



Office of the Inspector General
U.S. Department of Justice



**Audit of the Office of Justice
Programs Correctional Systems
and Correctional Alternatives on
Tribal Lands Program Grant
Awarded to the Eight Northern
Indian Pueblos Council
Ohkay Owingeh, New Mexico**

Audit Division GR-60-16-001

November 2015

REDACTED – FOR PUBLIC RELEASE

**AUDIT OF THE OFFICE OF JUSTICE PROGRAMS
CORRECTIONAL SYSTEMS AND CORRECTIONAL ALTERNATIVES
ON TRIBAL LANDS PROGRAM GRANT AWARDED TO THE
EIGHT NORTHERN INDIAN PUEBLOS COUNCIL
OHKAY OWINGEH, NEW MEXICO**

EXECUTIVE SUMMARY*

The U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) completed an audit of the grant awarded by the Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA), under the Correctional Systems and Correctional Alternatives on Tribal Lands (CSCATL) Program, to the Eight Northern Indian Pueblos Council (ENIPC) in Ohkay Owingeh, New Mexico. The ENIPC was awarded \$5,636,317 under Grant Number 2009-ST-B9-0077 to construct an alternative substance abuse treatment facility for juveniles.

The objective of this audit was to determine whether costs claimed under the grant were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions. To accomplish this objective, we assessed performance in the following areas of grant management: financial management, expenditures, budget management and control, drawdowns, federal financial reports, and program performance. The criteria we audited against are contained in the OJP Financial Guide, Title 28 of the U.S. Code of Federal Regulations, and the grant award documents.

As of March 2014, the ENIPC had drawn down \$5,636,317 of the total grant funds awarded. We examined the ENIPC's policies and procedures, accounting records, and financial and progress reports, and found that the ENIPC did not comply with essential award conditions related to the use of funds and grant matching. Specifically, the ENIPC: (1) incurred \$20,659 (\$10,443 + \$10,215) in unallowable costs for items purchased after the grant end date and unbudgeted indirect costs charged to the grant; and (2) allocated \$626,257 in unsupported costs to the grant match.

Our report contains two recommendations to OJP that are detailed in the Findings and Recommendations section of this report. Our audit objective, scope, and methodology are discussed in Appendix 1 and our Schedule of Dollar-Related Findings appears in Appendix 2. We discussed the results of our audit with ENIPC officials and have included their comments in the report, as applicable. In addition, we requested a response to our draft audit report from OJP and the ENIPC; their responses are appended to the final audit report as appendices 3 and 4, respectively.

* A redaction was made to the full version of this report for privacy reasons. The redaction is contained only in Appendix 4, the auditee's response, and is of individuals' names in e-mail addresses.

**AUDIT OF THE OFFICE OF JUSTICE PROGRAMS
CORRECTIONAL SYSTEMS AND CORRECTIONAL ALTERNATIVES
ON TRIBAL LANDS PROGRAM GRANT AWARDED TO THE
EIGHT NORTHERN INDIAN PUEBLOS COUNCIL
OHKAY OWINGEH, NEW MEXICO**

TABLE OF CONTENTS

INTRODUCTION 1
 Audit Approach 1
FINDINGS AND RECOMMENDATIONS..... 3
 Grant Financial Management 3
 Grant Expenditures 3
 Direct Costs 3
 Indirect Costs 4
 Matching Costs 4
 Budget Management and Control 5
 Drawdowns 6
 Federal Financial Reports 6
 Program Performance and Accomplishments 7
 Categorical Assistance Progress Reports 7
 Program Goals and Objectives 7
 Conclusion 7
 Recommendations..... 7
APPENDIX 1: OBJECTIVE, SCOPE, AND METHODOLOGY 9
APPENDIX 2: SCHEDULE OF DOLLAR-RELATED FINDINGS..... 10
APPENDIX 3: OFFICE OF JUSTICE PROGRAMS RESPONSE TO THE DRAFT
 REPORT..... 11
APPENDIX 4: THE EIGHT NORTHERN INDIAN PUEBLOS COUNCIL
 OHKAY OWINGEH, NEW MEXICO RESPONSE TO THE DRAFT REPORT 14
APPENDIX 5: OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY
 OF ACTIONS NECESSARY TO CLOSE THE REPORT 18

**AUDIT OF THE OFFICE OF JUSTICE PROGRAMS
CORRECTIONAL SYSTEMS AND CORRECTIONAL ALTERNATIVES
ON TRIBAL LANDS PROGRAM GRANT AWARDED TO THE
EIGHT NORTHERN INDIAN PUEBLOS COUNCIL
OHKAY OWINGEH, NEW MEXICO**

INTRODUCTION

The U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) completed an audit of the grant awarded by the Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA), under the Correctional Systems and Correctional Alternatives on Tribal Lands (CSCATL) Program, to the Eight Northern Indian Pueblos Council (ENIPC) in Ohkay Owingeh, New Mexico.¹ The ENIPC was awarded one grant totaling \$5,636,317 as shown in Table 1.

**Table 1
Grants Awarded to the ENIPC**

AWARD NUMBER	AWARD DATE	PROJECT START DATE	PROJECT END DATE	AWARD AMOUNT
2009-ST-B9-0077	09/21/2009	09/01/2009	11/30/2013	\$5,636,317
Total:				\$5,636,317

Source: OJP

Funding through the CSCATL Program supports efforts related to planning, constructing, and renovating tribal justice facilities associated with the incarceration and rehabilitation of juvenile and adult offenders subject to tribal jurisdiction, including exploring community- based alternatives. In 2010, the CSCATL Program was modified to allow the use of funds to construct multipurpose justice centers that combine tribal police, courts, and corrections services.²

Audit Approach

The objective of this audit was to determine whether costs claimed under the grant were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions. To accomplish this objective, we assessed performance in the following areas of grant management: financial management, expenditures, budget management and control, drawdowns, federal financial reports, and program performance.

We tested compliance with what we consider to be the most important conditions of the grant. The criteria we audited against are contained in the OJP Financial Guide, Title 28 of the U.S. Code of Federal Regulations, and the grant

¹ This program was formerly referred to as the Correctional Facilities on Tribal Lands Program.

² 42 U.S.C. §1 3709

award documents. The results of our analysis are discussed in detail in the Findings and Recommendations section of the report. Appendix 1 contains additional information on this audit's objective, scope, and methodology. The Schedule of Dollar-Related Findings appears in Appendix 2.

FINDINGS AND RECOMMENDATIONS

OJP awarded the ENIPC Grant Number 2009-ST-B9-0077 for \$5,636,317 to construct an alternative substance abuse treatment facility for juveniles.³ The objective of Grant Number 2009-ST-B9-0077 was to build an alternative substance abuse treatment facility for juveniles in Taos, New Mexico.

Grant Financial Management

According to the OJP Financial Guide, all grant recipients and subrecipients are required to establish and maintain adequate accounting systems and financial records and to accurately account for funds awarded to them. We reviewed the ENIPC's Single Audit Reports for fiscal years 2013 and 2014 to identify internal control weaknesses and significant non-compliance issues related to federal awards. We also conducted interviews with financial staff, examined policy and procedures, and inspected grant documents to determine whether the ENIPC adequately safeguards grant funds.

Based on our review, we did not identify any concerns related to grant financial management.

Grant Expenditures

For Grant Number 2009-ST-B9-0077, the ENIPC approved budget included personnel and fringe benefits, travel, equipment, supplies, construction, consultant/contracts, indirect and other direct costs. To determine whether costs charged to the awards were allowable, supported, and properly allocated in compliance with award requirements, we tested all 62 transactions totaling \$5,536,317. The following sections describe the results of that testing.

Direct Costs

The majority of grant transactions included expenditures for construction, equipment, and travel. During our review, we verified that grant expenditures were adequately supported by documentation and were for purposes that supported grant objectives. We identified total questioned costs of \$10,443. We found 7 unallowable transactions totaling \$10,443 for items the ENIPC purchased more than 15 days after the grant end date. Specifically, we found that the ENIPC charged:

- \$6,469 for 13 computers,
- \$1,825 for 12 printers,
- \$2,084 for Microsoft Office Licenses, and

³ The ENIPC originally planned to build an alternative sentencing facility for adults; however, the ENIPC received OJP approval through a GAN to revise the project scope from an adult to a juvenile facility.

- \$65 for window blinds.

We recommend that OJP remedy \$10,443 for expenditures that occurred after the grant end date.

Indirect Costs

Indirect costs are costs of an organization that are not readily assignable to a particular project, but are necessary to the operation of the organization and the performance of the project. OJP approved indirect costs for Grant Number 2009-ST-B9-0077, and the ENIPC had an approved indirect cost rate of 19.8 percent.

The OJP Financial Guide requires a Grant Adjustment Notice (GAN) if there is any dollar increase or decrease to the indirect costs category of an approved budget. The ENIPC originally budgeted \$1.145 million in indirect costs to the grant. However, in August 2013, the ENIPC requested and received approval for a GAN from OJP for a revised grant budget. Under the GAN, the ENIPC revised the grant budget to reflect a reduction of \$1,076,203 in the budgeted amount for indirect costs and an allocation of all indirect costs of \$68,797 to the grant's matching requirement, thereby removing any indirect costs budgeted to the grant. However, at the time OJP approved the GAN, the ENIPC had already charged and received reimbursement for \$10,215 in indirect costs under the grant. We found that the ENIPC did not apply any indirect costs to the match requirement or remove the \$10,215 previously charged to the grant for indirect costs. Therefore, we question the \$10,215 in indirect costs as unallowable. We recommend that OJP remedy \$10,215 in unbudgeted indirect costs that were charged to the grant.

Matching Costs

Matching costs are the grant recipient's share of the total project costs. The OJP Financial Guide requires grant recipients to maintain records which clearly show the source, the amount, and the timing of all matching contributions. The ENIPC was required to expend \$626,257 in local funds for Grant Number 2009-ST-B9-0077, which represents a 10-percent local match. We assessed matching expenditures applied to the grant and determined the accuracy, support, and allowability of expenditures with matching funds. The ENIPC applied personnel and fringe benefit costs, and land valuation, to satisfy the 10-percent match requirement.

According to their accounting records, the ENIPC applied personnel costs for six employees totaling \$69,572 in order to satisfy a portion of their match requirement under Grant Number 2009-ST-B9-0077. For the personnel costs applied to the match, the ENIPC applied a percentage of each employee's salary based on the percentage of time each employee worked on grant activities. Therefore, we reviewed the ENIPC documentation related to those personnel costs, but were unable to verify the salary amounts charged for the six employees. Additionally, the ENIPC documentation did not include timesheets for all six employees and we were unable to verify the time expended on grant and non-grant

related activities for the six employees. According to Special Condition 13, the recipient agrees to track, account for, and report on all funds from the Recovery Act award separately from all other funds. Further, all personnel whose activities are to be charged to the award will maintain timesheets to document hours worked for activities related to the award and non-award related activities. Therefore, we determined that the \$69,572 in personnel costs the ENIPC applied to the match were not adequately supported in accordance with the OJP Financial Guide and Special Condition 13.

The ENIPC also applied \$16,685 in fringe benefits costs to the match requirement for the six employees. As previously stated, we were unable to verify the salary amounts allocated to the match. Since the ENIPC used a percentage of employee salaries and the ENIPC did not break out the fringe benefits costs applied per employee, we could not verify the fringe benefits match amounts applied per employee. Therefore, we determined the \$16,685 in fringe benefit costs applied to the match were not adequately supported in accordance with the OJP Financial Guide.

Finally, the ENIPC applied \$540,000 in land valuation to the match requirement. The land is located in Taos, New Mexico, where the ENIPC built the alternative treatment facility. To support the land match, the ENIPC provided a lease for the land with Taos Pueblo, but the land lease did not identify any value for the land.⁴ Therefore, we determined the \$540,000 in land valuation applied to the match was not adequately supported in accordance with the OJP Financial Guide.

As previously stated, the ENIPC was required to expend \$626,257 in local funds for Grant Number 2009-ST-B9-0077. We determined the entire match amount of \$626,257 was unsupported because the ENIPC did not maintain adequate records in accordance with the OJP Financial Guide. Therefore, we recommend that OJP remedies the \$626,257 in unsupported matching allocations.

Budget Management and Control

According to the OJP Financial Guide, the recipient is responsible for establishing and maintaining an adequate accounting system, which includes the ability to compare actual expenditures or outlays with budgeted amounts for each award. Additionally, the grant recipient must initiate a GAN for a budget modification that reallocates funds among budget categories if the proposed cumulative change is greater than 10 percent of the total award amount.

Grant Number 2009-ST-B9-0077 was designated as a construction grant, therefore, we determined that the ENIPC was required to follow 28 CFR 66.30 (c). According to 28 CFR 66.30 (c), construction grants to state and local government do not require grantees to request approval for any deviations from the budget unless additional grant funds are necessary. As a result, we found the 10-percent rule does not apply.

⁴ Taos Pueblo, a member of the Eight Northern Indian Pueblos, provided the land to the ENIPC for the alternative treatment facility.

Drawdowns

According to the OJP Financial Guide, an adequate accounting system should be established to maintain documentation to support all receipts of federal funds. If at the end of the grant award, recipients have drawn down funds in excess of federal expenditures, unused funds must be returned to the awarding agency. We were unable to speak with the ENIPC personnel who were responsible for drawdowns because they were no longer employed by the ENIPC; however, we did not find any issues with the grant drawdowns.

At the time of this audit, Grant Number 2009-ST-B9-0077 was fully drawn down. To assess whether the ENIPC managed grant receipts in accordance with federal requirements, we compared the total amount reimbursed to the total expenditures in the accounting records. We determined that the ENIPC complied with the requirement, as total expenditures were equal to cumulative drawdowns as of January 2, 2014.

Federal Financial Reports

According to the OJP Financial Guide, recipients shall report the actual expenditures and unliquidated obligations incurred for the reporting period on each financial report. To determine whether the Federal Financial Reports (FFR) submitted by the ENIPC were accurate, we compared the four most recent reports to the ENIPC's accounting records for Grant Number 2009-ST-B9-0077. As shown in Table 2, we identified a discrepancy between the expenditures in the accounting records and what the ENIPC reported in the final FFR for Grant Number 2009-ST-B9-0077.

Table 2
FFR Analysis

REPORT PERIOD FROM DATES	REPORT PERIOD TO DATES	PERIOD EXPENDITURES PER FFR	PERIOD EXPENDITURES PER FFR ACCOUNTING RECORDS	PERIOD DIFFERENCE
1/1/2013	3/31/2013	\$0	\$0	\$0
4/1/2013	6/30/2013	\$1,126,476	\$1,126,476	\$0
7/1/2013	9/30/2013	\$3,025,247	\$3,025,247	\$0
10/1/2013	11/30/2013	\$1,422,786	\$1,076,446	\$346,340

Source: OJP and the ENIPC

During our audit, we found that \$335,896 of the difference occurred due to the timing of expenditures the ENIPC recorded in their accounting records. However, the remaining \$10,443 was due to expenditures for items the ENIPC incurred after the grant end date, as discussed previously in this report.⁵

⁵ Difference due to rounding.

Program Performance and Accomplishments

We reviewed the Categorical Assistance Progress Reports (progress reports), which are completed semiannually, to determine if the required reports are accurate. We also reviewed the grant documentation, and interviewed ENIPC officials to determine whether the ENIPC implemented the program goals and objectives.

Categorical Assistance Progress Reports

According to the OJP Financial Guide, the funding recipient should ensure that valid and auditable source documentation is available to support all data collected for each performance measure specified in the program solicitation. In order to verify the information in progress reports, we selected a sample of performance measures from the two most recent progress reports submitted for Grant Number 2009-ST-B9-0077. We then traced the items to supporting documentation maintained by the ENIPC. Based on our progress report testing, we did not identify any instances where the accomplishments described in the progress reports did not match the supporting documentation.

Program Goals and Objectives

The objective of Grant Number 2009-ST-B9-0077 was to construct an alternative substance abuse treatment facility for Native American juveniles ages 12 to 21 in the region. The ENIPC completed the overall objective of constructing the facility and OJP closed out the grant on April 3, 2014. We toured the facility and interviewed ENIPC personnel who explained they were very satisfied with the results of the construction. Based on our observations, there were no indications that the ENIPC did not meet the stated objectives of the grant.

Conclusion

The objective of this audit was to determine whether costs claimed under the grant were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions. We examined the ENIPC's accounting records, budget documents, financial and progress reports, and financial management procedures. We found that the ENIPC: (1) incurred \$20,659 (\$10,443 + \$10,215) in unallowable costs for items purchased after the grant end date and unbudgeted indirect costs that were charged to the grant; and (2) allocated \$626,257 in unsupported costs to the grant match. We made two recommendations to improve the ENIPC's management of awards.

Recommendations

We recommend that OJP:

1. Remedy \$20,659 in unallowable expenditures related to the following issues:

- a. Remedy \$10,443 for expenditures that occurred after the grant end date.
 - b. Remedy \$10,215 in unbudgeted indirect costs that were charged to the grant.
2. Remedy \$626,257 in unsupported matching allocations related to the following issues:
- a. Remedy \$69,572 in unsupported costs related to salaries that were allocated to the grant match.
 - b. Remedy \$16,685 in unsupported costs related to fringe benefits that were allocated to the grant match.
 - c. Remedy \$540,000 in unsupported land valuation that was allocated to the grant match.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this audit was to determine whether costs claimed under the grant were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions. To accomplish this objective, we assessed performance in the following areas of grant management: financial management, expenditures, budget management and control, drawdowns, federal financial reports, and program performance.

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.

This was an audit of the Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA), grant awarded to the Eight Northern Indian Pueblos Council (ENIPC) under the Correctional Systems and Correctional Alternatives on Tribal Lands (CSCATL) Program. The ENIPC was awarded \$5,636,317 under Grant Number 2009-ST-B9-0077, and as of January 2014, had drawn down the total amount of grant funds awarded. Our audit concentrated on, but was not limited to September 21, 2009, the award date for Grant Number 2009-ST-B9-0077, through May 14, 2015, the last day of our fieldwork. At the time of our audit, Grant Number 2009-ST-B9-0077 had ended and was fully drawn down.

To accomplish our objective, we tested compliance with what we consider to be the most important conditions of the ENIPC's activities related to the audited grant. Due to the small number of grant transactions, we tested all grant expenditures including payroll and fringe benefit charges. We performed sample-based audit testing for financial reports, progress reports, and Recovery Act Reports. In this effort, we employed a judgmental sampling design to obtain broad exposure to numerous facets of the grant reviewed. This non-statistical sample design did not allow projection of the test results to the universe from which the samples were selected. The criteria we audited against are contained in the OJP Financial Guide, Title 28 of the U.S. Code of Federal Regulations, and the grant award documents. In addition, we evaluated the ENIPC's (1) grant financial management, including grant-related procedures in place for procurement, contractor monitoring, financial reports, and progress reports; (2) budget management and controls; (3) drawdowns; and (4) program performance.

During our audit, we obtained information from OJP's Grant Management System (GMS) as well as the ENIPC's accounting system specific to the management of DOJ funds during the audit period. We did not test the reliability of those systems as a whole, therefore any findings we identified involving information from those systems we verified with documentation from other sources.

APPENDIX 2

SCHEDULE OF DOLLAR-RELATED FINDINGS

<u>QUESTIONED COSTS</u> ⁶	AMOUNT	PAGE
<u>Unallowable Costs</u>		
Items Purchased After Grant End	\$10,443	4
Indirect Costs	10,215	4
Total Unallowable Costs	\$20,659	
<u>Unsupported Costs</u>		
Match Requirement	\$626,257	4-5
Total Unsupported Costs	\$626,257	
<u>GROSS QUESTIONED COSTS</u>	\$646,916	
NET QUESTIONED COSTS	\$646,916	

⁶ **Questioned Costs** are expenditures that do not comply with legal, regulatory, or contractual requirements; are not supported by adequate documentation at the time of the audit; or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

OFFICE OF JUSTICE PROGRAMS
RESPONSE TO THE DRAFT REPORT



U.S. Department of Justice

Office of Justice Programs

Office of Audit, Assessment, and Management

Washington, D.C. 20531

OCT 22 2015

MEMORANDUM TO: David M. Sheeren
Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General

FROM: Ralph E. Martin
Director

SUBJECT: Response to the Draft Audit Report, *Audit of the Office of Justice Programs, Correctional Systems and Correctional Alternatives on Tribal Lands Program, Grant Awarded to the Eight Northern Indian Pueblos Council, Ohkay Owingeh, New Mexico*

This memorandum is in reference to your correspondence, dated September 18, 2015, transmitting the above-referenced draft audit report for the Eight Northern Indian Pueblos Council (ENIPC). We consider the subject report resolved and request written acceptance of this action from your office.

The draft report contains **two** recommendations and **\$646,916** in questioned costs. The following is the Office of Justice Programs' (OJP) analysis of the draft audit report recommendations. For ease of review, the recommendations are restated in bold and are followed by our response.

1. We recommend that OJP remedy \$20,659¹ in unallowable expenditures related to the following issues:

- a. **\$10,443 for expenditures that occurred after the grant end date.**
- b. **\$10,215 in unbudgeted indirect costs that were charged to the grant.**

OJP agrees with this recommendation. We will coordinate with ENIPC to remedy the \$20,659 in questioned costs, charged to Grant Number 2009-ST-B9-0077.

¹ The total amount of questioned costs for this recommendation was rounded.

2. **We recommend that OJP remedy \$626,257 in unsupported matching allocations related to the following issues:**
- a. **\$69,572 in unsupported costs related to salaries that were allocated to the grant match.**
 - b. **\$16,685 in unsupported costs related to fringe benefits that were allocated to the grant match.**
 - c. **\$540,000 in unsupported land valuation that was allocated to the grant match.**

OJP agrees with this recommendation. We will coordinate with ENIPC to remedy the \$626,257 in questioned costs, related to unsupported matching costs that were charged to Grant Number 2009-ST-B9-0077.

We appreciate the opportunity to review and comment on the draft audit report. If you have any questions or require additional information, please contact Jeffery A. Haley, Deputy Director, Audit and Review Division, on (202) 616-2936.

cc: Maureen A. Henneberg
Deputy Assistant Attorney General
for Operations and Management

Anna Martinez
Senior Policy Advisor
Office of the Assistant Attorney General

Jeffery A. Haley
Deputy Director, Audit and Review Division
Office of Audit, Assessment, and Management

Denise O'Donnell
Director
Bureau of Justice Assistance

Tracey Trautman
Deputy Director for Programs
Bureau of Justice Assistance

Pamela Cammarata
Chief of Staff
Bureau of Justice Assistance

Michael Bottner
Budget Director
Bureau of Justice Assistance

cc: Amanda LoCicero
Budget Analyst
Bureau of Justice Assistance

Dara Schulman
Grant Program Specialist
Bureau of Justice Assistance

Leigh Benda
Chief Financial Officer

Christal McNeil-Wright
Associate Chief Financial Officer
Grants Financial Management Division
Office of the Chief Financial Officer

Jerry Conty
Assistant Chief Financial Officer
Grants Financial Management Division
Office of the Chief Financial Officer

Aida Brumme
Acting Manager, Evaluation and Oversight Branch
Grants Financial Management Division
Office of the Chief Financial Officer

Richard P. Theis
Assistant Director, Audit Liaison Group
Internal Review and Evaluation Office
Justice Management Division

OJP Executive Secretariat
Control Number IT20150923071810

THE EIGHT NORTHERN INDIAN PUEBLOS COUNCIL
OHKAY OWINGEH, NEW MEXICO
RESPONSE TO THE DRAFT REPORT⁷

Board of Governors

Honorable J. Michael Chavarria
Pueblo of Santa Clara
Chairman

Honorable Phillip A. Perez
Pueblo of Nambe

Honorable Gary Pyne
Pueblo of Picuris

Honorable Luis Romero
Taos Pueblo



Gil Vigil
Executive Director

Board of Governors

Honorable James R. Mountain
Pueblo de San Ildefonso
Vice- Chairman

Honorable Joseph M. Talachy
Pueblo of Pojoaque

Honorable Milton P. Herrera
Pueblo of Tesuque

Honorable Earl N. Salazar
Ohkay Owingeh

October 1st, 2015

Ms. Linda J. Taylor, CPA
Lead Auditor, Audit and Review Division
Office of Audit, Assessment, and Management
Office of Justice Programs
U.S. Department of Justice
810 7th Street, N.W.
Washington, DC 20531
VIA: Electronic Mail at: Taylor, Linda <Linda.Taylor2@usdoj.gov>

Mr. David M. Sheeren
Regional Audit Manager
Office of the Inspector General
U.S. Department of Justice
1120 Lincoln Street, Suite 1500
Denver, CO 80203

VIA: Electronic Mail at **Sheeren, David M. (OIG)** David.M.Sheeren@usdoj.gov

Dear Ms. Taylor and Mr. Sheeren,

Thank you very much for providing Eight Northern Indian Pueblo Council (ENIPC), Inc the opportunity to respond to the findings stated in the draft audit report. Below are our responses to the findings.

A- Remedy \$10,443 for expenditures that occurred after the grant end date:

ENIPC's staff member employed in the Accounting Department was unaware about the policy and procedure pertaining to the need for expenditures to occur before the grant end date. ENIPC, under the leadership of the current Controller, has instituted stringent procedures for staff training in the proper execution of expenditures in compliance with the grant's budgetary guidelines. Further, ENIPC has designed and implemented policies to ensure expenditures occur within the approved timelines. The staff member responsible for incurring expenditure after the grant end date is

P.O. BOX 969, 327 EAGLE DRIVE, SAN JUAN PUEBLO, NEW MEXICO 87566 – (505) 747.1593 Fax: (505) 747.1599

"Promote, facilitate and improve programs to meet the unique needs of Pueblo people....."

⁷ Attachments to this response were not included in this final report.

Board of Governors

Honorable J. Michael Chavarria
Pueblo of Santa Clara
Chairman

Honorable Phillip A. Perez
Pueblo of Nambe

Honorable Cary Pyne
Pueblo of Picuris

Honorable Luis Romero
Taos Pueblo



Gil Vigil
Executive Director

Board of Governors

Honorable James R. Mountain
Pueblo de San Ildefonso
Vice- Chairman

Honorable Joseph M. Talachy
Pueblo of Pojoaque

Honorable Milton P. Herrera
Pueblo of Tesuque

Honorable Earl N. Salazar
Ohkay Owingeh

no longer employed in the Accounting Department. It should be noted that ENIPC is located in a remote geography, whereby it is challenging to find persons with sufficient skills and qualifications in grants management to work in the Accounting Department. ENIPC was recently fortunate to recruit a person for the Accounting Department, who is knowledgeable and well-versed in the appropriate fiscal management of grants. Going forward, ENIPC will make place additional emphasis to ensure that sure an error is not repeated.

B- Remedy \$10,215 in unbudgeted indirect costs that were charged to the grant:

ENIPC's Accounting Department staff charged DOJ in 2010 indirect costs of \$10,215. In 2013, ENIPC and DOJ revised the budget with an agreement to not charge indirect costs. However, by 2013, the accounting books in the fiscal system for 2010 were already closed and could not be opened to back adjust the indirect cost of \$10,215 that was charged in 2010. The Accounting Department staff was under the impression that the change in allocation of the indirect cost would be prospective (as of 2013) and not retrospective (as of 2010).

It should be noted that the indirect cost of \$1,145,000 was computed on the original budget of \$5,636,317. The indirect cost amount would have been sufficient for ENIPC's match amount. However, since DOJ had insufficient funds to allocate to ENIPC for the completion of the project, it was mutually decided to revise the budget in 2013 to remove the indirect costs on the \$5,636,317 direct costs. Instead of receiving \$1,145,000 in indirect costs, ENIPC charged DOJ \$10,215 in indirect costs for only project year 2010, this despite the fact that ENIPC's indirect cost rate was 19.8%.

Furthermore, ENIPC paid for a portion of the construction cost (\$11,208.05; see attached Exhibit A). This cost has not been charged to DOJ and can be applied against the \$10,215 in question.

C- Remedy \$69,572 in unsupported costs related to salaries that were allocated to the grant match: Remedy \$16,685 in unsupported costs related to salaries that were allocated to the grant match: Remedy total of \$86,212:

ENIPC and DOJ negotiated the match amount of \$86,212 based on the fact that all of

P.O. BOX 969, 327 EAGLE DRIVE, SAN JUAN PUEBLO, NEW MEXICO 87566 – (505) 747.1593 Fax: (505) 747.1599

"Promote, facilitate and improve programs to meet the unique needs of Pueblo people....."

Board of Governors

Honorable J. Michael Chavarria
Pueblo of Santa Clara
Chairman

Honorable Phillip A. Perez
Pueblo of Nambe

Honorable Cary Pyne
Pueblo of Picuris

Honorable Luis Romero
Taos Pueblo



Gil Vigil
Executive Director

Board of Governors

Honorable James R. Mountain
Pueblo de San Ildefonso
Vice- Chairman

Honorable Joseph M. Talachy
Pueblo of Pojoaque

Honorable Milton P. Herrera
Pueblo of Tesuque

Honorable Earl N. Salazar
Ohkay Owingeh

ENIPC's staff participating in the program supported from ENIPC's general funds. This portion of the matching FTE supported through the general funds would not be covered from any other ENIPC's programs. The portion of FTE allocation for the match was not done through actual journal entry. This was primarily due to the fact that all the individuals working on the DOJ project were supported from the general fund prior to their assignment to the DOJ project. To avoid confusion in the future, ENIPC will ensure that going forward a match amount will be recorded through a journal voucher allocated to a program.

Attached for your review are the Employee Action reports (Exhibit B) that show the annual salary for all the individuals involved with the project. Also attached is a report (Exhibit C) that shows the name of the employee, positions, annual salary, % FTE allocated to this project, and amount charged to this project.

Our standard Fringe is 24%. During the course of the audit the auditors gathered the rate for all the components of the fringe. If you need additional documents to verify the fringe please let us know.

Please be advised that, according to a note in the file, all these details were negotiated with and approved by DOJ as an acceptable method for the calculation and distribution of FTE salary and fringe.

D- Remedy \$540,000 in unsupported land valuation that was allocated to the grant match:

ENIPC received a 7.4 acre parcel (LA No. 1196) of land from the Taos Pueblos, one of the eight Pueblos comprising ENIPC, Inc. ENIPC had discussed with DOJ the receipt and acceptance of this parcel of land. However, at the time of that the grant was awarded, there was no budgetary guidance on how to assess the land's value. It should be noted that the parcel of land is traditional and sacred native land; upon which the natives, as part of their culture, do not place monetary value. During the audit, Ms. Mishra brought

up this issue with the auditors and suggested obtaining a quote from a realtor for comparable land. Ms. Mishra obtained three quotes for a similar parcel of land, all of which are higher than \$540,000. ENIPC could obtain a private appraisal. However, given that ENIPC is a non-profit organization, it does not have reserve funds to pay for such an

P.O. BOX 989, 327 EAGLE DRIVE, SAN JUAN PUEBLO, NEW MEXICO 87566 – (505) 747.1593 Fax: (505) 747.1599

"Promote, facilitate and improve programs to meet the unique needs of Pueblo people....."

Board of Governors

Honorable J. Michael Chavarria
Pueblo of Santa Clara
Chairman

Honorable Phillip A. Perez
Pueblo of Nambe

Honorable Gary Pyne
Pueblo of Picuris

Honorable Luis Romero
Taos Pueblo



Gil Vigil
Executive Director

Board of Governors

Honorable James R. Mountain
Pueblo de San Idefonso
Vice- Chairman

Honorable Joseph M. Talachy
Pueblo of Pojoaque

Honorable Milton P. Herrera
Pueblo of Tesuque

Honorable Earl N. Salazar
Ohkay Owingeh

appraisal. ENIPC seeks your guidance on an appropriate methodology to calculate the value of the land.

Sincerely,

Gil Vigil
Executive Director

Elaheh Mishra
Controller

CC: VIA: Electronic Mail at

Haley, Jeff <Jeff.Haley@usdoj.gov>; [REDACTED]

[REDACTED] Sheeren, David M. (OIG)

<David.M.Sheeren@usdoj.gov>; [REDACTED]

Theis, Richard P (JMD) <Richard.P.Theis@usdoj.gov>; [REDACTED]

[REDACTED] Gil Vigil <Gvigil@enipc.org>;

P.O. BOX 969, 327 EAGLE DRIVE, SAN JUAN PUEBLO, NEW MEXICO 87566 – (505) 747.1593 Fax: (505) 747.1599

"Promote, facilitate and improve programs to meet the unique needs of Pueblo people....."

**OFFICE OF THE INSPECTOR GENERAL
ANALYSIS AND SUMMARY OF ACTIONS
NECESSARY TO CLOSE THE REPORT**

The OIG provided a draft of this audit to the ENIPC and OJP. The ENIPC's response is incorporated as Appendix 4 of this final report, and OJP's response is included as Appendix 3. The following provides the OIG's analysis of the responses and summary of actions necessary to close the report.

In its response, OJP agreed with both of our recommendations and stated that it will coordinate with the ENIPC to address our recommendations. The ENIPC did not agree or disagree with either of our recommendations.

Recommendation:

1. We recommend that OJP remedy \$20,659 in unallowable expenditures related to the following issues:

- a. \$10,443 for expenditures that occurred after the grant end date.
- b. \$10,215 in unbudgeted indirect costs that were charged to the grant.

Resolved. OJP agreed with the recommendation and stated it would coordinate with the ENIPC to remedy the \$20,659 in questioned costs.

The ENIPC responded to each unallowable expenditure category separately and had the following comments related to the specific recommendations.

For recommendation subpart a, the ENIPC did not agree or disagree with this recommendation. The ENIPC stated that an ENIPC staff member, who is no longer employed in the Accounting Department, was unaware about the policy and procedure pertaining to the need for expenditures to occur before the grant end date. The ENIPC indicated it has instituted procedures for staff training in the proper execution of expenditures in compliance with the grant's budgetary guidelines. While a staff member may not have been aware, a condition of the grant award is that the grantee agrees to comply with the financial and administrative requirements set forth in the OJP Financial Guide. The OJP Financial Guide states that no new obligations can be made after the grant end period. Therefore, these costs are still unallowable.

For recommendation subpart b, the ENIPC did not agree or disagree with this recommendation. The ENIPC stated that the ENIPC and DOJ revised the budget with an agreement to not charge indirect costs; however, by 2013, the ENIPC had closed the accounting books in the fiscal system for 2010 and could not reopen them to adjust the indirect costs of \$10,215 already charged. The

ENIPC also brought up a portion of the construction costs that the ENIPC did not charge to the grant, but noted could be applied to the amount in question. We are not asking the ENIPC to adjust their accounting records. Our issue is that the ENIPC did not submit a GAN to reflect that they did not charge indirect costs to the match amount, as their approved budget indicated, but instead charged \$10,215 in indirect costs to the grant. The OJP Financial Guide requires a GAN for any change in indirect costs. We are not questioning whether the ENIPC could charge indirect costs, so the construction costs paid by the ENIPC are not relevant to this recommendation. Therefore, these costs still remain unallowable.

This recommendation can be closed when we receive documentation supporting the \$20,659 in unallowable expenditures has been remedied.

2. We recommend that OJP remedy \$626,257 in unsupported matching allocations to the following issues:

- a. \$69,572 in unsupported costs related to salaries that were allocated to the grant match.
- b. \$16,685 in unsupported costs related to fringe benefits that were allocated to the grant match.
- c. \$540,000 in unsupported land valuation that was allocated to the grant match.

Resolved. OJP agreed with all parts of the recommendation and stated that it would coordinate with the ENIPC to remedy the \$626,257 in questioned costs.

The ENIPC responded to each unsupported expenditure category separately and had the following comments related to the specific recommendations.

For subpart a, the ENIPC did not agree or disagree with this recommendation. The ENIPC stated the portion of the Full Time Equivalent allocation for the match was not done through actual journal entry because all the individuals working on the grant were supported from the general fund prior to their assignment to the grant. The ENIPC noted that it will ensure that going forward a match amount will be recorded through a journal voucher allocated to a program. The ENIPC also submitted documentation for employee salaries and a document with the employee positions, salary, and Full Time Equivalent percentages. However, the additional documentation the ENIPC provided does not support the amount in question. The documentation lacks support on how the ENIPC calculated the Full Time Equivalent percentages used for each employee. Further, the percentages in the new documentation are different than what the ENIPC previously provided to us. The timesheets the ENIPC previously provided us for the employees who worked on the grant do not support the percentages the ENIPC used; furthermore, we found only one employee showed time charged to the grant program. Thus, we are still unable to verify the amounts charged per employee. The ENIPC noted that their

methods for the calculation and distribution of Full Time Equivalent Salaries were negotiated and approved by DOJ as an acceptable method. We are not questioning the methods the ENIPC used as incorrect; however, their methods are not supported by the documentation they have provided to us. The OJP Financial Guide requires grant recipients to maintain records which clearly show the source, amount, and the timing of all matching contributions. In addition, because this grant was a Recovery Act award, a condition of the grant included requiring all personnel whose activities are to be charged to the award to maintain timesheets to document hours worked for both award and non-award activities. Therefore, these costs are still unsupported.

For subpart b, the ENIPC did not agree or disagree with this recommendation. The ENIPC stated their standard fringe benefit percentage is 24 percent. The ENIPC noted that their methods for the calculation and distribution of fringe benefits were negotiated and approved by DOJ as an acceptable method. We are not questioning the methods the ENIPC used as incorrect; however, their methods are not supported by the documentation they have provided to us. Since we cannot verify the Full Time Equivalent percentages used by the ENIPC or the amounts applied for each employee, we also cannot verify the fringe benefit amounts applied using their standard fringe benefits percentage. The OJP Financial Guide requires grant recipients to maintain records which clearly show the source, amount, and the timing of all matching contributions. Therefore, these costs are still unsupported.

For subpart c, the ENIPC did not agree or disagree with this recommendation. The ENIPC stated they received a 7.4 acre parcel of land from the Taos Pueblos, one of the eight Pueblos comprising the ENIPC. The ENIPC stated at the time the grant was awarded there was no budgetary guidance on how to assess the land's value and that the parcel of land is traditional, sacred land and the natives, as part of their culture, do not place a monetary value on the land. While specific budgetary guidance may not have been in place, a condition of the grant award was that the grant recipient agreed to comply with the financial and administrative requirements set forth in the OJP Financial Guide. The OJP Financial Guide requires grant recipients clearly show the source, amount, and timing for all matched contributions. The OJP Financial Guide provides a number of options for grant recipients to satisfy their match requirement. The ENIPC made the decision to use the land valuation to satisfy the majority of their grant matching requirement; therefore, they were required to identify the value of the land and source for the valuation. The ENIPC stated they could obtain a private appraisal, but are concerned about the cost because the ENIPC is a non-profit organization. While ENIPC officials provided us with three listings for similar parcels of land, from an online real estate website, priced higher than \$540,000, the quotes provided were not from the same time period when the ENIPC applied the land valuation to their match requirement. Further, the information an ENIPC official provided was from real estate listings and not the actual sale values or appraisals of the similar land. Therefore, these costs are still unsupported. This recommendation can be closed when we receive documentation supporting the \$626,257 in unsupported matching allocations has been remedied.

The Department of Justice Office of the Inspector General (DOJ OIG) is a statutorily created independent entity whose mission is to detect and deter waste, fraud, abuse, and misconduct in the Department of Justice, and to promote economy and efficiency in the Department's operations. Information may be reported to the DOJ OIG's hotline at www.justice.gov/oig/hotline or (800) 869-4499.



Office of the Inspector General
U.S. Department of Justice
www.justice.gov/oig

REDACTED – FOR PUBLIC RELEASE