



738 Acquoni Road
PO Box 455
Cherokee, NC 28719

August 30, 2024

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

We conducted an internal control review of Realty Services in accordance with the FY24 annual audit plan. REDW was engaged to conduct the audit.

The review was designed to obtain an understanding of key processes, evaluate the adequacy of internal controls, and identify opportunities for process improvements.

REDW made 3 observations and provided recommendations. There was also 1 process improvement. The details can be found in the attached report. Management's response is included as an attachment.

The assistance of the Realty Services 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
Cruz Galaviz, Director of Realty Services



Eastern Band of Cherokee Indians

Tribal Realty Services
Internal Audit
August 19, 2024



**Eastern Band of Cherokee Indians
Tribal Realty Services
Internal Audit**

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**Eastern Band of Cherokee Indians
Tribal Realty Services
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 Tribe's Realty Services Office with a specific focus on realty transactions which included leases, rights-of-ways, transfers, and other select realty transactions. In addition, we evaluated the Tribe's Realty Services policies and procedures and record keeping of documents involved in the realty transaction process.

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

The Tribal Realty Services Office was created by administrative action of the executive branch and Tribal Council to perform functions that are no longer performed by the BIA Realty Office. Those functions include, but are not limited to, all research into, and all transactions involving, possessory holdings in Tribal trust land. The Realty Services Office also staffs and provides support to the Business Committee, Lands Committee, and Tribal Council on matters concerning the ownership of possessory rights in Tribal trust land.

Our internal audit focused on assessing the processes and internal controls over the Tribe's Realty Services Office with a specific focus on realty transactions which included leases, rights-of-ways, transfers, and other select realty transactions. In addition, we evaluated the Tribe's Realty Services policies and procedures and record keeping of documents involved in the realty transaction process.

Observations and Recommendations

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

1. **Policies and Procedures**

Policies and procedures and desktop procedures are critical to ensuring employees are aware of department processes as well as their roles and responsibilities. While Tribal Realty Services had draft Tribal Realty Services Policies and Procedures, our testing determined that they were not formalized and that there were no desktop procedures to help ensure all Realty transactions were consistently processed and files were complete. In addition, the draft policies and procedures did not include areas such as review requirements, approval requirements, applicable state, Federal, or BIA guidelines, or specific supporting documentation required for each transaction type. While we were able to obtain some documentation from Tribal Realty Services, we were not able to obtain all documentation that was expected based on our understanding of the Tribal Realty Services procedures for the 27 transactions tested. Reasonable explanations were provided for some missing documentation however, the absence of policies and procedures or desktop procedures to confirm which documents were required for each transaction caused us not to be able to determine if the file for each transaction was complete.

Potential Risk – High: Without policies and procedures and desktop procedures, there is a risk of incomplete files or transactions being approved in error. Since our testing determined there were a significant amount inconsistency in the approvals and documents retained, we have assessed this at high.

Recommendation: Tribal Realty Services should update the draft policies and procedures to include review and approval requirements and all applicable state, Federal, and BIA requirements. After the updates are complete, the policies and procedures should be formalized through the appropriate approval process and an annual review process should be implemented to identify any process changes that may require updates.

In addition, Tribal Realty Services should develop and implement desktop procedures over each transaction (i.e., lease, right of way, etc.) to ensure consistent and accurate processing. Additionally, policies and procedures and desktop procedures should be disseminated to all Tribal Realty Services employees and utilized for training new hires.

2. **Quality Control Procedures**

Tribal Realty Services procedure includes reviews by two Leasing Specialists, an Attorney, and the approval of the Director of Realty to ensure all transactions are valid and complete with all supporting documentation. While Tribal Realty Services did have some documented reviews, we determined these quality control activities were not consistently performed; as a result, we were unable to determine if transactions were properly completed, reviewed and approved. In addition, Tribal Realty Services had a draft form Activity Sheet to document reviews; however, this sheet has not yet been reviewed or implemented. Lastly, our testing determined there were no procedures in place to ensure all files were complete.

Potential Risk – High: If quality control procedures are not performed, there is a risk of incomplete files or transactions being approved in error. Since most quality control procedures were absent and multiple reviews/approvals were missing to support compliance, we have assessed this risk at high.

Recommendation: Tribal Realty Services should review the draft Activity Sheet to ensure it includes all relevant information and steps needed. This should then be implemented into daily practice to ensure all reviews/approvals are occurring and are documented. In addition, Tribal Realty Services should implement a standardized checklist for required documents to ensure each transaction is processed completely and accurately. These could also be documented in desktop procedures or in the activity sheet.

3. Document Storage/Centralized Documentation

According to Section F of the BIA 638 Contract, the Tribal Realty program is required to maintain a record-keeping system that allows the Tribe to create, maintain, safeguard and properly dispose of records. Throughout our testing, we determined that records were retained both within the document management system (Cott) and physically in the Tribal Realty Services Office. However, complete documentation was not maintained within the document management system (Cott). We also identified records that were only stored in a physical location and not backed up digitally. In addition, we determined that records were not uniformly named as file numbers were utilized within the document management system (Cott) and names were utilized in the physical files.

Potential Risk – Moderate: If documents are lost, EBCI may have challenges defending transactions should disputes arise. In addition, physical records could be damaged or lost due to flood, fire, or other natural disasters. Since the majority of the transactions tested were impacted, we have assessed this risk at moderate.

Recommendation: Tribal Realty Services should identify all physical records that are not digitally backed up and scan the documents into the document management system (Cott) within the appropriate file or other electronic recordkeeping system. In addition, Tribal Realty Services should implement desktop procedures for a uniform filing convention and requirements to scan all documentation for each transaction into the document management system (Cott) to ensure all records are centralized and properly safeguarded.

Process Improvement Opportunities

1. Transaction Tracking and Timely Processing

Our testing determined there was no internal tracking mechanism to determine what transactions were being processed by Tribal Realty Services, including the current status. Additionally, there were no standards to ensure timely processing of transactions. Tribal Realty Services should maintain a master log to track all transactions within the department including the current processing phase. Tribal Realty Services should create internal benchmarks for timely processing and implement monitoring procedures to ensure outliers are identified.

Scope and Procedures Performed

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

- Cruz Galaviz, Director of Realty
- Michelle Ruffman, Land Record Specialist

In order to gain an understanding of the processes and controls in place we read relevant portions of:

- Cherokee Code Section 47B-6. Posting of land transfers between members.
- Cherokee Code Section 47D-1. Leases
- BIA 638 Contract
- 25 CFR Part 150 Record of Title to Indian Land
- 25 CFR Part 162 Leases and Permits
- 25 CFR Part 169 Rights-of-Way over Indian Land
- Cherokee Code Section 47-C Realty Policies & Procedures Draft Form

We performed the following test work:

Realty Transactions – We obtained a population of transactions from the COTT system from September 1, 2023 to May 15, 2024. From a population of 106 transactions, we selected 25% of the population for a sample of 5 leases, 5 right of way, 10 transfers and 7 transactions belonging to other categories such as residential assignments, lease satisfactions, promissory notes, and tested to determine:

- Intake Form was complete and was signed by both parties (Grantor/Grantee, Lessor/Lessee) and/or a completed Firm Commitment Form was on file, if applicable;
- A Site Inspection Report was completed and on file; signed by all applicable parties;
- A Title Status Report was on file;
- The Intake Form/Firm Commitment Form and supporting documents (site inspection, title status report) were reviewed by two Leasing Specialists;
- The Intake Form/Firm Commitment Form and supporting documents (site inspection, title status report) were reviewed by an Attorney in the Attorney General's Office;
- The Intake Form/Firm Commitment Form and supporting documents (site inspection, title status report) were approved by the Director of Realty;
- The lease, transfer, or right of way was approved by the Business Committee; and
- The lease, right of way, transfer, was processed timely.

For transfers we tested:

- The transfer was approved by the Director of Realty prior to being posted at the Indian Agency Office and at the Cherokee Post Office; and
- The transfer document was posted at the Indian Agency Office and at the Cherokee Post Office for ten days in advance of the regular monthly meeting of the Business Committee.

For transfers we tested:

- The lease was approved by the BIA Superintendent.

Policies and Procedures – We obtained the draft policies and procedures for the Tribal Realty Services Office. We reviewed the policies and procedures to determine:

- The policy and procedure was complete and included all relevant areas.
- The policy included applicable Cherokee code, regulations, and standards.

Record Keeping – As a part of the detailed testing, we tested that each of the documents required to maintain compliance with 25 CFR Part 150 were filed and maintained properly.

* * * * *

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


REDW LLC

Albuquerque, New Mexico

August 19, 2024

MEMORANDUM

TO: Executive
Tribal Council

FROM: Sharon Blankenship, Chief Audit and Ethics Executive 

CC: Lori Lambert, Audit and Ethics Committee Vice Chair
Michael McConnell, Attorney General
Cruz Galaviz, Director of Realty Services

DATE: August 30, 2024

RE: Responses to Report 24-008 – Realty Services Audit Report

The 3 observations and recommendations identified in the Realty audit report 24-008 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. Policies and Procedures

Response: Agree, Target implementation 1/1/25

Respondent narrative: "Do a process map first for all transactions, draft the desktop procedures for each transaction, and then have it reviewed by the staff to ensure I have included all necessary information."

2. Quality Control Procedures

Response: Agree, Target implementation 1/1/25

Respondent narrative: "Implementation of a master list, have each proof on that master list so I can manage better. Have every document standardized and spell out each step for each transaction in the desktop procedures to ensure each employee is conducting the work in a complete and standard way."

3. Document Storage/Centralized Documentation

Response: Agree, Target implementation 1/1/25

Respondent narrative: "We (Realty) must first identify what needs to be in our files and what does not need to be before we can start on having Cott system up to date with relevant



information. Because of the sheer size and importance of this job, I will be pursuing a manager to help with the day-to-day operation while I am able to be fully dedicated to this project. After visits with surrounding counties and learning about how they index their files I can get our standardized indexing procedures in place to get our files digitalized.”