

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**THE ADMINISTRATION FOR
CHILDREN AND FAMILIES SHOULD
IMPROVE THE OVERSIGHT OF TRIBAL
GRANTEES' LOW-INCOME HOME
ENERGY ASSISTANCE PROGRAMS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



Joanne M. Chiedi
Acting Inspector General

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Office of Inspector General

<https://oig.hhs.gov/>

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The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

Report in Brief

Date: August 2019

Report No. A-07-17-04105

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Review

Previous OIG reviews of three Tribal grantees revealed that they did not administer Low-Income Home Energy Assistance Program (LIHEAP) grant funds in accordance with Federal laws, regulations, and guidance. This report summarizes the results of our reviews and our review of the Administration for Children and Families' (ACF's) policies and procedures in overseeing grant funds awarded to Tribal grantees.

Our objectives were to determine whether ACF's oversight of the LIHEAP ensured that grant funds were (1) used to provide the maximum available LIHEAP benefits to eligible households and (2) consistently administered in accordance with Federal laws, regulations, and guidance.

How OIG Did This Review

We previously reviewed the combined \$19.8 million in LIHEAP grant funds that the three Tribal grantees received in various periods ranging from fiscal years (FYs) 2010 through 2015, with respect to four areas: (1) required reports submitted to ACF, (2) grant funds held as credit balances at home energy suppliers, (3) refunds of unused grant funds made by energy suppliers to the relevant Tribal grantees, and (4) prepayments made to energy suppliers. We also reviewed selected beneficiaries enrolled in two Tribal grantees' LIHEAPs who received royalty payments.

The Administration for Children and Families Should Improve the Oversight of Tribal Grantees' Low-Income Home Energy Assistance Programs

What OIG Found

ACF's oversight of the LIHEAP did not ensure that grant funds were (1) used to provide the maximum available LIHEAP benefits to eligible households and (2) consistently administered in accordance with Federal laws, regulations, and guidance. ACF's oversight of Tribal grantees focused on the reporting of obligated funds and not on whether the grantees had adequate policies and procedures to ensure that they used obligated funds to provide the maximum available LIHEAP benefits to eligible households. Furthermore, ACF selected only a limited number of Tribal grantees for onsite compliance reviews each year. These reviews did not ensure that grantees complied with Federal regulations. ACF did not have adequate policies and procedures to effectively oversee the Tribal grantees' LIHEAP grants.

What OIG Recommends and ACF's Comments

We made procedural recommendations to ACF to revise its policies and procedures to improve the information that it has to oversee the Tribal grantees. We recommended that ACF enhance its policies and procedures for the Tribal grantees' use of obligated funds, for its reviews of the grantees' reports and their policies and procedures, and for the continued expansion of its program monitoring activities.

ACF concurred with most of our recommendations. It did not concur with our recommendation to ensure that energy suppliers return to the Tribal grantees all unused grant funds at the *end* of each FY. ACF did not concur with our recommendation to continue to expand its program monitoring activities because, it said, it cannot support an increased monitoring workload with its current resources.

After reviewing ACF's comments, we revised part of one recommendation to include that energy suppliers should return all unused grant funds *prior to* the end of the FY rather than *at the end* of the FY. In addition, we revised our recommendation regarding the expansion of ACF's program monitoring activities to state that ACF should incorporate the findings from previous monitoring reviews into the monitoring prioritization assessment tool to help evaluate the optimal composition of State, Territory, and Tribal grantees selected for annual onsite monitoring reviews.

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INTRODUCTION

WHY WE DID THIS REVIEW

The U.S. Department of Health and Human Services (HHS) awards Low-Income Home Energy Assistance Program (LIHEAP) block grants to States, Territories, Indian Tribes, and Tribal organizations based on the proportion of low-income households and total appropriations for the program. Grantees use LIHEAP grant funds to provide energy assistance payments to low-income households. Previous Office of Inspector General (OIG) reviews of three Tribal grantees revealed that they did not administer LIHEAP grant funds for the audit periods we reviewed in accordance with Federal laws, regulations, and guidance (Appendix B). This report summarizes the results of those previous reviews at the Three Affiliated Tribes (TAT), the Turtle Mountain Band of Chippewa Indians (TMT), and the Fort Peck Assiniboine and Sioux Tribes (Fort Peck Tribes), as well as our review of the Administration for Children and Families' (ACF's) policies and procedures in overseeing grant funds awarded to Tribal grantees.

OBJECTIVES

Our objectives were to determine whether ACF's oversight of the LIHEAP ensured that grant funds were (1) used to provide the maximum available LIHEAP benefits to eligible households and (2) consistently administered in accordance with Federal laws, regulations, and guidance.

BACKGROUND

Low-Income Home Energy Assistance Program

Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA) established the LIHEAP to assist low-income households, particularly those with the lowest incomes that pay a high proportion of household income for home energy, in meeting their immediate home energy needs.

Grantees are to use LIHEAP grant funds to assist low-income households in meeting their home energy costs, to intervene in crisis situations, and to provide low-cost residential weatherization and other cost-effective energy-related home repairs (OBRA § 2605(b)(1)). Federal requirements place primary responsibility for administration of the LIHEAP on the grantees (45 CFR § 96.30(a)); Federal guidance adds that "each [Tribal] grantee has primary responsibility for interpreting [OBRA]" (ACF's *LIHEAP Tribal Manual* (the Manual), section E, page E-4).¹ LIHEAP grantees must also establish fiscal control, accounting procedures, and procedures for monitoring the disbursement and accounting of grant funds (OBRA § 2605(b)(10)).

¹ After our audit periods for our previous reviews, ACF revised this document and renamed it the *LIHEAP Grantee Resource Guide*.

If a Tribe has excess LIHEAP grant funds, it may allot additional benefits to households or use the funds for other purposes, such as crisis situations, residential weatherization, or energy-related home repairs (the Manual, section D, page D-12). Further, a LIHEAP grantee must repay to the Federal Government amounts found not to have been expended in accordance with program requirements (OBRA § 2605(g)).

Prospective grantees seeking LIHEAP grant funds must submit an application to ACF for each fiscal year (FY) (OBRA § 2605(a)(1)). A grant application, also known as a Detailed Model Plan, describes how a prospective grantee proposes to administer grant funds to further its program objectives.² Federal guidance states that a grantee must certify to certain assurances, which are “promises that the tribe will operate a program that meets the requirements of the LIHEAP law [i.e., OBRA]” (the Manual, section E, page E-1); for this report, we refer to the certifying of these assurances as self-attesting. ACF awards LIHEAP block grants for 2-year periods (OBRA § 2602(c)).

Federal requirements and guidance permit some of the LIHEAP grant funds that remain unobligated at the end of the FY in which they were first awarded to be carried over into the succeeding FY (OBRA § 2607(b)(2), 45 CFR §§ 96.14(a)(2) and 96.81(b)(1), and the Manual, section F, page F-2). Federal regulations specify the conditions under which unused grant funds may be carried over from one FY to the next (45 CFR § 96.81). These requirements apply only to the obligation of funds, not to the expenditure of funds. There are no time limits for the expenditure of LIHEAP grant funds (45 CFR § 96.14(b)). However, Federal regulations state that Tribes shall obligate and expend grant funds in accordance with the laws and procedures for the obligation and expenditure of their own funds (45 CFR § 96.30(a)).³

LIHEAP grantees report the obligation of LIHEAP grant funds to ACF through annual financial reports. These reports include the Federal Financial Reports (FFRs), which deal with the obligation of funds, and the Carryover and Re-Allotment Reports (Carryover Reports), which involve the carryover of grant funds from one FY to the next. In addition, LIHEAP grantees must report on the households assisted, which includes data on the number of households receiving LIHEAP assistance, in their Household Reports (45 CFR §§ 96.30(b)(2), 96.81(b), and 96.82(b)). Implementing guidance from ACF specifies that the carryover of grant funds requires submission of another FFR.⁴

² A Detailed Model Plan is due from each grantee every 3 FYs during the period of the grant award. In alternate years, an Abbreviated Model Plan may be submitted (the Manual, section E, page E-9). For this report, we use the term “LIHEAP plan” to refer to the Detailed Model Plan, the Abbreviated Model Plan, or both.

³ The Manual, section C, states (page C-2) that where the law refers to a “state,” it usually also means a Tribe, Tribal organization, or Territory. See also 45 CFR § 96.42(a).

⁴ This implementing guidance refers to the Standard Form (SF)-425 report (which is the FFR) and appears in ACF, “Financial Reporting for All LIHEAP Grantees SF 425 Report,” LIHEAP Action Transmittals LIHEAP-AT-2012-01 (Oct. 14, 2011) and LIHEAP-AT-2013-02 (Dec. 21, 2012).

To execute their programs, the Tribal grantees we reviewed established business relationships with home energy suppliers (energy suppliers) for services to eligible households. The Tribal grantees paid the energy suppliers directly on behalf of eligible households under the provisions of the OBRA, section 2605(b)(7). This statutory provision allows LIHEAP grantees such as TAT, TMT, and the Fort Peck Tribes to pay energy suppliers directly, as long as those suppliers charge each eligible household the difference between the actual cost of home energy and the amount that the grantee paid for home energy assistance.

Administration for Children and Families

Within HHS, ACF is responsible for promoting the economic and social well-being of children, families, and communities. ACF carries out this responsibility through internal activities and through grants to and contracts with State, county, city, and Tribal governments, as well as public and private local agencies. Within ACF, the Office of Community Service administers the LIHEAP.

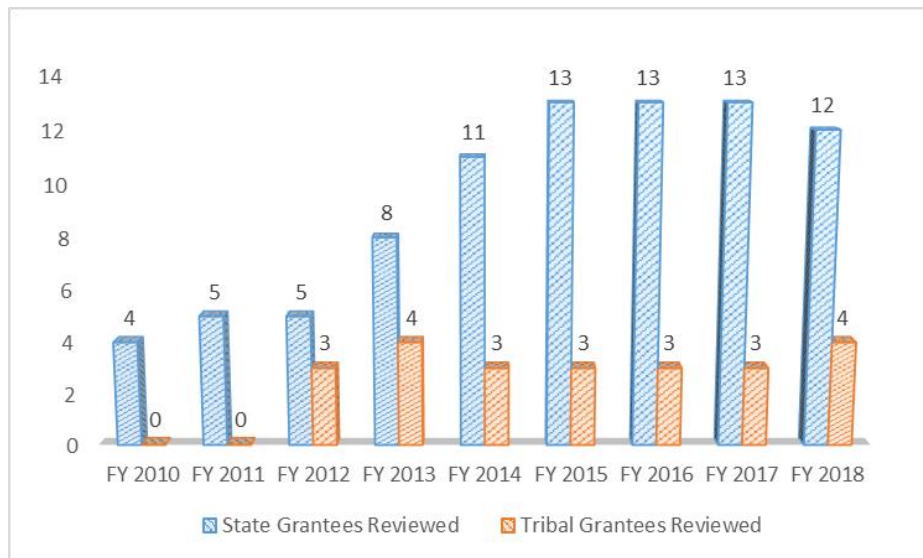
ACF issues Action Transmittals to LIHEAP grantees to communicate actions that the grantees need to take concerning the program, including instructions for the preparation of LIHEAP plans, FFRs, Carryover Reports, and Household Reports. ACF also issues Information Memorandums to grantees. These memorandums include such topics as the LIHEAP Compliance Review Monitoring Schedule, which lists the grantees that ACF has selected for compliance reviews, as well as information on median income, poverty guidelines, best practices, and common findings from previous compliance reviews.

Each year, ACF conducts compliance reviews of a sample of LIHEAP grantees under the provisions of OBRA § 2608(b)(1). These include both desk and onsite reviews. For its compliance reviews, ACF selects a number of States and Tribal grantees to review each year on the basis of specific criteria. In addition, every 5 years, ACF reconciles each Tribal grantee's reported funds obligated to its funds expended (reconciliation process).⁵

ACF received additional funding in FY 2012 that allowed it to expand its program-monitoring activities. Before receiving the increased funding, ACF typically reviewed four grantees a year, adjusting that number based on the availability of funds. After receiving the increase of funds, ACF increased the number of compliance reviews it conducted each year, added more Tribal grantees to the monitoring schedule, and increased the duration of the site visits. ACF uses a monitoring prioritization assessment tool to identify a select number of grantees for monitoring visits from more than 200 directly funded LIHEAP grantees (of which more than 150 are tribes or tribal organizations). The figure on the following page depicts the numbers of State and Tribal grantees for which ACF conducted onsite compliance reviews from FY 2010 through FY 2018.

⁵ Tribal grantees expended grant awards by drawing down funds from the Payment Management System (PMS), which is a secure online grants payment system that supports the entire financial assistance payment process for both the awarding agency and award recipients.

Figure: Onsite Compliance Reviews Conducted by ACF From FY 2010 Through FY 2018⁶



ACF conducted onsite compliance reviews at TAT and TMT during FY 2016 and at the Fort Peck Tribes during FY 2013. At TAT and TMT, ACF's reviews covered the Tribes' FY 2014 LIHEAP grants. At the Fort Peck Tribes, ACF's review covered the Tribe's FY 2011 LIHEAP grant. ACF followed up its onsite compliance reviews at TAT and TMT with onsite visits to both Tribes for training and technical assistance.

HOW WE CONDUCTED THIS REVIEW

We previously reviewed the administration of LIHEAP grant funds by TAT, TMT, and the Fort Peck Tribes to determine whether those Tribal grantees' programs complied with Federal laws, regulations, and guidance (Appendix B). The reviews covered various periods ranging from FYs 2010 through 2015. We also interviewed ACF staff and reviewed ACF's policies and procedures in relation to the administration of the LIHEAP by Tribal grantees. For this rollup report, we are summarizing the results of those reviews and making recommendations to ACF, the cognizant HHS operating division (OpDiv).

We reviewed the combined \$19,784,158 in LIHEAP grant funds that the three Tribal grantees received, with respect to four areas: (1) FFRs, Carryover Reports, and Household Reports submitted to ACF; (2) grant funds held as credit balances at energy suppliers; (3) refunds of unused grant funds made by energy suppliers to the relevant Tribal grantees; and (4) prepayments made by the Tribal grantees to energy suppliers.

⁶ Although this figure depicts the numbers of onsite reviews that ACF had conducted or planned to conduct through FY 2018, the audit periods of our previous reviews did not extend past FY 2015.

We also reviewed selected beneficiaries enrolled in TAT's and the Fort Peck Tribes' LIHEAPs who received royalty payments.⁷ We judgmentally selected 12 beneficiaries at TAT and 34 beneficiaries at the Fort Peck Tribes who received the largest amounts of royalty payments during FYs 2012 through 2014 and FYs 2011 through 2014, respectively.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix A contains details of our audit scope and methodology.

FINDINGS

ACF's oversight of the LIHEAP did not ensure that grant funds were (1) used to provide the maximum available LIHEAP benefits to eligible households and (2) consistently administered in accordance with Federal laws, regulations, and guidance. ACF's oversight of Tribal grantees focused on the reporting of obligated funds and not on whether the grantees had adequate policies and procedures to ensure that they used obligated funds to provide the maximum available LIHEAP benefits to eligible households. Furthermore, although ACF expanded its program-monitoring activities, the number of Tribal grantees selected for onsite compliance reviews each year grew from none to three or four during each FY of our audit period. These reviews did not ensure that grantees complied with Federal regulations. ACF's inadequate oversight was reflected in the findings of our previous reviews of three Tribal grantees:

- Tribal grantees incorrectly obligated grant funds by making prepayments to their energy suppliers (two grantees), instructing energy suppliers to create delivery tickets for deliveries that did not take place (one grantee), and allowing their energy suppliers to hold grant funds as credit balances (all three grantees).
- Tribal grantees did not refund grant funds reported as unobligated in the FYs 2010, 2012, and 2013 FFRs (one grantee); inaccurately reported the amounts of unobligated grant funds on the FFRs (two grantees) and the Carryover Reports (all three grantees) and did not refund those unobligated funds; made unallowable benefit payments to ineligible beneficiaries (two grantees); and submitted required reports that did not meet Federal requirements and were not properly supported (all three grantees).

These Tribal grantees' errors occurred because ACF did not have adequate policies and procedures to effectively oversee the Tribal grantees' LIHEAP grants.

⁷ We did not select beneficiaries to review at TMT because none of the beneficiaries enrolled in that Tribe's LIHEAP received royalty payments.

As a result of ACF's inadequate policies and procedures related to its oversight of the Tribal grantees' LIHEAP grants, eligible households did not receive the maximum available LIHEAP benefits to which they were entitled, and grant funds were not consistently administered in accordance with Federal laws, regulations, and guidance.

ACF'S OVERSIGHT WAS NOT SUFFICIENT TO ENSURE THAT THREE TRIBAL GRANTEEES CORRECTLY OBLIGATED GRANT FUNDS TO PROVIDE THE MAXIMUM AVAILABLE PROGRAM BENEFITS TO ELIGIBLE HOUSEHOLDS

ACF's oversight of the LIHEAP did not ensure that Tribal grantees correctly obligated grant funds to provide the maximum available LIHEAP benefits to eligible households. Two Tribal grantees made prepayments to their energy suppliers; the third grantee instructed its energy suppliers to create delivery tickets (that is, invoices) for deliveries that did not take place; and all three Tribal grantees allowed energy suppliers to hold grant funds as credit balances. Obligating grant funds in the ways described above allowed the three Tribal grantees to meet their carryover limits but also prevented some of those funds from being used for their intended purposes.

ACF's oversight of Tribal grantees focused on the reporting of obligated funds and not on whether the grantees had adequate policies and procedures to ensure that they used obligated funds to provide the maximum available LIHEAP benefits to eligible households. ACF reviewed the grantees' policies and procedures only during its onsite compliance reviews of the three or four Tribal grantees that it selected for each FY of our audit period. During these reviews, ACF evaluated whether the grantees had fiscal control and accounting policies and procedures to address the disbursement and accounting of Federal funds in accordance with Federal requirements. These onsite compliance reviews also evaluated whether grantees prepared reports to compare actual costs with budgeted costs.

However, these reviews did not always identify Tribal grantees' lack of policies and procedures to ensure that obligated grant funds were used to provide the maximum available LIHEAP benefits to eligible households. ACF's onsite compliance reviews of TAT's and TMT's FY 2014 LIHEAP grants noted issues related to credit balances as well as, in the case of TMT, issues related to prepayments. We had made ACF officials aware of these issues before ACF conducted its onsite compliance reviews of these two Tribal grantees.

Moreover, ACF did not adequately monitor the design, implementation, and operation of the Tribal grantees' internal control systems. Internal control is a process that provides reasonable assurance that the objectives of an entity (in this case, each of the Tribal grantees) will be achieved. Strong internal controls on the parts of the Tribal grantees would help ensure that the grantees provide the maximum available LIHEAP benefits to eligible households.

As described in the *Standards for Internal Control in the Federal Government*, internal controls to promote the effectiveness of a Tribal grantee's LIHEAP could include a policy requiring the Tribe's LIHEAP staff to accurately and timely record transactions in the proper FY and to review

its LIHEAP budget periodically throughout the year.⁸ If, for instance, a Tribe that had such a policy determined that it had spent only one-third of its grant award at the halfway point of the FY, it could consider increasing the expenditure of funds for eligible households or for other purposes as described in the Manual, such as crisis situations, residential weatherization, or energy-related home repairs.

If the Tribal grantees had implemented controls (such as those described in the paragraph above), the Tribal grantees could have increased their LIHEAP spending throughout the year for eligible households, thus eliminating the perceived need to retain surplus funds at the end of the year.

Federal Requirements

Federal statute mandates that the highest level of assistance must be given to those households that have the lowest incomes and highest energy costs or needs in relation to income, taking into consideration the size of the family (OBRA § 2605(b)(5)).

Federal statute also requires ACF to conduct yearly compliance reviews of several grantees to assess their compliance with the provisions of the LIHEAP; it also gives ACF the authority to withhold funds from any grantee that has not used its LIHEAP grant funds in accordance with these provisions (OBRA §§ 2608(b)(1) and (a)(1)).

Two Tribal Grantees Obligated Funds by Prepaying Energy Suppliers at the Ends of the Fiscal Years

Two Tribal grantees (TMT and the Fort Peck Tribes) made prepayments to their energy suppliers, which had the effect of obligating funds that would otherwise have been returned to the Federal Government because they exceeded the 10-percent allowable carryover limit.⁹

⁸ The U.S. Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government*, dated September 2014, defines an internal control system as a continuous built-in component of operations, effected by people, that provides reasonable assurance, not absolute assurance, that an entity's objectives will be achieved. It offers relevant best practices for the administration and safeguarding of Federal funds and, more generally, for an entity's internal control environment.

⁹ Federal requirements and guidance provide that up to 10 percent of the amount payable to a grantee in an FY may be carried over to the following FY (OBRA § 2607(b)(2), 45 CFR §§ 96.14(a)(2) and 96.81(b)(1), and the Manual, section F, page F-2); we refer to this provision as the "10-percent allowable carryover limit." Grant funds carried over are considered unobligated; no funds may be obligated after the end of the FY following the FY for which they were allotted (45 CFR § 96.14(a)(2)). Accordingly, the LIHEAP has a 2-year grant period. These Federal requirements apply only to the obligation of grant funds, not to the expenditure of those funds. There are no time limits for the expenditure of LIHEAP grant funds (45 CFR § 96.14(b)).

On the last day of each FY, TMT wrote checks to energy suppliers to prepay for services in the next FY. According to TMT LIHEAP officials, the majority of obligated LIHEAP funds took the form of prepayments to energy suppliers. For example, in FY 2013, TMT was awarded \$1,872,199 but prepaid energy suppliers to obligate \$1,118,405 at the end of that FY and reported a carryover of 10 percent of the Tribe's grant award. The TMT LIHEAP Director told us that writing checks to energy suppliers at the end of the FY with excess yearend funds constituted "obligating" these funds and that she believed that obligating grant funds in this manner would prevent TMT from having to return those funds to the Federal Government.¹⁰

The Fort Peck Tribes used a procedure whereby the Tribes' LIHEAP staff reviewed the balance of funds in the Tribes' LIHEAP each August to determine whether the Tribes should make a prepayment to an energy supplier. Any amounts that exceeded the 10-percent allowable carryover were considered additional funds and were used to prepay one of the Tribes' energy suppliers. Once the prepayments were made, the Tribes reported their carryover amount based on the balance left in their LIHEAP. For example, in FY 2014, the Tribes were awarded \$925,590 but prepaid an energy supplier to obligate \$140,000 at the end of that FY and subsequently reported a carryover of 10 percent of their grant award.

The process of issuing prepayments toward the ends of some FYs enabled the Tribal grantees to obligate funds, by which means they avoided refunding to the Federal Government any unobligated amounts that exceeded the 10-percent allowable carryover limit. However, the Tribal grantees then used these prepayments to fund program requirements for the following FY, and as a result, some of the LIHEAP funds for that following year would be issued as prepayments for the next year. As this process continued for multiple years, it caused the Tribal grantee to retain excess funds rather than using all of the available grant funds to provide LIHEAP benefits to eligible households.

One Tribal Grantee Obligated Funds by Instructing Its Energy Suppliers To Create Delivery Tickets

TAT program officials instructed the Tribe's energy suppliers to create delivery tickets (that is, invoices) for deliveries of propane to beneficiaries—deliveries that did not take place—to receive LIHEAP funding from TAT. These delivery tickets reflected funds totaling \$1,597,797. Over time, the energy suppliers used some of these funds to pay for energy assistance actually provided to LIHEAP beneficiaries. However, some of the funds remained as credit balances, as discussed below.

¹⁰ Federal requirements and guidance place primary responsibility for administration of the LIHEAP on the grantees (45 CFR § 96.30(a) and the Manual, section E, page E-4). Therefore, ACF allows each Tribe to define what the term "obligation" means to that Tribe. Federal regulations also give grantees the authority to interpret OBRA, including provisions specifying when money is obligated, unless this interpretation is clearly erroneous (45 CFR § 96.50(e)).

TAT circumvented Federal statute when it directed the energy suppliers to create these delivery tickets. The effect of this decision was to obligate funds that exceeded the 10-percent allowable carryover limit and that would otherwise have been returned to the Federal Government.¹¹

Three Tribal Grantees Allowed Energy Suppliers To Hold Grant Funds as Credit Balances

All three Tribal grantees paid their energy suppliers with LIHEAP grant funds that were improperly held as credit balances in individual beneficiary accounts or (in TAT's case) in general accounts that TAT's energy suppliers maintained because TAT did not designate the funds to any specific beneficiaries. Neither TMT nor the Fort Peck Tribes had a process for tracking grant funds held as credit balances. Therefore, these two Tribal grantees had no way to ensure that these funds were used only for eligible beneficiaries, which increased the risk that those funds could then have been used to provide benefits to beneficiaries who no longer qualified for assistance. In TAT's case, the Tribe used LIHEAP grant funds to pay energy suppliers for deliveries of propane that did not actually take place, and the energy suppliers held these payments as credit balances.¹²

The Tribes should have collected refunds from their energy suppliers, returned unused LIHEAP benefits to the program for use in providing home energy assistance to eligible households, and repaid the Federal Government the amounts that could no longer be obligated because they exceeded the 2-year grant period.

ACF's Policies and Procedures Were Inadequate To Ensure That It Could Determine Whether Tribal Grantees Provided the Maximum Available Program Benefits to Eligible Households

ACF did not have adequate policies and procedures to effectively oversee the Tribal grantees' LIHEAP grants. ACF's policies and procedures were inadequate to ensure that it could determine whether Tribal grantees used obligated funds to provide energy assistance to eligible beneficiaries. Specifically, ACF required the grantees to report only on the amounts of funds obligated, which did not give ACF enough information to detect when grantees did not use obligated funds to provide energy assistance to eligible beneficiaries. Tribal grantees reported the obligation of these funds on their FFRs, but ACF identified the expenditure of those funds only during the reconciliation process, which occurred only once every 5 years for each Tribal grantee (footnote 5).

¹¹ Federal statute and regulations convey requirements for grantees' fiscal control and accounting procedures and state that grantees must establish procedures for monitoring the disbursement and accounting of grant funds as well as appropriate systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under the LIHEAP (OBRA § 2605(b)(10) and 45 CFR §§ 96.30(a) and 96.84(c)).

¹² Federal governance principles and best practices regarding internal controls provide guidelines for designing, implementing, and operating an effective control system. These principles state that an entity designs appropriate types of control activities, including the accurate and timely recording of transactions, for the entity's internal control system.

In addition, ACF permitted Tribal grantees to prepay grant funds to energy suppliers for services to be provided in the upcoming FY, rather than advising them to use those funds in the current FY to provide benefits to eligible beneficiaries.

Moreover, because ACF selected only three or four Tribal grantees for onsite reviews each year, it relied too much on the grantees to self-attest that they had policies and procedures that were adequate to ensure that they complied with Federal laws, regulations, and guidance for the provision of assistance to low-income households in meeting their home energy costs.

ACF also assigned “primary responsibility” for interpreting LIHEAP requirements to the Tribal grantees via 45 CFR § 96.50(e) and the Manual. Assignment of this important responsibility to Tribal grantees does not, however, relieve ACF, the cognizant HHS OpDiv, of its responsibility to have adequate policies and procedures that enable it to effectively oversee the Tribal grantees’ policies and procedures and to take remedial actions, such as education and training, when problems are identified.

As a result of ACF’s inadequate policies and procedures related to its oversight of the Tribal grantees’ LIHEAP grants, eligible households did not receive the maximum available LIHEAP benefits to which they were entitled, as evidenced by TMT prepaying energy suppliers \$1,118,405 of FY 2013 funds for the next year’s LIHEAP rather than spending those funds in the current FY.

ACF’S OVERSIGHT WAS NOT SUFFICIENT TO ENSURE THAT THREE TRIBAL GRANTEES ALWAYS PROPERLY ADMINISTERED THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

ACF’s oversight of Tribal grantees’ use of grant funds was not sufficient to ensure that Tribal grantees consistently administered those funds in accordance with Federal laws, regulations, and guidance. One Tribal grantee did not refund LIHEAP funds that it reported as unobligated in the FYs 2010, 2012, and 2013 FFRs that it submitted to ACF. Tribal grantees inaccurately reported the amounts of unobligated LIHEAP grant funds on the FFRs (two grantees) and Carryover Reports (all three grantees) that they submitted to ACF and, consequently, did not refund unobligated funds. Two Tribal grantees made unallowable benefit payments to 38 of a combined 46 judgmentally selected beneficiaries who were ineligible because they had income, including royalty income, that they did not report on their LIHEAP applications. When that income was considered, the amounts exceeded the income eligibility limits. Finally, all three Tribal grantees did not always submit required reports in accordance with Federal requirements and guidance and (in the case of one Tribal grantee) did not properly support information contained in two of its FFRs.

ACF reviewed the grantees’ FFRs and Carryover Reports only during its onsite compliance reviews of the three or four Tribal grantees that it selected for each FY of our audit period. During these reviews, ACF reviewed documentation from the grantees’ accounting systems that supported the FFRs and Carryover Reports and compared the unobligated amounts reported on the Carryover Reports to the corresponding FFRs. These onsite compliance reviews also

evaluated the Tribal grantees' processes for preparing, reviewing, and approving their FFRs, Carryover Reports, and Household Reports.

However, these reviews did not always identify that some required reports that Tribal grantees submitted were missing required information, that some reports were not submitted in a timely manner, and that some reports were not properly supported. In addition, ACF did perform desk reviews of Carryover Reports; however, these reviews were limited to checks of whether the grantees reported the correct grant amounts and thus correctly determined the 10-percent allowable carryover amounts. ACF's onsite compliance reviews of TAT's and TMT's FY 2014 LIHEAP grants noted issues related to the Carryover Reports as well as, in the case of TAT, issues related to the FFRs. We had made ACF officials aware of these issues before ACF conducted its onsite compliance reviews of these two Tribal grantees.

Federal Requirements

Federal statute requires ACF to conduct yearly compliance reviews of several grantees to assess their compliance with the provisions of LIHEAP; it also gives ACF the authority to withhold funds from any grantee that has not used its LIHEAP grant funds in accordance with these provisions (OBRA §§ 2608(b)(1) and (a)(1)).

One Tribal Grantee Did Not Refund Unobligated Grant Funds Reported on Its Federal Financial Reports

TAT did not refund unobligated grant funds totaling \$404,048 during FYs 2010, 2012, and 2013. All of these funds remained unobligated at the end of the second years of the Tribe's 2-year grant periods, as reported in the final FFRs that TAT submitted to ACF.¹³ Each of these final FFRs accurately stated that the Tribe had not obligated its entire grant award within the 2-year grant period. However, when reviewing TAT's FFRs, ACF did not identify that TAT had reported unobligated grant funds and did not follow up with the Tribe to ensure that it refunded these amounts to the Federal Government.

Two Tribal Grantees Did Not Report Unobligated Grant Funds on Their Federal Financial Reports

TAT and the Fort Peck Tribes did not report a combined total of \$374,385 in unobligated LIHEAP grant funds on the FFRs that they submitted to ACF and, consequently, did not refund those unobligated funds.¹⁴ This amount consisted of \$48,544 in grant funds awarded to TAT for FY 2011 and \$325,841 in grant funds awarded to the Fort Peck Tribes for FYs 2011 through 2015; the Tribes did not obligate these funds within the 2-year grant periods as required. In

¹³ Funds carried over are considered unobligated; no funds may be obligated after the end of the FY following the FY for which they were allotted (45 CFR § 96.14(a)(2)).

¹⁴ Federal statute and regulations require LIHEAP grantees to report annually to HHS the total grant funds obligated during the grant period (OBRA § 2607(a)(2) and 45 CFR § 96.30(b)(2)).

addition, the Fort Peck Tribes transferred \$218,994 of the \$325,841 from their LIHEAP account to their general revenue account in their accounting system, which increased the risk that these funds could have been used for purposes other than the provision of home energy assistance.

Three Tribal Grantees Reported Inaccurate Amounts of Unobligated Grant Funds on Their Carryover and Re-Allotment Reports

The three Tribal grantees reported inaccurate amounts of unobligated LIHEAP grant funds on the Carryover Reports that they submitted to ACF; consequently, the grantees did not refund unobligated grant funds totaling \$263,922.¹⁵ Both TAT and TMT submitted Carryover Reports that were inaccurate (TAT for FYs 2012 and 2013; TMT for FY 2011) because, rather than calculating carryover amounts based on accurate financial information in their general ledgers, these Tribes carried over the maximum 10 percent of their grant awards for those FYs. The Fort Peck Tribes reported inaccurate amounts for both the grant award and the unobligated balance in their Carryover Report for FY 2011 and reported an inaccurate amount for the unobligated balance in their Carryover Report for FY 2013.

Two Tribal Grantees Made Benefit Payments to Ineligible Beneficiaries

TAT and the Fort Peck Tribes made unallowable LIHEAP benefit payments totaling \$51,768 to 38 of 46 judgmentally selected beneficiaries who were ineligible because their unreported income, including royalty income, exceeded their eligibility limits.¹⁶ TAT did not provide a formal definition of income in its LIHEAP plan or in an operation manual (as suggested by section D of the Manual). However, TAT's LIHEAP application form asked applicants to itemize any amounts received under 12 different types of income, 1 of which was lease income.¹⁷ Therefore, we considered the inclusion of lease income on the application form to be the clearest indication that the Tribe intended to include lease income when determining an applicant's income eligibility for LIHEAP assistance. The Fort Peck Tribe's LIHEAP plans stated

¹⁵ Federal statute and regulations require LIHEAP grantees to report annually to HHS the total grant funds obligated during the grant period (OBRA § 2607(a)(2) and 45 CFR § 96.30(b)(2)). These requirements and guidance also provide that up to 10 percent of the amount payable to a grantee in an FY may be carried over to the following FY (OBRA § 2607(b)(2), 45 CFR §§ 96.14(a)(2) and 96.81(b)(1), and the Manual, section F, page F-2). Accordingly, the LIHEAP has a 2-year grant period (OBRA § 2602(c)), and any funds not obligated by the end of that second year must be repaid to the Federal Government.

¹⁶ Federal statute states that households must meet specified income guidelines to qualify for assistance under the LIHEAP (OBRA § 2605(b)(2)). This requirement is also conveyed in Federal guidance (the Manual), which states that Tribal grantees must set program eligibility standards within the income guidelines established by the OBRA (the Manual, section D, page D-5). In addition, Federal guidance discusses the factors that grantees should consider when defining income (the Manual, section D, page D-5). This guidance also reiterates that home energy assistance is to be prioritized to those households that have the lowest incomes and the highest energy costs or needs in relation to income (the Manual, section D, page D-12).

¹⁷ Royalty income, such as oil royalties, is derived from the sale of lease minerals.

that the Tribe would check an applicant's royalty income when determining eligibility for LIHEAP. Therefore, royalty income was included in the Tribe's definition of income.

Three Tribal Grantees Did Not Submit Reports in Accordance With Federal Requirements, and One Tribal Grantee Submitted Federal Financial Reports That Were Unsupported

The three Tribal grantees did not always submit complete and timely FFRs, Carryover Reports, and Household Reports in accordance with Federal requirements. Specifically, the three Tribal grantees did not always submit FFRs and Carryover Reports, and the Fort Peck Tribes did not always submit Household Reports, by their due dates. In addition, the three Tribal grantees submitted initial and final FFRs that did not contain the date that LIHEAP grant funds were last obligated for the FY. Moreover, TAT did not always submit FFRs that were certified by an authorized official.¹⁸

Furthermore, TMT could not properly support information contained in the FFRs as required by Federal regulations.¹⁹ For FYs 2010 and 2011, TMT's originally submitted final FFRs showed unobligated balances at the end of the second grant year; these balances totaled \$57,025. However, during our review TMT revised both of these final FFRs and resubmitted them to ACF to show that the Tribe had obligated all LIHEAP grant funds awarded for each FY. TMT was unable, however, to provide documentation to support the revised FFRs for the 2 FYs.

ACF's Policies and Procedures Were Inadequate To Ensure That It Could Determine Whether Tribal Grantees Properly Administered the Low-Income Home Energy Assistance Program

ACF uses a monitoring prioritization assessment tool to identify a select number of grantees for on-site monitoring visits. Because of resource limitations, ACF has been limiting onsite reviews to three or four Tribal grantees for each year. Consequently, it relied too much on the grantees to self-attest that they had policies and procedures that were adequate to ensure that they complied with Federal laws, regulations, and guidance for the provision of assistance to low-income households in meeting their home energy costs.

ACF also assigned "primary responsibility" for interpreting LIHEAP requirements to the Tribal grantees via 45 CFR § 96.50(e) and the Manual. Assignment of this important responsibility to

¹⁸ Federal regulations and several ACF Action Transmittals convey requirements and guidance for the preparation of FFRs, Carryover Reports, and Household Reports, and their due dates. Federal regulations and implementing guidance in the form of ACF Action Transmittals specify the due dates for submission of each of these reports; the Action Transmittals also instruct grantees on the circumstances that require submission of revised reports (45 CFR §§ 96.30(b)(2) and (b)(4), 96.81(b), and 96.82(b)). In addition, "[a]fter the close of each statutory period for the obligation of block grant funds [that is, annually] . . . each grantee shall report to [HHS]: (i) Total funds obligated . . . by the grantee during the applicable statutory periods; and (ii) The date of the last obligation. . . ." (45 CFR § 96.30(b)(1)).

¹⁹ Federal regulations also state that a grantee's fiscal control and accounting procedures must be sufficient to permit the tracing of LIHEAP grant funds to expenditures to ensure that funds were expended in accordance with applicable requirements (45 CFR § 96.30(a)).

Tribal grantees does not, however, relieve ACF, the cognizant HHS OpDiv, of its responsibility to have adequate policies and procedures that enable it to effectively monitor the Tribal grantees' policies and procedures and to take remedial actions, such as education and training, when problems are identified.

Furthermore, ACF allows Tribal grantees to determine how they define income to determine LIHEAP eligibility and what to include in that definition; these definitions typically appear in grantees' LIHEAP plans. However, ACF based its approvals of LIHEAP plans only on completeness, not on whether each grantee's program complied with Federal laws and regulations. For example, ACF staff did not review the Tribal grantees' LIHEAP plans to verify that the plans had a definition of income for determining LIHEAP eligibility.

As a result of ACF's inadequate policies and procedures related to its oversight of the Tribal grantees' LIHEAP grants, the grantees did not consistently administer grant funds in accordance with Federal laws, regulations, and guidance.

RECOMMENDATIONS

We recommend that ACF revise its policies and procedures to improve the information that it has to oversee the Tribal grantees. Specifically, we recommend that ACF:

- enhance its policies and procedures to ensure that it can determine whether Tribal grantees:
 - ensure that obligated grant funds are used to provide energy assistance to eligible beneficiaries (rather than being held as credit balances at energy suppliers) and that these funds can be traced to the year of obligation,
 - maintain adequate supporting documentation for LIHEAP obligations and track and verify that prepayments made to energy suppliers are then used to provide services to eligible households, and
 - ensure that energy suppliers return to the Tribes all unused grant funds prior to the end of each FY, thereby enabling the Tribes to re-obligate those funds for allowable LIHEAP purposes within the grant period;
- review the FFRs and Carryover Reports to verify that Tribal grantees report unobligated grant funds based on accurate financial information and ensure those amounts are refunded to the Federal Government;
- educate Tribal grantees on ways to use grant funds to provide the maximum available benefits to eligible households and for other purposes of the program, such as crisis situations, residential weatherization, and energy-related home repairs;

- review each Tribal grantee's policies and procedures to ensure that the grantee formalizes its definition of income in ways that conform to Federal requirements and guidance and uses this definition when determining eligibility for LIHEAP assistance;
- review all FFRs, Carryover Reports, and Household Reports to ensure that the reports are complete, are submitted in a timely manner, and are properly supported; and
- incorporate the findings from previous monitoring reviews into the monitoring prioritization assessment tool to help evaluate the optimal composition of State, Territory, and Tribal grantees selected for annual on-site reviews.

ACF COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, ACF concurred with four of our recommendations in their entirety and partially concurred with one recommendation. ACF did not concur with the third part of our first recommendation or with our last recommendation. In addition, ACF provided general comments on the report findings, background, and report title.

After reviewing ACF's comments, we revised the third part of our first recommendation and our last recommendation. Finally, we made some additional changes to address ACF's general comments as applicable.

ACF's comments appear as Appendix C.

RETURN OF UNUSED LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM FUNDS FROM ENERGY SUPPLIERS

ACF Comments

ACF did not concur with our recommendation to ensure that energy suppliers return to the Tribal grantees all unused grant funds at the end of each FY (the third part of our first recommendation). Although ACF agreed that energy suppliers must refund unused LIHEAP funds, it added that Tribal grantees should require refunds from the suppliers *prior to* the end of each FY (as opposed to our recommendation that the Tribal grantees obtain refunds from the energy suppliers *at the end of* each FY) so as to attempt to re-obligate those funds within the proper obligation period.

Office of Inspector General Response

After reviewing ACF's comments, we revised the third part of our first recommendation to state that energy suppliers should return to the Tribal grantees all unused grant funds prior to the end of each FY. We agree with ACF that this will allow the Tribal grantees to maximize the benefits by re-obligating the funds.

ACF EXPANSION OF PROGRAM MONITORING ACTIVITIES

ACF Comments

ACF did not concur with our last recommendation—that it continue to expand its program monitoring activities—because, it said, it cannot support an increased monitoring workload with its current resources. ACF stated that “with more than 150 directly funded Tribal grantees . . . we are taking reasonable steps to be a prudent steward” of Federal taxpayer dollars in the allocation of its limited funds toward its monitoring activities to ensure adequate representation between State and Tribal grantees. ACF stated that although LIHEAP funding to Tribal grantees represents approximately 1 percent of total LIHEAP funding available since 2010, those Tribal grantees comprise approximately 25 to 30 percent of ACF’s monitoring workload. In addition, ACF discussed its monitoring prioritization assessment tool by which it assesses and prioritizes LIHEAP grantees for each year’s schedule of onsite monitoring reviews. ACF added that since receiving additional funding beginning in 2013, it has increased and strengthened its monitoring reviews, national and regional training, webinars, onsite technical assistance, Tribal roundtable meetings, web-based training and technical assistance tools, and reference materials available online.

Office of Inspector General Response

After reviewing ACF’s comments, we revised the last recommendation (on program monitoring activities and the selection of more Tribal grantees for either onsite or desk compliance reviews each year). We acknowledge the resource constraints to which ACF referred in its comments. We also acknowledge that ACF has increased its onsite monitoring of Tribal organizations and that it reviews a higher proportion of Tribal grantees than States even though Tribal organizations constitute about 1 percent of total LIHEAP funding. However, while the amount of grant funds is an important risk factor to consider in selecting grantees for monitoring visits, other risk factors need to be weighed as well, including whether previous reviews of Tribal organizations identify more financial management deficiencies in comparison with reviews of State and Territory grantees. Consequently, we revised our recommendation to state that ACF should incorporate the findings from previous monitoring reviews into the monitoring prioritization assessment tool to help evaluate the optimal composition of State, Territory, and Tribal grantees selected for annual onsite monitoring reviews.

ACF GENERAL COMMENTS

ACF Comments

ACF requested that we revise the title of this report so that it is clear that its scope is specific to Tribal grantees. ACF added that the word “monitoring” in the report’s title was too specific in the context of our scope and findings; it suggested we use the word “oversight” instead.

ACF also noted that our draft report used the phrase “always administered” in several places, including our second Objective. ACF posited that those words had the effect of setting up an unrealistic standard, “given that some human error is inevitable and the limited federal resources available . . .” ACF cited a passage from GAO, *Standards for Internal Control in the Federal Government* (a document to which we pointed in footnote 8), to support its position that an expectation of complete compliance with Federal requirements is unreasonable. These standards state that internal controls provide “reasonable assurance, not absolute assurance, that an entity’s objectives will be achieved.” Further, ACF stated that these standards were dated September 2014, the last FY of our scope.

In addition, and in the context of its discussion of the new Model Plan, which asks grantees how they define income, ACF stated that footnote 2 of this report appears inaccurate because it refers to both Detailed and Abbreviated Model Plans. ACF said that these have been replaced by “a more robust annual standard Plan.” Finally, ACF requested that we consider revising the second sentence of the first paragraph of the “Administration for Children and Families” section. ACF believes that the word “Territory” should be included in the context of discussions of grants programs, to indicate that ACF supports State, Territory, and Tribal governments with LIHEAP grants.

Office of Inspector General Response

We revised the title of this report to clarify that our focus is on Tribal grantees and replaced the word “monitoring” with “oversight.” In addition, we revised our objective and certain areas of the report to use the word “oversight.”

In response to ACF’s concerns about our use of the phrase “always administered” in our draft report, we have revised that phrase in this final report (in our second Objective) to replace “always” with “consistently.” We recognize that internal control standards aim to provide reasonable assurance, not absolute assurance, of compliance. We recognize, too, that the objective of internal controls is to detect and minimize any noncompliance by grantees in order to provide reasonable assurance that program objectives are being met. Furthermore, although ACF is correct that the version of GAO’s *Standards for Internal Control in the Federal Government* cited in our report was dated September 2014, the previous version of these standards (published in FY 2000, well before our audit period) conveyed the same fundamental concepts of internal controls.

With respect to ACF’s comment about the apparent inaccuracy of the wording in footnote 2, we note that that footnote references the Manual, section E, page E-9, which states: “Since grantees must submit a detailed application every 3 years, grantees may use an abbreviated application for the interim 2 years.” This differentiation between detailed and abbreviated applications (i.e., Model Plans) compelled us to leave the wording of that footnote unchanged. Also, we made no changes to the second sentence of the first paragraph of the “Administration for Children and Families” section. This sentence refers to ACF’s overall responsibilities as an HHS OpDiv, not just its responsibilities in the context of the LIHEAP, and was based on

information in ACF's *2015–2016 Strategic Plan*. In the first sentence of this report, we do mention that LIHEAP grants are awarded to States, Territories, Indian Tribes, and Tribal organizations.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We previously reviewed the administration of LIHEAP grant funds by TAT, TMT, and the Fort Peck Tribes to determine whether those Tribal grantees' programs complied with Federal laws, regulations, and guidance (Appendix B). The reviews covered various periods ranging from FYs 2010 through 2015. We also interviewed ACF staff and reviewed ACF's policies and procedures in relation to the administration of the LIHEAP by Tribal grantees. For this rollup report, we are summarizing the results of those reviews and making recommendations to ACF, the cognizant HHS OpDiv.

We reviewed the combined \$19,784,158 in LIHEAP grant funds that the three Tribal grantees received, with respect to four areas: (1) FFRs, Carryover Reports, and Household Reports submitted to ACF; (2) grant funds held as credit balances at energy suppliers; (3) refunds of unused grant funds made by energy suppliers to the relevant Tribal grantees; and (4) prepayments made by the Tribal grantees to energy suppliers.

We also reviewed selected beneficiaries enrolled in TAT's and the Fort Peck Tribes' LIHEAPs who received royalty payments (footnotes 6 and 9). We judgmentally selected 12 beneficiaries at TAT and 34 beneficiaries at the Fort Peck Tribes who received the largest amounts of royalty payments during FYs 2012 through 2014 and FYs 2011 through 2014, respectively.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal requirements, guidance, and best practices;
- interviewed ACF staff to gain a basic understanding of the program and ACF's policies and procedures for the monitoring of LIHEAP grant funds awarded to Tribal grantees;
- analyzed the findings and recommendations from our previous reviews of three Tribal grantees' administration of the LIHEAP (Appendix B);
- reviewed the methodologies and audit steps conveyed in our previous audit reports, which included:
 - obtaining and reviewing the three Tribal grantees' LIHEAP plans for administering their programs;
 - obtaining and analyzing the FFRs, Carryover Reports, and Household Reports submitted by the three Tribal grantees to ACF for the audit periods covered by the respective grantees' previous reviews;

- interviewing the Tribal grantees' staffs to gain an understanding of the grantees' policies and procedures for administering their programs, paying energy suppliers on behalf of LIHEAP beneficiaries, preparing and submitting LIHEAP financial reports, and expending excess fiscal yearend grant funds;
- interviewing energy suppliers' staffs to obtain an understanding of the processes used by the Tribal grantees to fund program services;
- judgmentally selecting, for TAT and the Fort Peck Tribes, a combined 46 beneficiaries enrolled in LIHEAP during FY 2013 who received the greatest amount of royalty payments (which included oil royalties) during our audit periods;
- obtaining and reviewing, for the 46 beneficiaries selected, the program applications, supporting documentation, and data from the U.S. Department of the Interior, which lists all royalty-related transactions from lands held in trust for Native Americans, during our audit periods;
- obtaining and reviewing payments made by the Tribal grantees to energy suppliers and identifying any credit balances held at, or refunds made to the Tribal grantees by, the energy suppliers;
- summarized the results of our previous reviews, including summarizing grant funds questioned and set aside for resolution; and
- discussed the results of this review with ACF officials on July 25, 2018.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>The Fort Peck Assiniboine and Sioux Tribes Improperly Administered Some Low-Income Home Energy Assistance Program Funds for Fiscal Years 2011 Through 2015</i>	<u>A-07-18-04106</u>	8/21/2018
<i>The Turtle Mountain Band of Chippewa Indians Improperly Administered Some Low-Income Home Energy Assistance Program Funds for Fiscal Years 2010 Through 2013</i>	<u>A-07-16-04233</u>	9/27/2017
<i>The Three Affiliated Tribes Improperly Administered Low-Income Home Energy Assistance Program Funds for Fiscal Years 2010 Through 2014</i>	<u>A-07-16-04230</u>	7/13/2017



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of the Assistant Secretary | 330 C Street, S.W., Suite 4034
Washington, D.C. 20201 | www.acf.hhs.gov

April 15, 2019

Daniel R. Levinson
Inspector General
U.S. Department of Health and Human Services
330 Independence Avenue, SW
Washington, D.C. 20201

Dear Mr. Levinson:

I am writing to provide the Administration for Children and Families' (ACF) response to the Office of Inspector General's (OIG) report, "The Administration for Children and Families Needs to Improve the Monitoring of the Low-Income Home Energy Assistance Program" (A-07-17-04105), which contains recommendations for the Low-Income Home Energy Assistance Program (LIHEAP). We appreciate the thorough work the OIG has done with regard to reviewing LIHEAP grants awarded to tribes. We also appreciate the opportunity to review and comment on the report. Below you will find our general comments on the report findings and our specific response to each recommendation.

General Comments

Regarding the finding of "Two Tribal Grantees Obligated Funds by Prepaying Energy Suppliers at the Ends of the Fiscal Years," we agree with the OIG that it appears in these examples the selected tribes made prepayments without the proper, corresponding supporting obligations, as required by federal law at 45 C.F.R. § 96.30(a). However, we believe there may be acceptable, necessary, and beneficial ways to address future year's LIHEAP needs and caution against a blanket policy that excludes pre-payments as an option. The federal training and technical assistance (T&TA) on this issue distinguishes between advances versus pre-payments in that the latter usually involves grantees receiving some form of consideration from the energy suppliers, such as locking in a lower deliverable fuel price during the typically less expensive summer months for the coming year. This saves the grantee considerable money and stretches the federal funding to serve more households. Typically, this strategy is used by LIHEAP grantees in the Midwest or Northeast where households are more dependent on deliverable fuels such as propane and fuel oil that is more expensive in the winter heating months. While we accept that practice, we believe the regulations at 45 C.F.R. § 96.30(a) require that pre-payments or pre-winter tank fills must ultimately be traced to the specific households that received the corresponding fuel delivery and that all funding must be accounted for, including any refunds by suppliers to grantees of funding for benefits that could not be completed for specific households as originally intended, e.g., the household moved.

Further, regarding the finding that "Three Tribal Grantees Allowed Energy Suppliers to

Hold Grant Funds as Credit Balances”, we agree these grantees’ actions appear to violate federal regulations. However, we note that having a credit balance with an energy supplier is not, in and of itself, a violation of federal law. There are instances when it is proper to allow an energy supplier to establish a credit balance, for example, at the start of the program year upon approval of a benefit application. The key is that the energy supplier and the LIHEAP grantee are monitoring the use of those credit balances to ensure that the balance is used fully within the proper timeframe.

Regarding “ACF’s Policies and Procedures Were Inadequate To Ensure That It Could Determine Whether Tribal Grantees Provided the Maximum Available Program Benefits to Eligible Households”, we disagree and would note that regarding responsibility for interpretation of federal law applicable to LIHEAP, we have properly adopted traditional executive branch authority over block grant programs. For LIHEAP, we rely upon the HHS regulations applicable to its block grant programs at 45 C.F.R. Part 96. Specifically, HHS defers to grantees’ individual interpretations of the federal law, unless HHS considers those interpretations to be “clearly erroneous.” Please see [45 C.F.R. § 96.50\(e\)](#), which reads:

[...] that under the block grant programs the States are primarily responsible for interpreting the governing statutory provisions. As a result, various States may reach different interpretations of the same statutory provisions. This circumstance is consistent with the intent of and statutory authority for the block grant programs. In resolving any issue raised by a complaint or a Federal audit the Department will defer to a State's interpretation of its assurances and of the provisions of the block grant statutes unless the interpretation is clearly erroneous. In any event, the Department will provide copies of complaints to the independent entity responsible for auditing the State's activities under the block grant program involved. Any determination by the Department that a State's interpretation is not clearly erroneous shall not preclude or otherwise prejudice the State auditors' consideration of the question.

This standard is further strengthened by the regulation at [45 C.F.R. § 96.30\(a\)](#), which requires as follows:

Except where otherwise required by Federal law or regulation, a State shall obligate and expend block grant funds in accordance with the laws and procedures applicable to the obligation and expenditure of its own funds. Fiscal control and accounting procedures must be sufficient to (a) permit preparation of reports required by the statute authorizing the block grant and (b) permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of the statute authorizing the block grant.

These standards reflect congressional intent that the federal government allow each state, tribe, and territory flexibility in meeting its own local needs by designing its own program policies

within key broad federal parameters. This approach by HHS is consistent with the approach taken by other federal government agencies regarding block grant programs, such as the U.S. Department of Housing and Urban Development's (HUD), which awards federal funding to state governments for the Community Development Block Grant Program. The federal regulations issued by HUD include [24 U.S.C. § 570.480\(c\)](#), which provide in part that:

[i]n exercising the [HUD] Secretary's obligation and responsibility to review a state's performance, the Secretary will give maximum feasible deference to the state's interpretation of the statutory requirements and the requirements of this regulation, provided that these interpretations are not plainly inconsistent with the Act and the Secretary's obligation to enforce compliance with the intent of the Congress as declared in the Act.

Therefore, there is nothing atypical in this approach to deferring to grantees' interpretation of the broad federal requirements as laid out in writing by Congress in the statute and the executive branch via supporting regulations.

While we defer to LIHEAP grantees' interpretation of the federal law, we have not abdicated our responsibilities in issuing relevant LIHEAP regulations and policies, or in our responsibility to provide training and monitoring to LIHEAP grantees every year. We focus on both programmatic and fiscal operations when conducting monitoring reviews and have been improving our monitoring tool(s) since fiscal year (FY) 2011, particularly through an office-wide monitoring improvement initiative that has sought to improve consistency in monitoring across programs.

We request several documents from LIHEAP grantees beyond those that address reported obligation amounts, including their LIHEAP policy and operation manuals, their general ledger, and sampled transactions' supporting documents (Enclosure 1 - OCS Grantee Monitoring Document Request List). We also review the grantee's LIHEAP benefit matrix each fall as part of reviewing Plans and prior to issuing new grant awards. The benefit matrix is used to determine the LIHEAP benefit amount for each household. The LIHEAP benefit matrix is based on each household's total income, number of eligible household members, and at least one home energy need factor. Often this last factor relates to the size of the home, the number of "vulnerable" household members, the type of heating and/or cooling fuel source, or even the geographic location of the household within the grantee's service area. We also review the benefit matrixes and related grantee policies for each grantee selected for a LIHEAP monitoring review by ACF. Additionally, we review every LIHEAP grantee's LIHEAP Carryover and Reallotment Report in August of the year related to the report. We look for grantees reporting anticipated reallotment funds, meaning federal LIHEAP funding they expect they will not be able to obligate timely that year. We then contact those grantees including and especially tribes, which tend to be the type of grantee that report reallotment balances. We provide one-on-one technical assistance (TA) to those grantees to assist the grantees in determining allowable uses of those funds within the remaining obligation period.

Regarding the finding that “One Tribal Grantee Did Not Refund Unobligated Grant Funds Reported on Its Federal Financial Reports,” we would note that we use the Payment Management System (PMS) to make LIHEAP funding available to grantees to draw down. When grantees need to return federal LIHEAP funding that they drew down in error or due to a disallowance, grantees are typically instructed by the HHS Program Support Center (PSC) that administers the PMS to return the funding electronically via PMS. (Please see enclosure 2 - [ACF General Terms and Conditions for Mandatory Formula, Block and Entitlement Grant Programs](#), term 22). We have two primary offices that work together on federal LIHEAP administration—the Office of Community Services (OCS), which is the program office responsible for LIHEAP administration, and the Office of Grants Management (OGM), which is responsible for issuing the grant award letter and coordinating with PSC on the funding in PMS. Both offices will collaborate on ways to strengthen the federal oversight regarding the return of tribal grantee LIHEAP funding based on the data in their annual federal LIHEAP reports.

Regarding the finding that “Two Tribal Grantees Did Not Report Unobligated Grant Funds on Their Federal Financial Reports,” we would note that these examples appear to violate federal law and rules. (Enclosure 3 - [ACF Terms and Conditions Addendum, Additional Financial Requirements for LIHEAP](#), terms 4-5 and terms 7-12).

The examples in the finding of “Three Tribal Grantees Reported Inaccurate Amounts of Unobligated Grant Funds on Their Carryover and Re-Allotment Reports, appear to violate the federal law and rules, including the [ACF Terms and Conditions Addendum, Additional Financial Requirements for LIHEAP](#), terms 4-5 and term 12.

We agree in part with the finding that “Two Tribal Grantees Made Benefit Payments to Ineligible Beneficiaries. We agree that these grantees may have violated their own policies on income such as royalties. However, we believe it would be inappropriate for the agency to define “income” for LIHEAP because Congress did not define this term in the LIHEAP statute. Following the traditional principles of federal block grant program administration, as discussed above, where the federal LIHEAP statute is silent, we appropriately defer to a tribal LIHEAP grantee to define its own LIHEAP policies, including what constitutes “income.” This allows each grantee to take into account their unique populations and needs. In fact, the federal LIHEAP statute expressly prohibits HHS from proscribing “...the manner in which the States will comply with the provisions of this subsection.” (“subsection” referring to the 15 federal LIHEAP assurances to which tribal LIHEAP grantees must certify compliance with their annual LIHEAP Plan). Please see 42 U.S.C. § 8624(b).

Every year, however, we take proactive steps to provide T&TA to help tribal LIHEAP grantees develop their own LIHEAP policies and procedures. We provide T&TA on topics such as how to develop a LIHEAP policy and procedures manual, how to develop a LIHEAP benefit matrix, how to define and track expenses such as administrative costs, etc. One example T&TA tool is ACF’s enclosure 4, [LIHEAP Grantee Resource Guide](#), Section

D, which includes strategies the grantees may take in defining income for purposes of the LIHEAP eligibility determination. This includes a reference to “lease money” as an example of a type of “base” income that we see LIHEAP grantees count in the gross income calculation, please see page D-5 of the Guide.

Further, both ACF and OIG independently identified compliance concerns in their respective monitoring reports of these three tribal LIHEAP grantees noted in the OIG report. However, the OIG report expects a standard of “always administered.” ACF considers this standard to be unrealistic to expect for federal oversight to achieve 100 percent compliance given that some human error is inevitable and the limited federal resources available for monitoring and T&TA.

The OIG Report cites the federal Government Accountability Office’s (GAO’s) *Standards for Internal Control in the Federal Government*, dated September 2014. We note that the GAO published this reference in the last fiscal year of the timeframe covered by this OIG Report. Further, this GAO publication—as described in footnote 8 on page 7 of the OIG Report—“defines an internal control system as a continuous built-in component of operations, effected by people, that provides reasonable assurance, *not absolute assurance*, that an entity’s objectives will be achieved.” (Emphasis added in italics.) It appears, then, that even the GAO standards on internal controls acknowledges that a zero improper payment, or conversely 100 percent compliance, standard is unreasonable. However, we appreciate the OIG highlighting this publication as a suggested resource in this regard. The federal LIHEAP team will incorporate this GAO publication into its T&TA protocol for LIHEAP grantees and use it to assess the federal LIHEAP monitoring protocol with respect to internal controls. In FY 2010, we issued guidance documents to all LIHEAP grantees regarding specific recommended strategies for strengthening program integrity, including internal controls. This included requiring a new set of LIHEAP Plan questions beginning in FY 2011 related to fiscal controls and program integrity. Please see background in enclosure 5 - [LIHEAP-IM-2010-06](#), enclosure 6 - [LIHEAP-AT-2010-06](#), and enclosure 7 - [LIHEAP-AT-2014-03](#) (the last of which outlines the current Plan questions).

The OIG noted that one tribe failed to provide a definition of income in its LIHEAP Plan. We do not believe this issue is relevant concerning the purpose of the Plan in providing ACF the information needed to issue LIHEAP grant funding to tribes. In the federal LIHEAP statute, Congress provided seven required types of information that prospective LIHEAP tribal grantees must submit to HHS as part of their annual LIHEAP Plan. None of these required elements reference “income” or its definition by the grantee. Please see 42 U.S.C. § 8624(c)(1). Therefore, there is no clear congressional intent that a LIHEAP grantee’s Plan should be *denied funding* because the Plan lacked specificity regarding how it defines “income.” Nonetheless, beginning with FY 2015, we obtained public comment and Office of Management and Budget (OMB) approval to amend the federal Model LIHEAP Plan to switch to a standard, expanded list of annual questions that included additional information deemed appropriate by HHS for purposes of determining funding awards, as permitted by the statute at 42 U.S.C. § 8624(c)(1)(h).

This new, improved Model Plan includes a question asking how the grantee defines income and it includes a checkbox list of potential types of income the grantee may include in that definition. Prior to FY 2015, HHS required a rotational schedule of prospective grantees which required a Detailed Model Plan once every three years or more frequently if the grantee made substantial revisions, per the federal statute (see 42 U.S.C. § 8624(c)(2)). In the other two years and absent “substantial revision”, prospective LIHEAP grantees could choose to submit an Abbreviated LIHEAP Plan that adopted its most current Detailed Plan and provided updates regarding its certification to the statutorily required LIHEAP assurances and the grantees’ chosen income eligibility threshold for that coming year. We would note that the summary of this prior Plan requirement in footnote 2 on page 2 of the OIG report appears inaccurate. The summary states that the Detailed and Abbreviated Plans are still active requirements. They are not and, as noted above, have been replaced with a more robust annual standard Plan. Please see [LIHEAP-AT-2014-03](#).

Federal staff review tribal grantees’ Plan responses prior to issuing the initial grant awards for that federal fiscal year. The federal review comments are included in the Plan, section by section, in our electronic Online Data Collection System (OLDC). Federal Plan reviewers note in writing regarding every Plan question whether the grantee’s response meets the federal statutory reporting/public participation (notice) requirements necessary to receive LIHEAP funding or whether it raises a broader compliance concern regarding federal program implementation requirements. Completeness concerns will prevent a prospective LIHEAP grantee from receiving funding unless they revise their Plan adequately in the view of the federal Plan reviewers. Broader compliance concerns noted in the Plan typically cannot be resolved in time to avoid a significant delay in the federal grant awards. As we do not wish to penalize the low income households that stand to receive the end purpose benefits, we issue the federal LIHEAP grant awards based on completeness of the Plan’s public notice and reporting requirements and with the understanding that the grantee will cooperate with HHS staff on resolving compliance concerns noted in the Plan review comments, as quickly as possible that program year. This is again in the spirit of the block grant process and mandatory nature of the funding, in that we do not typically have discretion of to whom to provide federal funding.

We agree with the finding that “Three Tribal Grantees Did Not Submit Reports in Accordance With Federal Requirements, and One Tribal Grantee Submitted Federal Financial Reports That Were Unsupported.” However, we would note that each year, OCS conducts on-site LIHEAP monitoring reviews of a sample of grantees which includes a review of the annual LIHEAP Federal Financial Reports (FFRs, also known as the Standard Form 425), LIHEAP Carryover and Reallotment Reports, and several other key financial documents. We conducted monitoring site visits to TMT and TAT in July 2016, in accordance with federal requirements. The scope of those site visits focused on FY 2014. During the course of the site visits, we noted required actions for both grantees to make improvements to their reporting, including to: (1) develop formal procedures for preparing, reviewing, approving, and revising the LIHEAP Carryover and Reallotment Reports and the corresponding LIHEAP FFRs to ensure that data is recorded accurately and consistently with adequate supporting documents

and (2) implement documented definitions of “obligation” and “expenditure.” Through FY 2018, OGM had responsibility for reviewing the FFRs for all LIHEAP grantees. However, there were limited personnel available for LIHEAP activities. Beginning with FY 2019, OGM is undergoing a grants modernization effort that is intended to improve ACF customer service, financial oversight, and financial monitoring. This will include a new submission portal for the LIHEAP FFRs via the web-based PMS beginning with the FY 2019 FFRs. OGM and OCS are also partnering to develop a collaborative monitoring protocol.

We do not agree with the finding that “ACF’s Policies and Procedures Were Inadequate To Ensure That It Could Determine Whether Tribal Grantees Properly Administered the Low-Income Home Energy Assistance Program.” We disagree that our selection of tribal LIHEAP grantees for monitoring fails to meet the threshold expected by Congress in the LIHEAP statute. The statute requires HHS to “conduct in *several* States in each fiscal year investigations of the use of funds received by the States under this title in order to evaluate compliance with the provisions of this title.” (Emphasis added.) Please see 42 U.S.C. §8627(b)(1). The statute does not define “several.” As such, we use a monitoring prioritization assessment tool each year to identify a select number of grantees for monitoring visits from more than 200 directly funded LIHEAP grantees of which more than 150 are tribes or tribal organizations.

The monitoring prioritization assessment tool updates annually LIHEAP grantee data regarding the amount of LIHEAP funding received, the time elapsed since the last ACF monitoring review, and the data available from the grantees’ most current independent audit report such as whether the grantee had findings related to eligibility and monitoring activities.

All of the tribal LIHEAP grantees combined receive an average total LIHEAP funding of \$36 to \$40 million per year. This represents approximately 1 percent of the total LIHEAP funding available since 2010. Some of the tribal grantees have only a handful of income eligible households in their service territories and, per the funding formula (or agreement with its respective state), only receive \$3,000 per year in LIHEAP funding to administer their programs. The largest funded tribes receive approximately \$2 million depending on the year. The vast majority of tribal LIHEAP grantees receive less than \$500,000 per year in federal LIHEAP funding. Approximately 33 to 38 tribal LIHEAP grantees represent the bulk of the federal LIHEAP funding for tribal grantees and tribal households served. This group of tribal grantees is included in our federal monitoring prioritization assessment each year that we conduct to triage which LIHEAP grantees warrant a monitoring site visit that year. Since receiving a funding increase from Congress for federal LIHEAP monitoring and T&TA activities in time for the FY 2013 schedule, we have conducted 11 to 16 on-site program monitoring site visits each year and ensured that approximately 25 to 30 percent of the federal monitoring workload is comprised of tribal LIHEAP grantees—focusing on the largest and highest funded tribal LIHEAP grantees.

Prior to the new monitoring resources, we conducted 4 to 6 monitoring site visits with an

occasional site visit to a high funded tribal LIHEAP grantee such as the Navajo Nation. Those older reviews, however, did not include federal fiscal expertise as the federal LIHEAP team of approximately 12 people did include any direct audit or financial analyst staff (or contractors) until FY 2012. Even today, the federal monitoring team comprises four program staff, two auditors, and approximately five fiscal contractor support individuals. The same program staff that conduct monitoring site visits are also the primary individuals responsible for reviewing the more than 200 LIHEAP grantee Plans each fall in order for ACF to issue LIHEAP grant awards. Thus, we have increased significantly the number of federal personnel and contractor resources allocated to LIHEAP monitoring and T&TA activities, including for state grantees that comprise in total over \$3 billion per year in federal funding. In conducting compliance visits of approximately 16 LIHEAP grantees per year, we have made reasonable and sincere efforts to monitor this vast amount of funding every year despite its small resources available for this required activity, especially in prioritizing on-site visits over more limited scope desk reviews.

Beginning in FY 2013, we set into motion a number of increased and more robust procedures for federal LIHEAP monitoring and T&TA. This effort was the result of increased federal funding of up to \$3 million annually provided in late FY 2012. Prior to that time, these activities had a \$300,000 per year limit which only supported minimal monitoring and very few onsite reviews. Since FY 2013, we have expanded the number of on-site monitoring reviews to up to 16 grantees per year, almost doubled the duration of each, ensured that approximately 25 percent of those site visits involved directly funded tribal LIHEAP grantees, and added a fiscal review to the site visits by auditors and financial analysts that had previously been unavailable to the federal LIHEAP monitoring team.

Furthermore, with the increased federal resources, we have provided national and regional LIHEAP grantee training conferences every year since FY 2013. These robust, 2 to 3 day conferences that include the federal LIHEAP staff and other relevant speakers providing interactive training to key grantee staff on federal requirements. These training events focus on the areas of greatest risk to monitoring findings, audit findings, and improper payments. During the same timeframe, we have also provided T&TA LIHEAP webinars to grantees between 6 and 15 times per year, a portion of which are targeted expressly for tribal LIHEAP grantees.

We have been using the additional federal funding to provide one-on-one, in person TA site visits to grantees that we feel have the most significant compliance problems and to focus on tangible products that the grantee can use to mitigate/resolve its most pressing compliance issue. This includes TA visits for several tribal grantees every year. ACF also funds at least two in person (field) tribal roundtable meetings of tribes located within the same state. The purpose of these meetings is for ACF to facilitate peer exchange amongst these tribal grantees located in proximity to one another and for whom there are common local needs and program challenges. The meetings also provide ACF an opportunity to clarify federal requirements in the context of those conversations. In addition, we provide a number of web-based T&TA tools and reference materials across three federal LIHEAP web sites—one with official [LIHEAP law and guidance](#), one for [performance management](#), and one with data and [tools](#) for LIHEAP grantees to inform

their decision-making on key program policies and procedures. Last, there are four federal LIHEAP staff that serve as the primary points-of-contact for LIHEAP grantees on all T&TA questions. These staff answer LIHEAP grantee questions by phone and email, as well as hold quarterly teleconferences across all ten HHS regions.

We believe we have and continue to fulfill our statutory responsibilities to annually provide all tribal LIHEAP grantees with T&TA and monitoring reviews of a sample of tribal LIHEAP grantees.

We would suggest the OIG consider revising the title of the report to read: “The Administration for Children and Families Should Improve the Oversight of Tribal Grantees Administering the Low-Income Home Energy Assistance Program.” The title, as written in the draft report, seems overly broad with respect to all LIHEAP grantees when in fact the scope of the report is specific to only tribal grantees. Further, the title appears too specific in the word “monitoring” given that the OIG findings and recommendations also address the federal LIHEAP policies/guidance and T&TA provided to tribal LIHEAP grantees.

In addition, the OIG should consider revising the second sentence of the first full paragraph on page 3 to read, “ACF carries out this responsibility through internal activities and through direct grants to State, Territory, and Tribal governments. They in turn can provide sub-grants or contracts to county, city, as well as public and private local agencies.” The word “Territory” should be included anywhere else in the draft to indicate that ACF supports State, Territory, and Tribal governments with LIHEAP grants.

ACF Response to Recommendations

- Enhance its policies and procedures to ensure that it can determine whether Tribal grantees:
 - ensure that obligated grant funds are used to provide energy assistance to eligible beneficiaries (rather than being held as credit balances at energy suppliers) and that these funds can be traced to the year of obligation,

ACF Response: We concur with this recommendation. We will review our LIHEAP monitoring protocol for opportunities to strengthen its test of this issue regarding credit balances with energy suppliers.

- maintain adequate supporting documentation for LIHEAP obligations and track and verify that prepayments made to energy suppliers are then used to provide services to eligible households, and

ACF Response: We concur with this recommendation. We will review our LIHEAP monitoring protocol for opportunities to strengthen its test of this issue regarding prepayments to energy suppliers.

- ensure that energy suppliers return to the Tribes all unused grant funds at the end of each FY;

ACF Response: We do not concur with this recommendation. We agree that energy suppliers must refund timely to tribal LIHEAP grantees all federal LIHEAP funds that suppliers are unable to deliver or provide in full to LIHEAP approved households. However, we disagree with the timeframe the OIG notes for the energy suppliers. Tribal LIHEAP grantees must return funds that are unobligated in excess of 10 percent of the tribe's LIHEAP grant, i.e., "reallotment", to HHS at the end of each federal fiscal year (FFY). However, we believe that the tribal LIHEAP grantees should require refunds of federal LIHEAP funding from energy suppliers prior to the close of each federal fiscal year in order to attempt to re-obligate those funds for allowable LIHEAP purposes within the proper obligation period. Therefore, we expect tribal LIHEAP grantees to conduct regular reconciliations of LIHEAP funding sufficient to ensure proper obligation of the federal funding within the obligation period, as required by 45 C.F.R. § 96.30(a).

- Review the FFRs and Carryover Reports to verify that Tribal grantees report unobligated grant funds based on accurate financial information and ensure those amounts are refunded to the Federal Government;

ACF Response: We concur with this recommendation. As noted above, we are implementing a new reporting method for LIHEAP grantees' annual submission of FFR/425s. Relying on review of drawdowns of federal LIHEAP funds by grantees is not a reliable method of monitoring timely obligation of the federal funding. As noted in the OIG Report, the LIHEAP statute and regulations proscribe federal timeframe requirements only for the obligation of the funding by LIHEAP grantees. Grantees must follow their own tribal-wide policies/procedures for timely expenditure of LIHEAP funding as though they were using their own tribal funds. See 45 C.F.R. 96.30(a). The federal LIHEAP program team will coordinate more frequently with the federal grants management team regarding the draw down frequency, timing, and proportion of funding on a quarterly basis. We will consider that very few or small proportions of LIHEAP drawdowns may be an indicator that the grantee is either struggling with timely obligation of funds and/or simply failing to reconcile their obligations to expenditures on an ongoing basis to meet their immediate LIHEAP business needs, as required by the federal Cash Management Improvement Act. See [31 CFR § 205.33](#). We will use this drawdown data to provide our one-on-one TA efforts to LIHEAP grantees earlier in the obligation period. ACF will also collaborate on ways to improve coordination of review of PMS balances regarding return of federal LIHEAP funding from tribal grantees. Additionally, the federal LIHEAP program team will highlight the recommendations of the OIG regarding federal policy expectations that tribal grantees are expected to develop in writing and follow. This will include, for example, ACF providing T&TA on this topic during a tribal only session of the FY 2019 LIHEAP Grantee Training Conference in late April 2019.

- Educate Tribal grantees on ways to use grant funds to provide the maximum available benefits to eligible households and for other purposes of the program, such as crisis situations, residential weatherization, and energy-related home repairs;

ACF Response: We concur with this recommendation. As discussed regarding the findings, ACF does provide numerous education efforts to its tribal LIHEAP grantees throughout the year, every year. However, ACF will review its T&TA materials and guidance documents to look for opportunities to strengthen its expectations for tribal grantees regarding this issue.

- Review each Tribal grantee's policies and procedures to ensure that the grantee formalizes its definition of income in ways that conform to Federal requirements and guidance and uses this definition when determining eligibility for LIHEAP assistance;

ACF Response: We concur with this recommendation. We will continue to review tribal grantees' definitions of income as referenced in their annual Plan and corresponding policies to ensure they have a written definition and that it is not a "clearly erroneous" interpretation of the federal LIHEAP statute.

- Review all FFRs, Carryover Reports, and Household Reports to ensure that the reports are complete, are submitted in a timely manner, and are properly supported; and

ACF Response: We concur with this recommendation.

- Continue to expand its program-monitoring activities so that a greater proportion of Tribal grantees is selected for either onsite or desk compliance reviews each year.

ACF Response: We do not concur with this recommendation. We cannot support an increased monitoring workload in this regard within the current monitoring resources. With 25 to 30 percent of our federal monitoring site visit workload, we are already committing a substantially greater proportion of our monitoring time and activities to tribal LIHEAP grantees as compared to the proportion of funding all tribal LIHEAP grantees combined receive from ACF as compared to state and territory LIHEAP grantees. Further, with more than 150 directly funded tribal LIHEAP grantees (many of whom receive only a few thousand dollars of federal LIHEAP funding each year), we are taking reasonable steps to be a prudent steward of the federal taxpayer's dollars in how we allocate our limited personnel and travel budget towards LIHEAP monitoring activities and to ensure adequate representation between state and tribal LIHEAP grantees.

Again, I appreciate the opportunity to review and comment on this report. Please direct any follow-up inquiries to our OIG liaison Scott Logan, Office of Legislative Affairs and Budget, at (202) 401-4529.

Sincerely,



Lynn A. Johnson,
Assistant Secretary
for Children and Families

Enclosures