



United States Department of the Interior

Bureau of Indian Affairs

Southern Plains Region

P. O. Box 368

Anadarko, Oklahoma 73005

JUN 21 2010

IN REPLY REFER TO:
Self-Determination

Governor Janice Prairie Chief-Boswell
Cheyenne and Arapaho Tribes
P.O. Box 38
Concho, OK 73022

Dear Governor Prairie Chief-Boswell:

Enclosed is a copy of the on-site review of the Cheyenne and Arapaho Tribes' CY2009 P.L. 93-638 Contracts and Grants, which was conducted by the BIA Self-Determination and other Regional Program staff at your tribal headquarters on April 12-16, 2010.

The programs that were reviewed and are included within this report are: Higher Education, Adult Education, Johnson-O'Malley, Tribal Court, Job Placement and Training, Aid to Tribal Government, Indian Child Welfare, Social Services, Emergency Youth Shelter, Transportation, and Fire Management. Some include only partial completion of administrative findings and the programmatic portion is to be sent under a separate report, where indicated. The review covered all aspects of administering self-determination contracts, and included a review of personnel and travel documentation; accounts payable documents; bank statement reconciliations for self-determination fund accounts; and finance, property and procurement documents that relate to the expenditure of federal funds. In addition, the finance, property and procurement policies and procedures manuals were reviewed in accordance with the expenditure of contract funds to determine compliance with all statutes, laws regulations and required tribal management systems.

The enclosed report(s) include all findings related to the expenditure of BIA funds that were not consistent with federal regulations, laws, tribal policies and/or the contracts themselves. The tribe should review each finding and applicable recommendation and provide **each** requested response with corresponding documentation to the Branch of Self-Determination NLT August 1, 2010, unless stated otherwise within the report(s). If there are corrective actions that are in the process or have already been taken, note that in the form of a Corrective Action Plan (CAP). Make sure you provide supporting documentation and/or justification in regard to all questioned cost amounts noted, because we will make a final determination as to whether there will be any disallowed costs after receipt and review of your response.

Should you have questions or need additional assistance in preparing a response, please contact Constance Fox, Awarding Official in the Branch of Self-Determination at (405) 247-1574.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul D. [unclear]".

Regional Director

CC: Executive Director – Administration
Legislative Officials
Department of Treasury – ATTN: Finance Office

BUREAU OF INDIAN AFFAIRS

P.L. 93-638 Programmatic and Financial Review

For

CHEYENNE AND ARAPAHO TRIBES

FINDINGS AND RECOMMENDATIONS

REVIEW PERIOD

January – December, 2009

Monitoring Review Dates

April 12-16, 2010

CHEYENNE AND ARAPAHO TRIBES FINDINGS AND RECOMMENDATIONS

INTRODUCTION

The Bureau of Indian Affairs conducted an on-site review at the Cheyenne and Arapaho Tribal Headquarters and various program offices that consisted of a Programmatic and Financial Review of various P.L. 93-638 program contracts and grants. This review covered the time period of January – December, 2009.

The purpose of the review was to assess the provision of services provided by the Tribe under each contract or grant. The monitoring and program review(s) consist of two components of P.L. 93-638 contract management, including:

- (1) Programmatic Review - Conducted by BIA Program staff, to ensure that services being provided under the awards are for eligible Indians, in accordance with program law, statute, and/or regulation; and
- (2) Administrative/Financial Review – Conducted in conjunction with the program staff and Awarding Official to review contract or grant expenditures and administrative review of the program. This includes a review of any and all documentation that is required to support contract/grant expenditures, compliance with all required management systems, statutes, laws, and regulations, and all other administrative requirements of each contract or grant.

The authority to conduct this review is identified within the Indian Self-Determination and Education Assistance Act (ISDEAA), and was conducted in accordance with P.L. 93-638 (as amended). Specific statutory authority at Section 108 of the Model Agreement (1)(7)(C) “Responsibility of Contractor,” which states: “the contractor agrees to make available at the office of the contractor all Bureau of Indian Affairs P.L. 93-638 contract/grant records. These records are to be made available for inspection, audit or reproduction by any authorized representative of the Comptroller General, Secretary of the Interior, and the Awarding Official.”

The principle documents for review of compliance with administrative and financial component is: (1) P.L. 93-638, as amended, USC 4501, Indian Self-Determination and Education Assistance Act; (2) 25 CFR § 900 (ISDEAA implementing regulations); (3) Cheyenne and Arapaho Tribes current enacted policies (last effective and fully authorized Policies) as follows: (a) Financial Management Policy and Procedures, effective September 23, 1995, approved by Resolution No. 092395S190, (b) Tribal Property and Procurement Manual, effective May 14, 1996, approved by Resolution 061496S121, and the current policies being utilized, (c) Personnel Policies & Procedures, effective October 11, 1996; (4) Each P.L. 93-638 contract; (5) OMB Circular A-87, “Cost Principles for State, Local, and Indian Tribal Governments” (Revised 5/4/95, As Further Amended 8/29/97); and other applicable Statute, Law or Regulation that has full force and effect on any programs contracted under the ISDEAA.

On April 12th, 2010, members of the Bureau of Indian Affairs review team conducted an entrance meeting with various Tribal officials and staff to provide a brief introduction and explanation of the

process of the review and answer any questions or concerns, with none expressed. We began our financial review by selecting at random documents from personnel, travel, finance, property, and procurement to ensure compliance by all staff involved in the expenditure of federal funds. On April 16, 2010, we held an exit meeting at the Rollin Haag NAC Building to provide a summary of our review findings.

We would like to express our appreciation to all of the Tribal Leaders, and tribal staff who assisted us during this on-site monitoring visit. Everyone was very helpful and provided all of the necessary documents as requested, in a timely and professional manner, which contributed to successful completion of this review. The Tribe appears to be working really hard to make sure the P.L. 93-638 programs are carried out in accordance with terms of the contract agreements. The following findings and recommendations included within this report are intended to identify areas of concern and/or non-compliance with various aspects of the contract awards that are in need of corrective action and response. The Tribe is required to provide follow-up response(s) and/or further documentation and justification, where indicated:

OVERVIEW OF MANAGEMENT SYSTEMS

The Management System(s) review consisted of sampling various documents associated with Financial, Procurement, Property, Travel, Payroll, Personnel, and Records systems that are utilized in the process of the expenditure of federal funds. Random documents were selected for review to ensure that the expenditure of P.L. 93-638 contract funds were allowable; in accordance with applicable laws, statues, policies and procedures; authorized in accordance with the terms of each contract/grant; and necessary and reasonable in carrying out the self-determination contract.

TRAVEL

The Tribe has adopted the GSA Travel Policy as its own and recent changes/amendments to the administrative process of travel appears to have improved the accuracy and timely close-out of travel for employees. We reviewed a total of 30 travel files. They were well organized, documented and closed out timely. Documentation indicates all travelers are notified, upon receipt of a travel advance, of the required documents they need to submit after their travel commences. (Individual Program Specific Travel findings may be noted under the programmatic review section of this report).

Finding #1: When travelers choose to drive (as a convenience to the traveler – not the Tribe), there is not always proper documentation such as cost comparative analysis and authorized approval by the travelers Supervisor.

RECOMMENDATION: All Cost Comparative documentation (e.g. cost of airline ticket, taxi, mileage, etc.) must be filed within the TA file and approval documentation of the traveler's Supervisor must also be included. No payment of travel advances should be issued without this documentation in the file.

Finding #2: No documentation filed when the maximum allowable rate for lodging is exceeded and paid. For example, one traveler's lodging cost was paid at twice the allowable amount and there was no justification and/or written approval by the Supervisor to allow for it.

RECOMMENDATION: The Federal Travel Regulations allow travelers to exceed the maximum allowance stated, but only if it is properly JUSTIFIED by the traveler, DOCUMENTED within the travel file and APPROVED by the traveler's Supervisor. The justification has to be "reasonable", thus paying an amount for lodging that exceeds the maximum allowed may be okay, if it meets the criteria.

Finding #3: A continued/repeat problem during this and previous reviews indicate the Tribe is allowing travelers who a). received a travel advance and did not actually travel; or b). received more funding than needed to properly complete the travel, to dictate to the payroll department how much and when they will re-pay the excess funds they received. This is not allowable, as it is in essence a "loan" of federal funding and it should not be happening.

RECOMMENDATION: If a traveler receives an advance and they do not utilize the funds for authorized travel, they should not cash their advance check in the first place. If they do, they have no right to keep any of the funding for any period of time. In addition, when the travel department closes out a travel voucher and an employee owes, they should immediately re-pay the travel department (for deposit) or the funds must be immediately withheld (the entire amount they owe) from their next paycheck. Loaning Federal Funding is Prohibited and can be disallowed by the Awarding Official.

PROCUREMENT

The current policy in place is the "Procurement Manual". According to the Tribal Constitution, the Tribal Council shall have the power to set policy for the Tribes and shall have all other powers and duties specifically provided by the Constitution. Under Article II – Separation of Powers, "No official of ANY Branch of Government shall exercise any power granted in the Constitution or properly delegated by law to ANY other branch of government except as expressly directed or permitted". The tribal council passed a resolution #100607ATC-004. The intent of this resolution is to direct the establishment of Uniform Application of Policies and Procedures for all Branches of Government. The resolution does not direct or permit any specific entity (Legislature/Executive Branch) or department authority to approve such policy once it is established, and therefore, that authority remains with the Tribal Council. In 2008 notice was provided to the Tribe indicating a "lack of proper approval" of this policy (and others).

FINDINGS:

1. This policy lacks approval by the Tribal Council. In addition, since the inception of this particular policy in 2008, amendments have been incorporated by “unauthorized” Departments that have not been delegated such authority to make updates/revisions to it.
2. Within this “unapproved” policy that is currently being utilized, there is unclarity regarding what constitutes a need for obtaining authorizing Purchase Orders. When we asked several program and finance staff, some indicated if the purchase exceeds \$1,000, a purchase order is necessary, but they were unsure where it is clearly stated within the policy, and uncertain about the exceptions to that requirement.
3. The policy itself does not indicate what Branch, Department and/or staff is responsible for annual updates to the Policy nor any indication that those entities have been appointed (by the Tribal Council) such authority, it merely states, “Necessary updates or changes to the procurement manual will be made yearly”.

RECOMMENDATION:

Most important is the need for consistent, useful, and properly authorized policies that are enacted and approved by the properly designated official(s) of the Tribe. Lacking approved Procurement Policies which meet the minimum standards outlined within 25 CFR 900, Subpart F, leaves the Tribe in a position of non-compliance if you are not following the last approved Property and Procurement Policy adopted on May 14, 1996.

PROPERTY

The Tribe employs a full time Property Management Specialist under the Office of Property and Supply. This person is responsible for properly accounting for all property (sensitive and non-sensitive) that is acquired through purchase, lease, transfer, etc. for all programs under the operation of the Tribe. BIA program inventories for 2009 were provided and include most information, as required under 25 CFR 900.53. It appears the tribe is conducting physical inventories on an annual basis. The listings include all property that is physically located in a particular office/program and is NOT identified specific to each P.L. 93-638 contract.

The current policy in place is the “Property and Supply Manual”. According to the Tribal Constitution, the Tribal Council shall have the power to set policy for the Tribes and shall have all other powers and duties specifically provided by the Constitution. Under Article II – Separation of Powers, “No official of ANY Branch of Government shall exercise any power granted in the Constitution or properly delegated by law to ANY other branch of government except as expressly directed or permitted”. The tribal council passed a resolution #100607ATC-004. The intent of this resolution is to direct the establishment of Uniform Application of Policies and Procedures for all Branches of Government. The resolution does not direct or permit any specific entity (Legislature/Executive Branch) or department authority to approve such policy once it is established, and therefore, that authority remains with the Tribal Council.

In 2008 notice was provided to the Tribe indicating a "lack of proper approval" of this policy (and others).

FINDINGS:

1. This policy lacks approval by the Tribal Council. In addition, since the inception of this particular policy in 2008, amendments have been incorporated by "unauthorized" Departments that have not been delegated such authority to make updates/revisions to it. The policy itself does not indicate what Branch, Department and/or staff is responsible for annual updates to the Policy nor any indication that those entities have been appointed (by the Tribal Council) such authority, it merely states, "Necessary updates or changes to the property and supply manual will be made yearly".

RECOMMENDATION:

Most important is the need for consistent, useful, and properly authorized policies that are enacted and approved by the properly designated official(s) of the Tribe. Lacking approved Property and Supply Policies which meet the minimum standards outlined within 25 CFR 900, Subpart F, leaves the Tribe in a position of non-compliance if you are not following the last approved Property and Procurement Policy adopted on May 14, 1996.

2. In review of the Program Property listings that were provided, there were some that appeared did not include all property items purchased during 2009 and some did not include previous year's purchases that were included on 2007 Contract Property Inventory listings. For instance, one program expended \$28,499 for several Fire Proof filing cabinets that were not included on the property listing for that particular program. The properly authorized P.O. should have been transmitted to the Property Specialist and items tagged when received (these items include serial #'s on each cabinet).

RECOMMENDATION:

When all property is not accounted for and properly disposed of in accordance with minimum standards included within tribal policies, it indicates a lack of internal controls and full accountability. Take a look at where there may be a breakdown in the process to determine how to properly correct the problem.

FINANCIAL MANAGEMENT SYSTEM

The Tribe's current approved Accounting and Finance Manual was adopted on September 23, 1995, through authorizing resolution No. 092395S190. While on-site, we were provided with a "Administrative Accounting Manual" document that has not been enacted, adopted and/or properly authorized. It is uncertain which document is in use by various finance, administrative and program staff alike. The Tribe utilizes MIP Accounting software to account for all program (tribal/federal/state) funding. The system is adequate for governmental accounting purposes and appears very useful in accounting for federal funds. Most of the specific findings related to questioned costs, etc. are reported under each respective program review section above.

FINDING:

The Tribe is not in compliance with the minimum standards required by the ISDEAA regulations at 25 CFR Subpart F, 900.36 which states, "When carrying out self-determination contracts, Indian tribes and tribal organizations **shall** develop, implement, and maintain systems that meet these minimum standards, unless one or more of the standards have been waived..."

RECOMMENDATION:

The Tribe must adhere to this regulatory requirement and enact a Finance Management System policy which meets the minimum and specific standards required for a tribal finance management system codified at 25 CFR 900.42 through 900.45. You must follow your constitutional requirement for approval of such a management system and properly enact and adopt this policy as soon as possible.

PAYROLL

The Tribe has established a Payroll Division under the Office of Finance. The staff are charged with processing payroll at the designated times throughout the year. During our review, payroll was processed bi-weekly. Some employees are paid through direct deposit and other through hard copy checks. There are two full-time employees charged with carrying out this function and others who have multiple finance responsibilities in addition to payroll.

FINDINGS:

1. Employees are abusing (with approval of the Supervisors and without question by the Payroll Division) the use of Advance Payroll allowances stipulated within the Tribes Personnel Manual. In more than a few instances, several payroll advances/early paychecks were issued to individual employees for emergency circumstances that did not seem to be emergency in nature, and/or for reasons that they falsely indicated they would be on leave for a specific date that is the actual paycheck issue date and then they would come to work on that day.

RECOMMENDATION:

Since a recent court order was issued regarding the establishment of these payroll policies within the Personnel Manual, the Tribe has been directed to revert back to the last approved policy that was properly enacted. This makes the current practice and the allowance made for early payroll ineffective and the current practice must cease.

2. A total of 40 hours of Administrative Leave was granted for an employee who is not a permanent/full time employee, and there was no supporting documents attached to their payroll documentation to indicate the reason for granting such leave. Due to the confusion regarding the Personnel Policy (and lacking a payroll policy), we could not determine whether this was allowable or not.

RECOMMENDATION:

If Administrative Leave is granted and charged to a program, the authorizing approval document must be attached to the individual employee's supporting payroll documentation in order to

establish proper approval. If this employee was improperly paid for 40 hours of Administrative Leave, corrections must be made to collect the amount.

RECORDS MANAGEMENT

The Tribe did not provide a Records Management Policy at the time of the on-site review. It appears that in accordance with the 2006 Constitutional requirement, the Tribe has established an Office of Records Management, however, we were unable to determine how this interrelates to federal program records management process and procedures. The Regional Records Liaison at Southern Plains Regional Office has previously provided training to various program staff at the Tribe and has provided assistance in the implementation of requirements for a records management system.

Recommendation: The Tribe should incorporate all records management use, retention, and disposition requirements into one policy that will be useful in compliance with federal records management requirements that apply.

PERSONNEL MANAGEMENT

The Tribe has a Personnel Management Policy that was adopted in 1996, with the last properly executed amendment that was enacted in 2005. Improper amendments and additional directives, not authorized within the approved policy have been implemented over the past several years. Various Administrative and Program staff were confused about which policy and directives issued by the Executive Director – Administration and Governor’s Office are valid. We reviewed Official Personnel files maintained by the Personnel Office. In addition, we found numerous inconsistencies and very serious violations regarding non-compliance with Background Investigations that are required by statute, law or regulation.

FINDINGS:

1. 38 files were reviewed for employees who fall under the requirements of the Indian Child Protection and Family Violence Act, and are required to have completed background investigations in order to comply with the Tribes own Suitability for Employment Policy that was enacted in 2002, and is required by federal law. Both Personnel Staff and Procurement, Grants and Contracts staff have attended training regarding the implementation and requirements of the law, therefore, should be fully aware of all that is involved in order to be in compliance. However, we were unable to find one (1) of the thirty-eight (38) files reviewed that included documentation necessary to determine whether or not they were suitable for employment. The process for making such a determination begins when a person is selected for a position that falls under this law. It begins with completing an assessment of documented reference checks, interviewing past employers and educational backgrounds. It requires a Federal Criminal History records check that can only be completed by the FBI, utilizing fingerprints provided by the individual. Once all of that documentation is obtained and results of the Criminal History records check is received, it is required to be adjudicated with a full determination (in writing) of the suitability for employment of that person. **NONE OF THIS IS BEING COMPLETED.**

RECOMMENDATION:

This is a major violation of federal law and must be rectified immediately. The Personnel Director has the book that was received at training which includes samples forms to be utilized for documenting the entire process. Follow-up by the BIA will commence within the next three months to check on the status of implementing this corrective action.

2. Memorandum's are periodically issued to all employees regarding the implementation of various policies which are not properly authorized or approved. Most recent is in regard to Wellness Leave. The memo instructs all tribal employees that the Executive Director of the Department of Administration is granting 3 hours of administrative leave a week for wellness. However, as stated elsewhere in this report, only the Tribal Council has the authority to set policy for the Tribe, and unless they have properly authorized or delegated the authority to revise or amend such policies that have been properly adopted, no official of any branch of government has authority to establish, set, amend or revise policy without specific authority granted to them by the Tribal Council.

RECOMMENDATION:

The confusion among employees regarding which "version" of the Personnel Policies are in full force and effect is evident. While the Wellness Leave is a good idea and implementation may be beneficial to some employees, issuance of a memorandum by the Executive Director – Administration to establish the policy and grant administrative leave for it has not been properly authorized and should discontinue – pending, of course, formal approval and enactment.

3. There are no organizational charts on file with the Department of Personnel and/or any other Branch or Office we talked with. Therefore, it remains unclear and confusing as to what the lines of authority are. This applies in general to the Tribe and specifically to all of the Departments, Programs, and staff's which fall under the supervision of some of the departments that include our BIA programs. (e.g. The Tribal Court is unclear as to who their lines of authority are, and elsewhere in this report, we noted that currently a contract employee appears to be serving as a Department Head/Program Director). With the passage of the new Constitution in 2006, it appears, there have been several instances where it is very unclear as to "who" Supervises certain departments – particularly when it comes to politically aligned and appointed Department Heads. For instance, if the Court is an independent arm of the Tribal Government, who is responsible for oversight, who do they report to and who supervises the staff and oversees the subcontract personnel?

RECOMMENDATION:

The Tribe needs to develop, formally adopt and implement Organization Charts for each level of the Tribal Government. Each Department should have a "clear" understanding of the lines of authority and should identify how each position fits into the organization of the Tribe. Ensure that key Staff are identified and position descriptions are updated to clarify specific lines of authority that each employee should adhere to at all times.

4. There is not any sort of pay policy in use by the Tribe. We noted that one employee under the Social Services Department has worked in her position for 15 years with not much or

very little pay increases over the entire duration of her employment. She gets good performance reviews and seems to get her job done in accordance with her position description and duties assigned. The problem is that newly hired staff who often times do not have the same education background and credentials as this employee are hired and paid at a higher wage rate than her, and this has happened on numerous occasions. In one instance, an employee without a college degree was hired at a higher wage rate than her in a Caseworker position that included the same job duties as this employee.

RECOMMENDATION:

The Tribe needs to implement a fair and equitable pay policy that is applicable to all programs, departments, etc. This will enhance the Tribes ability to hire qualified staff and in most instances, it will serve as a method of retaining employees and may also prove to be beneficial in reducing the high turnover rate, particularly within those programs which seem to experience this on a regular basis.

FINANCIAL AND PROGRAM REVIEW

TRIBAL COURT

The Tribal Court Program Review was conducted April 12, 13 & 14, 2010, at the Cheyenne and Arapaho Tribes, District Court House in Concho, Oklahoma.

Persons Interviewed:

Bob Smith, District Court Judge
Patty Bell, Court Clerk
Lena Marquez, Deputy Court Clerk
Paul Fuentes, Probation Office
Officer Cody, BIA
Charlie Morris, Attorney General

BIA Reviewer(s):

Rebecca Cryer, Appeals Judge
Suzanne Chaney, Community Svcs. Officer
Sherry Lovin, Tribal Govt. Specialist
Andrea Phillips, Tribal Govt. Specialist

The Cheyenne -Arapaho Tribes are authorized to exercise judicial powers pursuant to Article VIII of the Constitution of the Cheyenne-Arapaho Tribes. Article VIII, Section 1, of the Constitution describes the composition of the Courts.

Article VIII, Section 1(b) of the Constitution provides that the Supreme Court shall be comprised of one Chief Justice and four Associate Justices. The Trial Court is established in Article VIII, Section 1(c) of the Constitution which states that the "Trial Court shall be comprised of one Chief Judge, one Associate Judge and other Associate Judges as deemed necessary by the Legislature by law."

Article VIII, Section 2 of the Constitution provides:

Each Judge and Justice shall be selected upon nomination by the Governor, subject to confirmation by the Legislature and approval by the Tribal Council, provided that, if the Legislature fails to approve or disapprove a nominee for Judge or Justice within thirty days of nomination by the Governor, then the nominee shall be

deemed confirmed by the Legislature, provided, further that, if the Tribal Council fails to approve or disapprove a nominee who has been confirmed by the Legislature, or who has been deemed confirmed by the Legislature, within sixty days of confirmation by the Legislature, then the Judge or Justice shall be deemed approved by the Tribal Council.

The Court Clerk's office is effectively and professionally operated. A total of four hundred eighty six (486) cases were filed in 2009. For the current year, as of April 15, 2010, ninety nine (99) cases have been filed. Although space is extremely limited, court files are maintained in an excellent manner.

The following observations were made in connection with the Court Clerk's office:

- (a) KellPro Software is used as the case management system.
- (b) Pleadings and orders are properly stamped, entered and filed. Filings are made in a timely manner and there is no backlog of cases.
- (c) Fire proof file cabinets have been purchased and are locked when not in use.
- (d) Court hours, fee schedules and courtroom rules are publicly posted.
- (e) Cases are filed chronologically, separated and easily identifiable.
- (f) Each case file contains an index, original paperwork and all court pleadings and orders.

The Court Clerk and the Deputy Court Clerk have done an outstanding job. They function in facilities that are extremely crowded. They have operated in a difficult political environment, yet maintain positive attitudes, thus adding a great deal of stability to the Court.

Findings for this review are as follows:

Finding #1: As previously reported in October, 2008, ('08 Review) the continuing service of Supreme Court Justices appointed prior to the ratification of the Tribal Constitution on April 4, 2006, is inconsistent with the goal of giving effect to the Tribal Constitution.

Section 3 of Article VII of the Constitution provides that Justices will serve four (4) year staggered terms or "until a successor is sworn into office." The Constitution plainly provides that judicial appointments are to be limited appointments, subject to an approval process that involves participation of the Tribal Legislature and the Tribal Council.

The former Chief Justice of the Supreme Court, Justice Rivas was appointed on September 2, 1995. He served until his resignation on January 3, 2010. Associate Justice Arrow was appointed on September 2, 1995, and is currently serving as a Supreme Court Justice. Both Justices remained on the Court after their term of office expired.

Two Special Justices have been appointed by administrative order of the Supreme Court.

Associate Justice Boles and District Court Judge Smith were properly appointed although issues regarding the residency of District Court Judge Smith at the time of his appointment remain of concern.

The Supreme Court's continued willingness to disregard Constitutional mandates concerning judicial appointments promotes a climate of mistrust and suspicion of the judicial system within the Cheyenne and Arapaho Tribes.

RECOMMENDATION: Judicial appointments should be made in accordance with the tribal constitution.

Finding #2: Contracts executed by Justice Rivas and Justice Arrow provide that they are to be compensated in the amount of \$300.00 for each court session.

A budget titled "Fifth Amended 2010 Judicial Branch Budget-Tribal Courts-03-16-10" (Fifth Budget) reflects that Special Judges are paid \$500 per court session plus \$150.00 per billable hour.

The billing statements provided to the Court by the Supreme Court Justices reveal that in 2009, all Justices were paid at the rate of \$150.00 per hour.

RECOMMENDATION: Compensation should be paid in accordance with contractual agreements.

Finding #3: There were no contractual agreements for the Special Justices.

RECOMMENDATION: Judicial contracts should be maintained on all Judges and/or Justices who operate on a contractual basis with the Tribes.

Finding #4: A memo dated May 30, 2008, signed by Erica Hart-Whitecloud, Executive Director, was sent to the Finance Department, Payroll Department and Accounts Payable. The memo authorizes Judge Smith to sign all documents as the Director/Coordinator for the Tribal Court. Subsequent thereto, Judge Smith executed a Program Contract purporting to bind the Tribes for services of the Public Defender.

Judge Smith's execution of a tribal contract is constitutionally improper, beyond his scope of his contractual authority and is inconsistent with the authority of a contract employee of the Tribe.

RECOMMENDATION: Judge Smith's authority to sign documents on behalf of the Tribal Court is improper. The Governor must execute all tribal contracts, including, but not limited to, P.L. 93-638 contracts and sub-contract agreements.

Finding #5: A property inventory system is maintained by the Court Clerk. The inventory includes a description of the property, its serial number (if applicable), the

vendor, the date of acquisition, the location of the property and the condition of the property. I also observed a handwritten inventory of the contents of Judge Smith's tribal residence along with billing and shipping statements reflecting the cost of Judge Smith's tribal residence and the improvements thereto.

RECOMMENDATION: If the District Judges' residence is considered Tribal Court property it should be included in the property inventory of the Court.

Finding #6: The recording system in the court room does not function properly.

RECOMMENDATION: A properly functioning recording system is essential for court proceedings. Funds should be allocated to replace the current system.

Finding #7: Court facilities are inadequate in terms of size and public access. There is limited seating in the court room which impedes public access to judicial proceedings. Further, there is no office space for the Public Defender. He is required to use the Court Room as an office during times when Court is not in session.

RECOMMENDATION: The Tribes should continue to pursue funds to obtain a suitable court facility to include office space for Court support staff.

Finding #8: The Tribes have obtained a highly qualified probation officer who offers services to Tribal members in addition to his service as a probation officer. Judge Smith also requires the probation officer to serve as a court bailiff when law enforcement personnel are not available.

RECOMMENDATION: The probation officer should not serve as a court bailiff. His service as a bailiff is not within his job description and it restricts the time he is able to perform not only the responsibilities of his job but the time he has available to explore development of services that are particularly needed by Tribal members. The Tribes are located in a rural area where few community services can be accessed and/or are available. It is critical that the probation officer have time to explore all potential resources.

Finding #9: The courts continue to function on a continuing resolution pursuant to the 2008 budget. There was not a budget approved for 2009 and a budget for 2010 has not yet been approved. The budget issues are reflective of the continuing Tribal political turmoil and internal Tribal conflicts which appear to permeate every branch of Tribal Government, including judicial operations.

RECOMMENDATION: Consensus between the Governor and Legislature must be fostered and accomplished in order for all branches of Tribal Government to function effectively.

Finding #10: Section 6 of Article VII of the Constitution provides that the Chief Justice shall establish Rules for the Judicial Branch. I was advised that Rules have not been promulgated.

RECOMMENDATION: Upon the filling of the Chief Justice vacancy, Rules should be developed by the Chief Justice.

Finding #11. The Constitution provides that the Supreme Court shall convene at least once every three months. I was unable to determine where or when the Supreme Court convenes. Judge Smith advised me that no one knows where the Supreme Court will convene.

RECOMMENDATION: Information regarding the convening of Supreme Court sessions should be made available to Tribal members and published in the tribal newspaper.

The following findings are grouped together since they appear to be inter-related:

Finding(s) # 12:

(a) On March 16, 2010, Judge Smith was advised he could no longer reside at his residence located on Tribal property. His residence was locked and at the date of this review he is unable to access his residence.

(b) On March 18, 2010, Judge Smith was advised that he could not enter the Court house. Judge Smith has subsequently been allowed to enter the court house and to conduct court proceedings.

(c) Access to the court house can only be made through tribal security between the hours of 8:00 A.M. and 5:00 P.M.

(d) On March 18, 2010, Judge Tripp advised court personnel that he had been appointed associate district judge. Judge Tripp conducted the March 18, 2010, civil docket and has not appeared at the court house since that date.

RECOMMENDATION: In order for the Tribal Court to provide a forum for the resolution of disputes, Tribal members and others who do business with the Court must have confidence that basic court functions will be conducted fairly and that court decisions will have integrity. Repeated political turmoil fosters the perception that the judiciary yields to the political forces that are most powerful. The Tribes must continue to work on the resolution of its political issues.

Finding #13: A random review of court files reveals that cases are being timely processed and heard. I was advised by Officer Cody that charges are being timely filed and that the current prosecutor works closely with the probation officer.

RECOMMENDATION: None

Finding # 14: A contract with the previous Attorney General, Truman Carter, provided that he would develop a new Law and Order code. The Tribe is currently operating under

the 1988 Law and Order Code, which is not in conformance with the 2006 Constitution. Mr. Carter has informed the Tribe that the Code has been completed but that he will not provide it until he is paid the \$500.00 the Tribe owes to him.

RECOMMENDATION: This matter should be brought to the attention of the Tribal Attorney for resolution with the result a much needed revised Law and Order Code that conforms to the current Cheyenne and Arapaho Constitution.

Finding # 15: The organization and line of authority in the Judicial Branch is unclear. There were several different organizational charts presented with the most current chart being prepared by Judge Smith.

RECOMMENDATION: A clearly defined organizational chart should be developed by the Judicial Branch and notice to all staff and tribal members as to the clearly distinguished lines of authority for the Court.

Finding # 16: Judge Smith is labeled a contract employee, with a contractual agreement in place. He also serves as program director of the court staff and oversees day-to-day functions of the court as a 40 hour a week employee.

RECOMMENDATION: Clarify the role of the Chief Judge of the Trial Court. As a current contract employee, he should not be serving in the role of Program Director over full time or part time permanent employees of the Court. It becomes a conflict of interest if and when he is approving payments to himself as a sub-contractor of the Court. A Program Director should be an actual employee of the Tribe.

Finding # 17: The Public Defender was appointed by the court in a divorce proceeding.

RECOMMENDATION: The Public Defender is responsible for representation only in criminal, juvenile and in guardian ad litem cases where a conflict exists in connection with representation by OILS. The Public Defender should not be appointed to represent individuals in divorce proceedings.

Finding # 18: During the course of the review, a court docket and several cases were heard by the Chief Judge of the District Court. The proceedings were conducted in open court. In one of the cases, the Judge appeared to be somewhat confused regarding the legal issues before the Court.

RECOMMENDATION: Court proceedings, especially those involving political issues, can be confusing; however, it is essential that these cases be thoroughly examined and understood by the Court.

Finding #19: The majority of the court budget is provided by Tribal funds. With the exception of funds spent in connection with the unauthorized contract entered into by Judge Smith, contract funds have been appropriately expended.

RECOMMENDATION: Contract monies should be authorized by the appropriate authorized tribal official. A lack of proper authorization results in 'unauthorized' expenditures which result in disallowed costs.

Finding #20: Although the Court Clerks do their jobs very effectively and efficiently, they very rarely attend training in their respective field due to budget and time constraints.

RECOMMENDATION: Provide Court Clerks with additional training opportunities they deem relevant and/or beneficial.

JOB PLACEMENT & TRAINING PROGRAM

BIA Reviewer

Sallie Allen, Supervisory Social Worker

Angela Barnett, Self-Determination Specialist

The review consisted of randomly selecting student/applicant files for calendar year 2009. During the review 12 Adult Vocational Training case files and 12 Direct Employment case files were reviewed. The Job Placement and Training files were neat and orderly making them easy to review. The Job Placement and Training staff have a more than adequate understanding of the policies and procedures for the administration of this program.

The following are the results of the review and suggestions for improvement in the delivery of services to Cheyenne & Arapaho Tribal members.

Finding #1: The majority of the cases did contain the required documentation needed to determine eligibility for the J P & T Program. However, some of the Direct Employment folders did not contain documentation items such as birth certificates and verification of tribal enrollment.

RECOMMENDATION: Job Placement and Training staff should review folders and ensure that these documents are contained in the individual folders.

Finding #2: The one-page request for services used for the Direct Employment Assistance component of the J P & T Program is not sufficient as it does not secure enough applicant information to allow program staff to make assessments and provide other services such as employment counseling.

RECOMMENDATION: Program staff should use the OMB application form listed in 25 CFR, Part 26 under obtaining applicant information or develop an application that requires all applicant information that is necessary to determine complete client eligibility.

Finding #3: Some of the Direct Employment applications were approved based on the statement that employment "may become permanent".

RECOMMENDATION: Staff needs to make sure that statement from employer reflects that employment is of a “permanent” nature at the time the applicant is employed.

Finding #4: The Adult Vocational Training student files need to contain time/attendance and progress reports from the training facility they are attending.

RECOMMENDATION: Obtain time/attendance and progress reports from training facilities on a monthly basis. Update narratives to reflect progress/attendance.

Finding #5: In cases where a student does not qualify for financial aid and tuition costs are paid by the program, there was no documentation as to why the student did not qualify for FAFSA/PELL.

RECOMMENDATION: Obtain a statement from training facility that reflects the reason student did not qualify for financial aid and document circumstances in narrative. All facilities utilized by students on this program should be FAFSA/PELL approved to ensure proper licensure of the facility.

Finding #6: There was no official document or directive from the Regional Director stating amounts of subsistence for students/applicants.

RECOMMENDATION: In accordance with 25 CFR Parts 26 and 27, the Regional Director must establish and approve subsistence rates for the Job Placement and Training Program. It is suggested that program staff review and submit a request to the Southern Plains Regional Director to update and set appropriate subsistence rates for their Job Placement and Training Program.

Finding #7: Numerous stipend checks had missing signatures on the Agreement page attached to the check.

RECOMMENDATION: Ensure all appropriate signatures are completed before preparing or issuing the checks.

Finding #8: Numerous check request forms had no dates listed, and some did not have all appropriate signatures.

RECOMMENDATION: Ensure all dates are completed and appropriate signatures are on the check request forms.

Finding #9: In reviewing payroll documentation it was found in separate instances employees had used more administrative leave than what was actually granted, or there was no documentation as to why administrative leave was granted.

RECOMMENDATION: If administrative leave has been granted, the employee should be responsible for attaching the documentation to his or her timesheet. This

would ensure the correct hours are being coded, by the timekeeper and what the administrative leave was for.

HIGHER EDUCATION/SCHOLARSHIPS PROGRAM

BIA Reviewers

Joy Martin, Education Line Officer

Mary DuPris, Self-Determination Officer (BIE)

Cheryl Lewis, Self-Determination Specialist (BIE)

Review of Student Files: Sixty (60) student files were reviewed. All files had current applications, financial needs analysis, current transcripts, copies of award checks and related correspondence.

Finding #1: No semester tracking system is being maintained to ensure a student is not funded more than 10 semesters as stated within the contract.

RECOMMENDATION: The tribe has placed a limit on the amount of semesters a student can be funded but the student file does not contain any one document which states the semester funded, amount, check number, etc. A sample semester tracking form has been provided to the higher education department. This form can be reformatted to fit the C&A Higher Education Program.

Finding #2: Progress reports for payment of grant awards utilizing the "partial" payment method implemented by the Tribe is not verified for validity by the Tribe.

RECOMMENDATION: Initiate a verification for progress made that is obtained from the school not the student.

Finding #3: Award letters do not state requirements of the program to ensure each student funded is fully aware of the requirements for continued funding.

RECOMMENDATION: Revise the award letters to state the requirements of the program such as maintaining a 2.0 GPA and earn at least 12 hours for full-time funding, etc.

Finding #4: Stipends to reward students for their good academic standing and grades should not be paid out of federal funds.

RECOMMENDATION: Stipends for progress made by the student should not be paid out of federal funds. Federal funds should only be used for educational related expenses such as tuition, book and fees.

Finding #5: Students who do not earn a 2.0 GPA and/or do not complete 12 hours for each semester funded are not being penalized in accordance with your program guidelines.

RECOMMENDATION: When the student withdraws from courses dropping below the 12 hours threshold or does not earn a minimum 2.0 GPA, they should be placed on academic probation the following semester and an adjustment should be made to the next semester's funding.

Finding #6: There were no telephone or contact records to demonstrate communication with students and/or colleges maintained.

RECOMMENDATION: Place telephone or contact log forms into each student file to document any communication made with the student or on their behalf.

Finding #7: Tribal funded grantees and federally funded grantees (some students are funded from both resources) award correspondence is combined into one student file and maintained in the same location within the file.

RECOMMENDATION: Maintain award correspondence and documentation separately for each student funded to clearly distinguish funding sources. This is important since eligibility criteria for tribal funded students may differ from federally funded grantees. It would be most beneficial to create two separate file(s) for each student who is funded with both federal and tribal funds.

Finding #8: A student was funded who had defaulted on a student loan.

RECOMMENDATION: Students who have defaulted on a student loan are not eligible for PELL and not eligible to be funded with federal funds, the program must ensure all eligibility requirements are met before assistance is provided.

ADULT EDUCATION PROGRAM

BIA Reviewers

Cheryl Lewis, Self-Determination Specialist (BIE)

Files were very well organized and included all required eligibility documentation. A total of 41 files were randomly selected for review. All files contained the required documentation such as application, CDIB and assessment documentation. Program expenditures reviewed were well documented with required requisitions and receipts. The coordinator maintains a very good cuff account and keeps track of program expenditures. No problems were noted in the Adult Education Program.

JOHNSON -O'MALLEY

BIA Reviewers

Mary DuPris, Self-Determination Officer (BIE)

The Program Coordinator is very knowledgeable about the program and it is evident that she goes above and beyond to maintain and document the program eligibility files and expenditures to the best of her abilities and with very limited staff support assistance.

GENERAL PROGRAM FILES

A random sample of general program administration and committee oversight files were reviewed. Needs assessment are completed on an annual basis. The following areas of program administration were reviewed with no significant or notable problems found:

1. Budget – a cuff account is maintained for each program with copies of check stubs, check requests, expenditure requests, and copies of checks. These files are very well organized and maintained.
2. Program files – each contained code of ethics, by-laws, budgets, needs assessment, meeting minutes, meeting notices and student count information.

STUDENT ELIGIBILITY FILES

A review of all (100%) student eligibility files was conducted. Actual count 1427 students with 5 pending. The following student's eligibility status has not been properly verified and is in question and/or need more documentation to be counted:

1. Clinton – Moriah, Yvonne Hester – CDIB of Arlena Yvonne Hester – need birth certificate of student showing relationship.
2. Hammon – Baleigh Standingwater – No CDIB/ tribal enrollment verification in file.
3. Yukon – Kobe Trammel – grandmother's CDIB on file, Mary Annette Vandagriff (1/32 Choctaw) and mother's CDIB but can't read. Need legible CDIB of mother and a copy of the original birth certificate of child showing relationship. The amendment doesn't list the mother. If using grandmother's CDIB will need birth certificate of mother showing relationship and legible CDIB of mother.
4. Yukon – Silas Wilkerson – 1/64 Ponca (not enrolled). To be enrolled with Ponca's must be 1/8 degree. Additional documentation needed showing student is enrolled with a tribe or at least 1/4 total blood quantum or the student is not eligible for JOM services.
5. Yukon – Cassidy Guillian – No CDIB on file.

RECOMMENDATIONS: (1) Ensure both sides of CDIB/tribal enrollment card are copied – tribal signature not always copied. Need verifiable signatures. (2) Make sure all CDIB and/or supporting documentation is legible.

Provide required documentation to verify eligibility of the 5 students listed above to the Bureau of Indian Education Office in Oklahoma City.

FINANCIAL REVIEW

A review of financial documentation maintained by the program includes copies of check requests, purchase orders, purchasing requisitions, meeting minutes, expenditure requests, invoices, student listings, sign in sheets, application for education support assistance, receipts,

registration forms, and mileage forms. All supporting documents were attached and very well documented, with the exception of the following.

Findings:

1. Check #043527 dated 11/13/09 – International Tours of El Reno in the amount of \$175.00 (check request #1113-090) for transportation to the National JOM in Phoenix. \$175.00 was charged to change traveler’s name (to real name) on ticket. The travel agency charged \$175.00 to change name, this seems excessive.
2. Check #43391 dated 10/15/09 – Leaning Tree in the amount of \$200.00 (check request #248-1015), Yukon JOM purchased Christmas cards to send out to JOM families. No receipt or invoice attached showing cards were purchased. Note states “JOM will submit receipts to Finance once payment is made”
3. Check #42639 dated 3/12/09 to Larsen Music Co in the amount of \$60.00 (check request #0312-098), Mustang JOM purchased band rental fees for Trey McCathern. No receipt or invoice. Note states “JOM will submit receipt to Finance once payment is made”.
4. Check #43772 dated 12/30/09 – National JOM in the amount of \$80.00 (check request #1230-052), Francine Williams purchased a National JOM Handbook. No receipt/invoice attached.
5. Check #42762 dated 4/16/09 – OK Indian Student Honor Society in the amount of \$56.00 – 8 membership fees @ \$7.00 each. No receipt/invoice attached.
6. Check #42919 dated 6/4/09 – Redlands Community College in the amount of \$60.00. Mustang student (Allison Woodward) taking 2 kids college courses. No receipt/invoice attached.
7. Check #42586 dated 3/3/09 – Yukon P. S. Helping Hands in the amount of \$20.00 for Yukon student class fees. No receipt/invoice attached.
8. Check #42853 dated 5/7/09 - White Dog Hill in the amount of \$1575 for Meal expense for Region II Senior Awards Recognition Dinner on 4/29/09. Receipt only lists total – doesn’t include number of meals at what cost. Receipt should be itemized to identify actual cost per person etc.
9. Check #43000 dated 7/1/09 – Yukon P.S. in the amount of \$25.00 for a Softball camp for Hannah Shivers – No receipt/invoice attached.
10. Check #42683 dated 3/19/09 – Yukon P.S. in the amount of \$125.00 for 5 basketball uniforms for 5 JOM students @ \$25 each. No Receipt attached.

RECOMMENTATIONS:

1. Make airline reservation with the airline rather than a travel company that will reduce the excessive fees for making changes.
2. Ensure all receipt/invoices are obtained for all expenditures by the **Finance Office** A/P Department before filing documents at the end of each Calendar Year. Particularly the requests that indicate “JOM will submit receipt to Finance once payment is made”. **JOM Program Coordinator** needs to follow-up with parent committee representatives to ensure applicable receipts are obtained after payment is made to vendors and/or implement a process to withhold future assistance if documentation is not provided.

EMERGENCY YOUTH SHELTER

BIA Reviewer

Kemberlee Starritt, Self-Determination Specialist

A complete programmatic review of the Emergency Youth Shelter is ongoing completion by the Branch of Community Services, Southern Plains Region, and a separate report will be issued with the results of their programmatic review upon completion. While on-site, a review of financial documentation provided by the finance department included copies of check requests, purchase orders, purchasing requisitions, expenditure requests, invoices, payroll and personnel documentation that supports expenditure of these funds. All supporting documents were attached and in most cases very well documented.

Finding #1: The most current CY2009 budget indicated a line item amount of \$2,484 for mobile phone services. However, only one invoice was received and paid in the amount of \$371.10. The budget should have been updated reflecting a decrease in this line item. The funds not spent in this line item should have been utilized to provide other services within the program.

RECOMMENDATION: Budgetary compliance is required within the minimum standards of P.L. 93-638. The budget should be reviewed and revised, periodically throughout the year, with adjustments made to reflect actual expenses and activities within the program. It is the Program Director's responsibility to ensure budgetary compliance in order to properly carryout the contract objectives.

Finding #2: Direct T.V. charge check #043754, a late fee has been assessed in the amount of \$4.30 and paid. Sufficient funds are available and NO payment of late fees should be charged to the program contract.

RECOMMENDATION: Ensure all invoices/bills are paid timely and late fees are not assessed. This is a joint responsibility of the Program Director and Finance.

Finding #3: There appears to be abuse of the advanced payroll policy, for both emergencies and vacation leave on payday. We found one employee within this program had received 10 advanced payrolls over a one year period, some were identified as emergencies and others were for vacation leave on an actual payday. Some advances were for consecutive paydays, indicating abuse of the policy for the benefit of being paid for time not yet worked, and in this particular employee's case, they were only receiving partial paychecks. Within the personnel policy there is no definition of what an actual "emergency" is, but past due personal bills every month should not be deemed as such. This employee also requested early payrolls and ended up coming to work on payday (when they had a signed approved leave slip to be on leave and used that as their justification for early payroll), which is not in compliance with the Tribes policy. In all requests reviewed the Program Director signed and approved every request, apparently with no questions asked. Advancing funds in this manner may be deemed as loaning federal funds to an individual.

RECOMMENDATION: Advancing early paychecks in a true emergency situation could be included within your policy, once the Tribe defines what would be considered an emergency. However, the practice of taking “vacation leave on payday” for the sole purpose of obtaining an early paycheck should be discontinued. This policy needs to be revisited and revised.

Finding #4: We reviewed the background investigation documentation submitted by the Human Resources Department. The files were not complete, in a few cases we did find evidence of Federal Criminal History checks (finger prints), and OSBI checks had been completed, but none of the suitability for employment requirements had been completed. Not one of the employees has had a complete criminal background investigation, nor have they been properly adjudicated and/or deemed suitable for employment in accordance with 25 CFR Part 63 and the Tribe’s current Suitability for Employment policy. This finding also applies to the Social Services, ICW, and JOM Programs.

RECOMMENDATION: Complete background investigations, proper adjudication and a determination of suitability must be completed immediately for all employees paid with federal funds under any and all programs that would put an employee, volunteer, or contractor in direct contact or control of Indian children that fall under the guise of the Indian Child Protection and Family Violence Act (P.L. .101-630) and regulations codified at 25 CFR Part 63. The Tribe has employees within the Personnel Department and Procurement, Grants and Contracts Office who have attended the required training, maintain necessary documents required, and are fully aware of the process that is must be completed in order to comply with this federal law.

SOCIAL SERVICES AND ICW

BIA Reviewers

Ofelia De La Rosa, Regional Social Worker

Melissia Whiteside, Supervised Account Specialist

Sarah Oberly, Indian Child Welfare Specialist

The programmatic reviews are ongoing for the Social Services – Supervised Accounts function of this program. The results of that review will be sent to the Tribe under a separate report through the Branch of Community Services, Southern Plains Regional Office. While on-site, a review of financial documentation provided by the finance department included copies of check requests, purchase orders, purchasing requisitions, expenditure requests, invoices, payroll and personnel documentation that supports expenditure of these funds. A general overview of the Social Services Program with results of financial supporting documentation and program administration follows.

SOCIAL SERVICES

A review was conducted on your Welfare Assistance Program by Ms. Ofelia De La Rosa, Regional Social Worker. She reviewed your program records to ensure compliance with meeting

regulatory guidelines found in 25 CFR Part 20, in addition to financial documentation of a random selection of expenditures.

Fourteen random GA case files were reviewed. The program has shown steadfast improvement and the hard work is noticed. No files were found to be out of compliance with regards to monetary calculations and payments.

Finding #1: While the files indicate that the caseworker is in essence doing an Individual Service Plans (ISP), there is not an actual plan.

RECOMMENDATION: Per 25 CFR Part 20.303 this is a requirement and must begin implemented immediately.

Finding #2: The Social Services program is renting storage space to maintain various program documents/records. We could not identify what this storage space is being utilized for and our concern is that there may be Trust documents, ICW Case files or other documents and records that should be maintained in secure locations (CK# 043751)?

RECOMMENDATION: Ensure that all Trust related (ICW Case files, GA files, Supervised Accounts) documents are properly maintained and stored in a secure location within the program offices. Records retention regulations should be followed to dispose of or transfer applicable records.

Finding #3: It does not appear that anyone is monitoring the use of Cell Phones that are paid for with federal funding. A review of several monthly bills indicates erratic charges and payment of overage fees, most of which appear to be personal in nature (Check #042920).

RECOMMENDATION: Implement a cell phone usage policy and set parameters for determining personal and work calls. Phones issued and paid for with federal funding should be used only for official business of the program.

Finding #4: Two invoices from Alco Printing for the exact same amounts (\$555) were issued on the same date for purchase of program letterhead (1500 each totaling 3000) charged to the Social Services Program. Is all of this letterhead for the Social Services program? If so, why was it necessary to split the purchase between two separate invoices (Check #043024)?

RECOMMENDATION: Identify which program(s) the letterhead was to be used for and why separate invoices were necessary?

Finding #5: A total of 24 Calendar Planners were purchased by the Social Services program which seems excessive considering they do not have that many employees under the program (Check #42590).

RECOMMENDATION: Identify/Justify the need to purchase so many planners and who they were distributed to.

Finding #6: The monthly and yearly cost (est. \$6,000) for the copier leases seems excessive. Overage fees are occurring every month for both b&w and color copies. Could not find proof of competing bids for this service.

RECOMMENDATION: The program should look into other companies and get competitive bids to find the most beneficial vendor to obtain this service from.

Finding #7: We noted a general finding regarding the pay issue of a Social Services program employee under the Personnel Policy section above. In addition to that, we found instances where this program has hired temporary staff, who are immediately put to work without having any type of background investigations conducted. They are provided full access to all Trust Records, documents, files and at times may be in direct contact with Indian Children. In a couple of instances, the persons hired were directly related to employees within the offices or under the programs in which they were hired to work. In the hiring paperwork that was reviewed, we did not find job postings for those positions, apparently, the individual was contacted by phone and instructed to come to work immediately.

RECOMMENDATION: This practice should cease. This is in direct violation of the Indian Child Protection and Family Violence Act, which applies not only to full-time permanent employees, but also temporary positions and volunteers. There should be Supervisory checks and balances in place that would prevent selective hiring of relatives in those types of positions, particularly if they do not meet the minimum qualifications for the position. All positions, including temporary, part time, etc. should be posted to give all potential applicants the opportunity to be employed.

Due to non-compliance issues in the past and requirements which stipulated that Review forms will be submitted and reviewed by the Bureau prior to approval of payments, we have continued this process. However, at this time, we are returning all review sheets to your social services program to be placed in a review file for Welfare Assistance. Your program is no longer required to submit the review sheets to the Regional Office, however, we strongly recommend the Tribe continue to use this process as a means to ensure compliance with ALL eligibility requirements is maintained.

INDIAN CHILD WELFARE

A complete programmatic review of the Indian Child Welfare Program is ongoing completion by the Branch of Community Services, Southern Plains Region, and a separate report will be issued with the results of their review upon completion. While on-site, a review of financial documentation provided by the finance department included copies of check requests, purchase orders, purchasing requisitions, expenditure requests, invoices, payroll and personnel documentation that supports expenditure of these funds.

Finding #1: The lease on the ICW Building is high, in comparison with local charges for similar space. In addition, there is very little or no privacy for conducting assessments, which is vital in order to carry out the program responsibilities.

RECOMMENDATION: Find a location that is more cost effective and includes areas for the Caseworkers to meet and assess clients.

Finding #2: Check #43553 Issued to the Hard Rock hotel for banquet expense during a retreat that was attended by ICW, Social Services, EYS, Food Distribution and other tribal employees. The entire invoice was paid with ICW funds and indicates it was for 45 meals at \$36.83 per meal. Other documentation stated the meals were provided for all employees and their families. Since the ICW Program only has 5 employees, this is not allowable.

QUESTIONED COST AMOUNT: \$1,657.35

RECOMMENDATION: All or a large portion of this amount is questioned at this time. Provide a detailed explanation and additional documentation or indicate how the Tribe plans to re-pay this program.

Finding #3: A check to Alco Printing in the amount of \$550 (11/20/09) for the purchase of 200 books – full color. Neither the requisition, P.O. or invoice indicates what these books are for, how it relates to the ICW program, etc.

RECOMMENDATION: Please provide additional documentation to identify how this relates to this program.

AID TO TRIBAL GOVERNMENT

This contract provides funding to operate an Enrollment Office. Funding is utilized primarily to fund staff costs to maintain timely processing of membership applications, Certificate Degree of Indian Blood (CDIB) forms and Indian Preference Forms (BIA 4432). The staff all appear to be knowledgeable of their role in the Tribes' enrollment process. The current enrollment procedure that is currently being utilized has sufficient checks and balances to assure accuracy of the information and proper enrollment of tribal members.

The following are strengths of the program:

1. Individual Enrollment records are kept locked and only appropriate staff have access to them.
2. The required BIA 4432 Indian Preference Form log is in use and maintained.
3. Membership information is maintained in the automated Progeny Enrollment System. Sufficient security features are enabled to help eliminate the chance of fraudulent use and photocopying.
4. Program Income earned through the charges for replacement ID cards issued to members is properly received and accounted for through the Finance Office before issuance of the ID.

Finding #1: Older Enrollment Files are missing a considerable amount of documentation for proof of membership.

RECOMMENDATION: In the event files such as these are pulled, the Tribe should correspond with the individual and request all required eligibility documentation from the member to try and reconstruct the files but cannot force the issue. Action cannot be taken against the individual if they refuse to provide the documentation now. The Tribe must take the position that when the individual was enrolled he/she must have presented documentation to the enrollment staff to adequately establish proof they met the Tribes' enrollment criteria. Once an individual is enrolled the burden of proof to establish eligibility shifts to the Tribe and you must then prove that they do not meet enrollment criteria in order to disenroll them.

Finding #2: An Enrollment Ordinance has never been formally enacted and processed for approval by the Secretary as required by Article IV – Membership, Section 4 of the Tribes' Constitution.

RECOMMENDATION: As constitutionally mandated, an Enrollment Ordinance is required and must be enacted.

Finding #3: Individual membership files are not maintained and stored in fire proof cabinets.

RECOMMENDATION: Purchase fire proof file cabinets to maintain and store all membership files.

Finding #4: Numerous files that were reviewed contain information not relative to required enrollment documentation. For example, copies of percapita payment checks and info, CDIB's for children/grandchildren of the member and receipts for various tribal matters and personal business related information were found.

RECOMMENDATION: Files should only contain documentation relative to and information supportive of establishing enrollment eligibility.

Finding #5: There were several instances of hospital birth certification documents being accepted as proof of paternity.

RECOMMENDATION: Only certified Birth Certificates issued can be accepted to document eligibility. Hospital birth certifications should never be accepted.

Finding #6: When an individual seeking enrollment indicates they possess other Indian blood of other Tribes, it is not always verified but you are including it in their total Indian blood calculation.

RECOMMENDATION: Only properly documented proof of other Indian blood can be included in their total blood quantum. This must be verified by the Tribe in which they indicate they have Indian blood from and documented accordingly.

Finding #7: Verification that applicant's who possess Indian blood of another Tribe, have not received land or money from any other Tribe, is not always obtained, as mandated by Article IV, Section 2 of your constitution.

RECOMMENDATION: Before acceptance and enrollment is finalized and approved, you must verify compliance with this constitutional mandate.

Finding #8: The Enrollment staff is enforcing a dual enrollment provision that does not exist within the Tribes' constitution, and are requiring individuals to relinquish their enrollment with other Tribes before they are eligible for enrollment. The staff indicates that is their interpretation of Article IV, Section 2.

RECOMMENDATION: There is nothing written in the Constitution to prohibit dual enrollment and applicants for enrollment should not be denied for the sole reason that they are enrolled with another Tribe. However, if (according to Article IV, Section 2) they have "shared in any land or money by virtue of having been enrolled as a member of another tribe", they cannot be enrolled.

TRANSPORTATION/ ROADS CONSTRUCTION

BIA Reviewer

Kemberlee Starritt, Self Determination Specialist

Kelly Moore, Self-Determination Specialist

A programmatic review of the Transportation and Roads Construction program was conducted. While on-site, a review of financial documentation provided by the finance department included copies of check requests, purchase orders, purchasing requisitions, expenditure requests, invoices, payroll and personnel documentation that supports expenditure of these funds. In addition, program cuff account files and support documents they maintain were reviewed. Documentation for cell phones, fuel (Fuelman) for program vehicles, quality control (testing) and major procurements (Sub-Contractors) that require a bidding process was reviewed.

The procurement of services for quality control (testing) used for construction projects included proper documentation such as the purchase order, invoice and check.

The major procurement transactions, such as selection of a Sub-Contractor (Consultant) was reviewed for compliance with the procurement policies. Specific Sub-Contractual agreements reviewed include: Blue Rock General Contractors-LLC for the amount of \$81,305.23 and Circle S Paving Co. Inc. for the amount of \$94,732.00. According to the sub-contract file, all of the procurement requirements for a major procurement had been followed. The Tribe also provided a copy of the TERO Ordinance in which a TERO fee is added in the sub-contracts. The

program maintains a current Property Listing for the Transportation Department. Employee salary costs were appropriately documented and travel was closed out and accounted for.

Finding #1: Various employees in this program were utilizing “wellness leave” on their timesheets, coding as administrative leave with an actual leave slip attached, stating “section 5.7 Part C” of the personnel policies. Upon further review of the personnel policy we unable to locate a “section 5.7 Part C” within the APPROVED Personnel Policy. We were informed by HR and various employees that there are several variations of a Personnel Policy being disseminated and most employees don’t know which is the fully authorized and approved version.

RECOMMENDATION: Discontinue the use of “wellness leave” until it is included in a properly authorized and approved Personnel Policy.

Finding #2: There appears to be abuse of the “advanced payroll” policy. We found one employee within this program had taken a total of 8 advanced payrolls over a one year period, some were for emergencies and others were for vacation leave on payday. Many were back to back, indicating that they may have been in need of additional funds to cover the fact that they did not receive or only received a partial paycheck. Some requests listed emergencies, such as ceremonies and personal, and none were consistent. We found in three (3) instances, that the employee had requested and was approved vacation leave on payday, then showed up to work on that date, indicating they had no intention of being on leave on a payday, they just initiated the leave slip to get an early paycheck.

RECOMMENDATION: Advancing early paychecks in a true emergency situation could be included within your policy, once the Tribe defines what would be considered an emergency. However, the practice of taking “vacation leave on payday” for the sole purpose of obtaining an early paycheck should be discontinued. This policy needs to be revisited and properly amended through the proper channels outlined within the Constitution.

Finding #3: Travel reimbursement for Herbert Whitebuffalo, TA # 8TA0203, the employee used his personal credit card and was reimbursed for a room rate of \$149.00 per night, when the actual per diem rate was \$81.00 per night. There was no justification as to why his reimbursed exceeded the maximum allowed for that particular stay.

Finding #4: Travel Reimbursement for Angela Blind, TA #9TA0203 and 9TA0517, the per diem lodging rate was \$79 per night, however the amount paid per night was \$99 per night in both instances. No documentation to justify exceeding the maximum allowed.

RECOMMENDATION: The maximum allowable amount for lodging as authorized by GSA must be adhered to at all times, unless there is written justification that is properly authorized and approved (prior to the commencement of the travel) to allow for an amount that exceeds the maximum lodging per diem allowance.

Finding #5: The budget Line Item for Vehicle Repair & Maintenance (71400) included expenditures totaling \$968, however, there were no funds budgeted for this line item.

RECOMMENDATION: Budgetary compliance is required within the minimum standards of P.L. 93-638. The budget should be reviewed and revised, periodically throughout the year, with adjustments made to reflect actual expenses and activities within the program. It is the Program Director's responsibility to ensure budgetary compliance in order to properly carryout the contract objectives.

FIRE MANAGMENT

BIA Reviewer

Constance Fox, Self Determination Officer

A review of financial documentation provided by the finance department included copies of check requests, purchase orders, purchasing requisitions, expenditure requests, invoices, payroll and personnel documentation that supports expenditure of these funds. BIA funding provided for this Fire Management contract (\$20,000) is for the sole purpose of hiring an individual who meets the requirements as an Engine Boss for a period of 6 months (seasonal). Included with the contractual agreement is a commitment from the Tribe to pay the other 6 months of the salary cost and hire a permanent/full-time employee with responsibilities for Crew Coordination.

Finding #1: Upon exhaustion of the BIA funding, the Tribal Finance (Payroll) department continued to utilize BIA funding to pay the employee for the remainder of 2009. There was documentation presented that indicated this matter was brought to the attention of tribal administration, however, no tribal funding was ever provided. This resulted in "misapplication of funds" in which the Tribe is held accountable for under the Indian Self-Determination and Education Assistance Act (P.L. 93-638).

QUESTIONED COST AMOUNT: \$31,559

RECOMMENDATION: Use of funding provided in P.L. 93-638 contracts should be monitored to insure it is not misapplied, even on a temporary basis. The employee should have been placed in another position that was properly funded and/or funding should have been provided in accordance with the terms of the contract.

Finding #2: In 2010, funding has been provided under the same conditions as in 2009, however, at the time of the review, the position remained vacant.

RECOMMENDATION: Immediately hire an individual to carryout the objectives of the contract. Ensure they meet all requirements of an Engine Boss position and can function in that capacity.

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