



**OFFICE OF  
INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

September 26, 2011

Memorandum

To: Eric Eisenstein, Division Chief, Internal Control and Audit Follow-up, Office of Financial Management

Keith Moore  
Director, Bureau of Indian Education

From: Charles Haman  
Regional Manager for Audits, Inspections, and Evaluations

Subject: Review of Three Recommendations from Our April 2008 Audit Report  
No. Q-IN-BIA-0005-2007 Titled "Bureau of Indian Education Background  
Investigations"  
Report No. C-VS-BIE-0006-2011

The Office of Inspector General (OIG) has completed a verification review of three 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 (PFM), Office of Policy, Management and Budget. In a memorandum dated September 11, 2009, PFM notified OIG that the Bureau of Indian Education (BIE) had provided closure documentation to sufficiently implement recommendations 1, 4 and 5 as of August 13, 2009. PFM closed the report in the Departmental tracking system.

**Background**

Our April 2008 audit report, "Bureau of Indian Education Background Investigations" (Report No. Q-IN-BIA-0005-2007), made five recommendations designed to ensure that employees and other individuals who have regular contact with, or control over, children at Indian education facilities have had the required background checks. Based on the response received from the Assistant Secretary – Indian Affairs (AS-IA) to the draft report, OIG considered BIE's proposed action plans sufficient to consider all five recommendations to be resolved. However, because implementation of the identified plans would be completed in the future, Recommendations 1, 4, and 5 were not considered fully implemented. As a result, OIG referred recommendations 1, 4, and 5 of the report to the Assistant Secretary for Policy, Management and Budget for tracking and implementation in a memorandum dated September 4, 2008.

## Scope and Methodology

The scope of this review was limited to determining whether the BIE took action to implement the three report recommendations. To accomplish our objective, we reviewed the supporting documentation BIE submitted to PFM and additional documentation requests from OIG relating to each of the three recommendations.

We did not perform any site visits or conduct any detailed fieldwork to determine whether the underlying deficiencies that were initially identified have 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 current review found that BIE implemented all of the recommendations.

**Recommendation 1:** Identify and immediately initiate appropriate background checks on all individuals working at BIE operated facilities without a security file or without documentation supporting they have a) an FBI fingerprint check report, b) undergone a complete background/character investigation, and c) had all issues in their background properly adjudicated.

**Action Taken:** The AS-IA's response, dated April 17, 2008, stated that the Center for Personnel Security (CPS) would no longer approve requests for expedited screenings and would follow policies that require FBI background fingerprint checks prior to hiring, with the results maintained in the applicant's official personnel file. All requests for expedited screenings would require approval from the BIE Director, Associate Deputy Director, or Assistant Deputy Director. According to the response, CPS had developed a request form and established written procedures that incorporate some preliminary approval criteria including the minimum requirement of a FBI fingerprint check. In addition, CPS was to initiate expedited background investigations on the six persons identified, by OIG, as having no record of an investigation.

On August 13, 2009, the AS-IA's Office of Internal Evaluation and Assessment informed PFM that a reconciliation of BIE employee and background files was completed on January 7, 2009. This reconciliation was performed to ensure all active BIE employees had been subjected to an investigation. An employee roster of 4,104 employees was provided by the BIE Human Resources Office and background investigations were completed for all of the employees. The Special Assistant to the BIE Director stated that BIE Human Resources provided an employee roster to CPS in June 2011 which identified 4,230 current BIE employees. CPS staff verified that background investigations were completed for 4,230 BIE employees as of June 2011. Further, reinvestigations are being conducted yearly by CPS to ensure all positions designated as having child care duties within BIE are reinvestigated every five years, as required by the Code of Federal Regulations (25 CFR 63). A list of BIE employees is generated from the CPS data base by the servicing security specialist for their assigned areas of responsibility (by Line Office/School). Reinvestigation notices are sent to the employee to notify the employee of the

5-year reinvestigation requirement and to direct them to complete background information forms. Reinvestigations are then conducted.

The Special Assistant to the BIE Director also provided OIG with data received and certified by the Education Line Officers of completed background checks, adjudications, and the number of further investigations required for their regional location. This listing includes investigations at non-BIE facilities.

Based on the statements and data provided by the Special Assistant to the Director, BIE, we conclude that Recommendation 1 is resolved and implemented.

**Recommendation 4:** Develop and implement (a) a plan to ensure that all individuals working at non-BIE operated facilities have undergone complete, appropriate background investigations and (b) procedures to ensure that all facilities receiving Departmental funding have implemented and conducted appropriate background investigations for all individuals working with students. As required by the Indian Child Protection and Family Violence Prevention Act, ensure the background investigations conducted by the non-BIE operated facilities are no less stringent than those implemented by BIA/BIE.

**Action Taken:** The Acting Director, BIE issued a memorandum dated January 28, 2008, and directed the Education Line Officers/Grant Officers to conduct a 100% review of tribally controlled school employee folders to ensure background investigations have been conducted and any issues adjudicated. This task was to be completed by March 31, 2008.

A review checklist for non-BIE school employee background investigations was developed and implemented. The purpose of this review checklist is to ensure that tribally operated grant and contract schools receiving Federal funding adhere to certain Federal investigation requirements. As part of the grant conditions for tribally controlled schools, the Tribally Controlled Personnel Security Program (TPSP) obtains information from the individuals who will be responsible for conducting employee background investigations. BIE, in partnership with Personnel Security Consultants, Inc. (PSC), conducted training for both BIE operated schools and tribally controlled schools from May 12-14, 2008. BIE and PSC will provide technical assistance to tribally controlled schools to ensure a background investigation program is fully implemented.

Background investigation reviews were completed at 90 non-BIE schools and the review of the remaining 30 schools were to be completed by September 30, 2009. As provided under Recommendation 1, the Special Assistant to the BIE Director provided OIG with data received and certified by the Education Line Officers of completed background checks, adjudications, and the number of further investigations required for their regional location. This listing includes investigations at non-BIE facilities.

Based on the documents and data provided by the Special Assistant to the BIE Director, we conclude that Recommendation 4 is resolved and implemented.

**Recommendation 5:** Develop and implement procedures to hold non-BIE operated facilities receiving Departmental funding accountable to adhere to the minimum background investigation standards. Consequences for noncompliance should include suspending, canceling, or revoking Departmental funding.

**Action Taken:** In an April 17, 2008 memorandum, the AS-IA's response stated that the BIE will develop a policy and implement procedures to hold all tribally controlled schools, receiving federal funding, responsible for adhering to the minimum background investigation standards. All tribally controlled schools will be notified of the new policy and procedures and informed of BIE's intent on ensuring that all background investigations and adjudications are completed.

As previously stated under Recommendation 4, a review checklist for non-BIE school employee background investigations was developed and implemented. The purpose of this review checklist is to ensure that tribally-operated grant and contract schools receiving Federal funding adhere to certain Federal investigation requirements. As part of the grant conditions for tribally-controlled schools, the Tribally Controlled Personnel Security Program (TPSP) obtains information from the individuals who will be responsible for conducting employee background investigations. In addition, grant language on BIE's ability to review background investigation information was changed to specifically allow BIE access to the information.

BIE, in partnership with PSC, conducted training for both BIE operated schools and tribally controlled schools from May 12-14, 2008. Additional background investigation training was provided by TPSP during July, August and December 2009. Most recently, BIE conducted contract/grant school administrative training in Albuquerque, New Mexico, in July 2011.

In lieu of a Corrective Action Plan, as stated in the AS-IA's response, BIE provided OIG with an excerpt from Public Law 107-110, dated January 8, 2002. Public Law 107-110 provides for Section 109 (relating to reassumption) of the Indian Self-Determination and Education Assistance Act of 1975 to apply to grant applications. Section 109 allows BIE to rescind a contract or grant agreement and resume control or operation of the program, activity, function or service if the tribal organization's performance under such contract or grant agreement involves 1) endangerment of the health, safety or welfare of any persons, or 2) gross negligence or mismanagement in the handling or use of funds provided to the tribal organization under such contract or grant agreement. For the school year 2011-2012, the BIE Administration Office has emailed grant documents to Education Program Administrators/Grants Officers which require an assurance statement that all BIA, tribal, grant contract and self-governance programs will comply with existing Federal laws pertaining to background investigations.

Based on the documents and data provided by the Special Assistant to the BIE Director, we conclude that Recommendation 5 is resolved and implemented.

## **Conclusion**

We informed the Special Assistant to the BIE Director of the results of this review on September 7, 2011. Based on the results of this review, OIG offered to convene an exit conference with BIE officials. BIE chose to receive this final report without an exit conference.

cc: Nancy Thomas, Audit Liaison, Department of the Interior  
Alexandra Lampros, Liaison Officer, Office of the Secretary  
Michael Oliva, Audit Liaison Officer, AS-IA  
Jackie Cheek, Special Assistant to the BIE Director, Bureau of Indian Education