



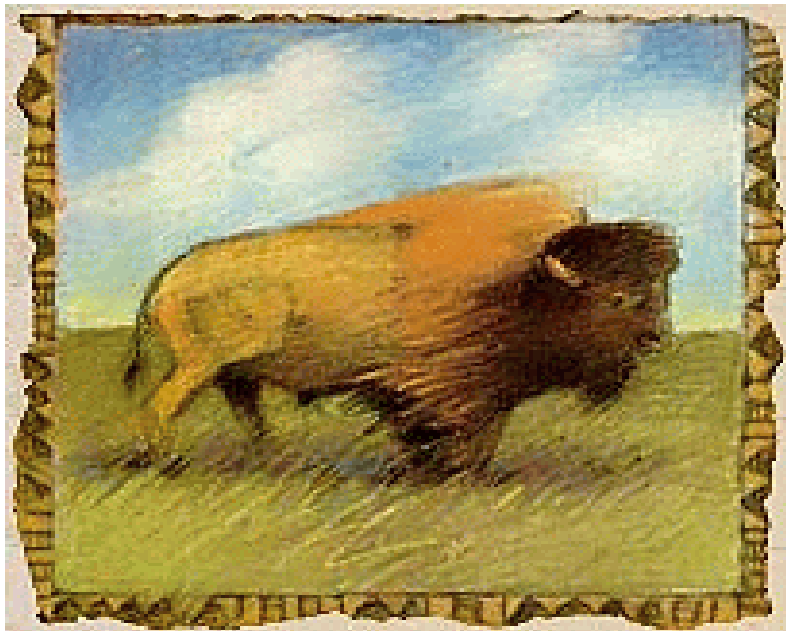
Office of Inspector General

Audit Report

EPA Grants Awarded to the Northern Cheyenne Tribe

Report No. 1000370-2002-1-00089

March 5, 2002



Inspector General Division
Conducting the Audit:

Central Audit Division
Denver, Colorado Office

EPA Region Covered:

Region 8

Program Offices Involved:

Tribal Assistance Program
Grants, Audits, and Procurement Program
Montana Operations Office

Grantee:

Northern Cheyenne Tribe

Audit Conducted by:

Larry Dare
Thomas Herrod

Cover: The illustration is part of an EPA poster that depicts Tribes' sovereign right to protect the water, land, and air. The cover illustration represents air.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

CENTRAL AUDIT DIVISION
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101
913-551-7878
FAX: 913-551-7837

BRANCH OFFICES:
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733
214-665-6621
FAX: 214-665-6589

April 11, 2002

999 18th Street Suite 300
Denver, Colorado 80202-2405
303-312-6872
FAX: 303-312-6063

MEMORANDUM

SUBJECT: EPA Grants Awarded to the Northern Cheyenne Tribe
Report No. 1000370-2002-1-00089

FROM: Jeff Hart
Branch Manager
Denver Office

TO: Jack McGraw
Acting Regional Administrator
Region 8

Attached is our report, *EPA Grants Awarded to the Northern Cheyenne Tribe*. This report includes our independent assessment of three Northern Cheyenne environmental grants and Northern Cheyenne's general management of its environmental program.

ACTION REQUIRED

In accordance with EPA Order 2750, you, as the action official, are required to provide our office with a proposed draft management decision specifying the Agency's position on costs questioned in this report. The draft management decision is due within 120 calendar days of the date of this transmittal memorandum.

Our report includes an assessment of your draft report comments. We also included your written comments as Appendix I.

If you have any questions, please call me at (303) 312-6169 or Larry Dare at (303) 312-6969. Please refer to report number 1000370-2002-1-00089 on any related correspondence.

Attachment

Table of Contents

Independent Auditor's Report	1
Audit Results	3
Objective	3
Scope and Methodology	3
Findings	4
Recommendation	5
Agency Comments and Office of Inspector General Evaluation	5
Exhibits	
A Summary of Balance Due EPA	6
B Summary of Audit Results for Water Grant I998634-99	7
C Summary of Audit Results for General Assistance Program Grant GA998636-01	8
D Summary of Audit Results for Air Grant A008455-00	10
Appendices	
I Agency Response	11
II Distribution	12

Independent Auditor's Report

We have examined the costs claimed on the final Financial Status Report (Form 269A) and Request for Advance or Reimbursement (Form 270) submitted by the Northern Cheyenne Tribe, Lame Deer, Montana (grantee) for each of the grants listed in the Scope and Methodology section. The preparation and certification of the claims are the responsibility of the grantee. Our responsibility was to express an opinion on the claims.

We conducted our examination in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the claims submitted by the grantee are free of material misstatement and eligible under grant agreements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the final claims. An audit also includes assessing the accounting principles used and significant estimates made by management in preparing the claims. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, except for the questioned cost in Exhibit C, the claimed costs referred to above and presented in Exhibits A through D present fairly the reasonable, allowable, and allocable costs claimed according to the law, regulations, assistance agreements, and other applicable federal guidance.

Jeff Hart
Branch Manager
Denver Office
Central Audit Division
Office of Inspector General

Fieldwork End: March 16, 2001

(this page intentionally left blank)

Audit Results

In response to a December 7, 1999 allegation letter, we reviewed (1) the legality of EPA Region 8's Tribal Assistance Program grant awards, (2) the Tribal Assistance Program's internal management, and (3) grantee management of environmental programs and expenditure of grant funds. We reported on the first two issues in our September 29, 2000 report, *Increased Focus on Grant Management and Internal Relationships Would Improve Region 8's Tribal Assistance Program*. To address the third issue, we conducted financial audits of four grantees. We judgementally selected the four tribes based on their significant involvement with EPA programs, past performance, and the fact that each had several recently closed grants for which we expected to find complete financial records. This report provides our findings at one of those grantees – the Northern Cheyenne Tribe, Lame Deer, Montana.

Objective

Our overall objective was to determine whether the grantee effectively managed its environmental grants. To accomplish this objective, we asked the question: Are costs claimed for grants eligible, reasonable, and supported, and were the costs in compliance with grant terms and conditions as well as applicable Federal statutes and regulations?

Scope and Methodology

EPA paid the grantee \$403,231 under the following assistance agreements:

Program	Grant No.	For Expenses Through	Amount
Water Section 106 Special Project	I998634-99	7/14/2000	\$64,444
General Assistance Program	GA998636-01	6/28/2000	\$256,993
Air Section 105	A008455-00	11/27/2000	\$81,794
Total			\$403,231

We selected these three grants to obtain a cross section of the grantee's environmental program and because the grantee had received final payment from EPA for each grant. Grant I998634-99 involved water quality projects from April

1999 through March 2000. Grant GA998636-01 involved activities from May 1997 through March 2000 and was intended to increase tribal management capability and capacity to implement environmental programs. Grant A008455-00 was for developing and enhancing a comprehensive air monitoring program; the project period was from October 1999 through September 2000. EPA funded 100 percent of grant GA998636-01. EPA paid 95 percent of the costs associated with the other two grants and the grantee paid the remaining 5 percent. The total claimed cost for the three projects was \$411,662, which included total EPA payments of \$403,231.

For each grant, the grantee certified on Standard Form 270, *Request for Advance or Reimbursement*, that the costs were in accordance with the grant terms. Subsequently, the grantee certified on Standard Form 269A, *Financial Status Report*, that all outlays and unliquidated obligations were for the purposes set forth in the award documents.

We visited the Northern Cheyenne Reservation during the week of March 12, 2001. We reviewed the three grants, the accompanying detailed expense ledgers, and receipts and other supporting documentation.

Findings

We Questioned Contractual Funds

We questioned a \$25,789 contract payment made because the Northern Cheyenne Tribe did not follow competitive contracting requirements when it awarded this contract. Region 8 had directed the grantee to award this contract to a specific organization without competition. Regardless, the grantee was not following Tribal and Federal procurement policies when awarding this contract.

Internal Controls Support Good Grant Management

Our objectives did not include a comprehensive review of the grantee's internal controls for managing its Federal grants. However, during our on-site fieldwork we generally found Northern Cheyenne's internal controls to be sufficient.

Recommendation

We recommend that the Acting Regional Administrator, EPA Region 8, recover \$25,789 in ineligible costs.

Agency Comments and Office of Inspector General Evaluation

The Region did not agree with our recommendation and did not believe it is appropriate that Northern Cheyenne be held responsible for repaying the amount of costs questioned. The Region noted that Northern Cheyenne acted on the Region's advice and believed the Region had already executed a contract with Mni Sose Intertribal Water Rights Coalition, Incorporated in full compliance with Federal procurement regulations. In addition the Northern Cheyenne Tribe believed it was actually precluded in using its procurement procedures.

We disagree. While we acknowledge that the grantee was directed by Region 8 to award the contract to the particular organization without competition, this did not relieve the grantee of responsibility for following applicable regulations. While the Tribal representatives knew at the time that the contract should have been competed and raised their concerns with Region 8 staff, they nonetheless issued a sole source contract without justification. As a result, we believe Northern Cheyenne should be held responsible for its actions and required to repay \$25,789, the amount of the contract.

Exhibit A

Summary of Balance Due EPA

Water Grant I998634-99 (See Exhibit B) <ul style="list-style-type: none"> • \$68,570 Claimed • \$0 Questioned • \$68,570 Total Allowable 	EPA Payments as of 7/14/00	\$64,444
	EPA Share (95% of allowable) ¹	\$64,444
	Balance Due EPA	\$0
General Assistance Program Grant GA998636-01 (See Exhibit C) <ul style="list-style-type: none"> • \$256,993 Claimed • \$25,789 Questioned • \$231,204 Total Allowable 	EPA Payments as of 6/28/00	\$256,993
	EPA Share (100% of allowable)	\$231,204
	Balance Due EPA	\$25,789
Air Grant A00845-00 (See Exhibit D) <ul style="list-style-type: none"> • \$86,099 Claimed • \$0 Questioned • \$86,099 Total Allowable 	EPA Payments as of 11/27/00	\$81,794
	EPA Share (95% of allowable)	\$81,794
	Balance Due EPA	\$0

Total Costs Claimed:	\$411,662
Total Costs Questioned:	\$25,789
Total Allowable:	\$385,873
Total EPA Payments Made:	\$403,231
Total EPA Share Allowable: ²	\$377,442
Balance Due EPA:	\$25,789

Notes

1. Ninety-five percent of total program outlays is \$65,142. However, the EPA share is limited to \$64,444 because recipient match (\$4,126) consists entirely of in-kind contributions which are not eligible for reimbursement. Total program outlays, \$68,570, less the grantee's in-kind contribution of \$4,126, equals \$64,444.
2. EPA share represents that portion of allowable project cost for which EPA is responsible.

Exhibit B

Summary of Audit Results for Water Grant I998634-99

Categories	Costs Claimed	Costs Questioned as:			
		Ineligible	Unreasonable	Unsupported	Total
Payroll	\$40,488				
Travel	5,323				
Supplies	133				
Equipment	3,395				
Utilities	1,185				
Indirect Cost	13,920				
Recipient Match	4,126				
Total	\$68,570				\$0
Total Allowable (Claimed less Questioned)					\$68,570
Summary of Balance Due EPA					
EPA Payments as of 03/31/00		\$64,444			
EPA Share (95% of allowable) ¹		\$64,444			
Balance Due EPA		\$0			

Notes

- 1 Ninety-five percent of total program outlays is \$65,142. However, the EPA share is limited to \$64,444 because recipient match (\$4,126) consists entirely of in-kind contributions which are not eligible for reimbursement. Total program outlays, \$68,570, less the grantee's in-kind contribution of \$4,126, equals \$64,444.

Exhibit C

**Summary of Audit Results for
General Assistance Program Grant GA998636-01**

		Costs Questioned as:			
Categories	Costs Claimed	Ineligible	Unreasonable	Unsupported	Total
Payroll	\$141,216				
Travel	\$25,957				
Supplies	\$5,443				
Equipment	\$12,071				
Contractual ¹ (Professional Services)	\$25,789	\$25,789			\$25,789 ¹
Utilities	\$2,593				
Indirect Cost	\$43,924				
Total	\$256,993	\$25,789			\$25,789
Total Allowable (Claimed less Questioned)					\$231,204
Summary of Balance Due EPA					
EPA Payments as of 06/28/2000		\$256,993			
EPA Share (100% of allowable)		\$231,204			
Balance Due EPA		\$25,789			

Notes

1. We questioned this \$25,789 contract payment made to Mni Sose Intertribal Water Rights Coalition, Incorporated, because the contract award did not follow Tribal or Federal procurement policies. Northern Cheyenne's policy states that, "In purchases exceeding \$10,000, the grantee shall utilize formal advertising (also known as sealed bids), with adequate purchase description, competitive sealed bids, and public openings unless negotiated procurement is utilized." Although the grantee's policy allowed negotiated procurement in certain

circumstances, that policy did not appear to apply in this case, and the required procedures for negotiated procurements were not followed. In addition, the Federal Acquisition Regulations, Part 6, requires a contract of this size to be open for competitive bids. However, this contract was awarded sole source, without competitive contracting requirements being followed. We found that the grantee awarded the contract because Region 8 directed the grantee to specifically contract with Mni Sose Intertribal Water Rights Coalition, Incorporated, for conference services.

Exhibit D

Summary of Audit Results for Air Grant A008455-00

Categories	Costs Claimed	Costs Questioned as:			
		Ineligible	Unreasonable	Unsupported	Total
Payroll	\$53,196				
Travel	9,052				
Telephone	1,954				
Supplies-Office	1,714				
Utilities	675				
Property/ Equipment	2,549				
Equipment Repair	142				
Indirect Cost	16,735				
Public Relations	81				
Total	\$86,098				\$0
Total Allowable (Claimed less Questioned)					\$86,098
Summary of Balance Due EPA					
EPA Payments as of 11/27/00		\$81,794			
EPA Share (95% of allowable)		\$81,794			
Balance Due EPA		\$0			

AGENCY RESPONSE



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

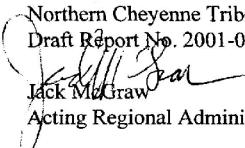
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8TMS-G

MEMORANDUM

FEB - 1 2002

SUBJECT: Audit of EPA Grants Awarded to the
Northern Cheyenne Tribe
Draft Report No. 2001-08-000370-NC

FROM: 
Jack McGraw
Acting Regional Administrator

TO: Jeff Hart
Branch Manager
Denver Office

A draft audit report, prepared by your office, was provided to us regarding several grants awarded to the Northern Cheyenne Tribe. Costs in the amount of \$25,789 were questioned under the General Assistance Program (GAP) grant for a sole source contract with Mni Sose. We have reviewed our records and the response that we received from the Tribe.

A GAP grant was awarded to the Northern Cheyenne for \$168,132. In this grant a work plan and a budget, in the amount of \$29,135, were negotiated with the Tribe to oversee a contract with Mni Sose to organize the Tribal Leader's Summit. The money was awarded to the Tribe on February 23, 1999 and the summit was to be held March 17, 1999. The Tribe's response indicates that they felt they did not have the time to contract out. The Tribe also felt EPA was directing them to go with Mni Sose and presumed the procurement with Mni Sose had already been executed by the Region 8 office in full compliance with federal procurement regulations. They felt that in complying with our funding directive, the Tribe was actually precluded in using its procurement procedures.

The audit questioned the contract costs because it was a sole source contract. EPA should have let the Tribe follow their own procurement regulations, which specifies that any purchase exceeding \$10,000 should be formally advertised. EPA's actions resulted in this miscommunication, and it is not appropriate for the Tribe to be held responsible for repaying funds due to this situation. We ask that you consider revising your audit report on this matter.

If you have any further questions on our response, please contact Beverly Goodsell, Regional Audit Coordinator.

Thank you.



APPENDIX II

DISTRIBUTION

Office of Inspector General
Inspector General

EPA Headquarters Office

Director, Financial Management Division (2733R)
Comptroller (2731A)
Director, Grants Administration Division (3903R)
Agency Audit Followup Coordinator (2724A)
Associate Administrator for Congressional and Intergovernmental Relations
(1301A)
Associate Administrator for Communications, Education, and Media Relations
(1101A)

Region 8 Office

Regional Counsel
Assistant Regional Administrator, Office of Partnerships and Regulatory
Assistance
Associate Assistant Regional Administrator, Office of Partnerships and
Regulatory Assistance
Director, Tribal Assistance Program
Assistant Regional Administrator, Office of Technical and Management Services
Director, Grants, Audits, and Procurement Program
Director, Financial Management Program
Audit Followup Coordinator
Director, Office of Communication and Public Involvement
Director, Montana Office
Northern Cheyenne Tribal Project Officer, Montana Operations Office

Northern Cheyenne Tribe
President