United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

OCT 30 1998

MEMORANDUM

TO: The Secretary

FROM: Richard N. Reback
Acting Inspector General

SUBJECT SUMMARY: Final Survey Report for Your Information - "Legal Services Costs Incurred by the Cherokee Nation of Oklahoma" (No. 99-E-70)

Attached for your information is a copy of the subject final survey report. The objectives of the survey were to (1) determine whether the Cherokee Nation of Oklahoma acquired and paid for legal services in accordance with applicable laws, regulations, and policies and (2) identify the source of funds used to pay for the legal services. We conducted the survey in response to a request from members of the Congress.

We found that the Nation did not acquire and pay for legal services in accordance with applicable laws, regulations, and policies. Specifically, the Nation incurred costs for legal services without formal contracts, without adequate support for costs billed, outside the purview of contract terms and conditions (when contracts had been prepared), and in excess of Tribal Council-approved appropriations. We also found that the Nation incorrectly used Federal funds from the Department of the Interior to pay for litigation against the Federal Government, transferred Federal funds to the Nation's general operating fund and motor fuel tax accounts without ensuring that the Federal funds were needed to pay for expenditures under the Federal programs, and inaccurately prepared a Financial Status Report before it was submitted to the Bureau of Indian Affairs. However, we could not determine the source of funds used to pay for all legal services because when Federal funds were transferred to the general operating fund, they were commingled with the Nation's general funds and lost their identity as Federal funds. The requirements for the use of and the accounting for Nation and Federal funds are contained in the Nation's Code and implementing regulations and procedures, the Indian Self-Determination Act Amendments of 1994, the annual funding agreements, and Office of Management and Budget circulars. However, the Nation's Executive officials had not developed and implemented an adequate financial management information system to ensure compliance with established regulations regarding legal services, adequate identification of Federal program expenditures and amounts owed, and accuracy and completeness of Federal program financial reports. As a result, the Nation (1) did not have assurance that legal services incurred were reasonable and necessary,

(2) improperly charged $88,000 to the Department for legal services, (3) transferred Federal funds of at least $16.1 million to the general operating fund without assurance that Federal program expenditures had been incurred previously and were owed, and (4) included inaccurate financial data in the Financial Status Report submitted to the Bureau.

In its response, the Bureau agreed with the report's six recommendations to address these issues. Based on the response, we considered one recommendation resolved and implemented and five recommendations resolved but not implemented.

If you have any questions concerning this matter, please contact me at (202) 208-5745 or Mr. Robert J. Williams, Assistant Inspector General for Audits, at (202) 208-4252.

Attachment

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

SURVEY REPORT

LEGAL SERVICES COSTS INCURRED BY THE CHEROKEE NATION OF OKLAHOMA

REPORT NO. 99-E-70
OCTOBER 1998

United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

October 29, 1998

SURVEY REPORT

Memorandum

To: Assistant Secretary for Indian Affairs

From: Robert J. Williams
Assistant Inspector General for Audits

Subject: Survey Report on Legal Services Costs Incurred by the Cherokee Nation of Oklahoma (No. 99-E-70)

INTRODUCTION

This report presents the results of our survey of legal services costs incurred by the Cherokee Nation of Oklahoma. The objectives of the survey were to (1) determine whether the Cherokee Nation acquired and paid for legal services in accordance with applicable laws, regulations, and policies and (2) identify the source of funds used to pay for the legal services. We conducted the survey in response to a Congressional request.

BACKGROUND

In fiscal year 1996, the Cherokee Nation received revenues of approximately $131 million, consisting of $88 million primarily from Federal, state, and private grant and contract sources and about $43 million from the Nation's business operations. Within the $88 million, the Nation received approximately $64.5 million from the Federal Government, including $8.6 million awarded by the Department of the Interior under a self-governance compact, of which the Nation expended approximately $6.4 million. At the time of our audit, the Nation had not prepared financial statements for fiscal years 1997 and 1998; therefore, we were unable to determine the funding sources and total dollar amounts of receipts and expenditures for those years. However, according to records provided by the Office of Self Governance, Department of the Interior, the Nation was awarded approximately $15 million under its fiscal year 1997 annual funding agreement and has received about $8.9 million under its fiscal year 1998 annual funding agreement as of September 3, 1998. The agreements were executed pursuant to the Nation's Self-Governance Compact with the Department.

The 1994 amendments (Public Law 100-413) to the Indian Self-Determination and Education Assistance Act (Public Law 93-638) permanently established the self-governance program for Indian tribes. Under self-governance funding agreements, tribes are authorized to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities, including control over funding and decision making for Federal programs. On October 1, 1990, the Cherokee Nation entered into a compact agreement with the Secretary of the Interior to participate in self-governance and agreed to abide by all existing Federal standards in carrying out the programs, services, and functions under the self-governance compact. Also, the Bureau of Indian Affairs, on February 12, 1998, published draft rules and regulations for tribal self-governance programs that require the tribes to maintain management systems and practices at least comparable to those in existence when the tribe entered the self-governance program.

SCOPE OF SURVEY

Our survey was conducted in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. To accomplish our objectives, we obtained and reviewed applicable criteria related to the procurement and payment of legal services, reviewed and discussed financial controls over these functions with Nation officials, and selected and reviewed samples of legal services payments and Federal program funds transfers.

Of 335 legal services transactions, totaling $1.3 million, recorded in the Nation's general ledger system during the period of October 1995 through February 1998, we judgmentally selected a sample of 89 (27 percent) transactions, totaling $1 million (77 percent). We sampled legal services transactions equal to or greater than $1,000 and all expenditures identified for three legal services vendors. We also judgmentally selected from159 Bureau program interfund transfers, totaling $35.5 million, a sample of 21 (13 percent) transfers, totaling $11.5 million (32 percent), which varied in amounts from $63,000 to $800,000. The interfund transfers were from special revenue accounts (used to account for restricted funds such as Bureau grants) to the Nation's general operating fund and motor fuel tax accounts (used to account for Nation revenues) and occurred during the period of October 1996 through February 1998.

As part of our review, we evaluated the Nation's system of internal controls over the (1) procurement of and payment for legal services and (2) transfer of Federal program funds from special revenue accounts to the general fund and motor fuel tax accounts to the extent we considered necessary. The internal control weaknesses identified are discussed in the Results of Survey section of this report. If implemented, the recommendations should improve the internal controls.

Our survey was performed from March 31 to September 3, 1998, and included visits to the Headquarters of the Cherokee Nation, in Tahlequah, Oklahoma, and the office of the Nation's independent accountant, in Oklahoma City, Oklahoma, in April and May 1998.

PRIOR AUDIT COVERAGE

During the past 5 years, neither the Office of Inspector General nor the General Accounting Office has performed any audits that specifically addressed the Cherokee Nation's procurement of and payment for legal services.

However, on June 27, 1997, an independent accounting firm issued the report entitled "Cherokee Nation Single Audit Reports and Supplementary Schedules for the Year Ended September 30, 1996." The report stated that the Nation's financial management information system was considered a material weakness and was not capable of producing timely interim and/or year-end financial information, which significantly impacted Tribal management's ability to prepare reliable financial reports and make informed financial decisions. In addition, the report stated that the Nation processed Self-Governance-related procurement actions greater than $1,000 in a noncompetitive manner and did not have current general and cash management accounting policies and procedures. Further, the report stated that "significant uncertainty and disagreement exists regarding interpretation and application of the Nation's tribal budget approval and implementation process, with the primary issue involving whether or not budgeted expenditures are approved by the Tribal Council at a global level, or at a more detailed level such as by fund type, department, or specific line item." The independent accounting firm recommended that the Nation determine whether its new accounting software[1] was appropriate for the Nation, assess the proposed plan to complete the implementation of the accounting software, designate an internal full-time project manager to manage the implementation project, and utilize an external resource to monitor project implementation. In addition, the independent accounting firm recommended that the Nation (1) consistently follow policies regarding competitive bidding and any grant or other funding source requirements and (2) update and maintain current accounting policies and procedures to assist Nation personnel in the day-to-day use of the new accounting system. Further, the independent accounting firm recommended that the Nation develop and embark on a specific strategy to address and resolve the uncertainties and disagreements, including approving amendments to existing laws that would clarify the Nation's budgetary laws.

In addition, at the request of the Tribal Council, an independent accounting firm issued, on September 30, 1997, the report entitled "Report on Applying Agreed-Upon Procedures." The report stated that the Nation (1) entered into contracts without any requirement for prior or subsequent notification of the Tribal Council; (2) had made payments for legal services without having appropriate supporting invoices, without staying within the terms of the contract, and sometimes when no written contract had been executed; (3) was unable to produce a year-to-date trial balance report (a listing of assets, liabilities, equity, revenues, and

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[1]In 1994, the Cherokee Nation acquired a new financial accounting software package to update its accounting system and related processes to ensure the timely and accurate preparation of financial statements and management reports. However, as of January 15, 1998, the Nation's independent accounting firm stated that the new software package was "still not functional" and that "there may even be concerns as to the fitness" of the new software package to meet the Nation's financial and accounting needs.

expenses for financial statement preparation) for fiscal years 1996 or 1997; (4) recorded expenditures to Federal programs that were not in compliance with Office of Management and Budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments"; (5) recorded expenditures without having an established appropriation/budget code; (6) had not established Federal program funds transfer procedures; and (7) had not updated the Nation's general accounting policies and procedures since 1985. The independent accounting firm recommended that the Nation (1) develop a policy to require the Executive Branch to present to the Tribal Council all proposed contracts for concurrence prior to their execution, (2) develop a policy to ensure that all invoices are read before they are paid to determine whether a contract has been put in place and that the payment due was for agreed-to services and within dollar limitations in accordance with the terms of the contract, (3) determine the actions needed to enable timely production of a current trial balance, (4) develop policies and procedures to ensure compliance with Federal and state requirements, (5) clarify the role of the Tribal Council in approving budgets, (6) establish a consistent means of measuring compliance with established budgets and perform regular budget versus actual expenditure analyses for each program, and (7) develop an updated policies and procedures manual and ensure that internal controls are adequately developed and implemented as soon as possible.

Based on the two prior audit reports, the Nation instituted a number of actions to improve its financial management. In an August 13, 1998, memorandum to our office, the Nation's Executive Director of Finance and Administration stated:

> The Cherokee Nation Executive Branch and the Cherokee Nation Legislative Branch are strongly committed to strengthening and maintaining an efficient, effective financial system. Evidence of this commitment is the development and implementation of a Financial Improvement Plan . . . and the appropriation of $2,000,000 for the project. The Nation's financial department and the contractor for the project . . . have the project well underway and expect successful completion.
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> The Financial Improvement Plan, not only includes the complete and correct installation of the American Fundware Accounting system, correct organization of 97 data for audit and organization of 98 data (to date) and proper staffing of the Accounting Department. Proper staffing and a fully functioning Accounting System will provide for efficient control, maintenance, reconciliation and reporting of bank accounts.

RESULTS OF SURVEY

We found that the Cherokee Nation of Oklahoma did not acquire and pay for legal services in accordance with applicable laws, regulations, and policies. Specifically, the Nation incurred costs for legal services without formal contracts, without adequate support for costs billed, outside the purview of contract terms and conditions (when contracts had been prepared), and in excess of Tribal Council-approved appropriations. We also found that the

Nation incorrectly used Federal funds from the Department of the Interior to pay for litigation against the Federal Government, transferred Federal funds to the Nation's general operating fund and motor fuel tax accounts without ensuring that the Federal funds were needed to pay for expenditures under the Federal programs, and inaccurately prepared a Financial Status Report[2] before it was submitted to the Bureau of Indian Affairs. However, we could not determine the source of funds used to pay for all legal services because when Federal funds were transferred to the general operating fund, they were commingled with the Nation's general funds and lost their identity as Federal funds. The requirements for the use of and the accounting for Nation and Federal funds are contained in the Nation's Code and implementing regulations and procedures, the Indian Self-Determination Act Amendments of 1994, the annual funding agreements, and Office of Management and Budget circulars.[3] However, the Nation's Executive officials had not developed and implemented an adequate financial management information system to ensure compliance with established regulations regarding legal services, adequate identification of Federal program expenditures and amounts owed, and accuracy and completeness of Federal program financial reports. As a result, the Nation (1) did not have assurance that legal services incurred were reasonable and necessary, (2) improperly charged $88,000 to the Department of the Interior for legal services, (3) transferred Federal funds of at least $16.1 million to the general operating fund without assurance that Federal program expenditures had previously been incurred and were owed, and (4) included inaccurate financial data in the Financial Status Report submitted to the Bureau.

Legal Services Payments

We found that the Cherokee Nation incurred and paid for legal services without contracts, without adequate supporting documentation, outside of contract terms and conditions, and in excess of Tribal Council-approved appropriations. This occurred because the Nation's Executive officials did not have effective internal controls to ensure compliance with established regulations for incurring and paying legal services, as described in the examples that follow.

Payments Without Contracts. The Nation paid 35 legal services invoices, totaling $791,000, without having contracts. The Nation's Employment Policy Manual (Chapter II, Subsection H) requires that (1) a draft (legal services) contract accompanied by a written justification be prepared before contractor (attorney) services are acquired and (2) all contractor agreements be approved in advance by the appropriate Executive Director and Contract Manager. For Federal funds, the Code of Federal Regulations (43 CFR 12.60(b)(6))

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[2]The Code of Federal Regulations (43 CFR 12.952) specifies the forms that are authorized for obtaining financial information from recipients, including the Financial Status Report.

[3]The Nation's Manual "Administrative Policies of the Executive Branch" (Chapter 7, Section B) states that when using Federal funds, the Nation is to follow Office of Management and Budget Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments" (codified in the Code of Federal Regulations (43 CFR 12)), Office of Management and Budget Circular A-87, and any subsequent revisions to these circulars.

requires that accounting records (including payment transactions) be supported by source documentation, such as contract award documents. However, in one instance noted, the Nation paid 14 invoices, totaling $622,000, for various legal services provided by one legal firm from September 4, 1996 through July 31, 1997, for which there was no contract. According to the invoices, the legal services related to (1) the Nation's Delaware and Arkansas Riverbed litigations;[4] (2) navigational servitude; (3) compound interest recovery from the Government; (4) meetings with Congressional, Department of the Interior, and Department of Labor officials; and (5) review of the Cherokee Nation Marshal's search warrant.

For these 14 invoices, the Nation did provide us with a September 5, 1996, letter from the firm which stated "The District of Columbia Code of Professional Responsibility requires us to put in writing our billing practices regarding the work we will be doing for the Cherokee Nation." In that regard, the letter stated that the firm would issue bills monthly, listed the billing rates for three representatives of the firm, and specified that the firm would also bill for expenses. However, we found that the letter did not identify the scope of work, the period of performance, or the cost of services and was not signed by a representative of the Nation. Regarding payments of six of these invoices, the Nation's former Controller, in a September 26, 1997, letter to the former Secretary/Treasurer, stated:

> I need your written authorization to release the checks since the documentation is inadequate. In addition, the request for production of documents from KPMG [an independent public accounting firm] covered this law firm. The Cherokee Nation has indicated to the Tribal Council that no contract was available for this firm.

On September 15, 1997, the Nation's Principal Chief signed a contract which stated, in part, "This contract, which memorializes the arrangement under which [the firm] previously has performed services for the Cherokee Nation, may be terminated at will by either party." The independent public accounting firm issued its "Report on Applying Agree-Upon Procedures" on September 30, 1997, which reported that the Nation did not provide a contract for payments to this firm.

We believe that the Nation should not have paid invoices without having a contract that specified the services contracted for.

Payments Without Adequate Supporting Documentation. The Nation paid 26 invoices for legal services totaling $269,000 that did not have adequate information to verify the specific nature of the legal services received, the hours billed, and the hourly rates charged. For example:

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[4] The Cherokee Nation is involved in at least two lawsuits (Arkansas Riverbed and Delaware Tribe) against the Federal Government. The Arkansas Riverbed suit involves disputed ownership of the Riverbed, and the Delaware Tribe suit involves the Cherokee Nation's opposition to Bureau of Indian Affairs approval of the Delaware Tribe's separation from the Cherokee Nation.

- The Nation made a $27,000 payment on a legal services invoice that did not provide the number of hours worked by the legal firm in relation to the services provided.

-The Nation made a $2,800 payment on a legal services invoice that did not provide the number of hours worked or the hourly billing rate charged by the legal firm in relation to the services provided.

The Nation's "Operational Policies," No. 86-180, states that documentation for check requests are to consist of original invoices, including an itemized description and price of goods or services invoiced and a total invoice amount. In addition, the "Policies" states that "non-itemized statements do not constitute proper invoices." Further, sound business practices dictate that vendor invoices be sufficiently detailed to allow for a review for appropriateness, accuracy, and completeness to ensure that they are in compliance with the underlying agreement authorizing the expenditure or disbursement of funds. A Nation's accounts payable official stated, "It is not the Nation's normal procedure to pay invoices which lack adequate documentation and/or detail; however, invoices that are signed [approved] by Executive Office officials are automatically processed for payment [by accounts payable], without any further questions."

Payments Outside Contract Terms and Conditions. The Nation paid 15 invoices for legal services totaling $43,932 that were in excess of the agreed-to billing rates. The Code of Federal Regulations (43 CFR 12.76 (b)(2)) requires recipients of Federal assistance to ensure that their vendors perform in accordance with the terms, conditions, and specifications of their agreements. However, we found the following:

- For 14 invoices, the Nation incurred costs of $14,775 that were in excess of billing rates for legal services. In this instance, the billed hourly rate of $325 was $25 per hour more than the contract rate of $300. A Nation official stated that the payments were made "because the billing documents had been approved by various Executive officials." In its October 2, 1998, response to the draft audit report, the Nation included a November 26, 1997, letter from the firm which stated:

> On September 15, 1997, at the Nation's request, we entered into a formal contract with the Nation as to our representation. This contract, which was intended to memorialize the billing arrangement established by the retainer letter . . . listed the rates we would charge. By inadvertence, my rate was listed as $300 instead of $325. . . . The only bills for services rendered after signing the contract were bills sent you on October 27, 1997, for September 1997. These bills have not yet been paid. The last bills paid were for services rendered through July 1997. Although listing my rate as $300 in the September 15 contract was a mistake, we will honor that rate at least until the end of the year because it was our error. Thus the September bills will be revised accordingly.

We believe that the Nation should have ensured that the rate billed was in accordance with the rate specified in the contract.

- For one invoice, the Nation incurred costs of $29,158 that were in excess of legal services costs billed by the Nation's Office of General Counsel. We found that the payment should not have been made because the attorney/payee had not fulfilled the retainer agreement's minimum days worked clause. A Nation accounts payable official stated that the payment was made "because the billing document had been approved by the former Chief of Staff." This example was also addressed in the independent accounting firm's "Report on Applying Agreed-Upon Procedures" (see Prior Audit Coverage).

Legal Services in Excess of Appropriations. The Nation incurred legal services costs of $491,000 in excess of Tribal Council-approved appropriations. The Cherokee Nation Code Annotated (Title 62, Chapter 4, "Appropriations") requires that the (1) Executive and Finance Committee, upon direction of the Secretary-Treasurer and with advice from the Controller, propose amendments to the annual appropriations law based on material changes in real or estimated expenditures that affect the total amount budgeted and (2) amendments be presented to the full Tribal Council for consideration and passage. For example:

- The Tribal Council appropriated a total of $300,000 for the Nation's Delaware Separation litigation. However, we found that costs of $539,000 had been charged against the appropriation and that the excess legal services costs of $239,000 had been incurred without Tribal Council approval. In addition, we determined that $272,000 of the $539,000 was incurred for legal services unrelated to the Delaware Separation litigation, such as issues related to Department of Labor hearings, the Arkansas Riverbed litigation, the establishment of the Arkansas River Port as a means to create Cherokee Nation business income, and the Marshal's search warrant.

- The Tribal Council appropriated a total of $67,000 for the Law and Justice Department's general ($33,500) and indirect ($33,500) legal services costs categories. However, we found that general costs of $146,135 and indirect costs of $84,412 had been charged to the Department's costs categories. As a result, the general costs exceeded the Tribal Council's appropriation by $112,635, and indirect costs exceeded appropriations by $50,912. In addition, we determined that the Law and Justice Department exceeded its overall appropriation for all costs categories by $117,000.

Because Nation Executive officials did not comply with the tribal appropriation requirements, cost appropriations were exceeded. For example, in a memorandum dated November 7, 1996, a Nation's Law and Justice Department attorney stated, "I cannot sign this check request (for payment), nor can I recommend approval of the check request by anyone else, because, in my opinion it is not covered by the Continuing Resolution authorizing funding at 100% of the fiscal year 1996 budget (funding) level." The memorandum was in response to the Chief Financial Officer's directive to process a check request for payment of Delaware separation litigation legal services. In addition, the attorney stated, "Perhaps we should propose a legislative act to appropriate funds for the Delaware

litigation and then present it to the full Council." However, the Chief Financial Officer and the Principal Chief approved the check request without the attorney's approval, and the check request was processed for payment on December 20, 1996. Further, we found that differences existed between the Executive office and the Tribal Council as to whether budgeted expenditures are approved at the program or the line item level. For example, Executive officials stated, "It has never been the practice for the Tribal Council to approve budgets at the line item level." However, a Tribal Council official stated, "When the Tribal Council approves the budget, the Council is approving each budgeted line item and program managers/personnel are responsible for managing the programs within the approved line item amount." This issue was also addressed in the June 1997 report issued by an independent accounting firm (see Prior Audit Coverage).

Program Funds Used for Litigation Against the Federal Government. The Cherokee Nation improperly charged the Department of the Interior for legal services of $88,000 related to the Nation's Arkansas Riverbed litigation against the Federal Government. The legal services had not been provided for in the Annual Funding Agreement (No. OSGT905) for Self-Governance, dated July 14, 1995, or included in the Nation's Tribal Council-approved budget for expenditure from Self-Governance Oversight Program funds provided by the Bureau of Indian Affairs. In addition, we found that the Nation incurred the legal services without a contract. Office of Management and Budget Circular A-87 states that Federal program funds cannot be used for prosecution of claims against the Federal Government. The Nation's Chief Financial Officer stated that even though the Arkansas Riverbed litigation legal services "had not been previously included in the Nation's Self-Governance Oversight program budget and had been incurred" prior to her tenure, she "decided to charge the costs to the self-governance program because it was necessary to find funds to pay for the legal services."

Transfers of Federal Program Funds

The Code of Federal Regulations (43 CFR 12.60(a)(2) and (b)(3)) requires that the fiscal control and accounting procedures of a tribal organization be sufficient to (1) permit the tracing of Federal program funds to a level of expenditure adequate to establish that they have not been used in violation of any restrictions or prohibitions contained in any statute that applies to the Federal assistance and (2) ensure that funds are used solely for authorized purposes. In addition, a February 4, 1998, memorandum from the Associate Solicitor, Division of Indian Affairs, to the Acting Inspector General stated, "Federal funds provided under Tribal Self-governance compacts and annual funding agreements are only available for programs previously administered by the Department of the Interior or for programs specifically authorized by Federal statute (not tribal programs)." However, we found that the Nation processed all payments through its general operating fund, including payments for Federal program fund expenditures. We also determined that the Nation's accounting data resided on two accounting systems because accounting data needed for the creation of a receivable, or due from operations, was on the old system and the data for a payable, or due to operations, was on the new system. We also found that Federal program funds were transferred to the Nation's general operating fund and motor fuel tax accounts without

assurance that Federal program expenditures had been incurred and were owed. Transfers of Federal funds to the general operating fund should be made to reimburse the general fund for expenditures for Federal programs. These deficiencies occurred because the Nation (1) had not developed and implemented an adequate financial management information system to ensure that transfers occurred only when expenditures were incurred and owed by Federal programs and (2) used Federal program funds to cover the Nation's general operating fund cash deficit position. As a result, we identified 10 transfers of Departmental program funds, totaling $5.6 million, and 7 transfers of other Federal program funds, totaling $10.5 million, that were not fully supported by Federal program expenditures. The 10 transfers of Departmental program funds occurred at a time when the Nation's general operating fund was in a deficit cash position. For example:

- On March 17, 1997, the Nation's general operating fund showed a $1.2 million cash deficit. A Nation accounting official stated, "The former Accounting Director directed that Department of the Interior program funds totaling $500,000 and Department of Health and Human Services program funds totaling $500,000 be transferred to offset the general operating fund account's deficit cash position."

- On October 9, 1997, the Nation's Chief Financial Officer notified the Chairman, Tribal Council Executive and Finance, that the Nation had a $2.3 million general operating fund cash deficit and said that it occurred because of late reimbursement of project costs by the Bureau of Indian Affairs. The Nation received the $2.3 million from the Bureau on October 6, 1997, and on October 9, 1997, transferred that amount to the general operating fund account. However, at the time of the transfer, the Nation's financial management information system showed that program expenditures of only $1.45 million had been incurred and were owed, which resulted in the transfer of Federal program funds of $850,000 in excess of supported expenditures.

- On November 19, 1997, the Nation received program funds of $1,064,837 from the Bureau of Indian Affairs. On November 21, 1997, the Nation's former Controller directed that this amount be transferred to the Nation's motor fuel tax account. However, at the time of the transfer, the Nation's financial management information system showed that program expenditures of only $256,351 had been incurred and were owed, which resulted in the transfer of Federal program funds of $808,485 in excess of supported expenditures.

During our review of the Nation's reconciliations of the Federal program's expenditures and amounts owed, we found that in a May 12, 1997, reconciliation, Indian Health Services program funds of $841,000 had been transferred in excess of expenditures incurred and owed and that in an August 8, 1997, reconciliation, Indian Health Services funds of $9 million and Bureau of Indian Affairs funds of $937,000 had been transferred in excess of expenditures incurred and owed.

Federal Status and Cash Report

The Code of Federal Regulations (43 CFR 12.60(b)(1)) requires recipients of Federal assistance to maintain accounting systems sufficient to permit the preparation of accurate, current, and complete financial reports. According to a Nation official, the Nation annually submits to the Bureau of Indian Affairs a financial status report for its Tribal transportation planning contract. Transportation funds are provided to the Nation as part of the self-governance compact. The report provides data on receipts and expenditures and on cash, receivable, and payable balances. However, we found that the Nation did not correctly prepare and adequately review the report it submitted to the Bureau on March 6, 1998. Specifically, the Nation reported (1) a deficit cash balance of $1.1 million that was not accurate and (2) an accounts receivable of $987,289 as an accounts payable. According to a Nation official, the errors occurred because accounting transactions were inaccurately recorded in the financial management information system, financial information that was 3 1/2 months old (November 1997) was reported for March 1998, and personnel who prepared the report were not familiar with the reporting process.

Financial Management Actions

We recognize that the Nation is taking actions to resolve its previously identified accounting deficiencies and are aware that it has contracted with an independent public accounting firm to reconstruct the Nation's financial accounting records for fiscal year 1997 to allow the preparation of required auditable financial statements. However, we found that many of the conditions identified in audits conducted by the two independent accounting firms (see Prior Audit Coverage section) still existed. Specifically, the Nation had not fully implemented a financial management information system that (1) provides accurate, current, and complete reporting and disclosure of financial activities; (2) maintains records which adequately identify the source and application of funds provided for activities; (3) maintains effective control and accountability for all Federal program funds; and (4) compares actual expenditures with budgeted amounts for each program. (The August 13 memorandum to our office stated that the Financial Management Improvement Plan is "approximately 80% complete.") In addition, we determined that certain Nation officials did not comply with established budget, procurement, and payment procedures.

The independent public accounting firm has been contracted to perform various procedures outlined in a Financial Management Improvement Plan (which includes measurable performance dates and responsible officials) dated January 15, 1998, to allow the implementation of a single accounting system that will produce timely and accurate financial accounting and management reports. We believe that until the plan is fully implemented and a new accounting system which meets all applicable requirements is operating as designed, the Office of Self-Governance should take appropriate actions to ensure that Department of the Interior funds are used only for authorized purposes. In addition, we believe that the Nation's Executive officials need to foster an environment that stresses the importance of following internal controls to help ensure that controls are operating as designed and should hold individuals accountable who do not comply with established controls.

Recommendations

We recommend that the Assistant Secretary for Indian Affairs ensure that the Director of the Office of Self-Governance:

1. Requires the Cherokee Nation to provide assurance that policies and procedures have been implemented to ensure that legal services expenditures are not incurred or paid without having an approved contract, are not paid without adequate supporting documentation, are paid within the terms of established contracts, and do not exceed Tribal Council-approved appropriations and that Federal program funds are used only for supported expenditures incurred in accordance with approved funding agreements or as otherwise authorized by legislation.

2. Requires the Nation to submit audited financial statements for fiscal year 1997 which accurately present the source and use of all Federal funds received by the Nation during that year.

3. Requires the Nation to submit interim financial reports which account for the use (including amounts held in qualifying deposits or investments) of all Self-Governance funds received from the Department of the Interior in fiscal year 1998.

4. Requires the Nation to repay to the Department of the Interior any Departmental funds spent for purposes other than those authorized by the terms of the applicable funding agreements.

5. Requires the Nation to present a report from its auditing firm stating that a new accounting system, meeting all applicable requirements for control of Federal funds, has been installed, is functioning properly, and produces accurate and timely financial status reports and that the Nation has implemented an adequate system of internal controls.

6. Considers deferring action on the fiscal year 1999 annual funding agreement with the Nation or taking other actions to ensure that Departmental funds are used only for authorized purposes until the Nation complies with Recommendations 1 through 5.

Assistant Secretary for Indian Affairs Response and Office of Inspector General Reply

The September 30, 1998, response (Appendix 2) to the draft report from the Assistant Secretary for Indian Affairs described actions taken by the Office of Self-Governance and by the Nation to address the report's six recommendations. Based on the response, we consider Recommendation 1 resolved and implemented and Recommendations 2 through 6 resolved but not implemented. Accordingly, the unimplemented recommendations will be referred to the Assistant Secretary for Policy Management and Budget for tracking of implementation (see Appendix 4).

Cherokee Nation Response and Office of Inspector General Reply

On October 2, 1998, the Principal Chief of the Cherokee Nation submitted a response (Appendix 3) to the draft audit report that described actions taken by the Nation to address the report's findings and recommendations, commented on the conditions described in the report, and included separate remarks from three members of the Tribal Council of the Cherokee Nation.

Because five of the report's six recommendations will be resolved through terms included in the Nation's self-governance funding agreement for fiscal year 1999, we included only the response from the Principal Chief of the Cherokee Nation in this report because the Principal Chief is "authorized to apply for any grant to facilitate a self-governance funding agreement" by the Tribal Council (Resolution No. 21-90). As such, we did not include the individual comments from three Tribal Council members that were provided with the Principal Chief's response or the separate comments from two other Tribal Council members that were sent directly to our office. The Nation's comments and our replies are presented in the paragraphs that follow.

Legal Services Payments

Nation Response. The Nation stated that it "developed and implemented an Interim Policy and Procedure for Attorney Contracts on June 5, 1998." According to the Nation, the Policy and Procedures provide for documenting requests for attorney services, establishing budgets, obtaining required approvals, justifying attorney selection, and managing contract performance and payments and state:

> Minimum items to be addressed in the contract - Parties' names/addresses; billable rates; length of duration for the contract; total amount of contract not to exceed; Contact Person for the Nation; scope of work and duties to be performed; reports to be submitted to the Nation; detailed invoices required for payment; Assurances of Good Professional Standing; Professional Liability Insurance; amendment clause; termination or cancellation provision; any other standard clauses the Law & Justice Department may recommend; and signature of both parties.

Office of Inspector General Reply. We believe that implementation of the Policy and Procedures by the Nation should help ensure that attorney contracts are adequately justified, properly approved and awarded, and adequately administered.

Nation Response. Regarding the 14 legal services invoices of $622,000 which our report (page 6) states were paid without a contract, the Nation stated that it "did have a letter of engagement . . . under which the firm was paid for their services until a contract was executed." Regarding our finding (page 7) that the Nation paid $14,775 in excess of agreed-to hourly rates for these same 14 invoices, the Nation stated:

> A letter from the subject legal firm . . . clarifies that the rate appearing in the contract should have been $325 per hour, not $300 per hour, and that it was billed at $325 per hour by the firm. The letter goes further to state that the $300 per hour rate was included in the contract by mistake. The firm agreed in this letter that the rate of $300 would be honored by their firm, since it was a mistake, and that future billing would be adjusted as a result. The letter also describes significant reductions in fees made by the firm over the term of the contract.

Office of Inspector General Reply. During our audit, we reviewed a copy of the September 5, 1996, letter of engagement. The letter presents the billing rates for three representatives of the firm and states that the representatives also will bill for their expenses. However, the letter does not identify the services to be performed or the deliverables, the period of performance, or the total amount to be paid by the Nation. In addition, the letter was not signed by a representative of the Nation. Lacking this information, the letter of engagement does not meet the Nation's requirements (Chapter II, Subsection H, of the Employment Policy Manual) for contracting for attorney services. The Nation established a formal contract for these services on September 15, 1997, after the independent accounting firm conducting the agreed-upon procedures review (see Prior Audit Coverage) requested a copy of the contract. The contract was made retroactive to September 1996.

Regarding the payments in excess of billing rates, we compared the billing rate in the invoices with the billing rate in the contract and noted that the rate in the invoices was $25 per hour higher than the rate in the contract. Based on the hours billed, we identified payments of $14,775 in excess of contract billing rates. According to a November 26, 1997, letter from the legal firm cited in the Nation's response, bills "will be revised" on the basis of the $300 rate.

We used these and other examples in the report to demonstrate that the Nation did not comply with its requirements for the award and payment of attorney contracts. By not complying with its requirements, the Nation did not have assurance that its purchases were economical and efficient and adequately justified and approved. However, based on the Nation's response, we have modified our report to include further information about the contracting for and payment of these 14 invoices.

Nation Response. The Nation stated that for the questioned costs of $88,000, it "**agrees to set aside the funding from the General Fund , adjust the expenditure to the General Fund and refund the amount to the Cherokee DOI [Department of the Interior] Self-Governance fund.**" The Nation also stated that a representative from its Law & Justice Department would contact the Office of Inspector General to "conduct the requisite research to enable the Nation to ascertain whether there is concurrence with that determination."

Office of Inspector General Reply. On September 25, 1998, we provided copies of Cherokee Nation Request for Checks and related documents pertaining to the $88,000 to an attorney with the Nation's Law & Justice Department.

Transfers of Federal Program Funds

Nation Response. Regarding the transfers of Federal Program Funds, the Nation stated that it "concurs with the transfers and the amounts listed for each of the transactions on page 9." The Nation further stated:

> However, the OIG [Office of Inspector General] Draft Survey Report is not reflective of supplemental information provided by the Nation on July 24, 1998 addressing each of these transactions. While we acknowledge that in some cases the amount transferred did not exactly match the amount of expenditures attributable to the DOI [Department of the Interior] self-governance compact, *in all cases the amounts were reconciled and subsequent transfers to the General Fund were adjusted as necessary so that the total reimbursement for the year equal the amount of DOI-eligible expenditures.*

The Nation also stated that it was "not an unusual situation" for each of the transfers to occur when the Nation's general fund was in a deficit cash situation. In that regard, the Nation said that its Director of Accounting explained that "program draw downs, because they are a reimbursement to the general fund, were constantly deposited into an account that is void of cash." The Nation also stated that it "no longer incurs a deficit in the general fund."

Office of Inspector General Reply. As noted by the Nation, our report accurately represents the transfers of Federal program funds to the general fund at the time of our review in March 1998. In addition, because the Nation stated in its supplemental information that "poor integrity of financial information" will exist within its financial system until its financial management improvement project is completed, which includes the production of financial statements for fiscal year 1997 and completion of the 1997 single audit, we did not make any adjustments to our report based on the supplemental information. However, we did review the supplemental information. While we did not include all of this supplemental information in this report, we have excerpted pertinent information, which we have responded to as follows:

- Regarding a transfer that resulted in a $539,821 overpayment to the general fund (not used as an example in the report), the Nation stated, "There were other programs in the compact that were overpaid, but they were disregarded, because the report used to calculate the transfer did not include program fringe expenditures of $82,596.75." The Nation also stated that during fiscal year 1997, fringe benefits were not recorded as a receivable to the general fund. Therefore, according to the response, the accounting records did not reflect at the time of the transfer that an additional $82,596 had been incurred under the compact.

However, we noted that even if the $82,596 had been properly recorded, the general fund would have been overpaid $457,225 ($539,821 minus $82,596).

- The Nation stated, "To date, some $1.8 million in fringe expense has not been reimbursed to the General fund from DOI [Department of the Interior] sponsored programs." Based on our review of the documentation, we concluded that only $600,000 is applicable to the Department of the Interior and that the remaining $1.2 million is applicable to programs funded by the Department of Health and Human Services.

- Regarding other overpayments to the general fund, the Nation stated:

> Our research shows no apparent reason for the amount of the transfers listed above [six transfers totaling approximately $3.2 million]. We prepared a graphic representation of all transfers for the period. This graph shows that subsequent transfers, after each of those listed, were adjusted for the overpayments.

As identified in the response, the unsupported transfers indicate that Federal funds were used to supplement general fund operations.

- Regarding a transfer to the general fund of $2,309,240 which we reported resulted in an overpayment to the general fund of $850,000, the Nation stated, "The entitlement was the payment for an invoice to BIA [Bureau of Indian Affairs] for the **Sequoyah High School Construction** activity." However, we noted that the Nation did not substantiate that project costs of more that $1.45 million had been incurred at the time the $2.3 million was transferred, which resulted in the reported $850,000 overpayment.

- Regarding a transfer to the general fund of $1,064,837 which we reported resulted in an overpayment to the general fund of $809,485, the Nation stated:

> The transfer was payment for an invoice to **BIA** [Bureau of Indian Affairs] for the **Roads** activity. Again the transfer was the result of a decision made with no apparent knowledge of the interfund payables/receivables balance. In was determined, incorrectly, that the transaction was made without affecting those balances. Further review shows that the transaction was done in accordance with established procedure. We provide in Attachment E that the balance was properly affected but on the wrong cost center. A copy of the correcting entry . . . corrects this discrepancy.

Notwithstanding the adjustment to record the proper cost center, we believe that the statement "the transaction was done in accordance with established procedures" but resulted in a charge to the wrong cost center indicates a weakness in the Nation's accounting system during fiscal year 1997.

Regarding the general fund deficit, the Nation stated:

> Throughout the history of the Cherokee Nation, the General Operating Fund has sustained enterprise fund losses, program cost overruns, unreimbursed costs and unbudgeted expenditures with inadequate cash resources. The result is that no matter what the policy, program drawdowns are constantly deposited into an account that is void of cash.

We do not dispute the statements on the condition of the general fund. However, we believe that the deficits in the general fund resulted in the transfer and use of Federal funds for general fund/non-Federal activities. Regarding the proper use of Federal funds advanced to tribal organizations under the provisions of the Indian Self-Determination and Education Assistance Act, the Associate Solicitors for the Division of General Law and for the Division of Indian Law, U.S. Department of the Interior, on February 4, 1998, stated:

> The "ISDEAA" [Indian Self-Determination and Education Assistance Act] authorizes the expenditure of Federal funds transferred under ISDEAA contracts and annual funding agreements only for the Federal programs covered by those contracts and annual funding agreements, and not for other tribal programs that are not authorized by the ISDEAA. . . . Accordingly, such Federal funds should not be transferred to tribal accounts, lent to such tribal accounts, or expended for programs not authorized by the above mentioned laws.

Financial Management System

Nation Response. The Nation stated that it is "currently engaged in or has recently completed several initiatives to strengthen its financial management system." According to the response, these initiatives consist of implementing the following: a financial improvement plan, a comprehensive staffing plan, its internal accounting systems and cash flow procedures, and a business planning process.

Office of Inspector General Reply. Our report (page 10) recognizes the financial improvement plan and we believe that completion of all planned activities will improve the Nation's financial management.

Recommendations

Nation Response. The Nation stated that it had addressed Recommendation 1 by issuing an interim policy and procedure on the procurement of attorney contracts and Recommendations 2 through 6 through "the Self-Governance Annual Funding Agreement (AFA) negotiated between the Cherokee Nation and the Department of the Interior for Fiscal Year 1999.

Office of Inspector General Reply. The status of the recommendations is in Appendix 4.

Since the report's recommendations are considered resolved, no further response to the Office of Inspector General is required (see Appendix 4).

The legislation, as amended, creating the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

We appreciate the assistance of Office of Self-Governance and Cherokee Nation personnel in the conduct of our audit.

APPENDIX 1

CLASSIFICATION OF MONETARY AMOUNTS

Finding	Questioned Costs
Program Funds Used for Litigation	$88,000

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

SEP 30 1998

Memorandum

To: Assistant Inspector General for Audits

From: Assistant Secretary - Indian Affairs

Subject: Draft Survey Report, "Legal Services Costs Incurred by the Cherokee Nation of Oklahoma," (Assignment No. W-SP-BIA-003-98-R)

The draft report, issued on September 9, 1998, identified a number of problems with respect to financial management and internal control processes of the Cherokee Nation of Oklahoma Nation). We anticipate that the Principal Chief of the Nation and members of the Tribal Council will provide comments on the report as to actions which have been taken and those planned for future implementation which are designed to correct the reported deficiencies.

The report contains six recommendations directed to Indian Affairs:

1. Require the Cherokee Nation to provide assurance that policies and procedures have been implemented to ensure that legal services expenditures are not incurred or paid without having an approved contract, are not paid without adequate supporting documentation, are paid within the terms of established contracts, and do not exceed Tribal Council-approved appropriations and that Federal program funds are used only for supported expenditures incurred in accordance with approved funding agreements or as otherwise authorized by legislation.

Response: Attachment 1 is a copy of the Nation's updated policies and procedures for approval and payment of legal services expenditures. We consider this finding to be resolved and implemented.

2. Require the Nation to submit audited financial statements or fiscal year 1997 which accurately present the source and use of all Federal funds received by the Nation during the year.

3. Require the Nation to submit interim financial reports which account for the use (including amounts held in qualifying deposits or investments) of all Self-governance funds received from the Department of the Interior in fiscal year 1998.

4. Require the Nation to repay to the Department of the Interior any Department funds spent for purposes other than those authorized by the terms of the applicable funding agreements.

5. Require the Nation to present a report from its auditing firm stating that a new accounting system, meeting all applicable requirements for control of Federal funds, has been installed, is functioning properly, and produces accurate and timely financial status reports, and that the Nation has implemented an adequate system of internal controls.

6. Consider deferring action on the fiscal year 1999 funding agreement with the Nation or taking other actions to ensure that Departmental funds are used only for authorized purposes until the Nation complies with Recommendations 1-5.

Response: Attachment 2 is a copy of the language we propose adding to the Nation's Annual Funding Agreement for fiscal year 1999. We believe that it meets the intent of the remaining recommendations. There is an issue with respect to that portion of Recommendation 5 having to do with implementation of"an adequate system of internal controls." It is our view that such a finding from an audit firm could only be made following an audit.

From the Single Audit submitted by the Nation for fiscal year 1996 and from the results of the OIG survey report, it appears that a number of internal control deficiencies existed in fiscal years 1996 - 1998. Therefore, an audit report on the adequacy of internal control will be made in conjunction with the Single Audit covering fiscal year 1999.

We believe that the stipulations proposed to be included in the AFA resolve the last five recommendations. We will provide a copy of the AFA once it has been signed, which we believe will be sufficient to consider these recommendations as being implemented.

Attachments

CC: Cherokee Nation of Oklahoma

CHEROKEE NATION
Interim Policy and Procedure

POLICY CHAPTER:	Procurement and Contract Management	CHAPTER #:	7
SUBJECT:	Attorney Contracts	SECTION-SUBSECTION:	B-1
EFFECTIVE DATE:	June 5, 1998	SUPERSEDES MATERIAL DATED:	
APPROVED BY:		DATE:	June 5, 1998

Purpose

To facilitate access to legal counsel for consultation on governmental affairs, program issues, or for tribal litigation.

Policy

Legal Review, Opinions: It is the policy of the Cherokee Nation (Nation) that access to legal counsel must be approved by the Executive Director who administers the affected Program or Department requiring legal guidance. All services for outside legal counsel require a duly executed contract covering the period for which the services are to be rendered. Fees for such services will be the responsibility of the requesting Program or Department.

Litigation: Any outside attorney services involving litigation will require a separate contract and notfication of the Tribal Council. Again, the Executive Director of the Program/Department involved in litigation must initiate the proposed contract. The requesting Program or Department will be responsible for keeping the Administration and Tribal Council apprised on a regular basis

of attorney projects involving litigation.

Mandatory documentation for attorney contracts will include name of all parties to the contract, length of duration for the contract, scope of work, billable rates, compensation which should not exceed a sum certain amount, duties to be performed, reports to be submitted to the Nation, contact person for the Nation, Assurances of Good Professional Standing, Professional liability Insurance, and termination or cancellation provision for the contract. No part of this policy applies to services provided by the following attorneys:

- attorneys providing legal services as salaried employees of the Law and Justice Department, Indian Child Welfare and other departments of the Nation;
- the General Counsel of the Nation;
- the justices, judges or clerks of the Nation district court or Judicial Appeals Tribunal; and court-appointed attorneys whose salaries are paid from the court's budget;
- attorneys hired by the members of the Tribal Council or the Council as a whole, whose contracts shall be governed by Resolution No. 25-97 adopted on May 12, 1997; and
- at this time, attorneys hired by the Judicial Appeals Tribunal.

Procedure

A. Request for Legal Services (RFLS)

1. RFLS will be utilized for all requests for outside attorney services.

2. The RFLS will contain, at a minimum:

    a. Requesting Department;
    b. Contact Person for the contract;
    c. Funding source;
    d. Fees per hour;

e. Total estimated cost for each budget year as well as for the life of the contract/project;
f. Cost centers and amounts budgeted to fund the contract;
g. Contract begin/end dates;
h. Type of project (consulting or litigation);
I. Justification of attorney selection; and
j. Brief description of scope of work to be performed.

3. Indian Preference, in accordance with the Tribal Employment Rights Ordinance (TERO) will be applicable to all requests for legal services.

4. No other Procurement Procedure will be applicable to attorney contracts unless specifically incorporated into this policy and procedure.

B. Budget Process

1. Attorney fees must be budgeted in conjunction with the Administration's annual budget request, or through budgets developed for specific grants.

2. Cost Centers and amounts budgeted for Attorney fees associated with a Contract must be identified on the RFLS.

3. Attorney Contracts for which amounts have not been budgeted must be budgeted either through modification to a grant budget, request for modification to other Tribal budgets, or by additional Appropriation Acts of the Tribal Council prior to contract execution.

4. Unless a special appropriation is enacted by the U.S. Congress, no federal funds will be used for litigation against the U.S. Government.

C. Approval Process

1. A RFLS is prepared by the requesting Program or Department and is forwarded to the Law & Justice Department.

2. Law & Justice delineates on the RFLS whether any of the services can be performed in-house, considering the expertise needed to perform the services as well as current workload, and returns the request to the requesting Department. Law & Justice will consult with the requesting Department to make a determination whether the costs are appropriate for the services to be performed under the contract.

3. If the Law & Justice Department responds that some or all of the legal services requested can be performed in-house, the requesting Department must either:

   a. reduce the scope of work for the outside attorney request, according to the work that can be performed in-house; or

   b. justify to Law & Justice Department why an outside firm must conduct all of the work to be anticipated.

4. The requesting Department forwards the RFLS to the respective Executive Director for signature approving the request and certifying that funds are available.

5. If the requested services involve litigation, the Tribal Council must be informed of any work to be performed involving litigation.

D. Document Development

1. A RFLS for an attorney contract or amendment must be approved by the Executive Director, or designee before a contract may be executed.

2. Upon approval of the RFLS by the Executive Director or designee, the document is drafted, either by the subject Attorney, the requesting Department or by the Law & Justice Department. For litigation services, a separate contract must be executed for each litigation project.

3. If the document is drafted by any party other than the Law & Justice Department, then the contract or amendment must be forwarded to the Law & Justice Department for review.

4. Contract Contents:

   a. Minimum items to be addressed in the contract - Parties' names/addresses; billable rates; length of duration for the contract; total amount of contract not to exceed; Contact Person for the Nation; scope of work and duties to be performed; reports to be submitted to the Nation; detailed invoices required for payment; Assurances of Good Professional Standing; Professional Liability Insurance; amendment clause; termination or cancellation provision; any other standard clauses the Law & Justice Department may recommend; and signature of both parties.

   b. No waiver of sovereign immunity of the Nation will be approved without a resolution of the Tribal Council.

5. Amendments will contain at a minimum: Name of the Attorney under contract; beginning date of the contract; general purpose of the contract; purpose of the amendment; specific terms to be amended; and signature of both parties.

6. A minimum of two originals of the contract or amendment, a cover memorandum from the Executive Director of the requesting Department, and a copy of the approved RFLS, must be forwarded to the Principal Chief for signature. The Principal Chief or designee must sign all such contracts in order for them to be valid.

7. The requesting Department is responsible for obtaining necessary signatures.

8. Upon signature by both parties, one original of the contract or amendment will be forwarded to the subject Attorney; the second original document must be forwarded to Law & Justice.

9. Any copies of the contract or subsequent amendments that are distributed must be requested from Law & Justice, distributed under a Transmittal Form identifying the copy as an official copy. Distribution and access to records will be conducted in accordance with Cherokee Nation Executive Branch Administrative Policies, Chapter 8, Records Maintenance.

E. Payment Process

1. The Contact Person listed on the approved RFLS is responsible for initiating all payment action, including identifying the accounts and amounts to be charged each account, assembling all check requests associated with the invoice, and insuring that invoices are sufficiently detailed.

2. Once check requests are prepared, the requesting Department is responsible for completing an internal review and approval of items to be paid for appropriateness and accuracy, as well as funds availability and proper source of funds (for example, that federal funds are not used for certain types of litigation). A complete package per invoice is submitted by the requesting Department to Law & Justice.

3. Law & Justice reviews the payment documents to insure compliance with the attorney contract; and to insure invoices are sufficiently detailed for payment.

4. Law & Justice will keep a copy of the payment documents for the contract file and forward them to Accounting for processing. (Requests for payment that are submitted directly to Accounting without a review from Law & Justice will not be processed.)

5. Law & Justice will not forward invoices requested for payment to Accounting if:

   a. the contract file is incomplete (i.e., no original contract, no RFLS, etc.); or

   b. a required report is more than one (1) month overdue.

   In this case, Law & Justice will return the payment request back to the Contact Person with a memorandum describing the reasons that payment was not processed.

F. Contract Administration

1. Law & Justice will maintain a Contract File for each attorney contract, which shall include at a minimum:

   a. the original, executed contract;

   b. any original, executed amendments to the contract, if applicable;

   c. a copy of each invoice and associated check requests;

   d. a copy of the approved RFLS associated with the contract; and

   e. copies of all reports associated with the contract.

2. The requesting Department will be responsible for budget management associated with attorney contracts, and for maintaining information on each attorney contract regarding total fees paid by the Nation and the sources of funds utilized.

3. Law & Justice (Contracts Department) will be responsible for monitoring attorney contracts, specifically in regard to the following:

   a. to insure the total contract amount is not exceeded;

   b. to insure contracts are renewed timely as needed;

   c. to monitor overall compliance with the contract;

   d. to insure compliance with Attorney Contract policy and procedure; and

   e. to insure compliance with applicable Tribal and Federal law.

4. Any contract amendments requested must be processed according to the Approval and Document Development procedures outlined above.

G. Reports Required

1. The Contact Person for each attorney contract is responsible for submitting a monthly narrative report.

2. The first page of each monthly report will identify the name of the attorney; the period the report covers; the date submitted; and the person submitting the report.

3. The monthly report will consist of a description of attorney activities and accomplishments on behalf of the Nation in the reporting period. The monthly report will also describe expenditures for the subject attorney contract during the reporting period.

4. The monthly report shall be submitted to the Principal Chief, and to the Tribal Council with copies to Tribal General Counsel, Law & Justice and Grants Administration.

5. Failure to submit required reports will result in delayed payment requests.

SECTION EIGHT
PAYMENT

For FY 1999, until the Nation complies with the conditions outlined below, the Office of Self-Governance (OSG) will advance monthly payments to the Nation on or before the first business day of each month in the amount of 1/12 of the negotiated amount available, or other amount mutually agreed to, after adjustments for Congressional action have been applied. In the event the Nation faces specific program requirements which would justify a payment in excess of the amount otherwise due, the Nation shall provide a justification by the 15th of the month prior to the month in question.

The Nation will provide an annual budget to the OSG for each program covered by the FY 1999 AFA.

The Nation will provide a monthly report of expenditures for each program covered by the FY 1999 AFA no later than the 27th of each succeeding month. If reports are not submitted on a timely basis or if, in the opinion of the OSG there are questioned items or other irregularities, then the OSG will furnish the Nation with three business days to address such concerns. If the Nation fails to resolve such concerns, then the OSG will reduce the next monthly payment by the amount in question, with such amount to be reserved until all issues are resolved.

This payment process will continue until the Nation fulfills the following:

(A) submits audited financial statements for FY 1997 which accurately present the source and use of all Federal funds received by the Nation in FY 1997 and carried over as deferred revenue from FY 1996;

(B) submits unaudited financial statements which account for the source and use of all FY 1998 Self-Governance funds (including amounts held in qualifying deposits or investments);

(C) repays to the Federal government or otherwise resolves to the satisfaction of the OSG any funds spent for purposes other than those authorized by the terms of the applicable AFA which are identified by the OIG report entitled "Legal Services Costs Incurred by the Cherokee Nation of Oklahoma" and the Nation's Single Audit report for FY 1997.

(D) submits an independent assessment report from an impartial accounting firm stating that the Nation has implemented a functioning accounting system for the purposes of: (1) meeting applicable requirements for accounting and monitoring Federal funds; and (2) producing accurate and timely financial reports.

Upon meeting these conditions, the balance of this AFA shall be awarded to the Nation consistent with the negotiated amount following adjustments for Congressional action, less all funds that already have been awarded to the Nation. The Nation shall not be held accountable for interest earned on such funds, pending their disbursement by the Nation.

Joe Byrd
KΘ ᏂᏍᏆ
Principal Chief

James "Garland" Eagle
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Deputy Principal Chief

CHEROKEE NATION

P.O. Box 948
Tahlequah, OK 74465-0948
918-456-0671

October 2, 1998

VIA FACSIMILE AND OVERNIGHT MAIL

Linda Richardson, Director
Office of Audit and Evaluation
MS 2559-MIB
1849 "C" Street, NW
Washington, D.C. 20240

Dear Ms. Richardson:

Enclosed is the Nation's response and comments to the Draft Survey Report developed by the Department of the Interior (DOI), Office of Inspector General, dated September 9, 1998. These comments are respectfully submitted in accordance with your letter of September 18, 1998.

We have carefully reviewed the contents of the draft report, and have thoughtfully prepared responses to address the issues brought forward in the report. Our response contains comments from the operations perspective of the tribal administration, as well as a policy viewpoint offered by some members of the Tribal Council.

We trust these responses and comments will be considered in the development of the final Survey Report by the DOI, and in any subsequent decision making processes. Please do not hesitate to contact Charles Head, Executive Director of Finance & Administration, extension 2409, should you have questions or require additional information concerning this document.

Sincerely,

Joe Byrd
Principal Chief

Enclosure

CHEROKEE NATION
WRITTEN RESPONSE AND COMMENTS
DRAFT SURVEY REPORT
DEVELOPED BY THE U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF INSPECTOR GENERAL

Report Title: Legal Services Costs Incurred by the Cherokee Nation of Oklahoma
Report Number: W-SP-BIA-003-98-R

Introduction: Following are the comments and responses from the Cherokee Nation to the Department of the Interior Office of Inspector General (DOI-OIG) Draft Survey Report, dated September 9, 1998 and subsequent letter from the DOI Office of Audit and Evaluation, dated September 18, 1998. Part 1 describes the responses from an operational viewpoint by the tribal administration, and Part 2 contains the responses from a policy viewpoint that have been provided by various members of the Tribal Council.

Part 1

I. Legal Services Payments

The Department of the Interior Office of Inspector General (DOI-OIG) conducted an exit conference with representatives of the Cherokee Nation at the conclusion of the Survey. One of the items noted in this conference was the absence of adequate policies and procedures dealing with the acquisition and management of contracts for attorney services. The Nation, in an effort to be proactive, rather than waiting until the draft report was printed, developed and implemented an Interim Policy and Procedure for Attorney Contracts on June 5, 1998. A copy of this Administrative Policy and Procedure is included in "Attachment A" to this report. This policy requires a duly executed contract to acquire any services for outside legal counsel, which is valid for the period for which the services are to be rendered. It also requires that all attorney services involving litigation are to be included under separate contract and notification to the Tribal Council. This will greatly improve the ability of the Nation to track those activities and services provided by outside attorneys for the purposes of litigation. Other fundamental elements of this policy and procedure are as follows:

- Minimum contract clauses and documentation for attorney contracts;
- A Request for Legal Services (RFLS) for initial approval for acquisition of attorney services, which includes estimated cost for each budget year, cost for the entire project, and demonstration to the approving official that funds are budgeted to finance the contract;
- A Budget Process for attorney contracts, clarifying that funds must be budgeted specifically for attorney fees prior to contract execution, and clarifying the use of federal funds for litigation;
- Delineates the approval process for the RFLS and the final contract documents;
- Provides for in-house legal assistance where feasible;

[NOTE: PART 2 OF THE INFORMATION CITED IN PARAGRAPH 1 ABOVE AND ALL ATTACHMENTS CITED IN THIS RESPONSE HAVE NOT BEEN INCLUDED BY THE OFFICE OF INSPECTOR GENERAL.]

- Describes what parties are responsible for document development and review (including legal review), as well as transmittal of documents;
- Contains a detailed payment process to insure that sufficient detail is included with check requests, that the correct accounts are billed, and that payments are not made without a current attorney contract and compliance with the contract is maintained;
- Sets out a monthly reporting process whereby attorney activities are reported by the contact person on staff to the Principal Chief, Tribal Council, Tribal General Counsel, Law & Justice and Grants Administration;
- Describes responsibilities for specific areas of contract administration, which will be the Contracts Office (currently located in Law & Justice Department). The Law & Justice Department is now responsible for maintaining the Contract File, copies of all check requests, copies of reports, and for compliance monitoring.

This Interim Policy and Procedure was implemented effective June 5, 1998, and was transmitted to all staff possessing a copy of the Cherokee Nation Administrative Policies. It is anticipated that once the policy has been implemented for a sufficient period of time and tested, recommended improvements to the policy will be made before it becomes a permanent policy.

On page 6, the Draft Survey Report describes invoices paid for legal services for which there was no contract. For that period of time, the Nation did have a letter of engagement ("Attachment B") under which the firm was paid for their services until a contract was executed. In the first paragraph of page 7, the Draft Report describes 14 invoices that were paid in excess of agreed billing rates, which involved the same law firm. A letter from the subject legal firm, located in "Attachment B" clarifies that the rate appearing in the contract should have been $325 per hour, not $300 per hour, and that it was billed at $325 per hour by the firm. The letter goes further to state that the $300 per hour rate was included in the contract by mistake. The firm agreed in this letter that the rate of $300 would be honored by their firm, since it was a mistake, and that future billing would be adjusted as a result. The letter also describes significant reductions in fees made by the firm over the term of the contract.

On page 8 of the Draft Survey, the DOI-OIG stated that the Cherokee Nation incorrectly charged the DOI for legal services of $88,000 related to the Nation's Arkansas Riverbed litigation against the Federal Government. This amount was also listed as the only questioned cost on page 13 of the report. **The Nation agrees to set aside the funding from the General Fund, adjust the expenditure to the General Fund and refund that amount to the Cherokee DOI Self-Governance fund.**

Note: The Tribal administration has forwarded the issue to our Law & Justice Department, who will contact the DOI-OIG to obtain the justification for their determination that the $88,000 in question was expended to pay for litigation services by the attorney firm against the Federal Government, and to conduct the requisite research to enable the Nation to ascertain whether there is concurrence with that determination.

II. Transfers of Federal Program Funds

The Nation concurs with the transfers and the amounts listed for each of the transactions on page 9. However, the OIG Draft Survey Report is not reflective of supplemental information provided by the Nation on July 24, 1998 addressing each of these transactions. While we acknowledge that in some cases the amount transferred did not exactly match the amount of expenditures attributable to the DOI self-governance compact, *in all cases the amounts were reconciled and subsequent transfers to the General Fund were adjusted as necessary so that the total reimbursement for the year equal the amount of DOI-eligible expenditures.* A copy of that supplemental information is provided for reference in "Attachment C."

Transfers noted in the Draft Survey Report occurring on March 17, and October 9, 1997 apply to this category. While funds were initially transferred to the general fund in excess of needs, expenditures attributable to the program were subsequently applied. The transfer referenced on page 9 on November 19, 1998 had originally been posted to the wrong cost center. This transaction has been corrected, and the documentation to substantiate the correction is included in "Attachment C."

It has been noted in the DOI Draft Survey Report that each of the transfers occurred at a time when the Nation's general fund was in a deficit cash situation. This was not an unusual situation for the Nation, as "Attachment C" describes. In his cover letter, the Nation's Director of Accounting explained that program draw downs, because they are a reimbursement to the general fund, were constantly deposited into an account that is void of cash. However, for reasons described in Attachment C, the Nation no longer incurs a deficit in the general fund.

III. Financial Management System

The Nation is currently engaged in or has recently completed several initiatives to strengthen its financial management system. This has involved several projects and the participation of several departments within the tribal administration. The first project, which is mentioned in the OIG Draft Survey Report, is the **Financial Improvement Plan**, which is a project to improve the computerized accounting system by bringing the American FundWare system to a functional status. A second, concurrent initiative was a **Comprehensive Staffing Plan**, which focused on assembling and acquiring qualified key staff to strengthen the Nation's financial management capability. Third, the Nation has improved its **Internal Accounting Systems and Cash Flow Procedures**, which is crucial to address the issues outlined in the DOI Draft Survey Report. Finally, the Nation is in the beginning implementation steps of a **Business Planning Process**, to develop a one-year operating plan for the Nation accompanied by the FY 1999 budget request, which will allow the Nation the ability to plan for the future.

Financial Improvement Plan. In 1994, the Nation found it had outgrown the previous accounting system (Texas Instruments System). The system was incapable of producing timely interim or year-end financial information, thereby significantly impacting management's ability to

make financial decisions or prepare reliable financial reports. As summarized in the draft audit report, in 1994 the Nation acquired American FundWare (AFW) to replace the TI system. The conversion in FY-97 from TI to AFW was very difficult and, in many cases, data did not transfer well from TI to AFW. These problems with converting to AFW continued to prevent the Nation from producing financial reports. Further, a portion of FY-97 was completed utilizing primarily the TI system, and for the remainder of the fiscal year the AFW system was used. The TI balances had not transferred into the AFW system; therefore, FY-97 could not be closed timely.

The Nation, as described accurately in the draft report, obtained the services of Deloitte & Touche to complete a financial improvement plan for the Nation and correct the problems encountered by the conversion to AFW. This was envisioned to be a joint project between the Nation Accounting and Information Systems staff, Deloitte & Touche, and consultants from American FundWare. The project was a major undertaking, and the commitment of the Cherokee Nation Executive and Legislative Branches of government was crucial. Evidence of the commitment of the Nation to successfully complete the endeavor was the ultimate development of the Financial Improvement Plan, its implementation, and the Tribal Council appropriation of $2,000,000 for the project.

Note: The Cherokee Nation Executive and Legislative Branches of government recognized the flaws and weaknesses in the accounting system, that were confirmed under previous independent annual audits, *and acted on a plan to correct those weaknesses in January, 1998, well before the arrival of the DOI-OIG to review Cherokee Nation legal costs.* Again, this is evidence of the commitment and sincere effort that is underway and nearly complete to regain a fully operational financial accounting system.

Immediate concerns in January 1998 were closing payroll records; generating W-2 and 1099 forms for calendar year 1997; closing FY-97 accounting records; and, fully implementing AFW and correcting any problems that have occurred during implementation. A copy of the financial improvement plan approved by the Tribal Council and implemented by the Tribal Administration is included herein for reference as "Attachment "D." As part of the objective to fully implement AFW, the consultant (Deloitte & Touche) was tasked with:

- **identifying gaps** between the current implementation status and what would be required and expected of the Nation's accounting system;
- **developing a design** to address these gaps;
- **building the system** from the design plan and testing those activities;
- developing revised **workflows and desk procedures** based on the new design;
- obtaining feedback and **finalizing desk procedures**;
- converting or **transferring TI data to AFW**; and
- identifying **staff training** needs and conduct user training.

The most recent report to the Executive and Finance Committee of the Tribal Council, dated August 27, 1998, describes the accomplishments of the financial improvement plan to date and the

items that remain to be completed. (Please see "Attachment E".) Page 10 of this report details the major activities under each objective of the financial management plan, and identifies the status of each. Most of the activities are completed, or well underway toward completion. The entire financial improvement plan is also projected to be fully accomplished by the end of the first quarter of FY 1999.

Once the entire financial improvement plan is complete, the Nation will: produce timely, accurate financial reports; compare actual expenditures to budgeted expenditures; and, monitor and analyze budgets. Improvements will be made to internal controls, source documentation and procedures to insure that applicable cost principles and regulations are followed.

Comprehensive Staffing Plan. The Nation has undertaken a concerted effort to assemble the team of individuals needed to insure success of the financial improvement plan and to increase the Nation's capacity for strong management of the new financial system. Three of these individuals are existing staff that have been reassigned from other areas; the remainder are new hires that have been carefully selected for their experience and qualifications. Three of the new hires who are employed in the key positions of Accounting Director, Manager of Budgets and Director of Internal Audit and Grants Management are Certified Public Accountants.

Financial Management Team
Chief of Staff
Executive Director of Finance and Administration
Interim Controller
Director of Accounting (CPA)
Director of Internal Audit and Grants Management (CPA, Certified Internal Auditor, Certified Management Accountant)
Manager of Budgets and Special Projects (CPA)
Special Assistant for Budgets and Special Projects
Director of Information Systems
Self-Governance Coordinator

This staffing team is integral to the effective management of the improved system, and will contribute greatly toward the implementation of the other three components discussed in this section.

Internal Accounting Systems and Cash Flow Procedures. A project that the Nation is currently pursuing in concert with the Financial Improvement Plan is the development and implementation of improved cash management procedures, including improved processes for draw down of federal funds. An attribute is being built into the AFW system to serve as a tickler and print a weekly report to the Accounting Director, who is responsible for insuring that funding is not drawn in excess of needs. In turn, the Accounting Director will be responsible for preparing a report monthly to the Nation's Controller, the Executive Director of Finance & Administration, and the Tribal Council Executive and Finance Committee on the status of cash for the subject month. This will provide the oversight needed to insure that appropriate actions are taken to utilize the "cash on hand" information that will be generated by AFW. The Nation has also acquired the services of Mr.

Charles Monroe, a Tulsa, Oklahoma Certified Public Accountant, to assist the Nation in the revision and development of accounting procedures. Priority issues include draw downs, disbursements and bank reconciliations. Procedures to address these issues will be substantially completed by the end of October, 1998.

Another effort that contributes to the improvement of internal controls is the implementation of the Internal Audit & Compliance department of the Nation. The Internal Audit & Compliance department has been budgeted with a staffing level of three (3) full-time staff. The major objectives of the department have been identified as follows:

1. To address and/or follow up on internal control findings from external financial and program audits.

2. To understand, assess, and test compliance with internal controls, applicable laws and regulations.

3. Assist with the documentation, development and/or strengthening of internal controls.

Full implementation of this department is expected in early FY-99. It is anticipated that this department will provide an added measure of assurance to the Tribal Administration that the newly implemented financial accounting system is functioning properly.

Business Planning Process. The Nation has initiated a process to develop a one-year comprehensive business plan for the Nation's operations. A series of workshops and working meetings are being held, the first one having been held September 25, 1998 with all managers and directors. Goals and objectives will be developed for each department or program, in accordance with the overall mission statement of the tribe. Once goals and objectives have been developed, budgets to accomplish this work plan will be developed. The goals and objectives developed by each department or program of the Nation will be consolidated to comprise the master plan for operations. The budgets developed corresponding to these work plans will be formatted into the administration's budget request to the Tribal Council for FY 1999. This plan is being developed for one year, with the intent to develop long-range strategic planning as a future project. It is encouraging that the Nation is not only aggressively addressing operational problems and barriers, but is also concentrating on valuable planning for the future.

IV. Recommendations

In the Draft Survey Report, the DOI-OIG made six (6) recommendations to the Assistant Secretary - Indian Affairs as requirements of the Director of the Office of Self-Governance. These six (6) recommendations are outlined on page 11 of the report. Item number 1 has been addressed in section I. of this document, and in "Attachment A." Items number 2 through 6 have been addressed by way of an agreement between the Assistant Secretary - Indian Affairs and the Cherokee Nation Principal Chief on September 10, 1998. This agreement will be embodied in the Self-Governance Annual Funding Agreement (AFA) negotiated between the Cherokee Nation and the

Department of the Interior for Fiscal Year 1999. "Attachment F" contains the most recent draft of the language to be inserted into the AFA as a result. The additional language encompasses recommendations 2-6 and the agreement described above. Specifically, the Nation has agreed, as part of the AFA, to comply with items 2-5 as a condition of receiving further Federal funding. To address item 6, the Nation has agreed to a monthly advance payment process, rather than the lump sum advance payment customarily provided to self-governance tribes, until all of the conditions listed in items 2-5 are met. Listed below are each of the recommendations made by the DOI OIG and the action that was taken to resolve and/or address each one.

RECOMMENDATION	ACTION TAKEN
1. Require the Nation to provide assurance that policies and procedures have been implemented to ensure that legal services expenditures are not incurred or paid without having an approved contract, are not paid without adequate supporting documentation, and paid within the terms of established contracts, and do not exceed Tribal Council-approved appropriations and that Federal program funds are used only for supported expenditures incurred in accordance with approved funding agreements or as otherwise authorized by legislation.	The Nation has developed and implemented an interim Attorney Contract Policy and Procedure in June, 1998, which addresses each of these items. The Policy and Procedure is anticipated to become permanent in the near future. A copy of the Nation's Attorney Contract Policy and Procedure is attached to this package in "Attachment A."
2. Require the Nation to submit audited financial statements for fiscal year 1997 which accurately present the source and use of all Federal funds received by the Nation during that year.	This has been agreed to by the Nation as part of the FY 1999 Annual Funding Agreement, as one condition to receiving future lump sum advance funding. The agreements made related to this Draft Report are attached in "Attachment F."
3. Require the Nation to submit interim financial reports which account for the use (including amounts held in qualifying deposits or investments) of all Self-Governance funds received from the Department of the Interior in fiscal year 1998.	The Nation has agreed to provide the DOI with unaudited financial reports for FY 1998 in the FY 1999 Annual Funding Agreement, as one of the conditions to be restored to a annual lump sum payment schedule. This is also found in the agreements in "Attachment F."
4. Require the Nation to repay to the Department of the Interior any Department funds spent for purposes other than those authorized by the terms of the applicable funding agreements.	The Nation has agreed to repay or otherwise resolve to the satisfaction of the Office of Self-Governance any funds spent for purposes other than those authorized, as identified in the DOI OIG Survey Report and the Nation's Single Audit Report for FY 1997 (see "Attachment F").

5.	Require the Nation to present a report from its auditing firm stating that a new accounting system, meeting all applicable requirements for control of Federal funds, has been installed, is functioning properly, and produces accurate and timely financial status reports, and that the Nation has implemented an adequate system of internal controls.	The Nation has committed in the FY 1999 Annual Funding Agreement to submit a report from an independent accounting firm pursuant to this recommendation ("Attachment F").
6.	Consider deferring action on the fiscal year 1999 annual funding agreement with the Nation or taking other actions to ensure that Departmental funds are used only for authorized purposes until the Nation complies with Recommendations 1 through 5.	The Nation and the DOI have agreed in the FY 1999 Annual Funding Agreement to a monthly advance payment process, rather than an annual lump sum advance which is the usual practice for self-governance tribes. Further, under the terms of the agreement, the Nation will submit its annual budget for FY 1999, as well as monthly expenditure reports until all other conditions are met to restore the Nation to a annual lump sum payment process. There are also provisions in this agreement for the DOI to monitor these reports and withhold payment should there be questioned items that are unresolved by the Nation.

While not legally required to do so, these concessions were made by the Nation in the FY 1999 Annual Funding Agreement to show the DOI a good faith effort towards accommodating the recommendations listed on page 11.

Summary: In conclusion, the Cherokee Nation views the results of the recent DOI-OIG Survey as a very serious matter, and has made an effort to convey the measures taken to address the topics in this report in a clear and concise manner. In regard to the recommendations listed on page 11 and questioned costs of $88,000, the Nation has either taken action to fulfill the requirements of the DOI-OIG, or has otherwise addressed the recommendations by commitment, often in legal documents, of future action.

In regard to the fund transfers discussed on pages 8-9 of the Draft Report, the Nation wishes to emphasize that no federal program dollars have been "lost" by transferring them into the general fund. Where transfers occurred that were in excess of expenditures, future reimbursements were adjusted to offset any excess amount drawn, resulting in a net excess amount of zero. Further, the Nation's administration has made it a clear directive emphasizing the conditions under which transfers are to be made, and is currently developing improved cash management procedures to address the issue.

These responses and comments are therefore respectfully submitted to the DOI Office of Audit and Evaluation for consideration in development of the final Survey Report and in any subsequent decision making processes.

STATUS OF AUDIT REPORT RECOMMENDATIONS

Finding/ Recommendation Reference	Status	Action Required
1	Implemented.	No further action is required.
2, 3, 4, 5, and 6	Resolved; not implemented.	No further response to the Office of Inspector General is required. The recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

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