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May 6, 2024

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

We conducted an audit of Investments in accordance with the FY2024 annual audit plan. REDW was engaged to conduct the audit.

The review was designed to assess the effectiveness of investment controls and processes. The review is intended to be used as a tool to determine if improvement is needed.

REDW identified 6 observations. The details of these observations along with recommendations can be found in the attached report. Management's response is included as an attachment.

The assistance of the Treasury 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
Susie Wolfe, Interim Secretary of Treasury
Lavita Hill, Treasury Specialist
Jimmy Burns, Investment Committee Chair





Investments

Internal Audit

April 12, 2024

**Eastern Band of Cherokee Indians
Investments
Internal Audit**

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**Eastern Band of Cherokee Indians
Investments
Internal Audit
Report**

Introduction

We performed the internal audit services described below solely to assist the Eastern Band of Cherokee Indians (EBCI) in assessing the processes and internal controls over the management and monitoring of investment funds, including performance reporting reviews, components included in the Investment Policy (IP), trade authorizations, compliance with the IP, investment fund reconciliation, and internal reporting and communication.

Our services were conducted in accordance with the Consulting Standards issued by the American Institute of Certified Public Accountants and the terms of our Professional Services Contract agreement for internal audit services.

Purpose and Objectives

EBCI has several investment funds in place with a total approximate value of \$1.6 billion. The funds, which include the Endowment I Fund, Endowment II Fund, Debt Service Sinking Fund, Reserve for Minors and Incompetents Fund, Sovereign Wealth Fund, Cherokee Central Schools Reserve Fund, and the Education Endowment, each have unique investment goals and objectives which are documented in individual Investment Policy Statements (IPS), as well as Cherokee Code. To ensure compliance with IPS requirements, the Tribe utilizes an investment management team which is comprised of EBCI Office of Budget & Finance employees and external investment consultants. In addition, an Investment Committee, appointed by EBCI Tribal Council, is tasked with fiduciary oversight of the portfolio.

Our internal audit focused on evaluating the controls and processes over total portfolio management and performance reporting reviews. We assessed the components of each investment policy to ensure alignment with best practices, as well as compliance with the various IPS requirements for select funds. In addition, we evaluated processes over trade authorizations, investment fund reconciliations, and internal reporting and communication to ensure adherence with sound internal controls and best practices.

Observations and Recommendations

As a result of our test work, we identified the following observations:

1. *Investment Committee Responsibilities*

The EBCI Investment Committee is appointed by the EBCI Tribal Council and is fiduciarily responsible for the management of the various funds in the EBCI investment portfolio. The responsibilities of the Investment Committee are memorialized in the Cherokee Code, as well as in the various investment policy statements in place over each fund. These responsibilities include meeting on at least a quarterly basis, as well as a variety of other tasks to ensure the investments consultants/managers are performing in accordance with IPS objectives. Our testing determined that while the Investment Committee did appear to meet at least on a monthly basis, meeting minutes were not sufficiently documented to ensure the committee was performing their duties in accordance with the Cherokee Code and IPS responsibilities. Further analysis determined the Investment Committee minutes only included standing items for administrative items such as approval of prior meeting minutes, roll call, etc. but did not document discussions regarding investment performance, investment consultant recommendations that were voted upon, trade authorizations, or review of investment managers which were key responsibilities of the committee according to the IPS.

Potential Risk – High: The absence of a process to ensure Investment Committee actions are documented increases the risk that the committee may not be able to demonstrate compliance with Cherokee Code/IPS responsibilities. Since minimal documentation was in place to support compliance with key responsibilities, we have assessed the risk at high.

Recommendation: The Investment Committee should evaluate the process to document meeting minutes to ensure meeting are properly documented and reflective of actions taken. The committee should consider utilizing a minute taker, if one is not already appointed, who is responsible for ensuring discussions and action items taken during the meeting are well reflected in the minutes. The Investment Committee should ensure the minutes help support compliance with key responsibilities as required in the various IPS statements. Discussions/actions to consider including are:

- Market Overview and Outlook – Discussion on the current state of financial markets, economic conditions, and relevant trends that may impact the investment portfolio.
- Portfolio Performance Reviews – Summarize key points from reports presented during the meeting, such as performance reports from investment managers, market analyses, and compliance updates.
- Updates from Investment Managers – Summarize strategies, recent activities, and performance relative to benchmarks.
- Investment Manager Performance – Document investment manager performance reviews including any decisions to replace and/or dismiss managers.
- Asset Allocation Reviews – Summarize the valuation of the current asset allocation and discussions on any proposed changes/necessary trades to align portfolio balances with desired asset allocation targets.
- Cash Flow and Liquidity Analysis – Summarize the assessment of cash flow needs, liquidity positions, and considerations for maintaining sufficient liquidity.

- Action items - Outline action items resulting from the meeting (including required trades), including responsibilities and deadlines to ensure follow-up tasks are clearly communicated and assigned.
- Due diligence - Document any due diligence discussions related to specific investments or investment managers, including relevant information that supports the committee's decision-making process.
- Changes to Policies or Strategies - Document the nature of these changes and the rationale behind them
- Risk and Compliance Discussions - Summarize discussions regarding compliance with investment policies, regulatory requirements, and risk management practices.

The level of detail in Investment Committee meeting minutes should strike a balance between providing a comprehensive record of discussions and decisions while avoiding unnecessary verbosity.

2. Trade Authorization Internal Controls

To ensure strong financial controls over investment trading, best practices recommend proper segregation of duties over the trade set up and approval process, as well as monitoring over custody bank platform access to ensure access is limited to authorized individuals. Despite multiple requests, we did not receive supporting documentation to test trade authorizations to ensure proper segregation of duties were in place. In addition, we did not receive the documentation necessary to ensure system access to the custody bank systems, where trading is performed, was appropriate and access was only granted to authorized employees. Further analysis determined there were no policies and procedures in place over the trading process to ensure roles and responsibilities were defined, nor were there defined processes in place to ensure periodic custody bank access reviews were performed. As a result, we could not determine if proper segregation of duties and internal controls were in place over trade authorizations.

Potential Risk – High: The absence of processes to ensure proper internal controls and segregation of duties are in place over trade set up and approvals increases the risk that improper/inaccurate trades may occur. Since we did not receive documentation to support internal controls were in place and trade values can be in excess of \$1 million, we have assessed the risk at high.

Recommendation: The EBCI Department of Treasury should ensure that the trade authorization process is fully documented for all transactions and complete records should be retained to support the transactions. The department should document trade authorization procedures in each of the investment policies or as an appendix to each of the investment policies that align with custody bank procedures, including:

- Roles and responsibilities of custodians, EBCI employees, and the Investment committee as they relate to trade authorizations;
- Segregation of duties and other relevant controls; and,
- Document retention requirements.

In addition, a periodic review of system access to the various custody banks should be put in place to ensure access to perform trade authorizations and approvals is reflective of current employees and aligns with job title and function.

3. **Investment Reconciliations**

On a monthly basis, the custody bank provides a monthly fund statement of investment activity which is provided to EBCI. In accordance with best practices, EBCI should utilize that information to perform their own reconciliation and review of investment performance activity on a monthly basis to ensure information is accurate and variances can be addressed timely. This is especially important on the Minor's Trust Fund which houses several sub-accounts for the benefit of Tribal minors. Our testing of 3 investment fund reconciliations (the Debt Services Sinking Fund, the Central Schools Reserve Fund, and the Minor's Trust Fund) determined that EBCI was only performing a reconciliation annually during the course of the year-end closing processes for fiscal year 2023. The reconciliation process was also not documented in the EBCI Fiscal Management policy to ensure process timelines and roles and responsibilities were defined. In addition, we did not receive explanations on how EBCI verifies that member account balances and related calculations were accurate for the Minor's Trust Fund; therefore, we could not determine if there were processes in place to ensure accuracy of these balances.

Potential Risk – Moderate: An absence of timely reconciliations over investment funds increases the risk that errors may not be caught timely. Since processes are not documented and reconciliation were happening only once annually, we have assessed the risk at moderate.

Recommendation: EBCI should implement a monthly reconciliation process over investment information provided by the custody bank. Reconciliations should be documented for each fund and prepared and reviewed by separate individuals to ensure proper segregation of duties are in place. Variances or errors discovered should be resolved immediately to ensure accurate reporting of investment information. Additional reconciliation procedures should be put in place over more complex funds, such as the Minor's Trust Fund, to ensure sub-balances are accurate and variances can be resolved. Finally, the EBCI Fiscal Management Policy should be updated to reflect this process including the frequency of the reconciliations, timelines for preparation and approval, and required supporting documentation to be maintained.

4. **Cherokee Code Compliance**

The Cherokee Code contains specific sections that govern tribal investments including the establishment of soft floors within several of the funds to ensure proper reserve balances are maintained. In addition, EBCI has implemented several Investment Policies as well as the EBCI Financial Policy 1700 – Investments Policy which further define soft floor requirements in the Cherokee Code. Our testing found 3 discrepancies regarding soft floor requirements between the investment policies, Cherokee Code, and EBCI Financial Policy 1700 – Investments Policy including:

- *Debt Service Sinking Fund* – The soft floor according to the June 2022 investment policy (\$75,000,000) did not align with the soft floor according to the Cherokee Code, Part II, 16C-14 Debt Service Sinking Fund (\$25,000,000), which was updated on April 6, 2023.
- *Endowment 1* – The soft floor according to the May 2022 investment policy (\$75,000,000) did not align with the soft floor according to the Cherokee Code, Part II, C-10. – Cherokee Endowment and Investment Funds (\$170,000,000), which was updated May 11, 2021, or EBCI policy 1700 – Investments Policy (\$100,000,000).

- *Endowment 2* – There was a soft floor according to the May 2022 investment policy (\$75,000,000), but no soft floor for this Endowment was mentioned in either Cherokee Code, Part II, 16C-10. – Cherokee Endowment or Investment Funds and 16C-11 – Investment of Endowment and Investment Funds.

Potential Risk – Moderate: If investment policies are not consistent with Cherokee Code, investment funds may not be managed in accordance with governing law and relevant risk tolerances. Since the IPS reflects alignment with the risk tolerances and strategies of the Tribe, we have placed this risk at moderate.

Recommendation: The EBCI Department of Treasury should, in collaboration with applicable parties, should evaluate the Cherokee Code soft floor requirements to determine if they align with the risk tolerance of the Tribe. Since Cherokee Code involves a more robust update and review process, we recommend EBCI consider more general parameters such as a percentage versus specific dollar amounts to allow for more flexibility within the Code as markets and fund balances evolve over time. Absolute figures should be reflected in the investment policies and reviewed/updated in accordance with the required frequencies according to each IPS to ensure alignment with the risk tolerance and long-term strategies of the Tribe.

5. *Investment Committee Communications Plan*

The EBCI Financial Policy 1700 – Investments Policy, Section 3 – Investment Committee states that the Investment Committee must develop and implement a communication plan to ensure the Executive Office, Tribal Council, Office of Budget and Finance and general public are kept informed of investment performance, opportunities, and changes in strategy or investment structure. Our testing determined there was no communications plan in place to ensure consistent and timely communication from the Investment Committee to the Executive Office, Tribal Council, Office of Budget & Finance and Tribal members. Further analysis determined that besides the monthly performance reports being provided to the Investment Committee by the Investment Consultants, no additional communications or reporting to relevant stakeholders appeared to be occurring.

Potential Risk – Moderate: If a communication plan is not in place over the various investment funds, transparency over investment performance may be impacted. Since there was some evidence of communication from the Investment Advisor to the Investment Committee through the performance reporting process, we have placed this risk at moderate.

Recommendation: EBCI investment staff, in collaboration with the Investment Committee and Tribal Council, should develop and implement a communications plan to ensure timely and relevant regarding investment performance and other key items is shared with the necessary parties. The communications plan should consider who is receiving the information, what type of information should be communicated based on the recipient, as well as how that information will be shared (i.e., via website, newsletter, email, etc.). Once the plan is developed, it should be periodically reviewed to ensure communications continue to remain relevant and impactful.

6. *IPS Updates*

To ensure alignment with best practices, an IPS should be reviewed on at least an annual basis to ensure investment objectives according to the IPS align with long-term objectives of the Tribe. While EBCI had semi-annual or annual review requirements in place within all 7 of the IPS documents in place, our testing determined 5 of 7 investment policies either had not been updated according to timelines mentioned in the policies or the most recent review of the investment policies was not documented. Further analysis determined:

- *Cherokee Central Schools Reserve Fund* - This investment policy had not been updated since February 5, 2022, despite an annual review requirement according to the IPS.
- *Minor's Trust Fund* - This investment policy had not been updated since September 2021 despite an annual review requirement according to the IPS.
- *Debt Service Sinking Fund* - This investment policy had not been updated since May 20, 2022, despite a semi-annual review requirement according to the IPS.
- *Endowment 1* - This investment policy had not been updated since May 20, 2022, despite a semi-annual review requirement according to the IPS.
- *Endowment 2* - This investment policy had not been updated since May 20, 2022, despite a semi-annual review requirement according to the IPS.

Potential Risk – Low: An absence of documented reviews or regular updates according to investment policy guidelines increases the risk that investment strategy according to the IPS may not be aligned with the goals and objectives of the Tribe. Given that 5 of 7 investment policies did not have evidence of recent reviews or updates, but all provide for some level of flexibility in strategy and risk management, we have placed this risk at low.

Recommendation: The EBCI Department of Treasury, the Investment Committee, and the Investment Advisor(s) should ensure all policies are being reviewed and/or updated according to the IPS review schedule required in each policy. Each review should be documented regardless of whether or not any changes were made. Since there are varying review frequencies required, EBCI Department of Treasury should consider implementing an IPS review calendar to ensure review frequencies are captured on the calendar and can be properly infused into Investment Committee meeting agendas when it is time to review an IPS.

Scope and Procedures Performed

In order to gain an understanding of the process, we interviewed the following personnel:

- Susie Wolfe, Interim Secretary of Treasury
- Lavita Hill, Treasury Specialist

We performed the following test work:

Total Portfolio Performance Reporting Reviews – We evaluated how the investment team and Investment Committee managed the total portfolio to ensure risk exposure was managed for all portfolio assets. We determined if global performance reports were developed for the total portfolio and that performance reports were provided to the Investment Committee and Tribal Council on a timely basis for review.

Trade Authorizations – We obtained a population of internal trades from October 1, 2022 to September 30, 2023 (FY23). We then selected a sample of 10 trades, ensuring a mix of different types of securities, and tested to determine:

- EBCI maintained documentation of the justification/rational for completing the trade;
- A trade ticket was prepared prior to initiating the trade (if applicable);
- Trade was authorized/approved by both levels of approval and by appropriate personnel; and
- Approvals were documented in Investment Committee meeting minutes.

Investment Committee Approvals – Utilizing the sample of 10 trades selected above, we tested to determine:

- Review and approval of the purchase or sale was sufficiently documented in the monthly Investment Committee minutes; and
- The purchase or sale was supported by a documented recommendation by the Investment Advisor for the particular fund.

Trading System Access – We obtained a listing of authorized personnel who have the ability to approve trades from each custody bank. In addition, we obtained a listing of all active investment personnel from EBCI Human Resources as of November 2023 and tested to determine if authorized traders via the custody bank were active EBCI investment personnel.

In addition, we obtained a listing of all terminated investment personnel from calendar year 2023 from EBCI Human Resources and tested to determine if the custody bank was notified on or before the date of termination to remove trade access.

Components of an Investment Policy – We selected 3 Investment Policy Statements (Minor's Trust, Cherokee Central Schools Reserve Fund, and Debt Service Sinking Fund) from a total of 7 and tested to determine if the IPS statements contained various clauses in accordance with best practices as defined by the Chartered Financial Analysts (CFA) Institute and Fi360 Prudent Practices for Investment Advisors.

IPS Reviews – We obtained investment policies for each of the 7 investment funds and tested to determine the investment policies were reviewed/updated in accordance with required review schedules.

IPS Compliance – We obtained the investment policies for the Minor's Trust Account, Cherokee Central Schools Reserve Fund, and the Debt Service Sinking Fund as well as the 2023 monthly statements, and the June 30, 2023 and September 30, 2023, quarterly performance reports. We then tested to determine if:

- Asset allocations for each asset class in the fund fell within the lower and upper limits established in the IPS;
- No more than 15% of the assets were invested in any single stock, bond, instrument, entity, company, fund, or project.
- If any assets exceeded 15%, approval by the Investment Committee and Tribal Council was in place;
- The Investment Committee worked with no less than three institutional managers to establish the portfolio;

- Investments were reviewed by the IC no less than quarterly to assess whether policy guidelines continue to be appropriate and were met;
- Underlying holdings were allowable under the IPS;
- Performance returns were reported consistently (i.e., TWR vs. IRR);
- Performance returns were reported either gross or net of fees consistently;
- Benchmarks utilized in Performance Report agreed to benchmarks listed in IPS; and
- Ending portfolio balance reflected on Performance Report agreed to the month-end statement balance.

In addition, we tested to ensure components of the IPS were in alignment with the Cherokee Code.

Investment Committee Roles and Responsibilities – We evaluated the roles and responsibilities of the Investment Committee and tested to determine if they were clearly defined in the Cherokee Code and/or the investment policy statements. In addition, we determined if the roles were aligned with best practices regarding investment committee functions.

Investment Reconciliations – We evaluated the process to ensure investment activity provided by the custody banks was reconciled timely and variances, if applicable, were researched and corrected. In addition, we evaluated the process to provide investment information to the EBCI Office of Budget and Finance to ensure information was provided timely and accurately for inclusion in the Tribe’s financial statements.

* * * * *


We discussed and resolved minor observations with management and received cooperation and assistance from the EBCI Department of Treasury during the course of our interviews and testing. We sincerely appreciate the courtesy extended to our personnel.

REDW_{LLC}

Albuquerque, New Mexico
April 12, 2024

MEMORANDUM

TO: Executive
Tribal Council

FROM: Sharon Blankenship, Chief Audit and Ethics Executive 

CC: Lori Lambert, Audit and Ethics Committee Vice Chair
Susie Wolfe, Interim Secretary of Treasury
Lavita Hill, Treasury Specialist
Jimmy Burns, Investment Committee Chair

DATE: May 6, 2024

RE: Responses to Report 24-002 – Investments Audit Report

The 6 observations and recommendations identified in the Investments audit report 24-002 were distributed to the program and responses prepared. The responses as provided are stated below. The original response forms are on file with this office.

1. Investment Committee Responsibilities

Response: Disagree

Respondent narrative: I agree that the minutes do not reflect a group discussion about Investment performance and I agree to record more details around the conversation with consultants. However, I disagree with the remaining observations. The Investment Committee meets twice a month and performs due diligence on each consulting group annually. During meetings, action-based minutes are recorded. This means whenever there is an action taken by the committee, the committee votes to approve or deny that action. The vote is recorded in the minutes. If any consulting group makes a recommendation, then that is recorded in the minutes and the committee votes to approve or deny recommendations. However, this is not a common occurrence. As for Trade Authorizations, these are handled through the Finance department. A consultant sends the trade authorization to the Treasury Specialist, then she gets approval from the Accounting Director to complete the transaction. Lastly, the Investment Committee meets with each consultant monthly to review performance, recommendations for fund or investor changes, and get market updates. Annually, special called meetings occur - Due Diligence - where the Investment Committee meets with the consultant and fund managers for a more in-depth review of accounts.

2. Trade Authorization Internal Controls

Response: Agree, Target implementation 6/30/2024

Respondent narrative: The Treasury Department does not have written policies and procedures that govern how trade authorizations are handled. There are strict internal controls but they aren't written down and are not included in the fiscal management policy. The current method is only the Treasury Specialist can initiate a Trade Authorization. The Accounting Director must approve that Trade Authorization then it is sent to the custody bank. The custody bank then calls the Finance Director to confirm the trade.

Lavita and Susie will write down the current internal controls so anyone can follow how trade authorizations are handled. There are authorized initiators and approvers for each custodian bank, but these aren't documented. The written policies and procedures will include assigned roles.

3. Investment Reconciliations

Response: Agree, Target implementation 6/30/2024

Respondent narrative: Currently, there is no written policy for the investment reconciliations. For FY23, the Treasury Specialist assumed the reconciliation responsibilities of the EBCI investment accounts. She will now begin performing monthly or quarterly reconciliations of each investment account - including Pension, Tribal investments, Sovereign Wealth, Education Endowment, and Minors Trust Fund. The Treasury Specialist will reconcile each account and the Accounting Director will post any journal entries to book investment earnings. The Treasury Specialist will prepare the journal entries. The Accounting Director and Treasury Specialist will write the policies and procedures for the reconciliation process.

For Minors Trust Fund balances, the EBCI Treasury Department utilizes the USI Consulting Group for recordkeeping. There is an online portal available to each minors fund participant to view balances. USI uses their software to track balances, make withdrawals, and add contributions. Each account is unitized.

4. Cherokee Code Compliance

Response: Agree, Target implementation 7/26/2024

Respondent narrative: We will update the Fiscal Management policy to ensure it matches any changes made to the Cherokee Code. This update will occur annually. The Code was updated in 2023 and the FMP has not been changed to reflect the CC changes.

5. Investment Committee Communications Plan

Response: Disagree

Respondent narrative: A monthly report is distributed to Tribal Council and the Executive Office from the Office of Budget and Finance. This report shows the monthly performance of each investment account, as well as FYTD information. Additionally, the Investment Committee

seeks to deliver a quarterly update between Tribal Council and the investment consultants. These occur when the Tribal Council schedules them. Additionally, the Investment Committee will attend any meeting they are invited to for updates. The Cherokee Community Club Council recently invited them to one of their meetings and they gladly accepted the invitation.

6. IPS Updates

Response: Agree, Target implementation 7/26/2024

Respondent narrative: We will write in the SOP that the IPS will be reviewed annually and will update as necessary.