



# United States Department of the Interior

OFFICE OF INSPECTOR GENERAL  
Washington, DC 20240

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## Memorandum

To: Larry EchoHawk  
Assistant Secretary for Indian Affairs

From: Mary L. Kendall  
Acting Inspector General

Subject: **Management Advisory Report** – Bureau of Indian Affairs' Contract With the National Native American Law Enforcement Association Contract No. CBK00090002 (Report No. WR-EV-BIA-0015-2009)

We are issuing this management advisory report to notify the Assistant Secretary and Bureau of Indian Affairs (BIA) of contract deficiencies so that immediate action can be taken. Our evaluation on detention facilities is ongoing and we plan to issue a report that will address programmatic issues. While conducting our evaluation of BIA detention facilities, we learned that the Bureau awarded a 1 year, \$1 million contract on June 9, 2009, to the National Native American Law Enforcement Association (NNALEA), a nonprofit organization, for recruitment services. According to BIA officials, the plan to contract for recruitment services was directed by upper management officials to address staffing shortages, including correctional officers at detention facilities. We found three significant deficiencies with the contract. First, the contract was knowingly awarded to an organization whose board was primarily comprised of current government employees. Second, the statement of work was loosely constructed and lacked descriptors necessary to determine the extent of contract deliverables. Third, price reasonableness of the contract was not adequately documented.

**Contract Award.** The Bureau appears to have violated Federal Acquisition Regulation (FAR) 48 C.F.R. § 3.6 by awarding the contract to an organization whose board was primarily composed of current government employees. At the time of contract award, five of seven NNALEA's executive board members were current government employees from agencies such as the U.S. Drug Enforcement Administration; U.S. Secret Service; and Bureau of Alcohol, Tobacco, Firearms and Explosives. According to the FAR, "a contracting officer shall not knowingly award a contract to a Government employee or to a business concern or other organization owned or substantially owned or controlled by one or more Government employees" (48 C.F.R. § 3.6). The agency head or designee at or above the level of the contracting activity may authorize an exception for a compelling reason, such as when the government's needs cannot be met otherwise. We found no such exception documented in the contract files. In addition, BIA created the appearance of a potential conflict of interest by having NNALEA due-paying members on the technical panel evaluating the contract award. As

required by the Standards of Ethical Conduct for Employees of the Executive Branch, federal employees are under a duty to “avoid any actions creating the appearance that they are violating the law or... ethical standards.” Further, employees must “act impartially and not give preferential treatment to any private organization or individual” (5 C.F.R. § 2635.101(b) (8) and (14)).

**Statement of Work.** The statement of work was loosely constructed and lacked descriptors necessary to determine the extent of contract deliverables, such as applicant job qualifications. The contract deliverable is for a database of 500 applications for one of three positions: police officer, correctional officer, and criminal investigator. There is no requirement that NNALEA recruit, prescreen, and refer a specific number of applicants for each position. Therefore, this contract may result in minimal or no qualified applicants for correctional officer positions. As a result, detention facilities may continue to be understaffed and unsafe. Moreover, NNALEA is being paid monthly for the first 6 months, at which time the Association is to provide BIA with 200 prescreened applicants. Finally, if NNALEA is able to deliver the required number of qualified applicants, BIA has not yet planned how this surge of 500 applications will be managed and integrated into its hiring process.

**Price Reasonableness.** BIA has not adequately explained or documented either the price reasonableness of the NNALEA contract or its price reasonableness assessment, which is required by FAR (48 C.F.R. § 15.402 (a)). An Independent Government Cost Estimate of about \$300,000 was included in the contract files, but we found no documentation as to how the estimate was derived. Subsequent to the cost estimate, BIA received two proposals from separate entities, each over \$1 million. Despite the original cost estimate of about \$300,000, the contract ended up being awarded to one of the entities, NNALEA, for \$1 million. Notwithstanding the award, there was no documented evidence showing how BIA derived and justified this amount.

It has recently come to our attention that BIA is aware of problems with the contract and is attempting to address them. We were told that nearly half of the applicants provided by NNALEA did not meet the minimum job qualification standards. For example, to meet the minimum job requirements for a law enforcement position with BIA, an applicant must be 37 years old or younger. Because BIA did not specify the age requirement in the contract, NNALEA provided BIA with an application from an 80-year-old man. The BIA was responsible for ensuring that the minimum job qualification standards were included and clearly described in the contract. The BIA has paid NNALEA more than \$350,000 for work performed through October 9, 2009. We were told, however, that BIA has suspended further payment and is seeking legal advice.

**We recommend that the Assistant Secretary for Indian Affairs direct BIA to immediately terminate its contract with NNALEA.**

The legislation, as amended, creating the Office of Inspector General requires that we report to the Congress semiannually on all reports issued. We appreciate the cooperation shown by the Bureau during our review. We ask that you inform us of your planned course of action on the recommendation within 30 days. If you have any questions regarding this evaluation, please do not hesitate to call me at (202) 208-5745.

cc: Deputy Secretary (David Hayes), MS 7229-MIB  
DOI/Chief of Staff (Tom Strickland), MS 7229-MIB  
Deputy Assistant Secretary, Law Enforcement, Security, and Emergency Management  
(Larry Parkinson), MS 3409-MIB  
Assistant Secretary for Policy, Management and Budget (Rhea Suh), MS 5100-MIB