



# United States Department of the Interior

## OFFICE OF INSPECTOR GENERAL

Central Region

134 Union Blvd., Suite 510


Lakewood, Colorado 80228

Report No. X-VS-BIA-0012-2009

August 31, 2009

### Memorandum

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

From: Jack Rouch   
Regional Audit Manager

Subject: Verification Review of the Three Recommendations Contained in the Audit Report Titled, "Bureau of Indian Affairs, Use of Facilities Improvement and Repair Funds" (Report No. C-IN-BIA-0015-2004)

The Office of Inspector General (OIG) has completed a verification review of the three recommendations from the subject audit report. The objective of this review was to determine whether the recommendations were implemented as reported by the Office of Financial Management. Based on our review, we concluded that all three recommendations were implemented. The results of our review are summarized below.

### Background

Our August 2005 audit report "Bureau of Indian Affairs, Use of Facilities Improvement and Repair Funds" (No. C-IN-BIA-0015-2004) made three recommendations to the Assistant Secretary for Indian Affairs (AS-IA) to address the Bureau of Indian Affairs' (BIA) questionable use of facilities improvement and repair (FI&R) funds for new school construction. The Acting AS-IA's response to the draft audit report concurred with Recommendations 1 and 2, but did not provide all of the information necessary to consider the recommendations resolved. The response did not concur with Recommendation 3. After granting multiple verbal extensions to the BIA to finalize its response, OIG referred all three recommendations to Assistant Secretary for Policy, Management and Budget on March 13, 2006, as unresolved.

On May 29, 2007, the Office of Financial Management (PFM) reported to the OIG that BIA had completed the actions required to implement Recommendations 1 and 2 and that these recommendations were closed and that PFM would continue to track Recommendation 3. On May 22, 2008, PFM reported to the OIG that the BIA provided documentation to sufficiently

implement Recommendation 3 and, therefore, closed the recommendation and the report in the Departmental tracking system.

## **Scope and Methodology**

The scope of our review was limited to obtaining sufficient documentation to evaluate the actions taken by BIA to support implementation and closure of the recommendations by PFM. We also interviewed BIA personnel to gather additional information and to seek clarification on some of the information that BIA provided us.

We did not perform site visits or conduct detailed audit fieldwork to determine whether the underlying deficiencies that were initially identified in the original audit report 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 or the Quality Standards for Inspections, issued by the President's Council on Integrity and Efficiency.

## **Results of Review**

We concluded that the three recommendations contained in the report had been implemented.

### ***Recommendation 1: Discontinue the practice of using FI&R funds for school construction at BIA-operated schools.***

In its April 2004 response to our report, BIA's Office of Facilities Management and Construction (OFMC) stated that they had discontinued the practice of using FI&R funds for replacement school construction at BIA-operated schools. Beginning in fiscal year 2007, BIA created a new program element to fund the replacement of individual buildings on school campuses. The Replacement Facility Construction (RFC) program element will fund the replacement of individual buildings when the repair of existing facilities is not economically feasible or an entire new campus is not needed. The FI&R program funds will primarily focus on addressing health and safety, code and standard deficiency issues.

The BIA Chief, Division of Planning and Programming, OFMC provided a schedule of RFC projects and FI&R projects for fiscal years 2007 and 2008. According to this schedule, there have been no new replacement school construction projects using FI&R funds; only repairs and improvements to the existing school buildings. We therefore conclude that this recommendation is implemented.

### ***Recommendation 2: Discontinue the practice of funding school construction with FI&R funds at grant and contract schools without the required 25 percent funding contribution.***

In its April 2004 response to our report, OFMC stated that they had discontinued the practice of using FI&R funds for replacement school construction at tribally operated schools unless the tribe was willing to provide at least the required one-quarter cost share.



The BIA Chief, Division of Planning and Programming, OFMC provided a schedule of RFC projects and FI&R projects for fiscal years 2007 and 2008. According to this schedule, there have been no new replacement school construction projects at tribally operated schools using FI&R funds; only repairs and improvements to the existing school buildings. We therefore conclude that this recommendation is implemented.

***Recommendation 3: Determine whether BIA has the authority to collect the required 25 percent cost share contributions from Indian tribes that used FI&R funds for replacement school construction. If BIA has the authority, seek payment of the \$10.2 million.***

In response to OIG's request, BIA obtained and submitted a written Solicitor's opinion to PFM as its support for not recouping the one-fourth cost share from past construction contracts that were funded with FI&R monies. The Office of the Solicitor provided two memorandums which supported BIA's decision not to collect the one-fourth share on past FI&R construction contracts. According to the Solicitor's memos, "there is no statutory or regulatory authority by which BIA could seek to recoup the one-fourth cost share.... The Department chose not to require the tribes to contribute to the cost of the construction projects as is evidenced by the Budget Justifications to Congress. Regardless of whether OFMC had the authority to authorize grants without tribal cost-sharing, they may not attempt to impose a cost-sharing requirement after the fact.

Based on the information provided in the Solicitor's memos, we conclude that this recommendation is implemented.

## **Conclusion**

We communicated the results of this review to PFM and to the AS-IA Director, Internal Evaluation and Assessment on July 21, 2009. We consider Recommendations 1 through 3 fully implemented and no further action is required. If you have any questions concerning this memorandum, please contact me at (303) 236-9243.

cc: Director, Office of Facilities, Environmental and Cultural Resources  
Audit Liaison, Indian Affairs  
Associate Director, Office of Financial Management  
Focus Leader for Management Control and Audit Follow-up