



Office of the Inspector General
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Audit of the Office on Violence Against Women and the Office of Justice Programs Awards to the Fort Belknap Indian Community, Harlem, Montana

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AUDIT OF THE OFFICE ON VIOLENCE AGAINST WOMEN AND THE OFFICE OF JUSTICE PROGRAMS AWARDS TO THE FORT BELKNAP INDIAN COMMUNITY, HARLEM, MONTANA

EXECUTIVE SUMMARY*

The U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) completed an audit of four grants and cooperative agreements awarded by the Office on Violence Against Women (OVW) and the Office of Justice Programs (OJP) to the Fort Belknap Indian Community (FBIC) in Harlem, Montana. The FBIC was awarded \$2,328,070 under Cooperative Agreement Number 2012-W5-AX-K004 for the Special Assistant U.S. Attorney Pilot Project; Grant Numbers 2012-IC-BX-0007 and 2015-AC-BX-0011 to respond to and prevent alcohol and substance abuse and to improve Tribal Justice systems; and Grant Number 2014-CZ-BX-0013 to reduce recidivism of adult offenders. As of August 11, 2016, the FBIC had drawn down \$907,969 of the total funds awarded.

The objectives of this audit were to determine whether costs claimed under the grants were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the award; and to determine whether the grantee demonstrated adequate progress towards achieving program goals and objectives. To accomplish these objectives, we assessed performance in the following areas of grant management: program performance, financial management, expenditures, budget management and control, drawdowns, and federal financial reports.

As a result of our audit testing, we concluded that the FBIC did not adequately manage the four awards. We found significant non-compliance and deficiencies in most of the areas we reviewed, including the failure to demonstrate progress toward achieving the awards' stated goals and objectives. Also, the FBIC experienced considerable program delays to establish an adult Tribal offender reentry program. Further, we found that the FBIC did not comply with essential award conditions related to performance reports, use of funds, drawdowns, and contract management. As a result of these deficiencies, we identified \$489,523 in total questioned costs and \$60,163 in funds to better use.

Our report contains 15 recommendations to OVW and OJP, which are detailed later in this report. Our audit objectives, scope, and methodology are discussed in Appendix 1 and our Schedule of Dollar-Related Findings appears in Appendix 2. We discussed the results of our audit with the FBIC officials and have included their comments in the report, as applicable. In addition, we requested a response to our

* The Office of the Inspector General redacted names of individuals from the Fort Belknap Indian Community's response that appear in Appendix 3 of this report to protect the privacy of the identified individuals. We also redacted from Appendix 3 the identity of a selected vendor for case management and tracking software because, as of the date of the response, the purchase had not yet been completed.

draft audit report from the FBIC, OVW, and OJP, and their responses are appended to the final audit report as Appendix 3, 4, and 5, respectively. Our analysis of the responses, as well as a summary of actions necessary to close the recommendations, can be found in Appendix 6 of this report.

**AUDIT OF THE OFFICE ON VIOLENCE AGAINST WOMEN AND
THE OFFICE OF JUSTICE PROGRAMS AWARDS TO THE
FORT BELKNAP INDIAN COMMUNITY, HARLEM, MONTANA**

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AUDIT OF THE OFFICE ON VIOLENCE AGAINST WOMEN AND THE OFFICE OF JUSTICE PROGRAMS AWARDS TO THE FORT BELKNAP INDIAN COMMUNITY, HARLEM, MONTANA

The U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) completed an audit of four grants and cooperative agreements awarded by the Office on Violence Against Women (OVW) and the Office of Justice Programs (OJP) to the Fort Belknap Indian Community (FBIC) in Harlem, Montana. The FBIC was awarded \$2,328,070, as shown in Table 1.

**Table 1
OVW and OJP Awards to the FBIC**

Awarding Agency	Award Number	Award Date	Project Start Date	Project End Date	Award Amount
OVW	2012-W5-AX-K004	6/01/2012	4/1/2012	12/31/2015	\$ 396,784
OJP	2012-IC-BX-0007	9/27/2012	10/1/2012	9/30/2016	\$ 496,122
OJP	2014-CZ-BX-0013	9/23/2014	10/1/2014	9/30/2017	\$ 694,560
OJP	2015-AC-BX-0011	9/16/2015	10/1/2015	9/30/2018	\$ 740,604
Total:					\$2,328,070

Source: OJP Grant Management System (GMS)

The FBIC awards included in our audit were funded through three different programs. Cooperative Agreement Number 2012-W5-AX-K004 was funded by the Violence Against Women (VAW) Tribal Special Assistant U.S. Attorney (SAUSA) Pilot Project. Program funds supported a prosecutor who was to maintain an active VAW crimes caseload and to promote higher quality investigations, improved training, and better inter-governmental communication. Grant Numbers 2012-IC-BX-0007 and 2015-AC-BX-0011 were funded by the Coordinated Tribal Assistance Solicitation Purpose Area 3, which consists of the Bureau of Justice Assistance (BJA) Tribal Courts Assistance Program and the Indian Alcohol Substance Abuse Prevention Program. Funding through this program supported efforts to respond to and prevent alcohol and substance abuse and to improve Tribal Justice Systems. Finally, Grant Number 2014-CZ-BX-0013 was funded by the Second Chance Act Two-Phase Adult Reentry Demonstration Program. Program funds supported efforts for demonstration projects to promote the safe and successful reintegration of individuals who have been incarcerated or detained into the community.

The Grantee

The Fort Belknap Indian Reservation is homeland to the Gros Ventre (Aaniiih) and the Assiniboine (Nakoda) Tribes, and is the fourth largest Indian reservation in Montana, with about 7,000 enrolled members. The main industry is agriculture, consisting of small cattle ranches, raising alfalfa for feed, and larger dry land farms. The FBIC Council is recognized as the governing body on the Fort Belknap Indian Reservation, and it is charged with the duty of protecting the health, security, and general welfare of the FBIC.

OIG Audit Approach

The objectives of this audit were to determine whether costs claimed under the awards were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the awards; and to determine whether the grantee demonstrated adequate progress towards achieving the program goals and objectives. To accomplish this, we assessed performance in the following areas of grant management: program performance, financial management, expenditures, budget management and control, drawdowns, and federal financial reports.

We tested compliance with what we consider to be the most important conditions of the grants. The OVW Financial Grants Management Guide, OJP Financial Guide, and DOJ Grants Financial Guide, and the award documents contain the primary criteria we applied during the audit.¹

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

Program Performance and Accomplishments

We reviewed required performance reports, grant solicitations and award documentation, and interviewed FBIC officials to determine whether the FBIC demonstrated adequate progress towards achieving or, depending on the award, demonstrated adequate achievement of the program goals and objectives. We also reviewed the progress reports to determine if these required reports were accurate. Finally, we reviewed the FBIC's compliance with the special conditions identified in the award documentation.

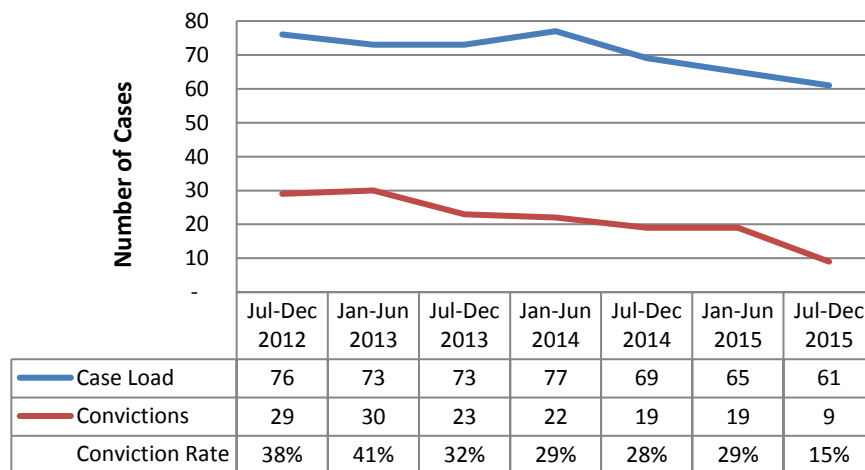
Program Goals and Objectives

The overall goals of Cooperative Agreement Number 2012-W5-AX-K004 were to increase the likelihood that every viable VAW offense is successfully prosecuted in Tribal court, federal court, or both; improve public safety efforts; and to improve the way victims of crime are served within the FBIC's jurisdiction. Associated objectives with this program were to: (1) fill gaps in jurisdictional coverage; (2) increase communication and coordination with Tribal, federal, and state law enforcement agencies; (3) establish consistent relationships between federal prosecutors and Tribal communities; and (4) improve the quality of VAW cases through training and best practices. Additionally, project activities were to be based on the FBIC's collaboration with the U.S. Attorney's Office in Montana to fund a qualified full-time Tribal SAUSA.

¹ We collectively refer to the OVW Financial Grants Management Guide, OJP Financial Guide, and DOJ Grants Financial Guide as the OVW, OJP, and DOJ financial guides in this report.

Of the program’s goals and objectives, we determined that the FBIC did not complete one goal and did not document another. For the goal to *increase the likelihood that every viable VAW offense is successfully prosecuted in Tribal court, federal court, or both*; we reviewed caseload information reported by the contract prosecutor, as shown in Figure 1 below. We found that the number of cases that resulted in a conviction fell by 26 percent from January 2013 to December 2015, and it appears that VAW cases were less likely to be successfully prosecuted. The contract prosecutor stated that there were fewer cases to prosecute because FBIC Criminal Investigations and the FBIC Police Department were struggling due to lack of funding and attrition, and the FBIC Police Department was having difficulty collaborating with the Federal Bureau of Investigation and the prosecutor’s office. Additionally, the FBIC Chief Administrative Officer stated that FBIC law enforcement officers and criminal investigators need better training to identify signs of domestic violence.

Figure 1
Caseload and Convictions Under
Cooperative Agreement Number 2012-W5-AX-K004²



Source: GMS

For the goal to *improve the way victims of crime are served within the FBIC’s jurisdiction*, the contract prosecutor stated that this information was not specifically tracked. Upon our review of progress report measures, we determined that FBIC officials did not track or document when or if they referred victims to governmental victim witness services. Because of this, we were unable to determine any change in the way the FBIC served victims over the award period. As a result, we recommend that OVW coordinate with the FBIC to ensure that it is adequately attaining, tracking, and maintaining documentation of goals and objectives for future awards.

² We did not verify the accuracy of caseload information reported by the FBIC in GMS.

The overall goals of Grant Number 2012-IC-BX-0007 were to enhance the Tribe's juvenile justice system by increasing compliance with core requirements; develop and implement risk and needs assessment instruments; and increase the availability and types of juvenile prevention and intervention programs. Associated objectives with this program were to: (1) hire three staff; (2) develop, standardize, and implement screening and assessment procedures; (3) adopt and implement an intensive supervision strategy to reduce recidivism; (4) use consistent or complimentary strategies and techniques; and (5) provide two training opportunities to staff.

Although the FBIC completed most of its goals and objectives under the grant, FBIC officials stated that they did not implement the needs assessment and did not develop or implement the risk assessment due to multiple changes in court administration over the award period. However, they stated that they will use a needs assessment and will develop and implement a risk assessment instrument as the program continues. Therefore, we recommend that OJP ensure that the FBIC completes all planned objectives for Grant Number 2012-IC-BX-0007.

The overall goal of Grant Number 2014-CZ-BX-0013 is to establish the Fort Belknap Tribal Offender Reentry Program for adults. Associated goals with this program are to: (1) prevent reoffending; (2) enhance public safety; (3) redeploy and leverage existing community resources; (4) assist the offender to avoid crime, engage in pro-social community activities, and meet family responsibilities, within a restorative justice climate; and (5) ensure program sustainability. FBIC officials indicated that they have missed key milestones in meeting the goals and objectives of this award, and stated that the FBIC had considerable program delays because of the difficulty in securing a program manager and contracting with a research partner.

Although the grant period began October 1, 2014, FBIC officials indicated that it is still in the planning phase of as of December 2016, over 2 years later. As the grant end date is September 30, 2017, the FBIC has approximately 9 months remaining of the 3-year program to complete the planning phase and to implement program goals and objectives. Because of the delays in implementing the program, it appears that the project will not be completed by the award end date, and it is not clear that the FBIC has the means to sustain the program after the award period. Therefore, we recommend that OJP assess the FBIC's ability to complete program goals prior to the end of the award and ensure program sustainability for Grant Number 2014-CZ-BX-0013.

The overall goal of Grant Number 2015-AC-BX-0011 is to enhance and improve the functioning of the FBIC Tribal justice system based upon best practices developed under the FBIC SAUSA Pilot Project, under Cooperative Agreement Number 2012-W5-AX-K004. Associated objectives with this program are to: (1) hire two staff and contract with a full-time prosecutor; (2) improve the Tribal prosecution system by bringing forth cases at federal court and grand jury hearings

twice per month; and (3) increase the number of cases for violent offenses prosecuted in Tribal or federal court by at least 10 percent over the project period.

To assess whether this program is on track to accomplish its goals and objectives, we verified a judgmental sample of four project timeline milestones. We determined that the FBIC has not completed two of these key activities as they have not yet purchased a case management system and have not tracked or reported baseline data. This program started October 1, 2015, but was delayed 3 months because the contract prosecutor and Victim Witness Specialist were employed under the SAUSA pilot program, Cooperative Agreement Number 2012-W5-AX-K004, and were not hired until December 2015 to begin work on Grant Number 2015-AC-BX-0011 on January 1, 2016.

Concerning the case management system, the FBIC intended to purchase a \$27,648 system by March 2016, which the contract prosecutor considered crucial to project goals as they were tracking progress in a text document. However, as of December 2016, FBIC officials have not completed this purchase as they are coordinating program licensure with the general prosecutor. Purchasing a case management system was also budgeted under Cooperative Agreement Number 2012-W5-AX-K004. However, it was never purchased. We are concerned that a similar delay in acquiring the case management system could occur for Grant Number 2015-AC-BX-0011.

Concerning the baseline data, the number of civil and criminal cases filed in Tribal court for the 3 months before the start of the grant program is required in the progress reports. Baseline data is essential to the FBIC's goals and objectives so it can measure the increase in cases prosecuted over the award period. FBIC officials intended to have collected baseline data by March 2016. However, the FBIC had not yet reported this information as of the progress report for period ending December 31, 2016. FBIC officials stated that they collect this baseline data in their monthly reports. However, these monthly reports do not differentiate between civil and criminal cases, or Tribal and federal court. Therefore, we determined that baseline data is also not being tracked.

Additionally, the SAUSA contract prosecutor terminated her contract with the FBIC, effective November 30, 2016, which has shifted active caseload to the Tribal general prosecutor. The FBIC stated that it must fill this vacancy in order to stay in compliance with program goals and objectives. As the FBIC has not purchased a case management system, tracked or reported baseline data, and does not have a contract with a SAUSA prosecutor, we recommend that OJP assess the FBIC's ability to complete the program goals for Grant Number 2015-AC-BX-0011 prior to the end of the award.

Required Performance Reports

According to the OVW, OJP, and DOJ financial guides, the funding recipient should ensure that valid and auditable source documentation is available to support all data collected for each performance measure specified in the program solicitation. In order to verify the information in the progress reports, we selected a judgmental sample of performance measures from the two most-recent reports submitted for Cooperative Agreement Number 2012-W5-AX-K004 and Grant Numbers 2012-IC-BX-0007 and 2015-AC-BX-0011 for a total sample size of 25. We then traced the items to supporting documentation maintained by the FBIC. We were unable to select a sample from Grant Number 2014-CZ-BX-0013 as it was reported as nonoperational for the last two progress report periods.

For Cooperative Agreement Number 2012-W5-AX-K004, we found that 5 of the 10 performance measures we reviewed substantially matched supporting documentation. However, the FBIC did not track or document the remaining five performance measures, as shown in Table 2.

Table 2
Progress Report Facts for Award Number 2012-W5-AX-K004

Progress Report Performance Measures	FBIC's Response	Issue with Support Provided
January through June 2015		
Number of cases referred to the federal entity for prosecution related to domestic violence/dating violence and sexual assault.	4	FBIC provided the contract prosecutor's monthly reports. However, this measure is not tracked or documented in these reports or meeting minutes.
Number of governmental victim/survivor referrals.	4	FBIC provided the contract prosecutor's monthly reports. However, this measure is not tracked or documented in these reports, emails, or planner entries.
July through December 2015		
Number of people trained in the December 2015 related to advocate response and strangulation.	12	FBIC did not retain a copy of the sign-in sheet.
Number of cases referred to the federal entity for prosecution related to domestic violence/dating violence.	6	FBIC provided the contract prosecutor's monthly reports. However, this measure is not tracked or documented in these reports or meeting minutes.
Number of governmental victim/survivor referrals.	6	FBIC provided the contract prosecutor's monthly reports. However, this measure is not tracked or documented in these reports, emails, or planner entries.

Source: GMS and the FBIC

The contract prosecutor stated that the number of victims referred to governmental victim/witness services depends on the number of cases referred to the federal entity. She also stated that the number of cases referred to the federal entity depend on a variety of factors including the severity of the crime, extent of

injury, and previous offenses. However, neither performance measure was specifically documented in the contract prosecutor’s monthly reports and was not retained in her docket, as she only maintained active caseload. Additionally, the FBIC did not retain a copy of the sign-in sheet for the training in December 2015. Therefore, we determined that these five performance measures were unsupported.

For Grant Number 2012-IC-BX-0007, we found that 5 of the 10 performance measures that we reviewed substantially matched supporting documentation. However, the FBIC’s supporting documentation did not match the report or was not provided for the five remaining performance measures, as shown in Table 3.

Table 3
Progress Report Facts for Grant Number 2012-IC-BX-0007

Progress Report Performance Measures	FBIC’s Response	Issue with Support Provided
July through December 2015		
How many people participated in the training opportunities/ meetings during the reporting period?	70	Support showed that 14 were trained at 2 events.
From July to September 2015, how many new program participants came into the program with Medicaid coverage?	14	No support provided.
From October to December 2015, how many new program participants came into the program with any health coverage?	19	No support provided.
April through June 2016		
How many people participated in the training opportunities/meetings during the reporting period?	50	Support showed that 2 were trained at 1 event.
During the reporting period, how many program participants were enrolled in any health care coverage?	24	No support provided.

Source: GMS and the FBIC

The Children’s Court Counselor stated that they only took a head count for training activities at local area high schools and did not use sign-in sheets. As a result, the supporting documentation did not match the progress reports. Concerning program participants’ health coverage, the Juvenile Probation Officer stated that they manually tracked this with the program docket and intake forms, as the program did not have a case management system. However, FBIC officials only provided a blank intake form as support. Therefore, we determined that these five performance measures were inadequately supported.

For Grant Number 2015-AC-BX-0011, we found that three of the five performance measures that we reviewed substantially matched supporting documentation. However, the FBIC’s supporting documentation did not match the report or was not provided for the remaining two performance measures, as shown in Table 4.

Table 4

Progress Report Facts for Grant Number 2015-AC-BX-0011

Progress Report Performance Measures	FBIC's Response	Issue with Support Provided
January through June 2016		
New cases since the last reporting period.	34	Support showed 65 new cases.
Approximate number of cases that may require federal prosecution.	6	FBIC provided the contract prosecutor's monthly reports. However, this measure is not tracked in these reports or meeting minutes.

Source: GMS and the FBIC

The contract prosecutor stated that they erroneously reported the number of new cases for the period April through June 2016, instead of January through June 2016. Therefore, the supporting documentation did not match the progress reports. Additionally, the contract prosecutor stated that the number of cases referred to the federal entity depend on a variety of factors. As with the prior SAUSA award, this was not specifically documented or tracked in the contract prosecutor's monthly reports or meeting minutes. Therefore, we determined that this performance measure was unsupported.

Although performance measures in the progress reports matched the program narrative, certain measures from the narrative were not included in the progress reports. The DOJ Grants Financial Guide states that the grantee must ensure that valid and auditable source documentation is available to support all data collected for each performance measure required by the grantee's program, including those specified in the program solicitation or award. Although outlined in the program narrative, the FBIC did not report on the: (1) number of violent crimes prosecuted in Tribal court, federal court, or both; (2) number of federal and grand jury hearings attended; (3) number of victims receiving victim witness services; and (4) number of offenders recommended for substance abuse treatment. The contract prosecutor stated that there was no place in the BJA progress report format to explain accomplishments for the period. However, the FBIC did not fully utilize the narrative portion to report these four measures and was not tracking them.

Based on the information outlined above, we determined that the FBIC does not have adequate procedures to track grant performance measures. Therefore, we recommend that OVW and OJP coordinate with the FBIC to develop and implement procedures to ensure that progress reports are accurate and supported and, for awards after December 2014, document each performance measure required by the program, including those specified in the program solicitation and in the program award.

Compliance with Special Conditions

Special conditions are the terms and conditions that are included with the awards. We evaluated the special conditions for each grant and selected a judgmental sample of the requirements that are significant to performance under the grants and that are not addressed in another section of this report. We evaluated two special conditions from each of the four awards, for a total of eight. Based on our sample, we identified five instances where the FBIC was not in compliance with the special conditions.

Two instances of non-compliance related to program performance. First, for Cooperative Agreement Number 2012-W5-AX-K004, we found that the FBIC did not notify the OVW grant manager that it was receiving duplicative funding from another award for the same project, as we identified 3 months where this award overlapped with a substantially similar OJP award, Grant Number 2015-AC-BX-0011. Similarly, we found that the FBIC did not notify the OJP grant manager that it was receiving duplicative funding from OVW Cooperative Agreement Number 2012-W5-AX-K004.

Three instances of non-compliance resulted in questioned costs because the FBIC incurred grant expenditures prior to the removal of special conditions prohibiting the obligation, expense, or drawdown of award funds until the removal of each special condition. Specifically, the FBIC incurred \$40,000 under Cooperative Agreement Number 2012-W5-AX-K004, \$11,504 under Grant Number 2014-CZ-BX-0013, and \$5,232 in indirect costs under Grant Number 2015-AC-BX-0011. We discuss these three instances of non-compliance in more detail in the *Grant Expenditures* section of the report.

Based on the information outlined above, we determined that the FBIC does not have adequate procedures to ensure compliance with special conditions. Therefore, we recommend that OVW and OJP coordinate with the FBIC to develop and implement procedures to ensure adherence to all special conditions.

Grant Financial Management

According to the OVW, OJP, and DOJ financial guides, all grant recipients and subrecipients are required to establish and maintain adequate accounting systems and financial records and to accurately account for funds awarded to them. To assess the FBIC's financial management of the grants covered by this audit, we reviewed the FBIC's Single Audit Reports for fiscal years (FY) 2012 through 2015 to identify internal control weaknesses and significant non-compliance issues related to federal awards. We also conducted interviews with financial staff, examined policy and procedures, and inspected grant documents to determine whether the FBIC adequately safeguards the grant funds we audited. Finally, we performed testing in the areas that were relevant for the management of the awards, as discussed throughout this report.

Concerning our review of the Single Audit Reports, we identified the following issues in FY 2012 related to DOJ funds: (1) a significant deficiency for the maintenance of payroll records related to leave; (2) inaccurate financial reports; and (3) employees who were paid for Tribal holidays that were not recorded in the time cards. The FBIC addressed the findings by implementing new accounting software and increasing grants and contracts staff. Although the significant deficiency for the maintenance of payroll records continued as a finding in FY 2013, no findings related to DOJ funds were identified in the FYs 2014 and 2015.

We reviewed the FBIC's documented policies governing personnel, procurement, grants and contracts, and financial matters and interviewed FBIC officials. Those policies included segregation of duties in accounting, purchasing, and payment functions.

The OVW, OJP, and DOJ financial guides state that recipients must not award or permit any award at any level to any party that is debarred or suspended from participation in federal assistance programs. This information is contained within the System for Award Management (SAM), which is the central repository for suspension and debarment actions taken by all federal government agencies. We reviewed current FBIC policy and were unable to locate any policy that would require the verification of the suspension or debarment status of vendors and contractors in the SAM before procurement.

Additionally, the OVW, OJP, and DOJ financial guides states that, where grant recipients work on multiple grant programs or cost activities, documentation must support a reasonable allocation or distribution of costs among specific activities or cost objectives through timesheets or time and effort reports. Similarly, FBIC financial policy states that the approved timecard and timesheet must document an employee's distribution of time by program. However, FBIC personnel policy, timecards, and timesheets do not address the recording of time between multiple cost activities. Time was not allocated between the awards we reviewed and other cost activities, and the FBIC did not properly document the allocated time or did not appropriately charge time to awards. These deficiencies are discussed further in the *Personnel Costs* section of this report.

Additionally, we identified FBIC procurement policies related to competition that were not being followed by FBIC officials. FBIC procurement policy requires competition for procurements in excess of \$100,000 and further requires the use of formal bids or proposals to be requested and evaluated prior to the award of a contract. Additionally, the policy requires the determination that the best price for performance has been obtained, even for procurements under \$100,000, requiring at least three documented quotes or documentation as to why less than three quotes were obtained. We identified three contract procurements that did not document or did not consider competition requirements. These deficiencies are discussed further in the *Contract Costs* section of this report.

Our review of grant expenditures also identified weaknesses in the FBIC's award financial management. Specifically, we found that the FBIC charged unallowable and unsupported expenditures, personnel and related fringe, contractual prosecution services, and other direct costs to the awards. Finally, we found that the FBIC did not timely remove award special conditions that prohibited costs until requirements were met. These issues are discussed in more detail in the following sections of this report: *Personnel Costs, Contract Costs, Contract Monitoring, Other Direct Costs, Indirect Costs, Drawdowns, and Federal Financial Reports*.

Based on the above information, we have concluded that award financial management related to potential payments to ineligible parties, time tracking, contractor procurement, adherence to award special conditions, the use of award funds, and accounting for and documenting award expenditures and indirect costs could be improved to mitigate the risk of fraud, waste, and abuse. We recommend that OVW and OJP ensure that the FBIC has a process in place to ensure grant funds are only paid to recipients that are eligible to receive federal funding and implements a process to ensure employee time allocated to multiple grants is properly supported. We also made recommendations in the remaining sections of this report to OVW and OJP to remedy these deficiencies.

Grant Expenditures

For Cooperative Agreement Number 2012-W5-AX-K004 and Grant Numbers 2012-IC-BX-0007, 2014-CZ-BX-0013, and 2015-AC-BX-0011, the FBIC's approved budgets included personnel, fringe, travel, supplies, other, and indirect costs. All but Grant Number 2012-IC-BX-0007 included contract costs, and only Grant Number 2014-CZ-BX-0013 included equipment costs in the approved budget. Additionally, the FBIC was required to expend \$349,875 in local matching funds for Grant Number 2014-CZ-BX-0013, which represents a 33.5 percent local match. As of the start of our testing, no matching costs have been reported, but the FBIC has until September 30, 2017 to meet the required match.

To determine whether costs charged to the awards were allowable, supported, and properly allocated in compliance with award requirements; we tested a judgmental sample of 77 transactions totaling \$109,336. This included 25 transactions each for Cooperative Agreement Number 2012-W5-AX-K004 and Grant Number 2012-IC-BX-0007, 12 transactions for Grant Number 2014-CZ-BX-0013, and 15 transactions for Grant Number 2015-AC-BX-0011, selecting high-dollar transactions within each cost category. Because of issues identified during transaction testing, we expanded our sample of contract costs to include an additional 12 transactions totaling \$60,000 under Cooperative Agreement Number 2012-W5-AX-K004 and 4 transactions totaling \$28,333 under Grant Number 2015-AC-BX-0011. Overall, we tested 93 transactions totaling \$197,669. Additionally, we judgmentally selected two non-consecutive payroll periods for each award, and 100 percent of indirect costs. We reviewed documentation, accounting records, and performed verification testing related to

grant expenditures. Based on this testing, we recommend that OVW remedy \$366,729 in total questioned costs and \$60,163 in funds to better use. Additionally, we recommend that OJP remedy \$122,794 in total questioned costs. The following sections describe the details of that testing.

Personnel Costs

We judgmentally selected two nonconsecutive pay periods for each award that included 18 personnel transactions totaling \$34,531, with the associated fringe. For each pay period, we reviewed the employees' hours, labor rates, and fringe benefits and examined payroll records, comparing budgeted and actual wages, labor hours, and fringe benefits.

For Grant Number 2014-CZ-BX-0013, the program director was responsible for two grant programs. When given the responsibilities of program director for Grant Number 2014-CZ-BX-0013, this program director was compensated through a \$4 per hour supplement. The OJP Financial Guide states that the awarding agency must approve all salary supplements. However, we did not identify a Grant Adjustment Notice (GAN) approving this supplemental pay, and FBIC officials confirmed that they did not document OJP approval for this supplemental pay. Additionally, the OJP Financial Guide states that, where grant recipients work on multiple grant programs or cost activities, a reasonable allocation of costs to each activity must be made based on time and/or effort reports. However, the documentation does not differentiate between hours worked on this award and others. In all, we identified \$5,008 in personnel and \$1,084 in fringe costs related to the supplemental pay for this program director. Therefore, we question the \$6,092 in personnel and fringe costs as unsupported.

Grant Number 2015-AC-BX-0011 that was awarded by OJP began on October 1, 2015. However, FBIC did not begin activity on this OJP award until January 1, 2016. These 3 months overlapped with a similar program with the same personnel under OVW Cooperative Agreement Number 2012-W5-AX-K004, that ended December 31, 2015. FBIC officials concurred that activity on the OVW award ended on December 31, 2015, and that they began work on the OJP award on January 1, 2016. However, we identified \$2,635 in personnel and \$465 in fringe costs on OJP Grant Number 2015-AC-BX-0011 that was incurred on or before December 31, 2015. Therefore, we question the \$3,100 in personnel and fringe costs as unallowable under Grant Number 2015-AC-BX-0011.

Overall, we identified \$9,192 in questioned costs related to personnel and fringe, including \$6,092 in unsupported costs and \$3,100 in unallowable costs. Therefore we recommend that OJP remedy the \$6,092 in unsupported and the \$3,100 in unallowable personnel and fringe costs.

Contract Costs

Of the four awards in our audit scope, Cooperative Agreement Number 2012-W5-AX-K004 and Grant Number 2015-AC-BX-0011 incurred contract costs, of which we judgmentally selected six and three contractor transactions respectively. Because of issues identified during transaction testing, we expanded our sample of contract costs to include an additional 12 transactions under Cooperative Agreement Number 2012-W5-AX-K004 and 4 transactions under Grant Number 2015-AC-BX-0011. Overall, we reviewed a judgmental and expanded sample of 25 transactions totaling \$144,583 related to contractual prosecution services under the two awards. We reviewed the available supporting documentation to determine if charges were properly authorized, accurately recorded, and properly allocated to the awards. In addition, we determined if rates, services, and total costs were in accordance with those allowed in the approved budgets and other award documentation. We found that all 25 contractor transactions were either unallowable, unsupported, or both, or were questioned as funds to better use.

The same SAUSA contract prosecutor was employed under both Cooperative Agreement Number 2012-W5-AX-K004, awarded by OVW, and Grant Number 2015-AC-BX-0011, awarded by OJP. This prosecutor was originally contracted by the FBIC in August 2011 as a general prosecutor and acted in this capacity until April 1, 2012, when the OVW program began for the prosecution of domestic violence and sexual assaults. This first contract ended August 2012, but the prosecutor continued work without an active contract for over 6 months until the second contract was signed, February 27, 2013. This second contract was backdated to April 1, 2012 and was effective until March 31, 2015. However, the prosecutor again continued work without an active contract for 9 months until the award ended, December 31, 2015. Then on January 1, 2016, the prosecutor began a third contract for prosecution services under the OJP award, Grant Number 2015-AC-BX-0011, for a 3-year term. We identified over 15 months where the prosecutor did not have an active contract under Cooperative Agreement Number 2012-W5-AX-K004 that resulted in \$72,500 in questioned costs, of which \$10,000 was not reimbursed. Therefore, we question \$62,500 in contractual prosecution services as unsupported and \$10,000 in unreimbursed contractual prosecution services as funds to better use.

For Cooperative Agreement Number 2012-W5-AX-K004, we found that the FBIC did not document OVW competition requirements. The OVW Financial Grants Management Guide states that: (1) the recipient must perform a cost or price analysis for every procurement action and that it must be documented in the procurement files; and (2) all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Similarly, FBIC policy requires formal bids or proposals to be requested and evaluated prior to the award of a contract in excess of \$100,000. However, the FBIC did not document: (1) a cost or price analysis or (2) evidence of competition such as a solicitation for quotes or bids and selection criteria for the two contracts identified under the award. Because the FBIC did not document or retain

documentation of competition requirements in the award and contract files, current FBIC officials could not determine if competition took place. In all, we identified \$225,000 in contractual prosecution services in which the FBIC did not document competition requirements, of which \$10,000 was not reimbursed. Therefore, we question \$215,000 in contractual prosecution services as unsupported and \$10,000 in unreimbursed contractual prosecution services as funds to better use.³

We identified additional deficiencies related to the \$215,000 in unsupported contractual prosecution services, as FBIC officials were unable to provide a detail of hours performing legal services for \$20,000 in contractor invoices and were unable to provide any documentation for \$5,000 in prosecution services, related to 4 of the 18 contractor transactions that we tested. The OVW Financial Grants Management guide states that all records pertinent to an award must be maintained for a period of three years from the date of submission of the final expenditure report. As the final expenditure report was submitted January 2016, the FBIC was required to maintain all records pertinent to this award until January 2019. Overall, we identified \$25,000 in contractual prosecution transactions that were not adequately documented and, therefore, we question \$25,000 in contractual prosecution services as unsupported.

Also related to the \$215,000 in unsupported contractual prosecution services, we identified a \$5,000 invoice for March 2012, which was incurred before the program started on April 1, 2012. The OVW Financial Grants Management Guide states that any costs that are incurred either before the start of the project period or after the expiration of the project period are unallowable without written approval from OVW. As we did not identify any written approval within the GANs, we question \$5,000 in contractual prosecution services as unallowable. Additionally, the FBIC did not timely remove a special condition prohibiting the obligation, expense, or drawdown of any award funds until the OVW approves and the Tribe and U.S. Attorney's Office execute a Memorandum of Understanding (MOU) that details the partnership with its U.S. Attorney partner. In all, we identified \$40,000 in award expenditures before the MOU was approved and this special condition removed, which included the \$5,000 that was incurred before the award period. Therefore, we question an additional \$35,000 in contractual prosecution services as unallowable.

Also related to the \$215,000 in unsupported contractual prosecution services, the FBIC budgeted the contract prosecutor as full-time, or 40 hours per week. FBIC officials reasoned that the contractual agreement would allow the prosecutor to dedicate 100 percent of her time to handling domestic violence cases within the 8-to-5 work day, with the flexibility to avoid the cost of overtime. However, we did

³ The FBIC incurred \$10,000 in contractual prosecution expenditures before the end of the program on December 31, 2015. However, the FBIC did not request reimbursement for these costs. We question the \$10,000 as funds to better use once, as it was incurred without an active contract and was related to a contract in which the FBIC did not document competition requirements.

not identify any months where the invoiced hours were full-time or included overtime, averaging only 27 hours per week. In all, we identified \$20,174 related to hours that were less than the full-time arrangement under Cooperative Agreement Number 2012-W5-AX-K004.⁴ Therefore, we question \$20,174 in contractual prosecution services as unallowable.

For Grant Number 2015-AC-BX-0011, we found that the FBIC did not consider DOJ competition requirements. The DOJ Grants Financial Guide states that: (1) the history of all procurements must be maintained and should include the rationale for the method of procurement, selection of contract type, contractor selection or rejection process, and basis for the contract prices; (2) award recipients or subrecipients must conduct all procurement transactions in a manner providing full and open competition; and, if not competitively awarded, (3) all sole source procurements in excess of \$150,000 require prior approval from the grant-making component. Similarly, FBIC policy requires formal bids or proposals to be requested and evaluated prior to the award of a contract in excess of \$100,000. The FBIC Contract Representative stated that the FBIC usually performs a cost analysis before procurement. She also stated that contracts are usually competitively awarded and, if not, the FBIC must do a sole source justification. However, she stated that there was a critical need for a Special Prosecutor, and the Council took action to fill that need. As a result, the FBIC did not: (1) perform a cost or price analysis; (2) competitively solicit contractors for quotes or bids; or (3) submit a sole source justification to OJP for the \$262,727 contract under Grant Number 2015-AC-BX-0011. In all, we identified \$49,583 in contractual prosecution services as of August 19, 2016 that did not consider DOJ competition requirements. Therefore, we question the \$49,583 in contractual prosecution services as unsupported.⁵

Related to the \$49,583 in unsupported contractual prosecution services, the FBIC budgeted the contract prosecutor as full-time under the award, to spend 100 percent of her time on project related prosecution activities. The program narrative defined her position as one full-time equivalent, or 40 hours per week. However, we did not identify any months where the invoiced hours were full-time or included overtime, averaging only 29 hours per week. In all, we identified \$14,163 related to hours that were less than the full-time arrangement under Grant Number 2015-AC-BX-0011. Therefore, we question the \$14,163 in contractual prosecution services as unallowable.

Overall, we identified \$436,420 in questioned costs related to contractual prosecution services under the two awards. This included \$264,583 in unsupported costs related to competition, \$62,500 in unsupported costs for services incurred

⁴ The FBIC provided detailed hours for 12 of the 18 contractual prosecution transactions that we sampled under Cooperative Agreement Number 2012-W5-AX-K004. We did not question contract costs for transactions that were not included in this sample.

⁵ We do not question the entire prosecutor contract under Grant Number 2015-AC-BX-0011 because the contract prosecutor terminated her agreement effective November 30, 2016.

without an active contract, \$25,000 in unsupported costs for invoices that were not adequately documented, \$74,337 in unallowable costs, and \$10,000 in unreimbursed costs. Therefore we recommend that OVW remedy: (1) \$215,000 in unsupported contractual prosecution services related to competition, which includes \$62,500 related to services incurred without an active contract and \$25,000 related to transactions that were not adequately documented; (2) \$60,174 in unallowable contractual prosecution services; and (3) \$10,000 in prohibited contractual prosecution costs that was not reimbursed as funds to better use. Additionally, we recommend that OJP remedy the \$49,583 in unsupported contractual prosecution services and \$14,163 in unallowable contractual prosecution services.

Contract Monitoring

For Cooperative Agreement Number 2012-W5-AX-K004, the contract identifies the FBIC Human Resource Manager as SAUSA Oversight, and that she has the authority to reject work at intermediate inspections and makes decisions of final acceptance and applications for payment. However, we were unable to contact her as she was no longer in that position. The OVW Financial Grants Management Guide states that recipients must evaluate contractor performance and document whether contractors met the terms, conditions, and specifications of the contract. However, the FBIC did not maintain documentation of reviews or evaluations of the contract prosecutor.

For Grant Number 2015-AC-BX-0011, the contract identifies the FBIC Chief Administrative Officer (CAO) as SAUSA Oversight, and that she has supervisory authority to the extent of reviewing the [contract prosecutor's] endeavors in fulfillment of the contract. The CAO also stated that she was responsible for reviewing monthly invoices and assessing the prosecutor's effectiveness during monthly Tribal council meetings. However, the meeting minutes were not documented, and the CAO stated that the FBIC did not conduct any formal reviews of the contract prosecutor. The DOJ Grants Financial Guide states that recipients must ensure that contractors perform in accordance with the terms, conditions and specifications of their awards and that the recipient must document transactions, agency guidance, and performance evaluations in writing. However, the FBIC did not document meetings and did not conduct reviews or evaluations of the contract prosecutor's performance.

Overall, the FBIC does not have policies and procedures to review contractor performance. As the FBIC did not evaluate or document contractor performance, the FBIC cannot be certain that the terms and conditions of the contracts have been met. Therefore, we recommend that OVW and OJP coordinate with the FBIC to develop and implement policies and procedures to monitor and document contractor performance as to ensure that contractors adhere to the terms of the contract.

Other Direct Costs

For Cooperative Agreement Number 2012-W5-AX-K004, we identified \$906 in travel costs that were erroneously charged to the award. Therefore, we question the \$906 as unallowable. Also, we were not provided documentation for \$2,694 in supply purchases, of which we question as unsupported. FBIC officials stated that the documentation was pulled for a prior DOJ site visit earlier in 2016 but was filed in the wrong place by a temporary employee and, therefore, could not be found.

For Grant Number 2012-IC-BX-0007, we identified two transactions related to cellular and water services that were not included in the approved budget. As a result, we questioned these costs and all cellular services on the award for a total of \$310 in unallowable costs related to unbudgeted expenses. For this grant and Grant Number 2014-CZ-BX-0013, we also identified four instances where travel cash advances exceeded travel vouchers and the amounts that were to be reimbursed to the FBIC were not recouped, of which \$227 was charged to Grant Number 2012-IC-BX-0007 and \$380 was charged to Grant Number 2014-CZ-BX-0013. FBIC officials acknowledged this error in oversight, and stated that they would provide corrections to the OIG. Therefore, we question \$607 in travel as unallowable.

We additionally identified two travel cash advances that did not include an associated travel voucher. FBIC financial procedures state that cash advances may be provided to travelers to conduct routine business travel, and that travelers must submit a travel voucher to finance within 5 days of completing travel, which will include receipts for airfare, rental car, lodging, and an explanation of other expenses. However, FBIC officials were unable to provide completed out-of-state travel vouchers and lodging receipts for \$664 in December 2012 travel under Grant Number 2012-IC-BX-0007, and \$1,497 in December 2015 travel under Grant Number 2014-CZ-BX-0013. Therefore, we question \$2,161 in travel as unsupported.

For Grant Number 2014-CZ-BX-0013, the FBIC was prohibited by a special condition from obligating, expending, or drawing down funds until the BJA/OJP reviewed and approved the budget narrative and issued a GAN removing this special condition. However, the FBIC incurred \$11,504 in grant expenditures beginning on April 2015, before this special condition was removed in April 2016. Therefore, we question the \$11,504 in early expenditures as unallowable.⁶

Overall, we identified \$18,182 in questioned costs related to other direct costs, which includes \$13,327 in unallowable costs and \$4,855 in unsupported costs. Therefore we recommend that OVW remedy the \$906 in unallowable and

⁶ The \$11,504 in unallowable early expenditures included \$380 in unallowable travel costs. We excluded the duplicative \$380 from net questioned costs in the *Schedule of Dollar-Related Findings*.

\$2,694 in unsupported other direct costs, and we recommend that OJP remedy the \$12,421 in unallowable and \$2,161 in unsupported other direct costs.

Indirect Costs

Indirect costs are costs of an organization that are not readily assignable to a particular project, but are necessary to the operation of the organization and the performance of the project. We reviewed all indirect costs from the four awards in our audit scope. We verified whether indirect costs in our sample were charged to the awards using the approved rates.

First, we identified \$2,352 in prohibited indirect costs under Cooperative Agreement Number 2012-W5-AX-K004 as the FBIC used a higher rate than approved, of which \$1,897 was not reimbursed. Therefore, we question \$455 in unallowable indirect costs and \$1,897 in prohibited indirect costs as funds to better use.⁷ Secondly, the FBIC was prohibited from obligating, expending, or drawing down indirect expenses until submitting to OJP a current, federally-approved indirect cost rate agreement for Grant Number 2015-AC-BX-0011. As of August 2016, the FBIC incurred \$5,232 in indirect costs under the award and continued to incur indirect costs until the special condition was removed on January 24, 2017. Therefore, we question the \$5,232 in early indirect expenditures as unallowable.

Overall we identified \$5,687 in unallowable indirect costs and \$1,897 in prohibited indirect costs as funds to better use. Therefore, we recommend that OVW remedy \$455 in unallowable indirect costs and \$1,897 in prohibited indirect costs that was not reimbursed as funds to better use, and we recommend that OJP remedy \$5,232 in unallowable indirect costs.

Budget Management and Control

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

We compared grant expenditures to the approved budgets to determine whether the FBIC transferred funds among budget categories in excess of 10 percent. We determined that the cumulative difference between category expenditures and approved budget category totals was not greater than 10 percent.

⁷ The FBIC incurred \$1,897 in indirect cost expenditures before the end of the program on December 31, 2015. However, the FBIC did not request reimbursement for these costs.

Drawdowns

According to the OVW, OJP, and DOJ financial guides, an adequate accounting system should be established to maintain documentation to support all receipts of federal funds. If, at the end of the award, recipients have drawn down funds in excess of federal expenditures, unused funds must be returned to the awarding agency. FBIC policy states that a drawdown request can be for cost reimbursements or federal cash advances, when needed, for an amount consistent with realistic cash needs. FBIC officials stated that award drawdowns are requested monthly on a reimbursement basis, using reports generated by their accounting system. To assess whether the FBIC managed grant receipts in accordance with federal requirements, we compared the total amount reimbursed to the total expenditures in the accounting records. As of August 11, 2016, the FBIC has drawn down a total of \$907,969 from the four audited awards, as shown in Table 5.

Table 5

Total Drawdowns Compared to Expenditures as of August 2016

Awarding Agency	Award Number	Total Drawdowns	Total Expenditures	Expenditures Less Drawdowns
OVW	2012-W5-AX-K004	\$ 336,621	\$ 352,507	\$ 15,886
OJP	2012-IC-BX-0007	\$ 441,150	\$ 448,394	\$ 7,244
OJP	2014-CZ-BX-0013	\$ 50,000	\$ 19,958	(\$ 30,042)
OJP	2015-AC-BX-0011	\$ 80,198	\$ 96,867	\$ 16,669
Total:		\$ 907,969	\$ 917,726	

Source: OJP and the FBIC

The OVW, OJP, and DOJ financial guides state that grantees should time drawdown requests to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days. If the funds are not spent or disbursed within 10 days, the grantee must return them to the awarding agency.⁸

Overall, we identified 5 drawdowns that exceeded expenditures for 10 days or more. For Cooperative Agreement Number 2012-W5-AX-K004, the FBIC drew down funds on 2 days, October 3, 2013 and December 12, 2014, that resulted in \$571 and \$4,178 in excess funds that were not fully expended until 19 and 33 days later, respectively. For Grant Number 2012-IC-BX-0007, the FBIC drew down funds on the same 2 days that resulted in about \$13,500 in excess funds that were not fully expended until 30 to 89 days later. Expenses eventually exceeded drawdown funds for these four drawdowns and, therefore, did not result in questioned costs. For Grant Number 2014-CZ-BX-0013, the FBIC drew down \$50,000 of grant funds in May 2016 that resulted in \$38,496 in excess funds. The FBIC officials stated that these funds were needed for an upcoming contract to complete the program's

⁸ The OVW Financial Grants Management Guide does not indicate that unused funds must be returned to the awarding agency within 10 days after disbursement. Rather, it indicates that the grantee is to contact OVW's Grants Financial Management Division for assistance.

planning and implementation guide. However, total drawdowns still exceeded expenditures by \$30,042 as of August 2016, about 3 months later, and the contract still was not finalized as of December 2016. Therefore, we question the \$30,042 in excess drawdowns as unsupported.

Cooperative Agreement Number 2012-W5-AX-K004 ended December 31, 2015. The OVW Financial Grants Management Guide states that the grantee should submit their final payment request within 90 days of the end of the award or submission of the closeout package, whichever is earlier. Therefore, the FBIC had until March 30, 2016 to drawdown grant funds. As of August 2016, a balance of \$60,163 remained in undrawn funds. The FBIC incurred \$15,886 in expenditures before the end of the program, for which the FBIC did not request reimbursement. Of the \$15,886 in unreimbursed award expenditures, we determined that \$3,989 was not questioned for any reason.⁹ The remaining \$44,277 in unobligated award funds were neither expended nor de-obligated. Therefore, we question \$44,277 in unobligated award funds and \$3,989 in unreimbursed award expenditures as funds to better use.

Overall, we identified \$78,308 in questioned costs related to drawdowns, which includes \$30,042 in unsupported costs and \$48,266 as funds to better use. We recommend that OVW put to better use \$44,277 in unobligated award funds and \$3,989 in unreimbursed award expenditures under Cooperative Agreement Number 2012-W5-AX-K004. Additionally, we recommend that OJP remedy \$30,042 in unsupported excess drawdowns under Grant Number 2014-CZ-BX-0013.

Based on the information outlined above, we determined that the FBIC does not have adequate policies and procedures to prevent it from drawing down excess cash. Therefore, we also recommend that OVW and OJP coordinate with the FBIC to develop a process to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days and, if the funds are not spent or disbursed within 10 days, the FBIC must return them to the awarding agency.

Federal Financial Reports

According to the OVW, OJP, and DOJ financial guides, recipients shall report the actual expenditures and unliquidated obligations incurred for the reporting period on each financial report as well as cumulative expenditures. To determine whether the FBIC submitted accurate Federal Financial Reports (FFR), we compared the four most-recent reports to the FBIC's accounting records for Cooperative Agreement Number 2012-W5-AX-K004 and Grant Numbers 2012-IC-BX-0007 and

⁹ The \$15,886 in unreimbursed award expenditures included \$10,000 in prohibited contractual prosecution services and \$1,897 in prohibited indirect costs. We excluded these costs from the \$15,886 in unreimbursed award expenditures to obtain the \$3,989. These prohibited expenses were previously questioned in the *Contract Costs* and *Indirect Costs* sections of this report.

2014-CZ-BX-0013. For Grant Number 2015-AC-BX-0011, we reviewed all three FFRs that were due by the start of fieldwork.

For Cooperative Agreement Number 2012-W5-AX-K004, we identified two FFRs that did not match the accounting records. First, the FBIC overstated award expenditures by \$22,480 for reporting period January through March 2015 because it erroneously reported expenditures from October 2014 through March 2015. Rather than submitting a corrected FFR, the FBIC underreported award expenditures in the following period, April through June 2015. Afterward, cumulative award expenditures substantially matched the accounting records and, therefore, we offer no recommendation related to this issue. Secondly, we found that the final FFR did not match the accounting records, as the FBIC underreported expenditures by \$5,238. Therefore, we recommend that OVW coordinate with the FBIC to obtain a final FFR for Cooperative Agreement Number 2012-W5-AX-K004.

Conclusion

As a result of our audit testing, we concluded that the FBIC did not adequately manage the awards we reviewed as we found significant non-compliance and deficiencies in most of the areas we reviewed, including the failure to demonstrate achieving the awards' stated goals and objectives. The FBIC did not complete or document two of the four award objectives to increase VAW prosecutions and improve victim witness services; did not complete one of the five grant objectives to enhance the Tribe's juvenile justice system; and has experienced considerable program delays to establish a Tribal offender reentry program for adults. We did not identify significant issues regarding the FBIC's management of the award budgets. However, we found that the FBIC did not comply with essential award conditions related to performance reports, use of funds, drawdowns, federal financial reports, and contract management. Specifically, we found that the FBIC: (1) did not track or document all performance measures; (2) did not comply with all special conditions; (3) charged unallowable personnel, contractual prosecution services, travel, supplies, and indirect costs to the awards; (4) did not adequately document personnel costs, contractual prosecution services, travel, and supply transactions; (5) did not document or consider competition requirements under Cooperative Agreement Number 2012-W5-AX-K004 and Grant Number 2015-AC-BX-0011; (6) did not adequately monitor contracts under Cooperative Agreement Number 2012-W5-AX-K004 and Grant Number 2015-AC-BX-0011; and (7) overdrew grant funds on Grant Number 2014-CZ-BX-0013. Therefore, we provide 15 recommendations to OVW and OJP to address these deficiencies.

Recommendations

We recommend that OVW:

1. Coordinate with the FBIC to ensure that it is adequately attaining, tracking, and maintaining documentation of goals and objectives for future awards.
2. Remedy the \$61,535 in unallowable costs related to the following issues:
 - a. \$60,174 in contractual prosecution services.
 - b. \$906 in other direct costs related to travel.
 - c. \$455 in indirect costs.
3. Remedy the \$305,194 in unsupported costs related to the following issues:
 - a. \$215,000 in contractual prosecution services in which competition requirements were not documented.
 - b. \$62,500 in contractual prosecution services that were incurred without an active contract.
 - c. \$25,000 in contractual prosecution service transactions that were not adequately documented.
 - d. \$2,694 in other direct costs related to supplies.
4. Remedy the \$60,163 in funds to better use for the following issues:
 - a. \$10,000 in prohibited contractual prosecution services.
 - b. \$1,897 in prohibited indirect costs.
 - c. \$44,277 in unobligated award funds.
 - d. \$3,989 in unreimbursed award expenditures.
5. Obtain a final FFR for Cooperative Agreement Number 2012-W5-AX-K004.

We recommend that OJP:

6. Ensure that FBIC completes all planned objectives for Grant Number 2012-IC-BX-0007.

7. Assess the FBIC's ability to:
 - a. Complete the program goals prior to the end of the award and ensure program sustainability for Grant Number 2014-CZ-BX-0013.
 - b. Complete the program goals for Grant Number 2015-AC-BX-0011 prior to the end of the award.
8. Remedy the \$34,916 in unallowable costs related to the following issues:
 - a. \$3,100 in personnel and fringe costs.
 - b. \$14,163 in contractual prosecution services.
 - c. \$12,421 in other direct costs.
 - d. \$5,232 in indirect costs.
9. Remedy the \$87,878 in unsupported costs related to the following issues:
 - a. \$6,092 in personnel and fringe costs.
 - b. \$49,583 in contractual prosecution services.
 - c. \$2,161 in other direct costs.
 - d. \$30,042 in excess drawdowns.

We recommend that both OVW and OJP ensure that the FBIC has the following:

10. Procedures to ensure that progress reports are accurate and supported and, for awards after December 2014, document each performance measure required by the program and those specified in the solicitation and award documents.
11. Procedures to ensure compliance with all special conditions.
12. A process to ensure grant funds are only paid to recipients that are eligible to receive federal funding.
13. A process to ensure employee time allocated to multiple grants is properly supported.
14. Policy and procedures to monitor and document contractor performance as to ensure that contractors adhere to the terms of the contract.

15. A process to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days and, if the funds are not spent or disbursed within 10 days, the FBIC must return them to the awarding agency.

APPENDIX 1

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of this audit were to determine whether costs claimed under the awards were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the award; and to determine whether the grantee demonstrated adequate progress towards achieving the program goals and objectives. To accomplish this objective, we assessed performance in the following areas of grant management: program performance, financial management, expenditures, budget management and control, drawdowns, and federal financial reports.

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.

This was an audit of OVW and OJP grants and cooperative agreements awarded to the FBIC. OVW awarded \$396,784 to the FBIC through Cooperative Agreement Number 2012-W5-AX-K004 under the Violence Against Women Tribal SAUSA Pilot Project. OJP awarded \$496,122 to the FBIC through Grant Number 2012-IC-BX-0007 and \$740,604 through Grant Number 2015-AC-BX-0011 under the Coordinated Tribal Assistance Solicitation Purpose Area 3, which consists of the BJA Tribal Courts Assistance Program and the Indian Alcohol Substance Abuse Prevention Program. Also, OJP awarded \$694,560 through Grant Number 2014-CZ-BX-0013 under the Second Chance Act Two-Phase Adult Reentry Demonstration Program. As of August 11, 2016, the FBIC had drawn down \$907,969 of the total grant funds awarded. Our audit concentrated on, but was not limited to April 1, 2012, the period start date for Cooperative Agreement Number 2012-W5-AX-K004, through September 1, 2016, the last day of our fieldwork. Cooperative Agreement Number 2012-W5-AX-K004 ended December 31, 2015, and Grant Number 2012-IC-BX-0007 ended September 30, 2016. Grant Numbers 2014-CZ-BX-0013 and 2015-AC-BX-0011 were ongoing at the time of our review.

To accomplish our objectives, we tested compliance with what we consider to be the most important conditions of the FBIC's activities related to the audited grants. We performed sample-based audit testing for grant expenditures including payroll and fringe benefit charges, financial reports, and progress reports. In this effort, we employed a judgmental sampling design to obtain broad exposure to numerous facets of the grants reviewed. This non-statistical sample design did not allow projection of the test results to the universe from which the samples were selected. The OVW, OJP, and DOJ financial guides and the award documents contain the primary criteria we applied during the audit.

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

APPENDIX 2

SCHEDULE OF DOLLAR-RELATED FINDINGS

<u>Description</u>	<u>Amount</u>	<u>Page</u>
Questioned Costs: ¹⁰		
<u>Unallowable Costs</u>		
Personnel and Fringe Benefits	\$ 3,100	12
Prosecution Services	74,337	16
Other Direct Costs	13,327	17
Unallowable Indirect Costs	<u>\$5,687</u>	18
<i>Total Unallowable Costs</i>	<i>\$96,451</i>	
<u>Unsupported Costs</u>		
Personnel and Fringe Benefits	\$ 6,092	12
Prosecution Services Without an Active Contract	62,500	13
Prosecution Services Related to Documentation	25,000	14
Prosecution Services Related to Competition	264,583	15
Other Direct Costs	4,855	17
Excess Drawdowns	<u>\$30,042</u>	20
<i>Total Unsupported Costs</i>	<i>\$393,072</i>	
<i>Gross Questioned Costs</i>	<i>\$489,523</i>	
Less Duplicate Questioned Costs ¹¹	<u>(163,714)</u>	
Net Questioned Costs	\$325,809	

¹⁰ **Questioned Costs** are expenditures that do not comply with legal, regulatory, or contractual requirements, or are not supported by adequate documentation at the time of the audit, or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

¹¹ Some costs were questioned for more than one reason. Net questioned costs exclude: (1) the duplicate amounts of \$74,337 in contractual prosecution services and \$1,497 in other direct costs that were both unallowable and unsupported; (2) the duplicate amounts of unsupported contractual prosecution services related to \$25,000 in transactions that were not adequately documented and \$62,500 in services that were incurred without an active contract, which were both also questioned as unsupported due to competition requirements; and (3) the duplicative amounts of unallowable other costs related to \$380 in travel that was incurred before a special condition was removed and the amount of travel cash advance that exceeded the travel voucher, which was not recouped.

Funds Put to Better Use: ¹²

Unreimbursed, Prohibited Prosecution Services	\$10,000	13
Unreimbursed, Prohibited Indirect Costs	1,897	18
Unobligated Grant Funds	44,277	20
Unreimbursed Expenditures	<u>3,989</u>	20
Total Funds to Better Use:	\$60,163	
TOTAL DOLLAR-RELATED FINDINGS	<u>\$385,972</u>	

¹² **Funds Put to Better Use** are future funds that could be used more efficiently if management took actions to implement and complete audit recommendations.

**FORT BELKNAP INDIAN COMMUNITY
RESPONSE TO THE DRAFT AUDIT REPORT¹³**

March 30, 2017

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

Dear Mr. Sheeren,

This is in response to the draft audit, received on March 9, 2017, of the Office on Violence Against Women (OVW), FY12 Tribal Special Assistant to U.S. Attorney Pilot Project, Grant #2012-W5-AX-K004, and the Office of Justice Program (OJP), FY12 CTAS Purpose Area 3: Justice Systems and Alcohol and Substance Abuse Program-Grant #2012-IC-BX-0007, FY14 Second Chance Act Two-Phase Adult Reentry Demonstration Program: Planning and Implementation-Grant #2014-CZ-BX-0013, and FY15 CTAS Purpose Area 3: Justice Systems and Alcohol and Substance Abuse Program-Grant #2015-AC-BX-0011 to the Fort Belknap Indian Community, Harlem, Montana.

Before addressing each recommendation, I would like to provide relevant information to the Office of the Inspector General and Offices on Violence Against Women and Office of Justice Programs. Often, grants come with specialized requirements that apply to the general operations of the grant, specific compliance rules, monitoring of other parties that may receive grant resources from the grants, and specialized reporting requirements. While we have a grants policy, there is a need to incorporate GFOA's best practices and OJP Financial Guide requirements to establish a stronger grants policy for use in the tribal government organization. As a tribal government, we feel we do conduct adequate administration of grants after their acceptance however there is always room for improvement and we have taken all recommendations by the Office of Inspector General as an opportunity to strengthen our understanding of audit requirements unique to the reviewed grant awards. Failure to meet some grant requirements is not intentional. Instead, the issues raised are often caused because all appropriate parties within the government are not always aware of the requirements or are not aware of the requirements at the appropriate time. In such cases as two of the four grants reviewed had significant change over in administrative and programmatic staff over the course of the project periods which resulted in delays in project performance and staff orientation which decreased our ability to avoid risk. We commit to Fort Belknap Indian Community is mindful of its obligation to effectively monitor the use of federal award funds and that we are committed to working diligently to identify ways that improve administering our grants more effectively to maximize the benefits of grants, ensure funds are being used in a manner that is timely and appropriate while minimizing risks.

1. Violence Against women (VAW) Tribal Special Assistant U.S. Attorney (SAUSA) Pilot Project - Award #2012-W5-AX-K004

Finding 1: that the FBIC did not complete one goal and did not document another. Of the program's goals and objectives, we determined that the FBIC did not complete one goal and did not document another. For the goal to increase the likelihood that every viable VAW offense is successfully prosecuted in Tribal court, federal court, or both;

Response: DISAGREE. Please consider that although no hard data is made available in this response, there was no formal tribal SAUSA mechanism in existence prior to this FY12 Pilot project, and that every

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¹³ Attachments referenced in the grantee's response were not included in this final report.

conviction gained for Fort Belknap victims is considered a success. Most domestic violence and sexual assault cases go unreported on the reservation due to the fear of retaliation, not just from the alleged perpetrator but also from the large and extended family members and poor attitudes from the justice system that unintentionally re-victimize victims. Grant staff, domestic violence advocates, law enforcement and corrections have common knowledge and calls for service that support there are a lot of VAW cases where there's no other evidence than one person's word against another or usually no independent witness other than the victim themselves. These types of cases are difficult to prosecute. Statewide in Montana both police and prosecutors struggle to get the cases to federal trial. There is great difficulty of the tribal case passing the federal review board for charges and prosecution. In fact, our federal district court judge ruled in one case that it would not recognize tribally prosecuted cases which created an even greater burden to bring cases forward. Not unlike Fort Belknap, much of Montana faces similar challenges. In comparison, Yellowstone County, Montana, in 2016 for example reported to the Billings Gazette that during the past 5 years, prosecuted 15% of adult rape cases investigated and forwarded for possible charges, of which about 1/2 of the rape cases forwarded were declined to press charges because the cases were not strong enough to take to trial. The issue is the same for Missoula County, MT where in 2014 the U.S. DOJ rebuked the Missoula County Attorney's office for prosecuting just 17% of the rape cases referred to the office by police investigators between 2008-2012¹. We ask that OIG consider realistically why so few cases go to court, and consider the challenge with the hesitation of many victims to go forward and the reluctance of federal prosecution not just for Indian reservations but for entire States as well. Having a Tribal SAUSA in place for Fort Belknap has increased the likelihood that cases be prosecuted and we feel the reluctance to federally prosecute will diminish over time if we have federal support. We would encourage OVW technical assistance to weigh in on the tribal-federal prosecution issues and assist with assessment of baseline and ongoing data and application of best practices that stand to increase this historical problem (i.e. lessons learned from Fort Belknap Pilot Project).

Finding 2: For the goal to improve the way victims of crime are served within the FBIC's jurisdiction, the contract prosecutor stated that this information was not specifically tracked. Upon our review of progress report measures, we determined that FBIC officials did not track or document when or if they referred victims to governmental victim witness services. Because of this, we were unable to determine any change in the way the FBIC served victims over the award period. As a result, we recommend that OVW coordinate with the FBIC to ensure that it is adequately attaining, tracking, and maintaining documentation of goals and objectives for future awards.

RESPONSE: AGREE. We will coordinate with the OVW funding agency to ensure that grant staff establish a process to maintain all supporting documentation including intake forms, for data that measures the effectiveness of the grant-funded activities. This FY12 Pilot Project is closed.

Finding 3: the FBIC has not completed two of these key activities as they have not yet purchased a case management system and have not tracked or reported baseline data.

RESPONSE: AGREE. The purchase of the case management system has not been completed under the FY12 OVW grant. We recommend grant staff expedite the purchase of identified software under the FY15 OJP grant to avoid any similar delay and communicate confirmation of purchase with OJP grant manager upon completion of this task within 60 days.

Finding 4 - baseline data is also not being tracked.

¹ Billings Gazette "O out of 60" by Ashley Nerbovig, Mar 26, 2017.

RESPONSE: AGREE. We recommend grant staff coordinate with OVW grant manager to conduct an assessment of baseline data for FY 2011, 2012 and 2013 to establish core baseline and implement data tracking of data throughout grant period and include in semi-annual progress reports under the narrative section or via attachment to the progress report in GMS.

Finding 6: *does not have a contract with a SAUSA prosecutor.*

RESPONSE: AGREE. FBIC does not currently have a contract with a Tribal SAUSA. It is vital for FBIC to regain a contract with a qualified individual and recommendation from the U.S. Attorneys' Office for a replacement of SAUSA prosecutor for the grant-funded project as soon as possible. We recommend that OVW work with FBIC to stay abreast to the RFP, advertisement recruitment processes established to accomplish this task and achieve continued compliance to grant end. The FBIC has advertised for a SAUSA prosecutor. To date, one person has applied. Under the same circumstances as with [REDACTED] location and salary play a big part in recruitment.

Finding 7: *the FBIC did not track or document the remaining five performance measures, as shown in Table 2.*

Table 2
Progress Report Facts for Award Number 2012-W5-AX-K004

Progress Report Performance Measures	FBIC's Response	Issue with Support Provided
January through June 2015		
A) Number of cases referred to the federal entity for prosecution related to domestic violence/dating violence and sexual assault.	4	FBIC provided the contract prosecutor's monthly reports. However, this measure is not tracked or documented in these reports or meeting minutes.
B) Number of governmental victim/survivor referrals.	4	FBIC provided the contract prosecutor's monthly reports. However, this measure is not tracked or documented in these reports, emails, or planner entries.
July through December 2015		
C) Number of people trained in the December 2015 related to advocate response and strangulation.	12	FBIC did not retain a copy of the sign-in sheet.
D) Number of cases referred to the federal entity for prosecution related to domestic violence/dating violence.	6	FBIC provided the contract prosecutor's monthly reports. However, this measure is not tracked or documented in these reports or meeting minutes.
E) Number of governmental victim/survivor referrals.	6	FBIC provided the contract prosecutor's monthly reports. However, this measure is not tracked or documented in these reports, emails, or planner entries.

Source: GMS and the FBIC

RESPONSE: AGREE with lack of documentation to support performance measurements A, B, D, and E. Considering that this FY12 grant is closed, we would recommend that in order to prevent future issues with supporting documentation, OJP technical assistance work with grantee such as under the active FY15 CTAS PA#3 grant award to identify and maintain sufficient documentation to support grant-related performance measures reported in submitted progress reports. DISAGREE with finding on performance measure C) *FBIC did not retain a copy of the sign-in sheet.* Grant staff have provided (attachment 1) an email dated October 25, 2016 to OIG [REDACTED] listing specific names of individuals with contact

numbers who attended the strangulation training provided free of charge by the grant funded prosecutor and tribal criminal investigator in December 2015. Grant staff have notified attendees of their names being listed for OIG response and attendees are agreeable to be available at the numbers provided for further verification if needed. Additionally (attachment 2) is the "An Overview of Strangulation" power point utilized during the training event. We ask that the Office of Inspector General consider this supporting documentation as sufficient evidence to support performance measure C). Further we recommend that, again since this FY12 OVW grant is now closed, that all grant staff be encouraged to maintain appropriate supporting documentation such as sign in sheets, agenda's, and training materials for all performance measures applicable to their respective grant awards.

Finding 8: Two instances of non-compliance related to program performance. First, for Cooperative Agreement Number 2012-W5-AX-K004, we found that the FBIC did not notify the OVW grant manager that it was receiving duplicative funding from another award for the same project, as we identified three months where this award overlapped with a substantially similar OJP award, Grant Number 2015-AC-BX-0011. Similarly, we found that the FBIC did not notify the OJP grant manager that it was receiving duplicative funding from OVW Cooperative Agreement Number 2012-W5-AX-K004.

RESPONSE: DISAGREE. To clarify it is important to understand that 2012 OVW SAUSA Pilot Project has a different scope of work than the 2015 OJP CTAS Purpose Area 3 project. The FY 12 OVW Pilot Project scope of work specifically describes initiation of a Tribal SAUSA for prosecution of cases focusing on domestic violence, rape, sexual assault, and stalking offenses not including Class I assaults with one legal aid to assist the prosecutor. The FY 15 OJP CTAS Purpose Area 3 Project scope of work incorporates an expansion of prosecution of all Class I assaults expanded to include child abuse, elder abuse, and assault charges and the creation of victim witness assistance services through the prosecutor's office. The difference in scope between each grant project demonstrates "non-duplicative".

Further FBIC did notify FY12 OVW grant manager via emails (attachment 3) between November 2015 through December 2015 regarding the 3 month gap and transition from the FY12 OVW grant program approaching its end date and the new FY15 OJP grant program award. We recommend that OIG consider this supporting documentation as evidence of notification.

FINDING 9 - Three instances of non-compliance resulted in questioned costs because the FBIC incurred grant expenditures prior to the removal of special conditions prohibiting the obligation, expense, or drawdown of award funds until the removal of each special condition. Specifically, the FBIC incurred \$40,000 under Cooperative Agreement Number 2012-W5-AX-K004,

RESPONSE: AGREE. We recommend OVW coordinate with FBIC to develop and implement procedures within the Tribes grant policy document with adequate procedures in place to ensure compliance with special conditions.

FINDING 10 - Therefore, we question \$62,500 in contractual prosecution services as unsupported and \$10,000 in unreimbursed contractual prosecution services as funds to better use.

RESPONSE: AGREE.

FINDING 11 - For Cooperative Agreement Number 2012-W5-AX-K004, we found that the FBIC did not document OVW competition requirements. Because the FBIC did not document or retain documentation of competition requirements in the award and contract files, current FBIC officials could not determine if competition took place. In all, we identified \$225,000 in contractual prosecution services in which the

FBIC did not document competition requirements, of which \$10,000 was not reimbursed. Therefore, we question \$215,000 in contractual prosecution services as unsupported and \$10,000 in unreimbursed contractual prosecution services as funds to better use.

RESPONSE: DISAGREE. The FY12 grant proposal was originally written for a full-time permanent position (not contractual). As this was a pilot project, the recipient relied heavily on communication with the OVW funding agency for guidance on the proposal development. After award, the OVW funding agency advised the recipient that selection would proceed in line with the established MOU between the recipient and the Montana United States Attorney's Office. The hire was done in accordance with the Memorandum of Understanding entered into between the United States Attorney's Office and the Fort Belknap Indian Community (attachment 4). [REDACTED] qualifications exceeded the qualifications necessary for the position. Also, of major importance, was [REDACTED] close proximity to Fort Belknap. Because of the remoteness, it is extremely hard to get licensed professionals for various positions, including attorneys. Additionally, the attorney had to have a completed background check that would qualify him/her to practice as a US Attorney. [REDACTED] was recommended by the US Attorney's Office to fulfill the unique job requirements of the SAUSA. During regularly scheduled council meetings with minutes (attachment 4), the U.S. Attorney's Office and Tribal Council discussed and reviewed the MOU and considered both sides recommendations and qualifications of those recommendations. Both parties agreed to [REDACTED] to be appointed to the Tribal Special Assistant to U.S. Attorney (SAUSA) via official recommendation letter (attachment 4). [REDACTED] indicated a preference to work under contract instead of a permanent full-time employee status as stated in the awarded grant proposal. The recipient communicated this request directly to [REDACTED], OVW grant manager, with justification to change the position status from permanent employee to contractual via email correspondence (attachment 4). [REDACTED] agreed to this arrangement and advised grant-funded staff to initiate a GAN (attachment 4) to modify the federal budget to reflect this change.

Two contracts were initiated during this FY12 grant award period.

FINDING 12 - We identified additional deficiencies related to the \$215,000 in unsupported contractual prosecution services, as FBIC officials were unable to provide a detail of hours performing legal services for \$20,000 in contractor invoices and were unable to provide any documentation for \$5,000 in prosecution services

RESPONSE: AGREE. Although contractor was paid upon invoice as agreed under terms of contract, the invoices received did not provide a detail of specific legal services per hour. We recommend that the Council's representative identified in any such contract be responsible for reviewing any future contractor invoices be adequately documented to ensure a detail of hours be broken out per professional services rendered.

FINDING 13 - we identified a \$5,000 invoice for March 2012, which was incurred before the program started on April 1, 2012. The OVW Financial Grants Management Guide states that any costs that are incurred either before the start of the project period or after the expiration of the project period are unallowable without written approval from OVW. As we did not identify any written approval within the GANs, we question \$5,000 in contractual prosecution services as unallowable

RESPONSE: AGREE that invoice was incurred prior to grant start date however communication of the need to start the contract work prior to start date was initiated by FBIC to the OVW grant manager. Non-grant Tribal General Funds originally were to support the pre-start date work and that would not have been an issue however were applied to the grant fund without an official GAN. We recommend grant funded staff and their assigned grants/contract specialists take the OJP financial management on-line

trainings annually and at minimum within 3 months of new grant awards to ensure a solid understanding of allowable and unallowable costs.

FINDING 14 - In all, we identified \$40,000 in award expenditures before the MOU was approved and this special condition removed, which included the \$5,000 that was incurred before the award period. Therefore, we question an additional \$35,000 in contractual prosecution services as unallowable.

RESPONSE: AGREE.

FINDING 15 - we did not identify any months where the invoiced hours were fulltime or included overtime, averaging only 27 hours per week. In all, we identified \$20,174 related to hours that were less than the fulltime arrangement under Cooperative Agreement Number 2012-W5-AX-K004. Therefore, we question \$20,174 in contractual prosecution services as unallowable.

RESPONSE: AGREE.

FINDING 16 - FBIC did not maintain documentation of reviews or evaluations of the contract prosecutor.

RESPONSE: AGREE. All court staff with the exception of the judges and prosecutors are under the supervision of the Tribal Court Administrator to avoid conflict of interest and any issues of bias with rulings and prosecution of cases with that, the Court Administrator ensures regular employee reviews and evaluations including contractors. Therefore the FBIC appoints the Human Resource Manager as supervisor over the prosecutor position, in this case the contract prosecutor. Unfortunately the HR Manager had not done her due diligence to document reviews or evaluations of the contract prosecutor during the FY12 OVW grant project period. Since that time period, we have a different HR Manager occupying the position and we recommend that the current HR Manager develop policy describing contractor review performance within the FBIC Personnel Policies and Procedures Manual to ensure that all reviews or evaluations of contract positions be adequately documented.

FINDING 17 - For Cooperative Agreement Number 2012-W5-AX-K004, we identified \$906 in travel costs that were erroneously charged to the award. Therefore, we question the \$906 as unallowable. Also, we were not provided documentation for \$2,694 in supply purchases, of which we question as unsupported. FBIC officials stated that the documentation was pulled for a prior DOJ site visit earlier in 2016 but was filed in the wrong place by a temporary employee and, therefore, could not be found.

RESPONSE: AGREE.

FINDING 18 - identified \$2,352 in prohibited indirect costs under Cooperative Agreement Number 2012-W5-AX-K004 as the FBIC used a higher rate than approved, of which \$1,897 was not reimbursed. Therefore, we question \$455 in unallowable indirect costs and \$1,897 in prohibited indirect costs as funds to better use.

RESPONSE: AGREE

FINDING 19 - identified \$78,308 in questioned costs related to draw downs, which includes \$30,042 in unsupported costs and \$48,266 as funds to better use.

RESPONSE: AGREE. We recommend all assigned grant contract specialists take the OJP financial management on-line training at least once per Tribal fiscal year and that OVW and OJP financial provide technical assistance as needed to clarify and assist grant contract specialists listed as FPOC in GMS with drawdown schedules and unused funds compliance at the start and throughout the grant award periods.

Additionally we recommend that the FBIC CFO and CPA develop adequate policy within the FBIC Financial Policies and Procedures Manual to guide prevention from drawing down excess cash and ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days, and if the funds are not spent or disbursed within 10 days, the procedure to return funds to the awarding agency.

FINDING 20 - we identified two FFRs that did not match the accounting records. we found that the final FFR did not match the accounting records, as the FBIC underreported expenditures by \$5,238.

RESPONSE: AGREE. We recommend that OVW coordinate with FBIC to re-submit a revised FFR.

FY15 CTAS Purpose Area 3: Justice Systems and Alcohol and Substance Abuse Program-Grant #2015-AC-BX-0011

1. The recipient made it transparent to the funding agency during application and post award that there was no intention to advertise competitively for a consultant/contractor grant-funded position but rather a sole source declaration to utilize a specific individual to enter into a contractual agreement with the recipient. The FY15 CTAS PA# grant proposal was written specifically naming [REDACTED] in abstract, narrative, budget narrative to conduct the special assistant U.S. attorney functions for the proposed project. The proposed project was developed under an expanded scope of work not duplicative of the previous FY12 SAUSA Pilot Project. Under this separate scope of work, it describes an expansion incorporating prosecution of all Class I assaults, and the creation of victim witness assistance services through the prosecutor's office. These are two major differences from the previous FY12 SAUSA Pilot Project scope. The funding agency did not contact the grantee at any time during the application review process to alert grantee of any concerns with the pre-designated contractual arrangement for the project as proposed. The funding agency did acknowledge the pre-designated contractual arrangement for the project after award, again with no alert to a need for pre-approval. Email correspondence from [REDACTED], OVW grant manager, indicating her understanding of such arrangement and offering technical assistance and congratulations on securing additional grant funds to continue the advanced special assistant U.S. attorney work at Fort Belknap.

Procurement Officer, [REDACTED], confirmed via email dated December 30, 2015 to President Azure, summarizing that since grant proposal specifically wrote in [REDACTED] as the attorney for the grant as awarded by the federal funding agency, this established "sole source" and approval by tribal government standards. Therefore with sole source established and with acknowledgement and with no objection from the federal funding agency, the recipient proceeded to enter into contractual agreement with pre-designated consultant/contractor [REDACTED].

The audit cites conflict with Special condition #2 of FY15 award which states that "the recipient agrees to comply with the Department of Justice Grants Financial Guide as posted on the OJP website (currently the "2015 DOJ Grants Financial Guide")". Page 50 of the guide, under sole source approval, does state that for OJP and OVW For OJP and OVW, you must initiate a GAN to request to enter into a non-competitive contractual relationship with a contractor under a grant where the contracted cost exceeds \$150,000. Although a GAN was not initiated for this FY15 award, it was declared and communicated both pre-and-post award with the funding agency. Technical assistance should have occurred alerting recipient of a need for a GAN to officially verify acknowledgement of the non-competitive contractual relationship in the early stages of the award. Furthermore we feel that we complied with the procurement standards-general guidance "For procurement transactions using Federal award funds, the non-Federal

entity must use its own documented procurement procedures consistent with applicable State, local, and tribal laws and regulations. As an award recipient or sub-recipient you must:

Have a documented process to check for organizational conflict of interest with potential contractors;

Have a process in place to ensure that contracts are not awarded to contractors or individuals on the List of Parties Excluded from Federal Procurement and Non-procurement Programs; and

Perform a System for Award Management (SAM) review of potential contractors or individuals."

The FY15 award is currently experiencing a vacancy in the special assistant to U.S. attorney post for the project. We are making every effort to recruit and advertise for a replacement of [REDACTED] as soon as possible. We feel confident that future procurement of services needed to carry out the grant funded project will be formally documented via a GAN and adhering fully to the 2015 DOJ Grants Financial Guide.

FINDING 1 - Concerning the case management system, the FBIC intended to purchase a \$27,648 system by March 2016, which the contract prosecutor considered crucial to project goals as they were tracking progress in a text document. However, as of December 2016, FBIC officials have not completed this purchase as they are coordinating program licensure with the general prosecutor. Purchasing a case management system was also budgeted under Cooperative Agreement Number 2012-W5-AX-K004. However, it was never purchased. We are concerned that a similar delay in acquiring the case management system could occur for Grant Number 2015-AC-BX-0011.

RESPONSE: DISAGREE. The FY15 grant funded staff did initiate collection of 3 cost estimates in 2016. Purchase was delayed due to the grant staff being advised by the tribal court to hold off on the purchase of the software package until the court could come up with their own funds to include the non-grant funded tribal prosecutor in the software user package. Grant staff continued communication with Court staff via email (attached) that indicates request to proceed with purchase without including the tribal prosecutor since no decision coming from court on additional funding. The grant-funded staff communicated to OJP grant manager [REDACTED] via email and telephone that there was a need to modify the federal budget to incorporate adequate and reasonable funds to accommodate the case management and tracking software. [REDACTED] was agreeable to this modification however had advised grant staff that there was a predominant need to also modify the awarded federal budget to incorporate a new updated indirect cost rate. Grant staff submitted GAN in November 2016 and that was not approved by [REDACTED] until February 2017 - 3 months later) OIG visited grant staff during this pending GAN situation. Grant staff advised [REDACTED] that the grant proposal was written utilizing the tribe's most current approved indirect cost rate agreement (ending Sept.30, 2016) available at grant proposal submission and that it was predicted to have in hand a newly approved indirect cost rate available by February or March 2017. This caused a significant delay in the purchase of the case management and tracking software since the budget modification GAN did not occur until February 2017.

As of April 2017, grant funded staff have secured three current comparable quotes for the case management and tracking software. [REDACTED] has been selected as the business vendor to provide the needed grant-funded product, services and/or training to the project. Additionally grant-funded staff have focused on expediting the purchasing process to secure the software without further delay. The purchase is anticipated to be completed within 60 days.

**OFFICE ON VIOLENCE AGAINST WOMEN
RESPONSE TO THE DRAFT AUDIT REPORT**



U.S. Department of Justice

Office on Violence Against Women

Washington, DC 20530

April 20, 2017

MEMORANDUM

TO: David Sheeren
Regional Audit Manager
Denver Regional Audit Office

FROM: Nadine M. Neufville *mm*
Acting Director
Office on Violence Against Women

Rodney Samuels *RS*
Audit Liaison/Staff Accountant
Office on Violence Against Women

SUBJECT: Draft Audit Report – Audit of the Office on Violence Against Women and the Office of Justice Programs Awards to the Fort Belknap Indian Community, Harlem, Montana

This memorandum is in response to your correspondence dated March 9, 2017 transmitting the above draft audit report for the Fort Belknap Indian Community (FBIC). We consider the subject report resolved and request written acceptance of this action from your office.

The report contains 15 recommendations, which include \$325,809 in net questioned costs and \$60,163 in funds put to better use, of which: five recommendations, \$219,055 in net questioned costs, and \$60,163 in funds put to better use are directed to the Office on Violence Against Women (OVW); and six recommendations are directed to OVW and OJP jointly. OVW is committed to working with the grantee to address and bring these recommendations to a close as quickly as possible. The following is our analysis of the audit recommendations.

OIG recommends that OVW:

- 1. Coordinate with the FBIC to ensure that it is adequately attaining, tracking, and maintaining documentation of goals and objectives for future awards.**

OVW does agree with the recommendation. We will coordinate with the grantee to ensure that they adequately attain, track, and maintain documentation of goals and objectives for future awards.

2. Remedy the \$61,535 in unallowable costs related to the following issues:

- a. \$60,174 in contractual prosecution services.**
- b. \$906 in other direct costs related to travel.**
- c. \$455 in indirect costs.**

OVW does agree with the recommendation. We will coordinate with the grantee to ensure that they remedy the \$61,535 in unallowable costs.

3. Remedy the \$305,194 in unsupported costs related to the following issues:

- a. \$215,000 in contractual prosecution services in which completion requirements were not documented.**
- b. \$62,500 in contractual prosecution services that were incurred without an active contract.**
- c. \$25,000 in contractual prosecution services transactions that were not adequately documented.**
- d. \$2,694 in other direct costs related to supplies.**

OVW does agree with the recommendation. We will coordinate with the grantee to ensure that they remedy the \$305,194 in unsupported costs.

4. Remedy the \$60,163 in funds to better use for the following issues:

- a. \$10,000 in prohibited contractual prosecution services.**
- b. \$1,897 in prohibited indirect costs.**
- c. \$44,277 in unobligated award funds.**
- d. \$3,989 in unreimbursed award expenditures.**

OVW does agree with the recommendation. We will coordinate with the grantee to ensure that they remedy the \$60,163 in funds to better use for the following issues.

5. Obtain a final FFR for Cooperative Agreement Number 2012-W5-AX-K004.

OVW does agree with the recommendation. We will coordinate with the grantee to ensure that we obtain a final FFR for Cooperative Agreement Number 2012-W5-AX-K004.

OIG recommends that both OVW and OJP ensure that the FBIC has the following:

- 10. We recommend that both OJP and OVW ensure that the FBIC has procedures to ensure that progress reports are accurate and supported and, for awards after December 2014, document each performance measure required by the program and those specified in the solicitation and award documents.**

OVW does agree with the recommendation. We will coordinate with the grantee to ensure that they have written policies and procedures to ensure that that progress reports are accurate and supported and, for awards after December 2014, document each performance measure required by the program and those specified in the solicitation and award documents.

- 11. We recommend that both OJP and OVW ensure that the FBIC has procedures to ensure compliance with all special conditions.**

OVW does agree with this recommendation. We will coordinate with the grantee to ensure that they have written policies and procedures to ensure compliance with all special conditions.

- 12. We recommend that both OJP and OVW ensure that the FBIC has a process to ensure grant funds are only paid to recipients that are eligible to receive Federal funding.**

OVW does agree with this recommendation. We will coordinate with the grantee to ensure that they have written policies and procedures to ensure that Federal grant funds are only paid to recipients that are eligible to receive Federal funding.

- 13. We recommend that both OJP and OVW ensure that the FBIC has a process to ensure employee time allocated to multiple grants is properly supported.**

OVW does agree with this recommendation. We will coordinate with the grantee to ensure that they have written policies and procedures to ensure that employee time allocated to multiple grants is properly supported

- 14. We recommend that both OJP and OVW ensure that the FBIC has policy and procedures to monitor and document contractor performance as to ensure that contractors adhere to the terms of the contract.**

OVW does agree with this recommendation. We will coordinate with the grantee to ensure that they have written policies and procedures to monitor and document contractor performance as to ensure that contractors adhere to the terms of the contract.

- 15. We recommend that both OJP and OVW ensure that the FBIC has a process to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days and, if the funds are not spent or disbursed within 10 days, the FBIC must return them to the awarding agency.**

OVW does agree with this recommendation. We will coordinate with the grantee to ensure that they have written policies and procedures to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days and, if the funds are not spent or disbursed within 10 days, the FBIC must return them to the awarding agency.

We appreciate the opportunity to review and comment on the draft report. If you have any questions or require additional information, please contact Rodney Samuels of my staff at (202) 514-9820.

cc Donna Simmons
Associate Director, Grants Financial Management Division
Office on Violence Against Women (OVW)

Louise M. Duhamel, Ph.D.
Acting Assistant Director
Audit Liaison Group
Justice Management Division

Darla Sims
Program Manager
Office on Violence Against Women (OVW)

**OFFICE OF JUSTICE PROGRAMS
RESPONSE TO THE DRAFT AUDIT REPORT**



U.S. Department of Justice

Office of Justice Programs

Office of Audit, Assessment, and Management

Washington, D.C. 20531

APR 19 2017

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

FROM:

for Ralph E. Martin *Jaffy*
Director

SUBJECT: Response to the Draft Audit Report, *Audit of the Office on
Violence Against Women and the Office of Justice Programs
Awards to the Fort Belknap Indian Community, Harlem, Montana*

This memorandum is in reference to your correspondence, dated March 9, 2017, transmitting the above-referenced draft audit report for the Fort Belknap Indian Community (FBIC) in Harlem, Montana. We consider the subject report resolved and request written acceptance of this action from your office.

The draft report contains 15 recommendations, \$325,809¹ in net questioned costs, and \$60,163 in funds put to better use, of which: four recommendations and \$106,754 in net questioned costs are directed to the Office of Justice Programs (OJP); five recommendations, \$219,055 in net questioned costs, and \$60,163 in funds put to better use are directed to the Office on Violence Against Women (OVW); and six recommendations are directed to both OJP and OVW.

The following is OJP's analysis of the draft audit report recommendations. For ease of review, the recommendations directed to OJP, specifically Recommendation Numbers 6-15, are restated in bold and are followed by our response.

6. We recommend that OJP ensures that the FBIC completes all planned objectives for Grant Number 2012-IC-BX-0007.

OJP agrees with this recommendation. OJP's Bureau of Justice Assistance (BJA) will coordinate with the FBIC to obtain documentation supporting that all planned objectives for Grant Number 2012-IC-BX-0007 have been achieved. In addition, BJA will offer technical assistance to the FBIC, as needed, to ensure completion of the planned objectives and program goals of the award.

¹ Some costs were questioned for more than one reason. Net questioned costs exclude the duplicate amount.

7. We recommend that OJP assesses the FBIC's ability to:

- a. Complete the program goals prior to the end of the award and ensures the program sustainability for Grant Number 2014-CZ-BX-0013.**

OJP agrees with this subpart of the recommendation. BJA will coordinate with the FBIC to obtain documentation supporting that all program goals for Grant Number 2014-CZ-BX-0013 have been achieved prior to the end of the award. In addition, BJA will offer technical assistance to the FBIC, as needed, to ensure completion of the planned objectives and program goals of the award, and will work with the FBIC to ensure program sustainability.

- b. Complete the program goals for Grant Number 2015-AC-BX-0011 prior to the end of the award.**

OJP agrees with this subpart of the recommendation. BJA will coordinate with the FBIC to obtain documentation supporting that all program goals for Grant Number 2015-AC-BX-0011 have been achieved prior to the end of the award. In addition, BJA will offer technical assistance to the FBIC, as needed, to ensure completion of the planned objectives and program goals of the award.

8. We recommend that OJP remedies the \$34,916 in unallowable costs related to the following issues:

- a. \$3,100 in personnel and fringe costs.**
- b. \$14,163 in contractual prosecution services.**
- c. \$12,421 in other direct costs.**
- d. \$5,232 in indirect costs.**

OJP agrees with all subparts of this recommendation. We will review the \$34,916 in questioned costs, related to unallowable personnel fringe benefits costs, contractual prosecution services, other direct costs, and indirect costs, that the FBIC charged to Grant Numbers 2012-IC-BX-0007, 2014-CZ-BX-0013, and 2015-AC-BX-0011, and work with FBIC to remedy, as appropriate, any such costs determined to be unallowable.

9. **We recommend that OJP remedies the \$87,878 in unsupported costs related to the following issues:**

- a. **\$6,092 in personnel and fringe costs.**
- b. **\$49,583 in contractual prosecution services.**
- c. **\$2,161 in other direct costs.**
- d. **\$30,042 in excess drawdowns.**

OJP agrees with all subparts of this recommendation. We will review the \$87,878 in questioned costs, related to unsupported personnel and fringe benefits costs, contractual prosecution services, other direct costs, and excess drawdowns, that the FBIC charged to Grant Numbers 2012-IC-BX-0007, 2014-CZ-BX-0013, and 2015-AC-BX-0011, and work with FBIC to remedy, as appropriate.

10. **We recommend that both OJP and OVW ensure that the FBIC has procedures to ensure that progress reports are accurate and supported and, for awards after December 2014, document each performance measure required by the program and those specified in the solicitation and award documents.**

OJP agrees with this recommendation. We will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure that progress reports are accurate and properly supported, and that each performance measure required by the program is tracked and documented.

11. **We recommend that both OJP and OVW ensure that the FBIC has procedures to ensure compliance with all special conditions.**

OJP agrees with this recommendation. We will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure adherence to all Federal award special conditions.

12. **We recommend that both OJP and OVW ensure that the FBIC has a process to ensure grant funds are only paid to recipients that are eligible to receive Federal funding.**

OJP agrees with this recommendation. We will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure that Federal grant funds are only paid to recipients that are eligible to receive Federal funding.

- 13. We recommend that both OJP and OVW ensure that the FBIC has a process to ensure employee time allocated to multiple grants is properly supported.**

OJP agrees with this recommendation. We will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure that proper support is maintained for employees that allocate their time to multiple grants.

- 14. We recommend that both OJP and OVW ensure that the FBIC has policy and procedures to monitor and document contractor performance as to ensure that contractors adhere to the terms of the contract.**

OJP agrees with this recommendation. We will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure that contractor performance is adequately monitored and documented, to ensure adherence with the terms and conditions of the contract.

- 15. We recommend that both OJP and OVW ensure that the FBIC has a process to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days and, if the funds are not spent or disbursed within 10 days, the FBIC must return them to the awarding agency.**

OJP agrees with this recommendation. We will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure that drawdowns of Federal grant funds are based on actual expenditures incurred, or are the minimum amounts needed for disbursements to be made immediately or within 10 days of draw down, in accordance with the Department of Justice Grants Financial Guide.

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

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

The OIG provided a draft of this audit report to OVW, OJP, and the FBIC for review and official comment. The OVW's response is incorporated in Appendix 4, OJP's response is incorporated in Appendix 5, and the FBIC's response is incorporated in Appendix 3 of this final report. In response to our draft report, both OVW and OJP concurred with our recommendations and, as a result, the status of the audit report is resolved. The FBIC did not concur with portions of 7 of the 15 recommendations. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

Recommendations to OVW:

- 1. Coordinate with the FBIC to ensure that it is adequately attaining, tracking, and maintaining documentation of goals and objectives for future awards.**

Resolved. The OVW concurred with our recommendation and stated in its response that it will coordinate with the FBIC to ensure that it adequately attains, tracks, and maintains documentation of goals and objectives for future awards.

The FBIC concurred with our recommendation and stated that it will coordinate with the OVW to ensure that grant staff establish a process to maintain all supporting documentation for data that measures the effectiveness of grant-funded activities.

Although the FBIC concurred with our recommendation, it did not concur with the finding that it did not complete the goal to increase the likelihood that every viable VAW offense is successfully prosecuted in Tribal court, federal court, or both. The FBIC stated that every conviction gained for Fort Belknap victims was considered a success under the SAUSA program as funded by Cooperative Agreement Number 2012-W5-AX-K005. Additionally, the FBIC stated that simply having a Tribal SAUSA in place increased the likelihood that cases are prosecuted. The FBIC did not provide any additional documentation in its response to the draft report.

As stated in the report, the OIG found that the number of cases that resulted in a conviction fell by 26 percent from January 2013 to December 2015; as such it appears that VAW cases were less likely to be successfully prosecuted over the period. The FBIC stated that there were fewer cases to prosecute

due to inadequacies of the FBIC Criminal Investigations and Police Department.

This recommendation can be closed when we receive documentation demonstrating the OVW has coordinated with the FBIC to ensure that it is adequately attaining, tracking, and maintaining documentation of goals and objectives for future awards.

2. Remedy the \$61,535 in unallowable costs related to the following issues:

a. \$60,174 in contractual prosecution services.

b. \$906 in other direct costs related to travel.

c. \$455 in indirect costs.

Resolved. The OVW concurred with our recommendation and stated in its response that it will coordinate with the FBIC to remedy the \$61,535 in unallowable costs.

The FBIC concurred with our recommendation and related subparts but did not provide any additional documentation in its response to the draft report. The FBIC stated that its grant-funded staff and the assigned Grants and Contracts Specialist will take the OJP financial management online trainings annually and within 3 months of new grant awards.

This recommendation can be closed when we receive documentation demonstrating that OVW has remedied the \$61,535 in unallowable costs.

3. Remedy the \$305,194 in unsupported costs related to the following issues:

a. \$215,000 in contractual prosecution services in which competition requirements were not documented.

b. \$62,500 in contractual prosecution services that were incurred without an active contract.

c. \$25,000 in contractual prosecution service transactions that were not adequately documented.

d. \$2,694 in other direct costs related to supplies.

Resolved. The OVW concurred with our recommendation and stated in its response that it will coordinate with the FBIC to remedy the \$305,194 in unsupported costs.

For recommendation subparts *b* through *d*, the FBIC concurred with our recommendation but did not provide any additional information in its response to the draft report.

For recommendation subpart *a*, the FBIC did not concur with our recommendation regarding the \$215,000 in unsupported contractual prosecution services under Cooperative Agreement Number 2012-W5-AX-K004. In its response to the draft report the FBIC stated that, although the initial program budget indicated the Tribal Special Assistant to the U.S. Attorney (SAUSA) would be a full-time permanent position, the FBIC only had a contractual arrangement with the prosecutor. According to the FBIC, the first contract for a general prosecutor and the second contract for a Tribal SAUSA were both initiated during the grant award period.

As stated in the report, the prosecutor who would become the Tribal SAUSA was originally contracted by the FBIC in August 2011 as a general prosecutor, which was more than 7 months before the OVW program began on April 1, 2012. The FBIC continued its contractual arrangement with the prosecutor under Cooperative Agreement Number 2012-W5-AX-K004 on February 27, 2013 by signing a new contract for a Tribal SAUSA. The Tribal SAUSA position was different than the general prosecutor position. Therefore, despite the FBIC's statement, only one contract was initiated during the award period, which was not competitively bid, as stated in the report.

Additionally, the FBIC provided documentation of emails between it and the OVW grant manager dated August 30, 2012. In this communication, the FBIC provided information to modify hiring the Tribal SAUSA as a contractor rather than as an employee. This email communication was after the Tribal SAUSA was already hired as a contractor. The FBIC did not receive approval from the OVW to move funding from the personnel budget category to the contractual budget category until December 26, 2012. Therefore, the FBIC had a contractual arrangement with the prosecutor almost 9 months before approval from the OVW. Additionally, this email communication was not an approval for the sole source selection of the prosecutor.

The FBIC also stated that it hired and selected the Tribal SAUSA according to the established memorandum of understanding (MOU) between it and the U.S. Attorney dated July 19, 2012. However, the MOU stated that the FBIC was responsible for hiring the Tribal SAUSA while the U.S. Attorney was responsible for completing the Tribal SAUSA's background checks. Included in the FBIC's response was the U.S. Attorney's recommendation for the FBIC's selection of Tribal SAUSA. The recommendation also stated that the MOU required hiring a prosecutor who was agreeable to both the FBIC and U.S. Attorney. Based on discussions with the U.S. Attorney, he was not involved with the selection of the Tribal SAUSA but, once selected by the

FBIC, he did support the hiring. As stated in the report, the FBIC did not document: (1) a cost or price analysis or (2) evidence of competition such as a solicitation for quotes or bids and selection criteria for the two contracts identified under the award. Therefore, the OIG disagrees with the FBIC's assertion that it hired and selected the SAUSA according to the established MOU.

Finally, the FBIC stated in its response that it provided meeting minutes between it and the U.S. Attorney's Office concerning discussion of the MOU, qualifications for the Tribal SAUSA, and recommendations. However, the OIG reviewed the incomplete meeting minutes from March 2011 and determined that these were not relevant to the audit or the Tribal SAUSA position.

This recommendation can be closed when we receive documentation demonstrating that OVW has remedied the \$305,194 in unsupported costs.

- 4. Remedy the \$60,163 in funds to better use for the following issues:**
 - a. \$10,000 in prohibited contractual prosecution services.**
 - b. \$1,897 in prohibited indirect costs.**
 - c. \$44,277 in unobligated award funds.**
 - d. \$3,989 in unreimbursed award expenditures.**

Resolved. The OVW concurred with our recommendation and stated in its response that it will coordinate with the FBIC to remedy the questioned costs.

The FBIC concurred with our recommendation but did not provide any additional information in its response to the draft report.

This recommendation can be closed when we receive documentation demonstrating that OVW has remedied the \$60,163 in funds to better use.

- 5. Obtain a final FFR for Cooperative Agreement Number 2012-W5-AX-K004.**

Resolved. The OVW concurred with our recommendation and stated in its response that it will coordinate with the FBIC to obtain a final FFR for Cooperative Agreement Number 2012-W5-AX-K004.

The FBIC concurred with our recommendation, and stated that it will coordinate with the OVW to submit a revised FFR.

This recommendation can be closed when we receive documentation demonstrating that OVW has obtained the revised FFR.

Recommendations to OJP:

6. Ensure that FBIC completes all planned objectives for Grant Number 2012-IC-BX-0007.

Resolved. OJP concurred with our recommendation and stated in its response that it will coordinate with the FBIC to obtain documentation supporting that all planned objectives for Grant Number 2012-IC-BX-0007 have been achieved. In addition, BJA will offer technical assistance to the FBIC, as needed, to ensure completion of the planned objectives and program goals of the award

The FBIC did not address our recommendation in its response to the draft report.

This recommendation can be closed when receive documentation demonstrating that OJP has ensured that FBIC completed all planned objectives for Grant Number 2012-IC-BX-0007.

7. Assess the FBIC's ability to:

a. Complete the program goals prior to the end of the award and ensure program sustainability for Grant Number 2014-CZ-BX-0013.

b. Complete the program goals for Grant Number 2015-AC-BX-0011 prior to the end of the award.

Resolved. OJP concurred with our recommendation and stated in its response that BJA will coordinate with the FBIC to obtain documentation supporting that all program goals for Grant Numbers 2014-CZ-BX-0013 and 2015-AC-BX-0011 have been achieved prior to the end of the award. In addition, BJA will offer technical assistance to the FBIC, as needed, to ensure completion of the planned objectives and program goals of the awards. Additionally, BJA will work with the FBIC to ensure program sustainability for Grant Number 2014-CZ-BX-0013.

For recommendation subpart *a*, the FBIC did not address our recommendation in its response to the draft report.

For recommendation subpart *b*, the FBIC concurred with our recommendation. The FBIC stated that grant staff will expedite the purchase of the case management system in coordination with the OJP grant manager in 60 days. For the baseline data, the FBIC stated that grant staff will

coordinate with the OVW grant manager to conduct an assessment of baseline data for fiscal years 2011, 2012, and 2013 to establish a core baseline. However, as stated in the report, baseline data to be reported in the progress reports includes the number of civil and criminal cases filed in Tribal court for the 3 months before the start of the grant program. As activity on this award began January 1, 2016, we would expect baseline data for the period September 1 to December 31, 2015. Additionally, the FBIC stated that it has advertised the position for a Tribal SAUSA that has been vacant since December 1, 2016. FBIC officials also stated that they feel confident that future procurement of contractual prosecution services needed to carry out the grant-funded project will be formally documented via a sole source GAN and will adhere fully to the 2015 DOJ Grants Financial Guide.

While the FBIC concurred with our recommendation, the FBIC did not concur with our audit finding regarding the case management system. As stated in the report, the FBIC budgeted a case management system under Cooperative Agreement Number 2012-W5-AX-K004 that was never purchased, and we are concerned that a similar delay in acquiring a case management system could occur for Grant Number 2015-AC-BX-0011.

According to the FBIC, in 2016, staff collected three cost estimates for the case management system. However, the purchase was subsequently delayed due to issues coordinating the purchase with the general prosecutor. Additionally, before the FBIC could purchase the case management system, FBIC officials explained that OJP required a new indirect cost rate be approved. The new indirect cost rate was not approved until February 2017. As of April 2017, the FBIC stated that they have secured three quotes for the case management and tracking software. The purchase was anticipated to be completed within 60 days.

Although the FBIC stated that it has received three comparable cost estimates for the case management system, the amount falls below the threshold of \$150,000 that requires sole-source approval according to the DOJ Grants Financial Guide. Therefore, we only take issue with the delay in purchasing the case management system and did not modify this finding.

This recommendation can be closed when we receive documentation demonstrating that OJP has assessed the FBIC's ability to complete the program goals for Grant Numbers 2014-CZ-BX-0013 and 2015-AC-BX-0011 prior to the end of the awards, and when we receive documentation that OJP has assessed the program sustainability under Grant Number 2014-CZ-BX-0013.

8. Remedy the \$34,916 in unallowable costs related to the following issues:

- a. \$3,100 in personnel and fringe costs.**
- b. \$14,163 in contractual prosecution services.**
- c. \$12,421 in other direct costs.**
- d. \$5,232 in indirect costs.**

Resolved. OJP concurred with our recommendation. OJP stated in its response that it will review the \$34,916 in questioned costs, related to unallowable personnel fringe benefits costs, contractual prosecution services, other direct costs, and indirect costs, that the FBIC charged to Grant Numbers 2012-IC-BX-0007, 2014-CZ-BX-0013, and 2015-AC-BX-0011, and work with FBIC to remedy, as appropriate, any such costs determined to be unallowable.

For recommendation subparts *a* and *b*, the FBIC did not address our recommendation in its response to the draft report.

For recommendation subparts *c* and *d*, the FBIC concurred with our recommendation regarding questioned costs resulting from noncompliance with special conditions, which includes \$11,504 in unallowable other direct costs and \$5,232 in unallowable indirect costs. However, it did not provide any additional information in its response to the draft report.

This recommendation can be closed when we receive documentation demonstrating that OJP has remedied the \$34,916 in unallowable costs.

9. Remedy the \$87,878 in unsupported costs related to the following issues:

- a. \$6,092 in personnel and fringe costs.**
- b. \$49,583 in contractual prosecution services.**
- c. \$2,161 in other direct costs.**
- d. \$30,042 in excess drawdowns.**

Resolved. OJP concurred with our recommendation. OJP stated in its response that it will review the \$87,878 in questioned costs, related to unsupported personnel and fringe benefits costs, contractual prosecution services, other direct costs, and excess drawdowns, that the FBIC charged to

Grant Numbers 2012-IC-BX-0007, 2014-CZ-BX-0013, and 2015-AC-BX-0011, and work with FBIC to remedy, as appropriate.

For recommendation subparts *a* and *c*, the FBIC did not address our recommendation in its response to the draft report. For subpart *d*, the FBIC concurred with our recommendation, but did not provide any additional information in its response to the draft report.

For recommendation subpart *b*, the FBIC did not concur with our recommendation regarding the \$49,583 in unsupported contractual prosecution services under Grant Number 2015-AC-BX-0011. As stated in the report, we questioned this amount as unsupported because the FBIC did not: (1) perform a cost or price analysis; (2) competitively solicit contractors for quotes or bids; or (3) submit a sole source justification to OJP for the \$262,727 contract.

The FBIC stated that it was transparent to OJP of having no intention to competitively award the contract for prosecution services as it specifically named the contract prosecutor in the program and budget narratives, which meets Tribal government standards for sole source approval according to the FBIC Procurement officer. The FBIC also stated that OJP did not contact the FBIC regarding the non-competitive contractual arrangement and that OJP should have provided technical assistance alerting the FBIC of the need for a GAN and sole source approval. The FBIC mistakenly cites a conversation with the OVW grant manager from a prior award as communication with the OJP grant manager regarding this issue. The FBIC did not provide any additional documentation in its response to the draft report.

Although the FBIC explained in its response that it followed its Tribal government standards for sole source approval, as stated in the report, we found that FBIC policy requires formal bids or proposals to be requested and evaluated prior to the award of a contract in excess of \$100,000. Additionally, the FBIC Contract Representative stated that the FBIC must do a sole source justification for contracts that are not competitively awarded. As stated in the report, the FBIC did not: (1) perform a cost or price analysis; (2) competitively solicit contractors for quotes or bids; or (3) submit a sole source justification to OJP for the \$262,727 contract under Grant Number 2015-AC-BX-0011 in accordance with the DOJ Grants Financial Guide. Therefore, we did not modify our finding or recommendation.

This recommendation can be closed when we receive documentation demonstrating that OJP has remedied the \$87,878 in unsupported costs.

Recommendations to both OVW and OJP to ensure the FBIC has the following:

10. Procedures to ensure that progress reports are accurate and supported and, for awards after December 2014, document each performance measure required by the program and those specified in the solicitation and award documents.

Resolved. Both the OVW and OJP concurred with our recommendation and stated in their responses to the draft report that they will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure that progress reports are accurate and properly supported, and that each performance measure required by the program is tracked and documented.

The FBIC concurred with our recommendation and stated that it will coordinate with the awarding agency grant manager to implement data tracking throughout the grant period and to include additional measures to the semi-annual progress reports under the narrative section or as an attachment to the progress report. Further, the FBIC stated that it will encourage grant staff to maintain appropriate supporting documentation such as sign-in sheets, agendas, and training materials for all performance measures applicable to the respective grant awards. Additionally, the FBIC stated that it will coordinate with OJP technical assistance to identify and maintain sufficient documentation to support grant-related performance measures in progress reports for Grant Number 2015-AC-BX-0011.

Although the FBIC concurred with the recommendation, it did not concur with an audit finding for Cooperative Agreement Number 2012-W5-AX-K004. The OIG determined that the attendance of 12 people at a December 2015 training was unsupported for the progress report July through December 2015. As stated in the report, the FBIC did not retain a copy of the sign-in sheet for this training. The FBIC does not dispute this fact, but wanted the OIG to consider training presentation slides and an October 25, 2016 email listing 10 individuals sufficient evidence as support for this performance measure. The FBIC did not provide any new documentation from what was reviewed during the audit.

The FBIC initially provided the presentation slides for this training when the OIG was onsite on August 31, 2016 and emailed planning emails with the names of five possible attendees on September 16, 2016. On October 25, 2016, the OIG inquired of the FBIC why this was less than the 12 reported attendees. The same day, the FBIC emailed back the names and contact information of 10 attendees that indicated a total of 12 people attended the training. In November 2016, the OIG polled a judgmental sample of attendees on whether or not they attended the training and if they recall how many people attended. All persons polled attended the training. However,

those who were polled estimated that attendance ranged from 4 to 15 persons, with an average of 8 in attendance. Therefore, the OIG determined that the progress report measure was unsupported. Based on the FBIC's response we did not modify this finding.

The FBIC did not provide any additional documentation for other progress report measures in its response to the draft report.

This recommendation can be closed when we receive documentation demonstrating that OVW and OJP have ensured that the FBIC has procedures to ensure progress reports are accurate and supported and, for awards after December 2014, document each performance measure required by the program and those specified in the solicitation and award documents.

11. Procedures to ensure compliance with all special conditions.

Resolved. Both the OVW and OJP concurred with our recommendation and stated in their responses to the draft report that they will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure adherence to all federal award special conditions.

The FBIC concurred with our recommendation and indicated that it would coordinate with the OVW to develop and implement procedures to ensure compliance with special conditions. While the FBIC concurred with our recommendation, the FBIC did not concur with audit findings related to the notification of the OVW grant manager for Cooperative Agreement Number 2012-W5-AX-K004 and the OJP grant manager for Grant Number 2015-AC-BX-0011 for 3 months of duplicative funding under the two awards, from October 1, 2015 to December 31, 2015.

As stated in the report, the OIG found that the FBIC did not notify the OVW or OJP grant managers of duplicative funding under the two, substantially similar awards. In its response, the FBIC stated that OJP Grant Number 2015-AC-BX-0011 expanded the scope of prosecutions from OVW Cooperative Agreement Number 2012-W5-AX-K004. The difference in scope therefore demonstrated that the funding was "non-duplicative."

The OIG found that both awards employed the same individual and contracted with the same Tribal SAUSA (prosecutor). The scope expansion under OJP Grant Number 2015-AC-BX-0011 allowed the FBIC to prosecute more types of cases, while also continuing to prosecute all the same cases from OVW Cooperative Agreement 2012-W5-AX-K004. Therefore, there was overlap between the two awards.

In its response to the draft report, the FBIC also provided emails between the contract prosecutor and the OVW grant manager, from November to December 2015. In these emails, the contract prosecutor at the FBIC

informed the OVW grant manager of an estimated gap in funding between January 1 and March 31, 2016 as it was the contract prosecutor's understanding that funds from the OJP award could not be drawn down until a prior OJP award was closed out, beginning April 1, 2016. However, the FBIC did not inform the OVW grant manager of the duplication of funding between October 1, 2015 and December 31, 2015. Additionally, the FBIC did not provide documentation of communication with the OJP grant manager concerning this duplication of funding. Also, both the OVW and OJP grant managers stated that the FBIC did not notify them of any new funding or duplication of funding, and the OIG did not identify any GANs to eliminate any inappropriate duplication of funding. Therefore the OIG did not modify its findings.

This recommendation can be closed when we receive documentation demonstrating the OVW and OJP have ensured that the FBIC has procedures to ensure compliance with all special conditions.

12. A process to ensure grant funds are only paid to recipients that are eligible to receive federal funding.

Resolved. Both the OVW and OJP concurred with our recommendation and stated in their responses to the draft report that they will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure that federal grant funds are only paid to recipients that are eligible to receive federal funding.

The FBIC did not concur with our recommendation, and FBIC officials stated that they believe that they complied with the procurement standards general guidance. However, the FBIC did not provide any additional information in its response to the draft report.

As stated in the audit report, we reviewed current FBIC policy and were unable to locate any policy that would require the verification of the suspension or debarment status of vendors and contractors in the SAM before procurement. We concluded that the award financial management could be improved to mitigate the risk of fraud, waste, and abuse. Therefore, we did not modify our finding or recommendation.

The recommendation can be closed when we receive documentation demonstrating that the OVW and OJP have ensured that the FBIC has a process to ensure grant funds are only paid to recipients that are eligible to receive federal funding.

13. A process to ensure employee time allocated to multiple grants is properly supported.

Resolved. Both the OVW and OJP concurred with our recommendation and stated in their responses to the draft report that they will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure that proper support is maintained for employees that allocate their time to multiple grants.

The FBIC did not address our recommendation in its response to the draft report.

This recommendation can be closed when we receive documentation demonstrating the OVW and OJP have ensured that the FBIC has a process to ensure employee time allocated to multiple grants is properly supported.

14. Policy and procedures to monitor and document contractor performance as to ensure that contractors adhere to the terms of the contract.

Resolved. Both the OVW and OJP concurred with our recommendation and stated in their responses to the draft report that they will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure that contractor performance is adequately monitored and documented, to ensure adherence with the terms and conditions of the contract.

The FBIC concurred with our recommendation and stated that it hired a different Human Resource Manager to supervise the prosecutor position and develop policy describing contractor review performance to ensure that all reviews or evaluations of contract positions are adequately documented.

This recommendation can be closed when we receive documentation of policy and procedures to monitor and document contractor performance as to ensure that contractors adhere to the terms of the contract.

15. A process to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days and, if the funds are not spent or disbursed within 10 days, the FBIC must return them to the awarding agency.

Resolved. Both the OVW and OJP concurred with our recommendation and stated in their responses to the draft report that they will coordinate with the FBIC to obtain a copy of written policies and procedures, developed and implemented, to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days and, if the funds

are not spent or disbursed within 10 days, the FBIC must return them to the awarding agency.

The FBIC concurred with our recommendation and stated that it will develop adequate policy to prevent the drawing down of excess cash and to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days and, if the funds are not spent or disbursed within 10 days, the procedure to return funds to the awarding agency.

This recommendation can be closed when we receive documentation demonstrating that OVW and OJP have ensured that the FBIC has a process to ensure that federal cash on hand is the minimum needed for disbursements to be made immediately or within 10 days and, if the funds are not spent or disbursed within 10 days, the FBIC must return them to the awarding agency.

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