



STATE OF NORTH CAROLINA

INVESTIGATIVE REPORT

HALIWA-SAPONI TRIBE, INC.

HOLLISTER, NORTH CAROLINA

APRIL 2011

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

STATE AUDITOR

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Office of the State Auditor



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AUDITOR'S TRANSMITTAL

The Honorable Beverly Perdue, Governor
Dr. Joseph O. Richardson, Council Chair, Haliwa-Saponi Tribe
Rev. Ronald Richardson, Chief, Haliwa-Saponi Tribe
Edgar M. Roach, Jr., Board Chairman, Golden LEAF Foundation
Members of the North Carolina General Assembly

Ladies and Gentlemen:

Pursuant to North Carolina General Statute §147-64.6(c)(16), we have completed an investigation of an allegation regarding a grant application submitted by the Haliwa-Saponi Tribe to the Golden LEAF Foundation. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General and other appropriate officials in accordance with G.S. §147-64.6 (c) (12).

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor

April 26, 2011

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INTRODUCTION

The Office of the State Auditor received a complaint concerning a grant application submitted by the Haliwa-Saponi Tribe to the Golden LEAF Foundation. The grant application included a request for \$1,000,000 to be applied toward the total cost of constructing a community multipurpose building. It was alleged that the application contained false information relative to the Haliwa-Saponi Tribe's sources of funding for the project. The Golden LEAF Foundation's Board of Directors reviewed the application and, based on the information provided, awarded \$316,140 to the Haliwa-Saponi Tribe.

To conduct our investigation of the complaint, we performed the following procedures:

- Review of applicable North Carolina General Statutes
- Review of the U.S. Dept. of Housing and Urban Development's (HUD) Indian Housing Block Grant regulations
- Examination of documents submitted by the Haliwa-Saponi Tribe to the Golden LEAF Foundation
- Examination of relevant documents and records of the Haliwa-Saponi Indian Tribe
- Examination of documents obtained from HUD's Office of Native American Programs
- Interviews and correspondence with officers of the Golden LEAF Foundation, officers and staff of the Haliwa-Saponi Tribe, and individuals employed by HUD's Office of Native American Programs

This report presents the results of our investigation. The investigation was conducted pursuant to North Carolina General Statute §147-64.6(c)(16).

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ORGANIZATION AND GRANT OVERVIEW

Organization Overview

The Haliwa-Saponi Tribe, Inc. (Tribe) was incorporated in North Carolina in 1974 and is organized as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code. The Haliwa-Saponi Tribal School is a public charter school that is operated by the Tribe. The Tribe has been recognized by the state of North Carolina as a Native American tribe. The majority of the Tribe's members live in the town of Hollister which is located in Halifax County.

The Tribe is engaged in protecting the interest, identity, and rights of the Haliwa-Saponi Indian people through the promotion and preservation of their cultural heritage and the establishment and maintenance of programs for health, education, welfare, housing assistance, and economic development.

The Tribe has 11 council members which include the tribal chief, council chair, and an executive committee. The tribal administrator is responsible for the supervision of staff and the administration of the projects and business affairs of the Tribe. The staff consists of approximately 14 full-time employees.

The Tribe's major sources of revenue are federal funding¹ and state funding.² Sources of nongovernmental revenue include fundraising activities, donations, and fees.

Grant Overview

On April 10, 2004, the Haliwa-Saponi Tribal Council approved a motion to allocate \$600,000 of U.S. Housing and Urban Development (HUD) funds for the construction of a community multipurpose building. Ideas for the use of the multipurpose building, as set forth by council members, included an official size basketball court with bleachers, stage area, kitchen, bedrooms for overnight guests, office space, gym with exercise equipment, and a nutrition education site.

By January 2009, a total of \$158,328 had been spent on architectural fees and a professional fundraiser. Aside from these professional fees, very little progress was made on the multipurpose building project. Additionally, some members of council began to express their concerns over the scale of the project and the Tribe's ability to finance it. At a February 2009 tribal council meeting, the tribal administrator estimated the total cost of the proposed facility to be \$1,286,649.³ Later that month, the tribal people voted to discontinue the building project. In March 2009, the tribal council also voted to discontinue the project. The project termination was reported to HUD in the Tribe's Annual Performance Report for the year ended June 30, 2009.

¹ Revenues from federal agencies totaled \$1,078,754 for the fiscal year ended June 30, 2009. \$102,690 of this total was earmarked for the charter school. Primary sources of this revenue included the U.S. Dept. of Housing and Urban Development, U.S. Dept. of Health and Human Services, and the U.S. Dept. of Labor.

² Revenues from state agencies totaled \$1,224,558 for the fiscal year ended June 30, 2009. \$901,640 of this total was earmarked for the charter school. Primary sources of this revenue included the NC Dept. of Health and Human Services and the NC Department of Public Instruction.

³ This cost estimate was provided at the tribal council meeting held on February 24, 2009.

ORGANIZATION AND GRANT OVERVIEW (CONCLUDED)

In January 2010, the Tribe submitted a grant application to the Golden LEAF Foundation⁴ with a request for \$1,000,000 for the construction of the multipurpose building. According to the grant application, the total cost of the proposed project was estimated at \$2,468,000. The project was described as a 14,978 square foot multipurpose building containing a gymnasium with bleachers and basketball goals, locker rooms, showers, equipment storage rooms, meeting rooms and offices, and a concession stand.

On February 4, 2010, the Golden LEAF Foundation awarded a grant in the amount of \$316,140 to the Haliwa-Saponi Tribe to assist with the construction of the multipurpose building. The grant agreement was signed by the tribal administrator on June 11, 2010. As of September 23, 2010, the Golden LEAF Foundation had not disbursed any funds to the Tribe under the grant agreement. According to the Foundation's president, this was because the Tribe had not yet satisfied some of the special terms and conditions applicable to the grant.⁵ He also stated that no funding would be provided to the Tribe until the Office of the State Auditor completed its investigation.

⁴ In 1999, the North Carolina legislature created the Golden LEAF Foundation to administer one-half of North Carolina's share of the Master Settlement Agreement with cigarette manufacturers in accordance with the court consent decree between North Carolina and the manufacturers. The Golden LEAF Foundation's stated mission is to strengthen the state's economy through diverse grant-making.

⁵ These terms and conditions included that: a) the Tribe provide evidence of the approval and support of the Haliwa-Saponi Tribal Council and the School Board for the project and; b) evidence of a financing plan showing that all funds necessary to complete the project had been secured, together with the identification of the sources of those funds.

FINDINGS AND RECOMMENDATIONS

1. THE HALIWA-SAPONI TRIBE'S GRANT APPLICATION CONTAINED A \$700,000 LOAN MISREPRESENTATION.

The Haliwa-Saponi Tribe (Tribe) represented in its Golden LEAF Foundation (Golden LEAF) grant application that it had an approved loan for \$700,000 when, in fact, it did not. The grant application, which was dated January 4, 2010, required that the Tribe list all sources of funding for the project. The Tribe showed one source as being a \$700,000 loan from RBC Centura Bank that was guaranteed by HUD. However, the loan commitment was never signed by a tribal representative and expired on September 30, 2008, well over a year before the Golden LEAF grant application was filed.

One of the conditions applicable to the Golden LEAF grant agreement provides that the Tribe must submit a financing plan showing that all funds necessary to complete the multipurpose building project have been secured. It also requires that the sources of those funds be identified. Golden LEAF's president advised us that its board evaluates all sources of funding in the course of assessing project feasibility and determining which applicants will receive grants. Golden LEAF relied upon the availability of the \$700,000 loan shown in the grant application in its determination to award a grant to the Tribe.

During the course of our interviews with tribal officials, we asked for details concerning the RBC loan commitment shown on the grant application. Both the tribal chief and the former tribal administrator⁶ informed us that they believed the \$700,000 loan was available at the date the grant was filed. Ironically, the former tribal administrator added that the \$700,000 loan commitment had never been signed and that the loan was not authorized by the tribal council. Still, the tribal chief and the former tribal administrator certified that the information provided in the grant application was correct and complete when, in fact, it was not. If the false information concerning the loan agreement was provided knowingly and willfully, the person(s) who included this information in the grant application may have violated North Carolina General Statute 143C-10-1(a).⁷

RECOMMENDATION

- The Tribe should implement controls to ensure that all grant applications receive a thorough review for accuracy and completeness before any tribal representative certifies and affixes his signature to those applications.
- The Golden LEAF Foundation should reevaluate its grant award to the Haliwa-Saponi Tribe and take action based upon the information in this report.

⁶ The tribal administrator who signed the grant application was terminated on February 4, 2010. The tribal chief, current tribal administrator, and former tribal administrator all stated that they did not know the reason for the termination.

⁷ General Statute 143C-10-1(a) regarding the State Budget Act states that, "It is a Class 1 misdemeanor for a person to knowingly and willfully make a written statement, give a certificate, issue a report, or utter a document required by this Chapter, any portion of which is false."

FINDINGS AND RECOMMENDATIONS (CONTINUED)

2. THE HALIWA-SAPONI TRIBE'S GRANT APPLICATION CONTAINED A \$600,000 GRANT MISREPRESENTATION.

The Haliwa-Saponi Tribe (Tribe) represented in its Golden LEAF grant application that it had \$600,000 of HUD money available in the form of an Indian Housing Block Grant when, in fact, it did not. As stated previously, the grant application required that the Tribe list all sources of funding for the multipurpose building project. The Tribe included the \$600,000 Indian Housing Block grant as an additional source of funding.

A spreadsheet analysis obtained from the Tribe indicated that \$181,326 of the \$600,000 Indian Housing Block Grant had been expended well before the Golden Leaf grant application was filed. The remaining balance of \$418,674 was also unavailable for the multipurpose building project because HUD does not permit the use of its Indian Housing Block Grant funds for projects that have been rejected by a tribe. As discussed previously in this report, the multipurpose building project was terminated by a vote of the Haliwa-Saponi tribal council, and by a vote of the tribal people, in March 2009.

The Golden LEAF grant agreement provides that the Tribe must submit a financing plan showing that all funds necessary to complete the project have been secured and that the sources of those funds be identified. The existence of additional sources of funding is viewed positively in the course of Golden LEAF's assessment of project feasibility and determining which applicants will receive grants. Golden LEAF relied upon the availability of \$600,000 of Indian Housing Block Grant funds in its determination to award a grant to the Tribe.

During the course of our interviews with tribal officials, we asked for details concerning the \$600,000 Indian Housing Block Grant shown on the Golden LEAF grant application. The tribal chief stated that the funds were in an RBC bank account. The former tribal administrator stated that the funds were invested in Certificates of Deposit, then said he wasn't sure, and then said that the \$600,000 was in the form of a HUD grant that had already been approved. He added that the Tribe had started drawing on those grant funds to pay for architect's fees and land use plans related to the multipurpose building, and also for purposes unrelated to the multipurpose building.

The tribal chief and the former tribal administrator certified that the information provided in the grant application was correct and complete when, in fact, it was not. If the false information concerning the Indian Housing Block Grant was provided knowingly and willfully, the person(s) who included this information in the grant application may have violated North Carolina General Statute 143C-10-1(a).⁸

⁸ General Statute 143C-10-1(a) regarding the State Budget Act states that, "It is a Class 1 misdemeanor for a person to knowingly and willfully make a written statement, give a certificate, issue a report, or utter a document required by this Chapter, any portion of which is false."

FINDINGS AND RECOMMENDATIONS (CONCLUDED)

RECOMMENDATION

- The Tribe should implement controls to ensure that all grant applications receive a thorough review for accuracy and completeness before any tribal representative certifies and affixes his signature to those applications.
- The Golden LEAF Foundation should reevaluate its grant award to the Haliwa-Saponi Tribe and take action based upon the information in this report.

3. THE HALIWA-SAPONI TRIBE'S GRANT APPLICATION FALSELY INDICATED THAT THE BUILDING PROJECT WAS APPROVED BY TRIBAL COUNCIL.

The Haliwa-Saponi Tribe (Tribe) represented in its Golden LEAF application that the multipurpose building project had received tribal council review and approval. In fact, the tribal council had voted to terminate the project on March 9, 2009, or nine months before the grant application was submitted to Golden LEAF.

During the course of our interviews with tribal officials, we asked for details concerning the Tribe's approval of the multipurpose building project as indicated on the Golden LEAF grant application. The tribal chief and the Tribe's economic development director⁹ both said that tribal council had approved the project in 2004 and, in their opinion; the March 9th tribal council vote did not result in the termination of the project.

The former tribal administrator believes that the March 9th tribal council vote did, in fact, terminate the multipurpose building project. The current tribal administrator, as well as several members of the tribal council, also believes that the March 9th tribal council vote terminated the project.

As with the prior two findings, the tribal chief and the tribal administrator certified that the information provided in the grant application was correct and complete when, in fact, it was not. If the false information concerning the tribal council's approval was provided knowingly and willfully, the person(s) who included this information in the grant application may have violated North Carolina General Statute 143C-10-1(a).¹⁰

RECOMMENDATION

- The Tribe should implement controls to ensure that all grant applications receive a thorough review for accuracy and completeness before any tribal representative certifies and affixes his signature to those applications.
- The Golden LEAF Foundation should reevaluate its grant award to the Haliwa-Saponi Tribe and take action based upon the information in this report.

⁹ The economic development director's employment with the Tribe was terminated on January 18, 2011 by the current tribal administrator. This is the same individual who prepared the Golden LEAF grant application.

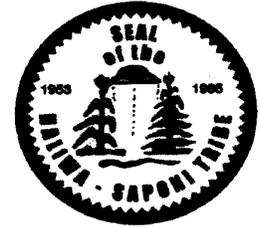
¹⁰ General Statute 143C-10-1(a) regarding the State Budget Act states that, "It is a Class 1 misdemeanor for a person to knowingly and willfully make a written statement, give a certificate, issue a report, or utter a document required by this Chapter, any portion of which is false."

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RESPONSE FROM THE HALIWA-SAPONI TRIBE, INC.

Haliwa-Saponi Indian Tribe

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Alfred R. Richardson
Tribal Administrator

Rev. Ronald Richardson
Chief

Howard E. Richardson
Vice-Chief

Tribal Council

Dr. Joseph O. Richardson, Chair
Gideon Lee, Vice-Chair
Katina Lynch, Secretary
Wakoda Richardson, Treasurer
Jeff Anstead
Roena Daniel
Arnold Richardson
Charles Richardson
Ella Viverette

April 11 2011

Ms. Beth Wood, CPA
Office of the State Auditor
2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699

Dear Ms. Wood,

The Haliwa-Saponi Indian Tribe would like to thank your office for the professional manner that your auditors, led by Mr. Barry Long, handled the recent audit of the Tribe. We sincerely hope that our cooperation with your office was accommodating and conducive to the audit. Your audit was based on factual information gleaned from records and documents that we provided in support of the audit.

We regret that there were improprieties found that support the charges as reported. Our response to the charges is that we have placed controls on our grant application process that will provide greater review and oversight in the future. We have addressed the process to all responsible parties internal to the Tribe to ensure that we are providing the highest level of integrity and compliance as we move forward. We are working with a professional consultant to provide training in regard to the grant application process and required internal controls. In Council action of April 7, 2011 our Chief, one of the signatories on the grant application, was censured from signing any Tribal documents until the audit is concluded. It is our desire that the Haliwa-Saponi Indian Tribe will adhere to the highest level of compliance and integrity in the future to ensure that our grantors have trust and faith in our business practices.

It was a pleasure to work with Mr. Long, even though the results were not what we desired, however we do believe your office provided the Tribe with a fair assessment in the audit process. We will strive to prevent the need for any future audits by your office and we welcome your advise as we move forward to ensure the highest level of integrity in our business practices.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph O. Richardson".

Dr. Joseph Richardson, Chairman
Haliwa-Saponi Indian Tribe

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RESPONSE FROM THE GOLDEN LEAF FOUNDATION, INC.



(LONG-TERM ECONOMIC ADVANCEMENT FOUNDATION)

EDGAR M. ROACH, JR.
CHAIRMAN OF THE BOARD

DAN GERLACH
PRESIDENT

RESPONSE FROM THE GOLDEN LEAF FOUNDATION

On April 7, 2011, the Golden LEAF Foundation Board of Directors voted to rescind the grant to the Haliwa-Saponi Tribe. No funds had been paid by the Foundation to the Tribe, as the Tribe had failed to meet the requirements of the grant agreement, including the requirement that the Tribe demonstrate to the satisfaction of the Foundation that all funds necessary to complete the project had been secured.

This grant had been awarded as one of a number of grants made by the Foundation to entities in Halifax County through the Foundation's Community Assistance Initiative (CAI). The CAI is a community-based grantsmaking process through which the Foundation reserves \$2 million for grants to be made in response to priorities determined by local citizens in a Tier 1 County. Meetings of Halifax County residents were held at least monthly from March through November 2009, with average attendance of approximately 75 citizens. At the conclusion of that process, a Review Team comprised of County residents who had attended at least three meetings voted to recommend the Haliwa-Saponi project, along with several others, for consideration by the Golden LEAF Foundation Board.

The Golden LEAF Foundation Board believed that the project would serve educational, public health and safety, and economic development purposes. In addition to the features of the project described in the Auditor's Investigative Report, the stated purposes of the project were to house a media center, science labs, and gymnasium to institute additional programs such as afterschool, accelerated reading, science, recreation, intramural sports, high speed internet service and business opportunities, fitness classes, distance learning opportunities and other activities. The building would also serve as an emergency shelter. The nearest comparable facility is roughly 25 miles away.

The Foundation appreciates the work and the courtesy of the Office of the State Auditor.

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ORDERING INFORMATION

Copies of this report may be obtained by contacting the:

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