



United States Department of the Interior


Office of Inspector General

Central Region Audits
134 Union Boulevard, Suite 510
Lakewood, Colorado 80228

Report No. C-VS-BIA-0016-2007
September 28, 2007

Memorandum

To: Assistant Secretary for Policy, Management and Budget
(Attention: Associate Director of Finance, Policy and Operations)
Assistant Secretary for Indian Affairs

From: Jack Rouch
Regional Audit Manager 

Subject: Review to Verify the Implementation of Twelve Recommendations
Contained in the Audit Report Titled, "Bureau of Indian Affairs, Office of
Indian Education Programs, Central Office Management of Administrative
Funds" (Report No. C-IN-BIA-0007-2003).

The Office of Inspector General has completed a verification review of the twelve recommendations presented in the subject audit report. The objective of this review was to determine whether the recommendations were implemented as reported by the Bureau of Indian Affairs (BIA).

Our current review concluded that the Bureau of Indian Education (BIE), formerly known as the Office of Indian Education Programs (OIEP), resolved and implemented 11 of the report's 12 recommendations. However, we concluded that Recommendation 3 was not implemented. The results of the verification review are summarized below and in the attached Appendix.

Background

Our March 2004 audit report "Bureau of Indian Affairs, Office of Indian Education Programs, Central Office Management of Administrative Funds" (Report No. C-IN-BIA-0007-2003) made twelve recommendations to promote effective management of OIEP program administration funding and activities.

In the March 9, 2004 response to the draft report, the Assistant Secretary for Indian Affairs and the OIEP Central Office concurred with our recommendations. Based on the Assistant Secretary's response to the draft report, we considered Recommendation 1 to be resolved and implemented. Further, the Assistant Secretary stated that financial management functions (including budget, accounting, property and procurement) in Recommendations 4-12 were reorganized under the Office of the Chief Financial Officer (OCFO). The OIEP would be subject to the policies and procedures issued by the OCFO for Indian Affairs.

Based on the Assistant Secretary's response to the final report, dated June 9, 2004, we considered Recommendations 1, 4, 6, 7, 8, 9, 10, 11, and 12 to be resolved and implemented. On June 25, 2004, our office referred Recommendations 2 and 3 to the Assistant Secretary for Policy, Management and Budget (PMB) for tracking of implementation. Recommendation 5 was tracked under a separate report (E-IN-BIA-0069-2003), "Independent Auditors Report on the Bureau of Indian Affairs Financial Statements for Fiscal Year 2003 and 2002".

In August 2006, the Office for the Assistant Secretary, Indian Affairs (AS-IA) and the Bureau of Indian Affairs (BIA) reorganized and realigned financial management responsibilities under the Deputy Assistant Secretary, Indian Affairs-Management. Under this reorganization, the BIA performs non-education program work in Regional and Agency offices. The OIEP was reorganized as the Bureau of Indian Education (BIE) in accordance with DM Part 130, Chapter 8 and is responsible for directing education programs at BIE operated and grant schools. Both BIA and BIE are headed by Directors which report to the Principal Assistant Secretary of Indian Affairs. The AS-IA now provides primary policy setting and administers support functions to both BIA and BIE through the OCFO under the Deputy Assistant Secretary, Indian Affairs-Management.

The OCFO is now responsible for all financial management activities of the BIE. The BIE Assistant Deputy Director-Administration is the designated official to implement the OCFO budget policies, procedures, processes and systems needed to execute all fiscal and accounting functions for education programs and schools. The BIE budget, accounting, property, and procurement staffs still remain at the same field locations but report directly to the OCFO through their office heads rather than the Regional Directors, the BIA Director, or the BIE Director.

Scope and Methodology

The scope of our review was limited to determining whether BIA implemented the recommendations as reported. To accomplish our objective, we reviewed the supporting documentation that BIA submitted to close the recommendations. We also interviewed BIA personnel and reviewed additional information they provided. We did not perform site visits or conduct detailed fieldwork to determine whether the underlying deficiencies identified in the original audit report have been corrected.

This review was not conducted in accordance with the *Government Auditing Standards* issued by the Comptroller General of the United States.

Results of Review

Our current review concluded that the BIE (formerly known as the OIEP) resolved and implemented Recommendations 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 and 12. However, we concluded that Recommendation 3 was not implemented. Our conclusion on Recommendation 3 is presented below. Our conclusions on the remaining recommendations considered resolved and implemented are presented in Appendix 2.

Recommendation 3: Develop policies and procedures for contingency fund operations, including:

- a. Clearly defining emergencies and unforeseen contingencies.**
- b. Requiring that contingency funds are used only for education services or programs at school sites funded with ISEP formula funds.**
- c. Ensuring that contingency funds remain available without fiscal year limitation, as required by statute.**
- d. Considering any remaining balances in determining the amount of current fiscal year appropriations needed to bring the contingency fund balance up to the one percent maximum allowable level.**
- e. Establishing a periodic review process to ascertain that disbursements from the contingency fund are in accordance with Congressional legislation and internal policy.**

PFM informed our office that BIA completed the actions necessary to implement this recommendation referred for tracking. The Associate Director's memo, dated August 5, 2005, included National Policy Memorandum NPM-EDUC-6 titled "School Contingency Funds Policy" which created a process for the distribution of ISEP Contingency Funds to BIA funded schools in accordance with Public Law 107-110 (No Child Left Behind Act). The provisions of this National Policy Memorandum were to be incorporated into the Indian Affairs Manual prior to the expiration date of July 7, 2006.

On April 28, 2005, the proposed rule changes for BIE contingency funds were published in final in the Federal Register. We have concluded that the Contingency Fund Final Rule addressed subparts (a) through (e) of the report's recommendations. According to the BIE Chief of Staff, BIE has completed a draft of the Indian Affairs Manual for Education and it is under review by the BIE Director. However, until the draft manual is finalized, the NPM-EDUC-6 has been reissued to be effective until September 17, 2008.

In reviewing the status of this recommendation, we consider the recommendation not implemented because the draft policies and procedures for contingency fund operations have not yet been finalized.

Conclusion

At the exit conference on September 21, 2007, we informed BIE and OCFO officials of the results of our review. Subsequent to our exit conference, the OCFO provided sufficient information for us to consider 11 of the report's 12 recommendations as resolved and implemented. However, we consider Recommendation 3 not implemented. We request that PFM reinstate Recommendation 3 and take appropriate follow-up action. BIE should provide a plan identifying actions to be taken, target dates for implementation, and titles of officials responsible for implementation for this recommendation as outlined in the Appendix.

Responding to the Report

We request that PFM provide a written response to this report by October 29, 2007 indicating whether it reinstated Recommendation 3. If applicable, the response should provide PFM's reasons for not reinstating this recommendation.

If you have any questions regarding this report, please call me at (303) 236-9243.

cc: Director, Bureau of Indian Education, Bureau of Indian Affairs
Audit Liaison Officer, Assistant Secretary and Bureau of Indian Affairs –
Director, Office of Internal Evaluation and Assessment
Focus Leader for Management Control and Audit Follow-up, Office of Financial
Management

STATUS OF PRIOR AUDIT REPORT RECOMMENDATIONS

<u>Recommendation</u>	<u>Status</u>	<u>Action Required</u>
1	Resolved and Implemented	No Action Required.
2	Resolved and Implemented	No Action Required.
3	Not Implemented	We request that PFM reinstate the recommendation. BIE should provide a plan identifying actions to be taken, target dates for implementation, and titles of officials responsible for implementation.
4	Resolved and Implemented	No Action Required.
5	Resolved and Implemented	No Action Required.
6	Resolved and Implemented	No Action Required.
7	Resolved and Implemented	No Action Required.
8	Resolved and Implemented	No Action Required.
9	Resolved and Implemented	No Action Required.
10	Resolved and Implemented	No Action Required.

STATUS OF PRIOR AUDIT REPORT RECOMMENDATIONS

11	Resolved and Implemented	No Action Required.
12	Resolved and Implemented	No Action Required.

Recommendations Considered Resolved and Implemented

Recommendation 1: Establish a separate and identifiable accounting code in the financial accounting system to account for the contingency fund, providing a means of monitoring, tracking, and validating contingency fund transactions.

The Assistant Secretary's response to the draft report stated that the OIEP Central Office had established a separate program code for contingency fund transactions and had begun using this code on July 1, 2003.

In responding to our final report, the Assistant Secretary provided a Contingency Fund Distribution Report for the 2002-2003 School Year for inclusion in BIA's fiscal year 2005 budget submission. These actions show that a special accounting code was established in the financial accounting system and therefore we consider this recommendation to be resolved and implemented.

Recommendation 2: Prepare and submit a report to the Congress on the uses of contingency fund monies in BIA's annual budget submission as required by statute.

We obtained a memo from the Office of Financial Management to the Acting Director of Office of Audit and Evaluation, dated October 18, 2004, which provided a report showing that OIEP distributed \$3,472,000 in contingency funds for the 2003-2004 school year. The report included the school's name, how much was issued, and the contingency purpose. The memo also stated that these remaining contingency funds were distributed in July 2004 and that appropriate reports were prepared and submitted to BIA budget.

Based on the supporting document obtained, we consider this recommendation to be resolved and implemented.

Recommendation 4: Develop policies and procedures to require that organizational elements develop and adhere to approved spending plans and periodically monitor and report on conformance with spending plans.

According to the Assistant Secretary's response to the final report, the OCFO required financial management plans and quarterly updates from all organizations within Indian Affairs for fiscal year 2004.

In a memorandum dated September 29, 2003, the Directors and Deputy Assistant Secretaries were directed to complete financial management plans and submit the plans to the CFO by October 15, 2003. These plans were to identify planned acquisitions and would assist the property officers in completing accurate quarterly and annual property

inventories. Further, the Directors and Deputy Assistant Secretaries were to provide status reports by the tenth calendar day following the quarter's end to report any changes to their spending plans. The CFO then compares the financial management plans to actual execution and provides the Assistant Secretary-Indian Affairs a summary of all the financial management plans within fifteen calendar days of the start of the fiscal year and within twenty calendar days after the end of each quarter.

To confirm Indian Affairs' compliance with its spending plan and monitoring guidance, we reviewed the quarterly update documentation from the Billings Education Line Officers for personnel, travel, acquisitions, and budget execution from fiscal year 2006, and the Budget Status Report for the 2007-2008 school year.

Based on our review, we consider this recommendation to be resolved and implemented.

Recommendation 5: Develop policies and procedures to comply with the October 4, 2002 Office of Management and Budget Memorandum for the Heads of Departments and Agencies containing business rules to be observed when engaging in intragovernmental exchange transactions. This would include ensuring that obligations and expenditures for interagency agreements are properly recorded and referenced.

Based on the Assistant Secretary's response to the final report, we informed the Assistant Secretary for PMB that this recommendation was being tracked under Report No. E-IN-BIA-0069-2003, the "Independent Auditors Report on Bureau of Indian Affairs Financial Statements for Fiscal Year 2003 and 2002" in a memo dated June 25, 2004.

To close out the recommendation included in this report, we reviewed KPMG's opinion on BIA's consolidated financial statements for the years ended September 30, 2006 and 2005, and determined that this deficiency was determined to be corrected.

We therefore consider this recommendation to be resolved and implemented.

Recommendation 6: Provide training to all OIEP staff to follow new and established procedures. This would include the procedures to ensure that obligating documents are issued in a timely manner and recorded in the financial accounting system.

According to the Assistant Secretary's response to the final report, the OIEP Contracting Officer annually provides procurement and requisition training to business managers at the OIEP national conference.

The Indian Affairs' response to our exit conference, dated September 24, 2007, stated that the OCFO, Acquisition and Property Management Division provided several acquisition training sessions for BIE staff at all levels from 2001 through 2007. Further, the response states that BIE partnered with the OCFO for administrative training to include a Federal Financial System (FFS) training class.

As evidence for their response, BIA provided copies of emails and training agendas for sessions held between May 2004 and November 2006. These agendas included topics for the FFS, purchasing and obligations, contracting, and payments.

Based on the information received, we consider this recommendation to be resolved and implemented.

Recommendation 7: Hold responsible officials accountable for implementing financial management policies and procedures by establishing an internal quality control review process to periodically monitor their compliance with those procedures.

According to the Assistant Secretary's response to the final report, program managers are held accountable through the annual performance appraisal process. The Office of Audit and Evaluation, OCFO, is tasked with performing periodic reviews of compliance with BIA financial management policies.

The Indian Affairs response to our exit conference, dated September 24, 2007, stated that a Periodic Internal Control Review is conducted by all programs to ensure compliance with laws, regulations and procedures. Further, the status of completed and on-going actions are reported by program managers to the OCFO and to the Deputy Assistant Secretary, Indian Affairs-Management during bi-weekly financial management meetings.

As evidence for their response, BIA provided a Component Inventory Priority Plan for fiscal years 2007-2009. This plan included planned reviews of key controls over financial and programmatic management policies and procedures of both BIA and BIE components.

In addition, BIA provided a recent memorandum from the BIE Chief, Division of Performance and Accountability to the BIE Director expressing reasonable assurance that internal controls were operating effectively and that no material weaknesses were found in the 9 reviews that have been completed since April 2007.

Based on the information received, we consider this recommendation to be resolved and implemented.

Recommendation 8: Implement the January 22, 2003 policy memorandums issued by the OIEP Division of Contracts and Grants, which established a process for review and approval of sole-source justifications and clarified lead time requirements for procurement actions.

According to the Assistant Secretary's response to the final report, the process outlined in the January 22, 2003 memorandums was implemented. Effective February 3, 2003, all requisitions requesting that a Contracting Officer approve a "Justification for Other than Full and Open Competition" would not be approved by the Contracting Officer until a recommendation was received by the newly formed Acquisition Review Committee (ARC). The memorandums established minimum lead times for requisitions that are submitted to the Division of Contracts and Grants for processing.

Based on the supporting documentation received, we consider this recommendation resolved and implemented.

Recommendation 9: Hold program managers accountable for submitting contract requisitions within established lead times and require the contracting officer to report instances of noncompliance.

According to the Assistant Secretary's response to the final report, an Acquisition Lead Time policy was implemented to ensure compliance with Federal Acquisition Regulations, as well as Departmental and BIA regulations.

A memorandum from the Chief of Division of Contracts and Grants, dated January 22, 2003, established minimum lead times for requisitions that are submitted to the Division of Contracts and Grants for processing.

Based on the supporting documentation received, we consider this recommendation resolved and implemented.

Recommendation 10: Require that interagency agreements entered into by OIEP have approval by the OIEP contracting officer and are supported by a Determination and Finding.

According to the Assistant Secretary's response to the final report, all interagency agreements require a Determination and Finding and approval by the Contracting Officer and the Chief Financial Officer.

The Indian Affairs response to our audit exit conference, dated September 24, 2007, provided us with BIA's Acquisition Guidance Release (2002-1) regarding interagency agreements. This Guidance requires approving signatures by the cognizant contracting officer and the office director responsible for providing funds for the agreement.

As evidence for their response, BIA provided a copy of an interagency agreement between BIA and the Department of Health and Human Services, Navajo Area Indian Health Service, dated October 12, 2005. This agreement was approved by the Contracting Officer and is supported by a Determination and Finding as being in the best interest of the Government.

Based on the information received, we consider this recommendation to be resolved and implemented.

Recommendation 11: Provide training on the FAR and proper contracting procedures to all Central Office officials.

The Indian Affairs response to our audit exit conference, dated September 24, 2007, stated that contracting procedures have been revised and published in the Department of the Interior Acquisition Policy Release (DIAPR) 2007-4. This policy release establishes Department-specific policy and procedures for obtaining and issuing contract certifications. Further, The Office of Acquisition and Property Management Office (OAPM) has instituted the Department's mandated Contracting Officer's Representative Program as documented in the Department's Manual and initiated group training in fiscal year 2007.

In their response, BIA included the DIAPR 2007-4, and its attached Federal Acquisition Certification in Contracting Program Manual Revision, dated March 2007. This manual provides guidance for implementing the Department's standards for certifying the education, experience, and training of contracting professionals in civilian agencies. We were also provided a class roster of attendees to an OAPM sponsored acquisition class in July 2007 and a sample listing of certified Contracting Officer's Representatives for one regional office.

Based on the information received, we consider this recommendation to be resolved and implemented.

Recommendation 12: Hold the contracting officer accountable for meeting all of the FAR requirements by establishing a periodic peer review process through the Department's Office of Policy, Management, and Budget with the results reported directly to the Assistant Secretary.

According to the Assistant Secretary's response to the final report, the OIEP contracting office is subject to periodic reviews by the Quality in Contracting Review (QUiC) process. The OIEP's contracting office is required to submit corrective action plans for any recommendation made by the review team to the Division of Acquisition. The results are then reported to the Department's OAPM.

The Indian Affairs response to our audit exit conference, dated September 24, 2007, stated that its OAPM conducted annual QUiC reviews in accordance with Departmental guidance. Additionally, as part of the OMB Circular A-123 review process, the Office of Internal Evaluation and Assessment performs a review of the property acquisition and business processes for Indian Affairs.

As evidence for their response, BIA provided memorandums that were sent to the Department Director, OAPM regarding plans to schedule QUiC reviews during fiscal years 2006 and 2007. These memos stated that a minimum of 25 percent of the contracting field offices will be reviewed annually in order to achieve a 100 percent review of all contracting activities over a four year period.

Based on the information received, we consider this recommendation to be resolved and implemented.