



United States Department of the Interior

Office of Inspector General

Western Region


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Report No. WR-VS-MOI-0009-2009

September 30, 2009

Memorandum

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

From: Michael P. Colombo 
Regional Manager

Subject: Verification Review of Nine Recommendations from our February 2004 Audit Report
Improvements Needed to Ensure Safety and Program Performance – School Construction Program, Bureau of Indian Affairs
(Report No. W-FL-BIA-0047-2002)

The Office of Inspector General (OIG) has completed a verification review of nine recommendations presented in the subject audit report. The objective of the review was to determine whether the recommendations were implemented as reported to the Office of Financial Management on May 6, 2008.

Background

Our February 2004 audit report, *Improvements Needed to Ensure Safety and Program Performance – School Construction Program, Bureau of Indian Affairs*, made nine recommendations to correct deficiencies related to the Bureau of Indian Affairs' (BIA) school construction program. Based on BIA's March 5 and June 21, 2004 responses to the final report, the OIG considered three of the recommendations implemented (Recommendations 4, 5, and 8). On July 12, 2004, the six remaining recommendations were referred to the Assistant Secretary for Policy Management and Budget for tracking of implementation and resolution.

In its March 30 and October 6, 2005 memorandums to the OIG, the Office of Financial Management stated that BIA had completed actions required to implement four recommendations (Recommendations 1, 2, 3, and 7). On November 14, 2006, the Office of Financial Management reported that BIA had taken actions required to implement Recommendation 9. In a May 20, 2008 memorandum to the OIG, the Office of Financial

Management reported that BIA had provided documentation to sufficiently implement the remaining recommendation (Recommendation 6).

Scope and Methodology

We limited the scope of this review to determining whether BIA took action to implement the recommendations. To accomplish our objective, we interviewed BIA officials and reviewed supporting documentation related to the recommendations. On September 3, 2009, BIA provided a written response with updated information on the status of the six recommendations that were referred to the Assistant Secretary for Policy Management and Budget.

We did not perform site visits or conduct detailed audit fieldwork to determine whether the underlying deficiencies initially identified have actually been corrected. As a result, 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 review found that BIA implemented Recommendations 1, 2, 4, 5, 6, 7, and 8, but has not fully implemented Recommendations 3 and 9. The status of the recommendations is summarized in the Appendix.

Recommendation 1: *“Fully implement the May 1999 ‘Plan to Ensure the Integrity of School Construction Grants.’”*

Recommendation 2: *“Ensure that BIA safety requirements are followed, including approval of construction plans and specifications prior to construction and final inspection and certification before new buildings are occupied. This should include assigning responsibility to ensure that buildings are not occupied before safety deficiencies are corrected.”*

Recommendation 4: *“Adhere to the May 1999 Plan submitted to Congress and require that the \$5 million advance payment limitation be followed or advise the House Appropriations Committee of the basis for the payment cap removal.”*

Recommendation 5: *“Implement a project tracking system to summarize milestone progress and allow for project monitoring from start to completion to meet BIA’s 3-year goal. This should incorporate detailed reporting to Congress on all projects experiencing major delays.”*

Recommendation 6: *“Maintain subsidiary records of available construction funding on a project-by-project basis to identify unused appropriated funds, adhere to BIA reprogramming policy for the use of these funds (including the Sac & Fox, Zia Day, and Dunseith Schools), and expand the policy to specify that the funds should be used for school construction projects identified in the budget justifications.”*

Recommendation 7: *“Develop a policy that establishes time frames for consulting with tribes and determining how project savings are to be used.”*

Recommendation 8: *“Establish performance goals for the school construction program to measure the number of replacement and major repair projects to be completed each year.”*

Actions taken by BIA were sufficient for us to consider these seven recommendations implemented.

Recommendation 3: *“Apply, as applicable, the guidance in the May 1999 Plan to projects constructed under Public Law 93–638 contracts and self-governance compacts; for example, requiring that tribal or school management systems be evaluated before negotiating payment advances.”*

On March 30, 2005, BIA reported that it had requested an opinion from the Office of the Solicitor on June 30, 2004, regarding this recommendation, but had not received a response.

In its September 2009 response, BIA stated that it is “confirming receipt” of the Solicitor’s opinion. BIA explained that the Tribally Controlled School Grants Act (P.L. 100–297) provides tribes the option of receiving a grant rather than a self-determination (P.L. 93–638) contract for the operation of schools. P.L. 100–297 construction grants are regulated by 43 CFR Part 12. The guidance in the May 1999 *Plan* only references 43 CFR Part 12 and that is why an opinion was requested from the Office of the Solicitor regarding the application of the guidance to P.L. 93–638 construction contracts. Regarding the evaluation of tribal or school management systems, BIA stated that it utilizes the OMB Circular A–133 Single Audit process and past performance to determine a tribe’s risk rating for capability of managing projects.

Because BIA has not received a response from the Office of the Solicitor, we concluded that this recommendation was not implemented and should be reopened. BIA should determine, in conjunction with the Office of the Solicitor, whether or not the May 1999 *Plan* may legally be applied to Public Law 93–638 contracts.

Recommendation 9: *“Conduct comprehensive workload analyses to determine OFMC [Office of Facilities Management and Construction] and DSRM [Division of Safety and Risk Management] staffing needed to effectively manage the school construction program.”*

On October 11, 2006, BIA reported to the OIG that because of reductions in appropriated funding for school construction, the need for a formal workload study had been reassessed. BIA stated that it sought other solutions because “the staffing study would take months to complete, and if additional staff was justified, even longer to increase staffing budget levels as well as recruit and fill additional positions.” As an alternative, BIA turned to outside agencies to assist in the execution of the school construction program. BIA stated that it entered into Interagency Agreements with the General Services Administration (GSA) and the Army Corps of Engineers in an effort to “meet increasing or diminishing workload demands without having to deal with issues of overstaffing or understaffing.”

It its September 2009 response, BIA provided a list of active interagency agreements with Army Corps of Engineers and stated that it does not currently have any interagency agreements with GSA. BIA explained that there have been times when GSA or Army Corps of Engineers were unable to respond in a timely manner. However, this usually did not occur concurrently, and when it occurred BIA had recourse to consultants.

BIA also stated that workload analysis is informally conducted on a recurring basis as each project year is considered. Action was taken to include project management tasking as well as alternative project management and acquisition techniques in order to provide a manageable workload for project managers. In addition, the workload for facilities construction has fallen by more than 80 percent in the last 3 years.

Despite the fact that BIA has taken actions to address staffing needs, it has not conducted comprehensive workload analyses. A significant decrease in the amount of facilities construction funding in recent years does not eliminate the need for workload analyses. Rather, funding cuts further illustrate the need for BIA to conduct comprehensive workload analyses. Accordingly, we concluded that the recommendation was not implemented and should be reopened.

Conclusion

We consider Recommendations 3 and 9 as not implemented; therefore, we request that the Office of Financial Management reinstate these recommendations and take appropriate follow-up actions.

We informed BIA officials of the results of this review at an exit conference on September 29, 2009. BIA should provide the Office of Financial Management with the information on the actions it will perform to implement and resolve the recommendations.

Responding to the Report

We request that the Office of Financial Management inform us whether it reinstated Recommendations 3 and 9 by November 2, 2009. If you have any questions regarding this report, please contact me at (916) 978-5653.

cc: Director, Bureau of Indian Affairs (MS 4140 MIB)
Audit Liaison Officer, Assistant Secretary for Indian Affairs – Attn: Michael Oliva
Audit Liaison Officer, Department of the Interior – Attn: Nancy Thomas (MS 2557 MIB)
Chief, Audit Follow-up, Internal Control and Financial Reporting, Office of Financial Management, Office of Assistant Secretary for Policy, Management and Budget (MS 2557 MIB)

STATUS OF PRIOR AUDIT REPORT RECOMMENDATIONS

<u>Recommendation</u>	<u>Status</u>	<u>Action Required</u>
1	Resolved and Implemented	No further action required.
2	Resolved and Implemented	No further action required.
3	Not Implemented	We are requesting that the Office of Financial Management reinstate the recommendation. BIA should determine, in conjunction with the Office of the Solicitor, whether the May 1999 <i>Plan</i> may be applied to P.L. 93–638 contracts.
4	Resolved and Implemented	No further action required.
5	Resolved and Implemented	No further action required.
6	Resolved and Implemented	No further action required.
7	Resolved and Implemented	No further action required.
8	Resolved and Implemented	No further action required.
9	Not Implemented	We are requesting that the Office of Financial Management reinstate the recommendation. BIA should conduct comprehensive workload analyses to determine OFMC and DRSM staffing needed to effectively manage the school construction program.