

November 30, 2023

Executive Office
Tribal Council
The Eastern Band of Cherokee Indians
Cherokee, NC

The Office of Internal Audit and Ethics conducted a follow up review on the Civil Law audit report 23-013, dated August 28, 2023

The purpose of this follow up review is to determine the status of the findings and recommendations. There were 2 observations reported with recommendations made. The status is reported by management with one of the following categories:

- **Implemented** – adequately addressed by implementing corrective action that is in place and functioning.
- **Partially Implemented** – initiated with 50% or more progress.
- **Started** – initiated with less than 50% progress.
- **Not Implemented** – no action taken or started.
- **Withdrawn** – no longer exist because of changes in processes or the risk is accepted by management and approved by the Audit and Ethics Committee.

A summary of the reported status of the 2 recommendations is as follows: **1 (50%) Not Implemented and 1 (50%) Started**. The details of this follow up review can be found in the attached audit report summary.

The assistance of the Civil Law department staff is appreciated. Please do not hesitate to contact our office with questions.

Sincerely,



Sharon Blankenship, CIA, CGAP, CFE, LPEC
Chief Audit and Ethics Executive

cc: Lori Lambert, Audit and Ethics Committee Chair
Michael McConnell, Attorney General
Hannah Smith, Senior Associate Attorney General

EASTERN BAND OF CHEROKEE INDIANS
OFFICE OF INTERNAL AUDIT AND ETHICS
AUDIT REPORT SUMMARY

Report Name: Civil Law Department
Audit Type: Internal Control Review
Report Date: August 28, 2023

Follow up report date: November 20, 2023

Background and Scope:

The Civil Law Department resides within the Department of Justice, also known as the Office of the Attorney General, which was established in Tribal law by Ordinance No. 118 in 2016. The purpose of the department is to provide all legal services for the Tribe, or to coordinate the provision of legal services by others, such as contract attorneys. Chapter 114 states that "The primary source for all legal services for the EBCI is the Attorney General"; and that the Attorney General is the official agent for service of legal process for all litigation against the Tribe and its entities.

Overall Conclusions:

There are opportunities for improvement in the Civil Law departments' internal controls. There were 2 observations identified.

Summary of Reportable Findings:

Finding	Recommendation	Management Response	Rating	Implementation Status
1. Legal service transactions do not have a valid contract	Utilize the contracts process when obtaining legal services.	Disagree. " this office is very careful about contracts and payments. At the same time, we seek to balance caution with efficiency. To be efficient, we chose to approve some payments based on invoices submitted by the outside attorneys. Our use of invoices in this manner was authorized in Sec. 400, Sub. 6, of the Tribe's Fiscal Management Manual as recommended to us by the Tribe's former treasurer, Cory Blankenship, in or about the summer of 2021. The invoices were used in a way that was similar to an "open P.O." approach. Professional services such as representation by an attorney or law firm present a unique contracting need. Lawsuits are difficult to budget for because they present a fluid set of circumstances and demands that change from month to month. Therefore, the timing and amount of work is unpredictable." "We note that there is no dispute regarding the quality, quantity or cost of the legal work performed and referenced in the report. We also note that there was no legal risk to the Tribe for the professional services obtained. There was no ongoing obligation to engage with the lawyers or law firms involved. Those relationships could have been terminated by the Tribe or the law firm at any time for any reason, and the risk to the Tribe would only have been to pay for work that was performed before the termination. "	High	Not Implemented
2. The process of publishing legislation should be evaluated	Civil Law Department, TOP staff, and Legislative branch, work together to determine who will process documents for public notice.	Agree. "We will meet with Chairman of Tribal Council and TOP staff to develop a path for improvement." Target implementation date: 11/25/2023	Med	Started