



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

The Three Affiliated Tribes Did Not Account for CARES Act Funds Appropriately



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Memorandum

To: Darryl LaCounte
Director, Bureau of Indian Affairs

From: Kathleen Sedney *Kathleen Sedney*
Assistant Inspector General for Audits, Inspections, and Evaluations

Subject: Final Audit Report – *The Three Affiliated Tribes Did Not Account for CARES Act Funds Appropriately*
Report No. 2021–FIN–032–C

This memorandum transmits the final results of our audit of Agreement No. A18AV00212 between the Bureau of Indian Affairs (BIA) and the Three Affiliated Tribes. We conducted this audit to determine whether the Three Affiliated Tribes complied with the requirements in this agreement and whether incurred costs were allowable, allocable, and reasonable in accordance with applicable Federal laws and regulations.

Although we provided a draft of the report to the BIA, we received no response to the report or to the recommendations even after we made additional outreach attempts. Accordingly, we consider Recommendations 1 through 4 unresolved and will refer them to the Office of Policy, Management and Budget for resolution and implementation tracking and to report to us on their status. In addition, we will notify Congress about our findings, and we will report semiannually, as required by law, on actions you have taken to implement the recommendations and on recommendations that have not been implemented. We will also post a public version of this report on our website.

If you have any questions about this report, please call me at 202–208–5745.

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Results in Brief

What We Audited

The Bureau of Indian Affairs (BIA) awarded the Three Affiliated Tribes \$2,669,797 in Coronavirus Aid, Relief, and Economic Security Act (CARES Act) funds through Agreement No. A18AV00212. These funds must be used for preventing, preparing for, and responding to the COVID–19 pandemic. We conducted this audit to determine whether the Three Affiliated Tribes complied with the requirements in Agreement No. A18AV00212 with the BIA and whether incurred costs were allowable, allocable, and reasonable in accordance with applicable Federal laws and regulations. The population of expenses tested totaled \$504,624 (59 percent of \$851,102 in costs incurred as of March 1, 2021).

What We Found

We found that the Three Affiliated Tribes did not comply with all applicable Federal regulations and agreement terms. Specifically, we found that the Three Affiliated Tribes could not provide required supporting documentation and also incurred costs that were not allocable to CARES Act funding under Agreement No. A18AV00212. As a result, we questioned a total of \$433,173 or 86 percent of the transactions tested.

Why This Matters

To ensure compliance with governing law and to promote accountability and proper oversight of CARES Act funds distributed by the BIA and spent by the Three Affiliated, the BIA and Three Affiliated should be appropriately tracking and monitoring CARES Act expenditures. Without doing so, neither the BIA nor the Three Affiliated Tribes can ensure CARES Act funds are spent on tribal needs to prepare for, prevent, and respond to the COVID–19 pandemic. We questioned 86 percent of the costs we tested as unsupported or not allocable to the agreement. This high percentage of costs that were unsupported or not allocated properly significantly increases the risk of fraud, waste, or abuse because the Government cannot determine if the funds were spent appropriately.

What We Recommend

We make four recommendations to help the BIA provide oversight and assist the Three Affiliated Tribes in accounting for and monitoring funds provided by the Federal Government. Although we provided a draft of the report to the BIA, it did not respond to the report or the recommendations.

Introduction

Objectives

We conducted this audit to determine whether the Three Affiliated Tribes complied with the requirements in Agreement No. A18AV00212 with the U.S. Department of the Interior’s (DOI’s) Bureau of Indian Affairs (BIA) and whether incurred costs were allowable, allocable, and reasonable in accordance with applicable Federal laws and regulations.

See Appendix 1 for the audit scope and methodology.

Background

On March 27, 2020, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116–136, 134 Stat. 281, which provided the BIA with \$453 million to support “Operation of Indian Programs.” Among the areas on which the BIA could spend the funding were:

- Public safety and justice programs.
- Deep cleaning of facilities.
- Purchase of personal protective equipment.
- Information technology to improve teleworking capability.
- Welfare assistance and social services programs (including assistance to individuals).
- Assistance to tribal governments.¹

The BIA awarded \$2,669,797 in CARES Act funds to the Three Affiliated Tribes through modifications to its existing Agreement No. A18AV00212 (see Figure 1).

¹ CARES Act, Pub. L. No. 116–136, 134 Stat. 281, 546, Title VII (2020).

**Figure 1: CARES Act Funds Provided Through
Modifications to Agreement No. A18AV00212**

Modification No.*	Date Awarded	Amount (\$)
15	April 18, 2020	2,407,613
17	May 20, 2020	162,548
18	November 9, 2020	99,636
Total Awarded		\$2,669,797

* Modification No. 16 is not listed in the figure because it provided annual funding rather than CARES Act funds.

Results of Audit

We found the Three Affiliated Tribes did not comply with the requirements in Agreement No. A18AV00212 and all applicable Federal laws and regulations.

We found that the Three Affiliated Tribes could not provide required supporting documentation and moreover incurred costs that were not allocable to CARES Act funding under Agreement No. A18AV00212. Specifically, the Three Affiliated Tribes:

- Provided inadequate supporting documentation for expenses, totaling \$237,270.
- Recorded expenses of \$106,280 that were not allocable to the BIA agreement because they were incurred by employees of the U.S. Department of Health and Human Services' (HHS') Indian Health Service (IHS).
- Incurred detention center-related expenses of \$89,623 that were not allocable to the BIA agreement.

We questioned a total of \$433,173 in incurred costs on Agreement No. A18AV00212 as unsupported or not allocable to CARES Act funding. See Appendix 2 for a summary of the monetary impact of these questioned costs.

Inadequate Supporting Documentation for Expenses Totaling \$237,270

We found that the Three Affiliated Tribes did not provide supporting documentation to verify that the costs incurred were related to COVID-19 when using CARES Act funds. We selected 69 of 259 transactions from March 13, 2020, through March 1, 2021, to determine if the transactions were allowable, allocable, and reasonable. The supporting documentation we requested included quotes (when applicable), purchase orders, invoices, documented approvals and justifications for goods and services, and processed checks used for payment.

The CARES Act states that funds must be used for preventing, preparing for, and responding to the COVID-19 pandemic. In addition, Federal regulations state that, to be allowable, a cost must be, among other factors, necessary, reasonable, and allocable to the Federal award and must be adequately documented.² Furthermore, Modification Nos. 15, 17, and 18 for Agreement No. A18AV00212 state that “the contractor must maintain all appropriate records and cost documentation to substantiate COVID-19 related expenses in American Indian communities.” Finally, the BIA issued guidance that states that “there needs to be a rationale and documentation of expenses and how they relate to the COVID-19 crisis.”³

² 2 C.F.R. § 200.403, “Factors affecting allowability of costs.”

³ *Frequently Asked Questions (FAQs) Regarding Funding Directly Appropriated to Indian Affairs from Division B, Title VII of the CARES Act*, July 2, 2020, Question 47.

We sought supporting information for selected transactions, but, after repeated requests made over the course of several months, the Three Affiliated Tribes provided only incomplete supporting documentation in response. For example, the Three Affiliated Tribes did not provide the approvals or invoices for selected transactions, so we were unable to determine if the goods or services were delivered or completed and whether the items were BIA CARES Act-related expenditures.

On December 6, 2021, we made what we identified as our final attempt to obtain supporting documentation and specifically inquired as to whether the tribe was unable to locate the information in question. A Three Affiliated Tribes official stated that the Tribe was “working on the request” and that it had “been sent several times” but could provide “no excuse as to why it has not been completed.” After the December 6 communication, the Three Affiliated Tribes provided some of the requested supporting documentation. We reviewed all material provided and determined that two-thirds of the transactions were not supported (46 of 69 transactions).

Because the Three Affiliated Tribes did not maintain the required supporting documentation in accordance with Federal regulations and BIA guidance, it could not properly support the costs incurred on Agreement No. A18AV00212. Therefore, we questioned \$237,270 as unsupported. See Appendix 3 for more details about the questioned transactions.

Recommendation
<p>We recommend that the BIA:</p> <ol style="list-style-type: none">1. Resolve the questioned costs of \$237,270 by requiring the Three Affiliated Tribes to provide supporting documentation to ensure that the incurred costs are allowable, allocable, and reasonable.

Misallocation of Expenses Totaling \$195,903

We found that the Three Affiliated Tribes recorded in its general ledger certain transactions ordered by the HHS’ IHS that were ultimately not related to the CARES Act funds provided by the BIA.

The Three Affiliated Tribes received CARES Act funding from multiple sources but did not have proper controls in place to determine which Government funds should be used for each purchase. According to Federal regulations, “A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective.”⁴ To properly allocate the costs incurred, the Three Affiliated Tribes should have considered the funding source to use for each purchase.

⁴ 2 C.F.R. § 200.405, “Allocable costs.”

From a population of 259 transactions, we examined 69 and identified 3 transactions for 6 purchases ordered by IHS employees. At the request of the Three Affiliated Tribes, the IHS ordered items such as cots, pillows, and blankets for a healthcare center, and the Three Affiliated allocated the costs to Agreement No. A18AV00212 with the BIA (see Figure 2). We asked the Three Affiliated Tribes for an explanation as to how these purchases could be allocable to the BIA funds, given that the IHS operates the healthcare center and initiated the orders. The Three Affiliated Tribes did not respond.

Figure 2: Six IHS Purchases Made With BIA CARES Act Funds

Asset Purchased	Quantity	Amount (\$)
Folding camping cots	700	53,550
Down-alternative solid blankets	700	19,600
Sheet set	700	15,400
Standard pillows (2 pack)	350	8,050
40-foot storage unit	1	4,840
40-foot storage unit	1	4,840
Total		\$106,280

Additionally, during our review of the support provided in December 2021, after our final attempt, a Three Affiliated Tribes official discussed via a telephone call the allocability of certain transactions to the CARES Act. For three of the transactions, the Three Affiliated Tribes Contracts Supervisor stated that they were not due to a need that arose from the COVID–19 pandemic. Two transactions, totaling \$5,485, were for boring to install electricity to guard checkpoints that were planned prior to the COVID–19 pandemic. The Three Affiliated Tribes also recorded \$84,138 for updating security-grade toilets and showers in their detention center; the Contracts Supervisor acknowledged that this expense should not have been recorded using BIA CARES Act funds.

Therefore, we questioned a total of \$195,903 of goods and services expensed to the BIA.

Recommendations

We recommend that the BIA:

2. Require the Three Affiliated Tribes to establish controls to ensure that it can determine the appropriate funding source for each CARES Act expense.
3. Resolve the questioned costs of \$106,280 by creating and adjusting journal entries to reallocate the funds from the U.S. Department of the Interior to the U.S. Department of Health and Human Services.
4. Resolve the questioned costs of \$89,623 by creating adjusted journal entries to reallocate the funds from the BIA CARES Act to the appropriate funding source.

Conclusion and Recommendations

Conclusion

The Three Affiliated Tribes did not comply with the requirements in Agreement No. A18AV00212 and applicable Federal laws and regulations to ensure that the incurred costs were allowable, allocable, and reasonable. We found that the Three Affiliated Tribes incurred costs that were either unsupported or not allocable to CARES Act funding under Agreement No. A18AV00212 with the BIA; we also found that the Three Affiliated Tribes could not provide required supporting documentation.

We make four recommendations to help the BIA provide oversight and assist the Three Affiliated Tribes in accounting for and monitoring funds provided by the Federal Government.

Recommendations Summary

We provided a draft of this report to the BIA for review. The BIA did not provide a response to the draft recommendations on the requested due date or after we made additional attempts to obtain a response. Therefore, we consider Recommendations 1 through 4 unresolved. See Appendix 4 for the status of each recommendation.

We recommend that the BIA:

1. Resolve the questioned costs of \$237,270 by requiring the Three Affiliated Tribes to provide supporting documentation to ensure that the incurred costs are allowable, allocable, and reasonable.

BIA Response: The BIA did not respond even after additional outreach attempts.

OIG Comment: We consider Recommendation 1 unresolved.

2. Require the Three Affiliated Tribes to establish controls to ensure that it can determine the appropriate funding source for each CARES Act expense.

BIA Response: The BIA did not respond even after additional outreach attempts.

OIG Comment: We consider Recommendation 2 unresolved.

3. Resolve the questioned costs of \$106,280 by creating and adjusting journal entries to reallocate the funds from the U.S. Department of Interior to the U.S. Department of Health and Human Services.

BIA Response: The BIA did not respond even after additional outreach attempts.

OIG Comment: We consider Recommendation 3 unresolved.

4. Resolve the questioned costs of \$89,623 by creating adjusted journal entries to reallocate the funds from the BIA CARES Act to the appropriate funding source.

BIA Response: The BIA did not respond even after additional outreach attempts.

OIG Comment: We consider Recommendation 4 unresolved.

Appendix 1: Scope and Methodology

Scope

We audited the Three Affiliated Tribes' costs incurred under Agreement No. A18AV00212 with the Bureau of Indian Affairs (BIA). We examined \$504,624 of \$851,102 in costs incurred by the Three Affiliated Tribes from March 13, 2020, through March 1, 2021. As part of our audit, we reviewed the Three Affiliated Tribes' compliance with agreement requirements, applicable Federal laws and regulations, and BIA guidance.

As a result of the COVID-19 pandemic, we could not complete our site visits or review original records. We gathered data remotely and relied upon video conferences, emails, and telephone calls to substantiate our findings and conclusions.

Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We assessed whether internal control was significant to the audit objectives. We determined that the Three Affiliated Tribes' control activities and the following related principles were significant to the audit objectives:

- Management designs appropriate types of control activities for the entity's internal control system.
- Management should use quality information to achieve the entity's objectives.
- Management should externally communicate the necessary quality information to achieve the entity's objectives.

We tested the operation and reliability of internal controls over activities related to our audit objectives. Our tests and procedures included:

- Review of Federal financial acquisition regulations, policies and procedures, the terms and conditions for Agreement No. A18AV00212, and the Three Affiliated Tribes' policies and procedures.
- Gathering background information on the scope of work for Agreement No. A18AV00212.
- Interviewing officials, including the Three Affiliated Tribes' management and staff.

- Reviewing evidence that supported selected expenditures charged to the contract.
- Testing the operation and reliability of the Three Affiliated Tribes' financial management system.

For selected transactions that the Three Affiliated Tribes provided all requested supporting documentation for, we were able to determine reliance on the computer-generated data. We relied on computer-generated data provided by the Three Affiliated Tribes for cost information and to select audit samples of other direct costs. To evaluate the accuracy of the data, we compared a sample of source documents to entries in the Three Affiliated Tribes' financial management system to ensure that transactions were recorded properly and interviewed Tribal officials who were knowledgeable about the data.

To test nonpayroll direct costs incurred under Agreement No. A18AV00212, we judgmentally selected a sample of 69 transactions totaling \$504,624. These expenditures represented 59 percent of the \$851,102 charged to Agreement No. A18AV00212 as of March 1, 2021. We chose transactions for the sample based on two risk factors: (1) high-dollar values and (2) transaction descriptions. We were unable to review source documents supporting the transactions.

Because we selected audit samples for testing on a judgmental rather than statistical basis, we did not project the results of our test to the total population of recorded transactions.

Appendix 2: Monetary Impact

Agreement No. A18AV00212
Questioned Costs (\$)

Description	Not Allocable	Unsupported	Amount
Lack of Supporting Documentation	-	237,270	237,270
Not BIA related	195,903	-	195,903
Total	\$195,903	\$237,270	\$433,173

Appendix 3: Questioned Transactions

Audit ID No.	Amount (\$)	Type of Supporting Documentation Not Provided					
		Invoice	Proof of Payment	Invoice Approval	Justification	Policies and Procedures	BIA CARES Act Related
003	55,200	X	-	-	-	-	-
015	750	X	-	-	-	-	-
019	4,580	-	-	-	X	-	X
020	4,580	-	-	-	X	-	X
022	21,063	-	-	-	-	X	-
023	3,053	-	-	-	-	X	-
024	10,009	-	-	-	-	X	-
027	7,592	-	-	-	X	-	X
028	4,996	-	-	-	X	-	X
029	1,197	-	-	-	X	-	X
030	129	-	-	-	X	-	-
031	129	-	-	-	X	-	-
032	10,675	-	-	-	X	-	-
033	7,800	-	-	-	X	-	-
034	375	-	-	-	X	-	-
035	1,570	-	-	-	X	-	-
036	782	-	-	-	X	-	-
037	4,535	-	-	-	X	-	-
038	334	-	-	-	X	-	-
039	16,100	-	-	-	X	-	-
040	42,640	-	-	-	X	-	-
041	4,940		X	X	X	-	-
042	19,342	-	-	-	X	-	-
043	1,275	-	-	-	X	-	X
044	5	-	-	-	X	-	X
045	87	-	-	-	X	-	X
046	26	-	-	-	X	-	X

Type of Supporting Documentation Not Provided

Audit ID No.	Amount (\$)	Invoice	Proof of Payment	Invoice Approval	Justification	Policies and Procedures	BIA CARES Act Related
047	40	-	-	-	X	-	X
048	40	-	-	-	X	-	X
049	10	-	-	-	X	-	X
050	72	-	-	-	X	-	X
051	54	-	-	-	X	-	X
052	179	-	-	-	X	-	X
053	70	-	-	-	X	-	X
054	90	-	-	-	X	-	X
055	24	-	-	-	X	-	X
056	17	-	-	-	X	-	X
057	204	-	-	-	X	-	X
058	4,226	-	-	-	X	-	X
059	1,125	-	-	-	X	-	X
060	1,250	-	-	-	X	-	X
061	750	-	-	-	X	-	X
062	750	-	-	-	X	-	X
063	750	-	-	-	X	-	X
068	2,480	-	-	-	X	-	X
069	1,375	-	-	-	X	-	X
Total	\$237,270	2	1	1	41	3	28

Appendix 4: Status of Recommendations

Recommendation	Status	Action Required
1-4	Unresolved; no response from the BIA	We will refer these recommendations to the Office of Policy, Management and Budget for resolution.



REPORT FRAUD, WASTE, ABUSE, AND MISMANAGEMENT

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