leave and earning overtime in the same pay period.

Bureau Response: The BIA did not concur with this recommendation and referenced the scope of law enforcement positions, which require recurring overtime due to the demands of the position. The BIA agreed to provide technical assistance to the Tribe to ensure all overtime is justified for approval. The BIA provided the names of officials responsible for implementation as well as target dates for completion.

OIG Reply: We consider this recommendation unresolved. We agree with the BIA response as it applies to law enforcement and other positions

within the Tribe that require recurring overtime. The Tribe's present overtime policy, however, allows employees in positions without recurring overtime to convert paid leave into overtime pay. We consider this an opportunity for the Tribe to conserve funds and adopt a standard employment practice for positions without recurring overtime.

3. Work with the Blackfeet Tribe to conduct training to ensure that law enforcement personnel work no more than 12 hours during a 24-hour period.

Bureau Response: The BIA concurred with this recommendation and provided the name of the official responsible for implementation as well as target dates for completion.

OIG Reply: We consider this recommendation resolved but unimplemented.

4. Work with the Blackfeet Tribe to develop the Blackfeet Tribal Court Manual, implementing the Judicial Code of Ethics, and revising the Blackfeet Law and Order Code.

Bureau Response: The BIA concurred with this recommendation and provided the name of the official responsible for implementation as well as target dates for completion.

OIG Reply: We consider this recommendation resolved but unimplemented.

Appendix I: Scope and Methodology

Scope

We focused on the interim costs claimed by the Blackfeet Tribe on Agreement Nos. A16AV00120 (law enforcement), A12AV00929 and A16AV00003 (tribal courts), and A14AV00170 (general assistance) with the Bureau of Indian Affairs (BIA). We reviewed costs claimed by the Blackfeet Tribe from October 1, 2014, through June 30, 2017. Our audit included the Blackfeet Tribe's compliance with applicable Federal regulations, BIA policies and procedures, and agreement and contract terms and conditions. We conducted our fieldwork from September 2017 through March 2018.

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 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 the Blackfeet Tribe 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 the Blackfeet Tribe claimed costs, including direct costs, indirect costs (overhead), and general and administrative expenses
- reviewed the Blackfeet Tribe fiscal years 2014, 2015 and 2016 Office of Management and Budget single audit reports
- reviewed Agreement Nos. A16AV00120 (law enforcement), A12AV00929 and A16AV00003 (tribal courts), and A14AV00170 (general assistance) for compliance requirements
- reviewed the supporting documentation related to the Blackfeet Tribe compliance
- reviewed the Blackfeet Tribe policies and procedures for its management and accounting system

- conducted a site visit to the Blackfeet Tribe, located in Browning, MT

We also evaluated the internal controls over transactions recorded in the Blackfeet Tribe 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 the Blackfeet Tribe, we performed several analytical tests on the data. We relied on computer-generated data to verify expenditures made by the Blackfeet Tribe.

Appendix 2: Monetary Impact

Description		Category	Amount
Avoidable Overtime Costs	Funds Put To a Better Use		\$50,366

Appendix 3: Response to Draft Report

The Department's response to our draft report follows on page 14.



United States Department of the Interior


BUREAU OF INDIAN AFFAIRS
Washington, DC 20240

AUG 16 2018

IN REPLY REFER TO:

Memorandum

To: Chris Stubbs
Director, Financial and Contract Audits

From: Darryl LaCounte 
Acting Director, Bureau of Indian Affairs

Subject: Draft Audit Report – The Blackfeet Tribe Generally Complied with Bureau of Indian Affairs Agreements Report No. 2017-FIN-065

Indian Affairs appreciates the opportunity to comment on the Office of Inspector General (OIG) Draft Report “The Blackfeet Tribe Generally Complied with Bureau of Indian Affairs Agreements Report”. Indian Affairs provides the following response to the report’s recommendations.

Recommendation 1: Work with the Blackfeet Tribe to ensure overtime is approved and justified.

Response: Indian Affairs concurs with Recommendation 1.

Law Enforcement – Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) concurs with this finding. OJS will provide technical assistance to the Blackfeet LE Program to ensure all overtime is approved and justified.

Courts – During the audit period there have been significant changes in personnel to clarify responsibility for time and attendance and ensure proper procedures are followed at the Tribal Court. The 2017 Corrective Action Plan identified the need for a time clock and uniform utilization procedures. A new tribal court administrator has installed a time clock, monitors staff usage and reviews overtime requests.

Responsible Party: 


Target Date: Law Enforcement – March 1, 2019
Courts – March 1, 2019

Recommendation 2: Work with the Blackfeet Tribe to develop payroll policies that prohibit employees from taking leave and earning overtime in the same pay period.

Response: Indian Affairs non-concurs with Recommendation 2.

Law Enforcement – OJS does not concur with this finding. Due to nature of the position(s) and the scope of law enforcement jobs which require overtime on a reoccurring bases. It is not recommended as an employee may have scheduled leave of 8 hours or have unforeseen sick leave during the pay period in which there is a need to work overtime due to calls that take place in between shifts or at the end of ones shift. They do not have the discretion to leave at the end of their shift if in the middle of a call; this jeopardizes the safety of the community. It is recommended that all overtime approvals/requests have justification that can be supported and is directly in line with program mission and need. OJS will provide technical assistance to the Blackfeet LE Program to ensure all overtime is justified for approval.

Responsible Party: [REDACTED]

Target Date: March 1, 2019

Recommendation 3: Work with the Blackfeet Tribe to conduct training to ensure that Law Enforcement personnel work no more than 12 hours during a 24-hour period.

Response: Indian Affairs concurs with Recommendation 3.

Law Enforcement – Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) concurs with this finding. OJS will provide technical assistance to the Blackfeet LE Program to ensure all officers read and sign that they understand this policy.

Responsible Party: [REDACTED]

Target Date: March 1, 2019

Recommendation 4: Work with the Blackfeet Tribe to develop the Blackfeet Tribal Court Manual, implementing the Judicial Code of Ethics, and revising the Blackfeet Law and Order Code.

Response: Indian Affairs concurs with Recommendation 4.

The Judicial Code of Ethics, Employee Code of Conduct and Rules of the Court have been developed but still need to be adopted by the Blackfeet Tribal business Council. Council approval and implementation will be monitored during the 2018 program review scheduled August 21-23, 2018. The status of the Law and Order Code revision will also be updated at that time.

Responsible Party: [REDACTED]

Target Date: March 1, 2019

Appendix 4: Status of Recommendations

In response to our draft report, the Bureau of Indian Affairs (BIA) concurred with three of our recommendations and stated that it was working to implement them. The response included target dates and an official for each recommendation (see Appendix 3). The BIA did not concur with one of our recommendations and provided a different solution. Based on this response, we consider three recommendations resolved but not implemented and one recommendation unresolved. We will forward them to the Office of Policy, Management and Budget.

Recommendations	Status	Action Required
I, 3, and 4	Resolved but not implemented	We will refer these recommendations to the Assistant Secretary for Policy, Management and Budget to track their implementation.
2	Unresolved	We will refer these recommendations to the Assistant Secretary for Policy, Management and Budget for resolution.

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