

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

THE HOUSING AUTHORITY OF THE
TE-MOAK TRIBE OF WESTERN
SHOSHONE INDIANS,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT;
et al.,

Defendants.

3:08-CV-0626-LRH-VPC

ORDER

The court has reviewed the parties’ March 21, 2016 joint status report (Doc. #44¹) and finds that judgment in favor of plaintiff the Housing Authority of the Te-Moak Tribe of Western Shoshone Indians (“Te-Moak Housing Authority”) and against defendants United States Department of Housing and Urban Development (“HUD”); Julian Castro, Secretary of HUD; and Jemine Bryon, General Deputy Assistant Secretary for the Office of Public and Indian Housing, is warranted in this action based on the court’s prior rulings (Doc. ##26, 39) and the parties’ agreement.

The only issue remaining in this action is the determination of whether or not the court can order restoration of the \$769,645.00 in recaptured funds. Defendants contend that the court is

¹ Refers to the court’s docket number.

1 without authority under the Administrative Procedures Act, 5 U.S.C. § 701 *et seq.*, to order
2 restoration of the recaptured funds to the Te-Moak Housing Authority as the funds have already
3 been disbursed to other tribes. *See* Doc. ##23, 44. The court disagrees.

4 The court has reviewed the documents and pleadings on file in this matter and finds that the
5 court can order restoration of the recaptured funds through future block grant funds. *See Fort Peck*
6 *Hous. Auth. v. HUD (Fort Peck II)*, Civil Action No. 05-cv-0018-RPM, 2014 U.S. DIST LEXIS
7 108123, *9-10 (D. Colo., Aug. 6, 2014) (ordering restoration of recaptured funds through regular
8 block grant funds).

9
10 IT IS THEREFORE ORDERED that the clerk of court shall enter JUDGMENT in favor of
11 plaintiff the Housing Authority of the Te-Moak Tribe of Western Shoshone Indians and against
12 defendants United States Department of Housing and Urban Development (“HUD”); Julian Castro,
13 Secretary of HUD; and Jemine Bryon, General Deputy Assistant Secretary for the Office of Public
14 and Indian Housing, in this action.

15 IT IS FURTHER ORDERED that defendants shall restore to plaintiff the amount of
16 \$769,645.00, for Indian Housing Block Grant funds. Any such restoration shall be in addition to the
17 full Indian Housing Block Grant allocation that would otherwise be due to the plaintiff under the
18 Native American Housing Assistance and Self-Determination ACT in a given fiscal year as
19 calculated without application of the amount of the judgment.

20 IT IS FURTHER ORDERED that defendants shall make restoration of the IHBG funds
21 from all available sources, including, but not limited to, Indian Housing Block Grant funds carried
22 forward from previous grant years and Indian Housing Block Grant funds appropriated in future
23 grant years.

24 ///

25 ///

26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IT IS FURTHER ORDERED that the restoration of funds to plaintiff shall be completed as soon as administratively feasible, but in no event later than twenty-four (24) months from the date of judgment.

IT IS SO ORDERED.

DATED this 28th day of March, 2016.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE