



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

# **The Bureaus of Indian Affairs and Indian Education Have the Opportunity To Implement Additional Controls To Prevent or Detect Multi-dipping of Pandemic Response Funds**



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

**NOV 29 2022**

Memorandum

To: Bryan Newland  
Assistant Secretary – Indian Affairs

Darryl LaCounte  
Director, Bureau of Indian Affairs

Tony Dearman  
Director, Bureau of Indian Education

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

Subject: Inspection Report – *The Bureaus of Indian Affairs and Indian Education Have the Opportunity To Implement Additional Controls To Prevent or Detect Multi-dipping of Pandemic Response Funds*  
Report No. 2021–ER–015

This memorandum transmits our inspection report of the U.S. Department of the Interior’s controls over pandemic response funding for Indian Country, specifically for the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE). We sought to determine whether the BIA and the BIE, after receiving nearly \$2.3 billion in pandemic response funds, developed controls to prevent or detect multi-dipping to reduce the potential for misuse of pandemic response funds.

We will refer Recommendations 1 and 2 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 Inspected

We inspected the U.S. Department of the Interior’s (DOI’s) controls over pandemic response funding for Indian Country, specifically for the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE).

Our objective was to determine whether the BIA and the BIE, after receiving nearly \$2.3 billion in pandemic response funds, developed controls to prevent or detect multi-dipping to reduce the potential for misuse of pandemic response funds.

## What We Found

We found that the BIA and the BIE did not develop internal controls—in addition to existing controls—designed to prevent or detect multi-dipping of pandemic response funds. It is not unusual for multiple programs to offer forms of financial support to a single recipient or entity. “Multi-dipping,” however, occurs when a recipient uses funds from multiple Federal programs for the same expenses and then uses the excess funds for another purpose, which is not allowable.<sup>1</sup> We found the bureaus used existing programs and controls to quickly distribute funds to Tribes and did not take the opportunity to design additional controls to safeguard these funds because the legislation providing the funds did not contain specific requirements for increased agency controls.

## Why This Matters

Our prior work has found the BIA’s and the BIE’s system of controls historically has faced challenges in preventing fraud, waste, or abuse of Federal funds. Further, Federal law<sup>2</sup> requires agencies to establish controls to ensure funds are used appropriately and protected against fraud, waste, or abuse. These historical weaknesses—coupled with the rapid provision of billions of dollars in pandemic response funds—increases the risks of fraud, waste, or abuse of pandemic response funds. Further, Governmentwide data reliability concerns and a lack of visibility into potentially overlapping funds may inhibit individual agencies from collecting and analyzing COVID–19 spending data to help identify when multi-dipping of these funds has occurred. Taken together, these circumstances reinforce the importance of having proper controls in place before distributing these funds.

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<sup>1</sup> Multi-dipping (or multiple-dipping) is a term derived from the more commonly known expression “double-dipping,” which is when the same claim is paid twice. The term multi-dipping acknowledges the possibility of paying the same claim two or more times.

<sup>2</sup> 31 U.S.C § 3512(c).

## **What We Recommend**

We make two recommendations that, if implemented, will address the increased risk of multi-dipping of pandemic response funds.

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# Introduction

## Objective

The objective of our inspection was to determine whether the Bureaus of Indian Affairs (BIA) and Indian Education (BIE) developed controls to prevent or detect multi-dipping to reduce the potential for misuse of pandemic response funds.

See Appendix 1 for our inspection scope and methodology.

## Background

Since the beginning of 2020, Congress has enacted six relief laws to address the public health and economic threats posed by COVID-19.<sup>3</sup> In total, these measures provided \$4.6 trillion to Federal agencies, States, Tribes, territories, grantees, and the public for coronavirus preparedness and pandemic response. Two laws made significant funds available to Tribes: the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the American Rescue Plan Act (ARPA) of 2021 (see Appendix 2). The CARES Act and the ARPA funded multiple programs that allowed Tribes to receive financial support from various Federal agencies, including the DOI and the U.S. Departments of Agriculture, Education, Health and Human Services, and Treasury. The DOI, through the BIA and the BIE, made \$2.3 billion in funding available to Tribes, while the U.S. Department of the Treasury distributed [\\$8 billion](#)<sup>4</sup> to Tribes.

As summarized previously, multi-dipping occurs when recipients obtain funds from multiple Federal programs for the same expenses and use the excess funds for another purpose. More specifically, if an entity receives funding from multiple Federal sources for the same expenditure, that entity cannot use any of that funding for any other purpose; doing so would constitute fraud or waste. For example, if a recipient received \$100 from the DOI and \$75 from another agency to purchase one air filtration system but the system cost, in total, only \$100, the recipient could not properly use the remaining \$75 for an unrelated expenditure.

Pandemic response funds are at a higher risk for multi-dipping because Congress distributed a large amount of funds with the broad purpose of responding to the effects of COVID-19. The U.S. Government Accountability Office (GAO) recently [reported](#)<sup>5</sup> that the public health crisis, economic instability, and increased flow of Federal funds associated with the COVID-19

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<sup>3</sup> The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Public Law 116-123); the Families First Coronavirus Response Act, 2020 (Public Law 116-127); the Coronavirus Aid, Relief, and Economic Security Act, 2020 (Public Law 116-136); Paycheck Protection Program and Health Care Enhancement Act, 2020 (Public Law 116-139); the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (Division M of Public Law 116-260); and the American Rescue Plan Act of 2021 (Public Law 117-2).

<sup>4</sup> *Coronavirus Relief Fund Allocations to Tribal Governments*, dated May 5, 2020, (<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Tribal-Allocation-Methodology.pdf>).

<sup>5</sup> GAO, *Significant Improvements Are Needed to Ensure Transparency and Accountability for COVID-19 and Beyond* (GAO-22-105715), dated March 17, 2022, (<https://www.gao.gov/assets/gao-22-105715.pdf>).

pandemic have increased opportunities for fraud. Additionally, in its initial [report](#)<sup>6</sup> to Congress on pandemic oversight, the Special Inspector General for Pandemic Recovery (SIGPR) discussed these overlapping sources of funding and stated that the CARES Act increased the risk of fraud and abuse through multi-dipping and recommended that Congress consider the various CARES Act relief programs, how they overlap, whether the overlap is in the public interest, and whether legislative clarity is warranted.

Moreover, although an effective internal control system is a key factor in helping an entity respond to risks, the GAO recently [found](#)<sup>7</sup> that shortcomings in agencies' application of fundamental internal controls and financial and fraud risk management practices left agencies vulnerable to significant improper COVID-19 emergency relief payments and fraud.<sup>8</sup>

Our previous work has also reported deficiencies with controls in the BIA's and the BIE's existing programs, which compound these risks and may suggest that the funds distributed through these programs are more susceptible to mismanagement, fraud, or abuse such as multi-dipping. Specifically, in a CARES Act Flash Report, [Lessons Learned for Indian Country](#),<sup>9</sup> we summarized prior audits and investigations in which we found internal control weaknesses and fraud in federally funded programs and operations in Indian Country.<sup>10</sup> We identified [improper commingling of Federal funds with tribal funds](#),<sup>11</sup> [insufficient accounting and reporting](#),<sup>12</sup> embezzlement,<sup>13</sup> and poor oversight. Furthermore, our prior work has found that tribal single audits<sup>14</sup> have identified more significant deficiencies and material weaknesses as compared to other grantees. Although we issued recommendations to the DOI to address these

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<sup>6</sup> *Special Inspector General for Pandemic Recovery Initial Report to Congress*, dated August 3, 2020, p 49–50, ([https://www.sigpr.gov/sites/sigpr/files/2020-09/SIGPR-Initial-Report-to-Congress-August-3-2020\\_0.pdf](https://www.sigpr.gov/sites/sigpr/files/2020-09/SIGPR-Initial-Report-to-Congress-August-3-2020_0.pdf)).

<sup>7</sup> GAO-22-105715, p 11.

<sup>8</sup> The GAO's *Standards for Internal Control in the Federal Government* (known as the Green Book) provides an overall framework for establishing and maintaining an effective internal control system that includes the implementation of control activities—the actions management establishes through policies and procedures to achieve objectives and respond to risks. These control activities can include top-level reviews of actual performance, reviews by management at the functional or activity level, establishment and review of performance measures and indicators, segregation of duties, and appropriate documentation of transactions and internal control.

<sup>9</sup> DOI Office of Inspector General (OIG), *Lessons Learned for Indian Country* (2020-FIN-045), dated June 25, 2020, ([https://www.oversight.gov/sites/default/files/oig-reports/DOIOIG\\_CARESAct\\_Indian%20Country\\_062520.pdf](https://www.oversight.gov/sites/default/files/oig-reports/DOIOIG_CARESAct_Indian%20Country_062520.pdf)).

<sup>10</sup> “Indian Country” is defined in 18 U.S.C. § 1151 as “(a) all land within limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.”

<sup>11</sup> DOI OIG, *The Wind River Tribes Misapplied Federal Funds for the Tribal Transportation Program* (2017-CG-042), dated July 12, 2018, ([https://www.oversight.gov/sites/default/files/oig-reports/FinalAudit\\_JBCWindRiver\\_Public.pdf](https://www.oversight.gov/sites/default/files/oig-reports/FinalAudit_JBCWindRiver_Public.pdf)).

<sup>12</sup> DOI OIG, *Audit of Contract Nos. R11AV60120 and R12AV60002 Between the Bureau of Reclamation and the Crow Tribe* (2017-FIN-040), dated September 2018, ([https://www.oversight.gov/sites/default/files/oig-reports/FinalAudit\\_USBRCrowTribe\\_Public.pdf](https://www.oversight.gov/sites/default/files/oig-reports/FinalAudit_USBRCrowTribe_Public.pdf)).

<sup>13</sup> DOI OIG, *Summary: Tribal Administrator Stole Tribal Funds* (17-0939), dated March 7, 2022, (<https://www.oversight.gov/sites/default/files/oig-reports/DOI/InvestigativeSummaryStolenTribalFunds.pdf>); DOI OIG, *Summary: A Secretary of the Credit and Finance Office Defrauded the Oglala Sioux Tribe* (15-0758), dated October 28, 2020, ([https://www.oversight.gov/sites/default/files/oig-reports/InvestigativeSummary\\_OglalaSiouxTribeCreditAndFinanceOffice.pdf](https://www.oversight.gov/sites/default/files/oig-reports/InvestigativeSummary_OglalaSiouxTribeCreditAndFinanceOffice.pdf)).

<sup>14</sup> Tribes and other non-Federal entities that expend \$750,000 or more of Federal funds per year are required to complete and submit an annual audit report. 2 C.F.R. § 200.501(b).

concerns, we note that, in ongoing work, our office has identified similar potential issues related to pandemic response funding that may indicate a lack of supporting documentation, unallowable and unsupported costs, and commingling of award funds. All of these issues make oversight of these multiple sources of pandemic relief funding particularly important.

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## Results of Inspection

We found that the BIA and the BIE did not take the opportunity to develop additional internal controls designed to prevent or detect multi-dipping of pandemic response funds. BIA and BIE officials told us they did not do so because the bureaus used existing programs, with already established controls, to quickly distribute funds to Tribes and because the relevant legislation did not contain specific requirements for increased agency controls over these funds.<sup>15</sup> We found that the BIA and the BIE provided CARES Act and ARPA Frequently Asked Questions (FAQs) guidance to Tribes, but this guidance did not state that Tribes cannot use funds from multiple Federal programs for the same expenses. Additionally, while BIE officials told us they have taken steps to improve their ability to implement existing controls and oversee pandemic response funds by staffing five new positions for accountants, program support assistants, and budget analysts to support resource management, they did not take specific actions to address multi-dipping. Although these steps are prudent, additional safeguards could further protect funds and provide needed guidance to recipients.

Federal law requires the head of each executive agency to establish internal accounting and administrative controls that reasonably ensure that obligations and costs comply with applicable law; all assets are safeguarded against waste, loss, unauthorized use, and misappropriation; and revenues and expenditures applicable to agency operations are recorded and accounted for properly to prepare accounts and reliable financial and statistical reports and maintain accountability of the assets.<sup>16</sup> The GAO also recently [reported](#)<sup>17</sup> that recognizing fraud risks and deliberately managing them in an emergency environment, such as the pandemic, can help safeguard Federal resources.

During our inspection, we became aware that Governmentwide data reliability limitations may inhibit individual agencies from collecting and analyzing COVID-19 spending data to help identify when multi-dipping of these funds has occurred. The Pandemic Response and Accountability Committee (PRAC) has also identified data transparency and completeness as a key challenge across the Federal Government.<sup>18</sup> For example, a PRAC [report](#)<sup>19</sup> detailed 16 key gaps related to completeness, accuracy, and timeliness in existing data sources. These limitations hamper the ability of any individual agency—including the DOI—to have visibility into the total

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<sup>15</sup> The pandemic response legislation contained some oversight mechanisms, including additional resources to the GAO and to OIGs. The CARES Act also created three new oversight entities: a Congressional Oversight Commission, SIGPR, and the PRAC. The PRAC is a group of inspectors general created to support and coordinate independent oversight of pandemic relief spending, and its mission is to promote transparency and use data to detect fraud, waste, abuse, and mismanagement.

<sup>16</sup> 31 U.S.C § 3512(c).

<sup>17</sup> GAO-22-105715, p 9.

<sup>18</sup> PRAC, *UPDATE Top Challenges in Pandemic Relief and Response*, dated February 3, 2021, p 8, (<https://www.oversight.gov/sites/default/files/oig-reports/PRAC/PRAC-Update-Top-Challenges-Pandemic-Relief-and-Response.pdf>).

<sup>19</sup> *Transparency in Pandemic-Related Federal Spending: Report of Alignment and Gaps* (PRAC-20-A-0002), dated November 19, 2020, (<https://www.pandemicoversight.gov/media/file/executive-summary-and-cover-letter-transparency-pandemic-related-federal-spending-11>).

amount of funds being provided to any particular recipient. Accordingly, it is important for the DOI to take additional steps that may help protect Federal resources.

As of July 24, 2022, the BIA and the BIE have already obligated \$1.9 billion (or 83 percent of the \$2.3 billion) of the CARES Act and ARPA funds. The issues cited here further illustrate the importance of having proper controls in place before distributing these funds.

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|---|
| <b>Recommendations</b>  |
| We recommend that the Bureaus of Indian Affairs and Indian Education: <ol style="list-style-type: none"><li>1. Develop and implement policies, procedures, or guidance designed to prevent or detect multi-dipping.</li><li>2. Communicate the policies and procedures developed and train bureau personnel and Tribes on preventing and detecting multi-dipping.</li></ol> |

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# Conclusion and Recommendations

## Conclusion

We found the BIA and the BIE did not take the opportunity to develop additional internal controls designed to prevent or detect multi-dipping of pandemic response funds. Given the large amount of funds already obligated, it is particularly important to develop strong internal controls to help identify multi-dipping that, in the absence of accurate and reliable data, may otherwise go undetected.

Use of existing programs, with already established controls, to quickly distribute funds to Tribes and legislation that did not contain specific requirements for increased agency controls over these funds exacerbated the risks associated with multi-dipping. We note that these issues may be relevant more broadly, particularly as the DOI begins to receive funds pursuant to the Infrastructure Investment and Jobs Act (IIJA)—which invests more than \$13 billion directly in tribal communities across the country.

We make two recommendations to help the BIA and the BIE address the increased risk of multi-dipping of pandemic response funds.

## Recommendations Summary

We provided a draft of this report to the BIA and the BIE for review and received a combined response. The bureaus did not concur with either of the two recommendations. Accordingly, we consider Recommendations 1 and 2 unresolved. Below we summarize the bureaus' response to our recommendations as well as our comments on their responses. We also include clarifying remarks based on selected statements in the response. See Appendix 3 for the full text of the response. Appendix 4 lists the status of each recommendation.

**BIA and BIE Statement:** The Indian Affairs' FAQs ARPA Funding Requirements/Restrictions section, Number 5, "explicitly addressed commingling ARP Act funds with regular BIA Operations of Indian Program (OIP) funds. It states that 'There must be a segregation of funds. There must be separate accounts set up for audit purposes and separate tracking of expenditures. In addition, each appropriation has different purposes and authorizations that must be adhered to.' Segregation of funds was mentioned four different times throughout the FAQ to make it perfectly clear that pandemic response funds should not be commingled with other funding."

**Office of Inspector General (OIG) Comment:** The ARPA FAQs noted that commingling of funds was not allowed but rather funds must be segregated into separate accounts. As noted in our report, "multi-dipping" occurs when a recipient uses funds from multiple Federal programs for the same expenses and then uses the excess funds for another purpose, which is not allowable. Since multi-dipping can occur in both commingled and segregated funds, this segregated accounting of funds does not address the risk of multi-dipping.

**BIA and BIE Statement:** “Indian Affairs’ (BIA and BIE) use of multiple pandemic funds within availability periods is not multi-dipping - such use follows the sequential pattern of the multiple direct and transfer appropriations received during the extended pandemic and approved by OMB and U.S. Treasury apportionment of pandemic funds.”

**OIG Comment:** We agree that the use of multiple pandemic funds within the same period would not be considered multi-dipping. However, for the reasons set forth in the BIA’s and the BIE’s response, we believe that the large influx of funding necessitates increased policies and procedures that are designed to prevent or detect multi-dipping of pandemic response funds.

## **Recommendations**

We recommend that the Bureaus of Indian Affairs and Indian Education (BIA and BIE):

1. Develop and implement policies, procedures, or guidance designed to prevent or detect multi-dipping.

**BIA/BIE Response:** The BIA and the BIE did not concur with this recommendation. In their response, the bureaus stated “there are processes in place to prevent and detect multi-dipping of funds. Multiple consultations with the Tribes took place and resources such as FAQs were made available to the Tribes through the Indian Affairs website.” Further, the BIA and the BIE indicated that “Indian Affairs has its existing policies and internal controls that are designed to detect disallowable expenditures in IA programs. Specifically, 5 IAM 2, Management Accountability - Single Audit, which is intended to provide assurance to the Federal Government that a non-Federal entity has adequate internal controls in place, and is generally in compliance with program requirements.”

More generally, the BIA and the BIE provided examples of what they described as the appropriate use of multiple pandemic funds and stated, “In summary, . . . [the] use of multiple pandemic funds within availability periods is not multi-dipping—such use follows the sequential pattern of the multiple direct and transfer appropriations received during the extended pandemic and approved by OMB and U.S. Treasury apportionment of pandemic funds.”

**OIG Comments:** Based on the BIA’s and the BIE’s response, we consider this recommendation unresolved. The BIA and the BIE did not provide support showing that there are policies, procedures, or guidance currently in place that include controls specifically designed to prevent and detect multi-dipping. Although single audits are intended to provide reasonable assurance that Federal funds are safeguarded and used effectively, a single audit is not designed to prevent or detect multi-dipping.<sup>20</sup> Separately, our office has recently issued reports that found deficiencies in internal controls and concluded that Tribes did not account

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<sup>20</sup> A single audit is an audit of both the entity’s financial statements and expenditures of Federal awards. These audits are performed annually on Tribes and other non-Federal entities that expend \$750,000 or more of Federal funds per year. In each audit conducted, auditors must consider the entity’s compliance with relevant requirements. To assess this compliance, auditors perform various audit procedures. One example audit procedure is testing a sample of entity’s transactions to determine if they are necessary and reasonable and if they are properly documented.

for pandemic response funds appropriately.<sup>21</sup> We do not opine on the propriety of any of the particular examples noted by the BIA and the BIE in the response but note that our own reports illustrate the consequences of a lack of controls. As noted previously, the influx of funding from multiple sources over a quick timeframe exacerbates the risks of inappropriate spending and increases the need for clear guidance on appropriate use of these different funding sources. Accordingly, we reiterate our recommendation that the BIA and the BIE develop specific guidance targeted at the risk of multi-dipping.

2. Communicate the policies and procedures developed and train bureau personnel and Tribes on preventing and detecting multi-dipping.

**BIA/BIE Response:** The BIA and the BIE did not concur with this recommendation. In their response, the BIA and the BIE stated they have processes in place to prevent and detect multi-dipping of funds, including consultations with Tribes, and resources, such as FAQs, made available to the Tribes through the Indian Affairs' website or the BIE's pandemic funding webinars.

**OIG Comments:** Based on the BIA's and the BIE's response, we consider this recommendation unresolved. The BIA and the BIE did not address communicating the policies and procedures and training bureau personnel and Tribes on preventing and detecting multi-dipping.

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<sup>21</sup> DOI OIG, *The Three Affiliated Tribes Did Not Account for CARES Act Funds Appropriately* (2021-FIN-032-C), dated September 28, 2022, ([https://www.doioig.gov/sites/default/files/2021-migration/Final%20Audit%20Report\\_ThreeAffiliatedCaresAct.pdf](https://www.doioig.gov/sites/default/files/2021-migration/Final%20Audit%20Report_ThreeAffiliatedCaresAct.pdf)); DOI OIG, *The Lower Brule Sioux Tribe Did Not Account for CARES Act Funds Appropriately* (2021-FIN-032-A), dated September 19, 2022, ([https://www.doioig.gov/sites/default/files/2021-migration/Final Audit\\_LowerBruleSioux\\_CARES Act\\_Public.pdf](https://www.doioig.gov/sites/default/files/2021-migration/Final%20Audit_LowerBruleSioux_CARES%20Act_Public.pdf)).

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# Appendix 1: Scope and Methodology

## Scope

We inspected whether the Bureaus of Indian Affairs (BIA) and Indian Education (BIE) put additional controls in place to prevent or detect multi-dipping of pandemic response funds. We focused our inspection on the two laws that provided more than \$2.3 billion in funding to and that most directly affected Tribes and tribal interests: the Coronavirus Aid, Relief, and Economic Security Act and the American Rescue Plan Act of 2021.

Due to the limited scope of this review and the lack of detailed data available at the program level to identify potential instances of multi-dipping, we did not test the effectiveness of existing controls related to compacts and contracts to Tribes. We also did not review controls over funds available directly to Tribes from other Federal agencies (e.g., U.S. Department of the Treasury, U.S. Department of Health and Human Services, U.S. Department of Education) because the BIA and the BIE do not oversee those funds.

Because of the COVID-19 pandemic, we could not complete our inspection onsite. We gathered data remotely and communicated with bureau personnel via email and video conference.

## Methodology

We conducted our inspection in accordance with the *Quality Standards for Inspection and Evaluation* as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusion and recommendations.

To accomplish our objective, we:

- Interviewed personnel within the office of the Assistant Secretary of Indian Affairs, the BIA, and the BIE.
- Reviewed pandemic response legislation; the U.S. Department of the Interior (DOI) and bureau regulations and policies governing the use, oversight, and monitoring of pandemic response funds; the DOI's execution data for pandemic response funds; and other relevant published reports.

# Appendix 2: Pandemic Relief Laws That Have Provided Funding to Tribes Through the U.S. Department of the Interior

## Coronavirus Aid, Relief, and Economic Security (CARES) Act<sup>22</sup> (Effective March 27, 2020)

The CARES Act included direct apportionments to support the needs of Indian Country, specifically:

- \$453 million for the Bureau of Indian Affairs (BIA).
- \$69 million for the Bureau of Indian Education (BIE).

In addition, the U.S. Department of Education transferred \$153.8 million to the BIE, and the U.S. Department of Health and Human Services transferred \$33 million to the BIA.

## American Rescue Plan Act (ARPA) (Effective March 11, 2021)

The ARPA provided the DOI \$1.75 billion in emergency funding for American Indian and Alaska Native programs to respond to the COVID-19 pandemic. The Act authorized \$900 million for Indian Affairs and the BIA and \$850 million for the BIE to support a wide range of COVID-19 response activities.

Indian Affairs and BIA:

- \$772.5 million for tribal government services, public safety and justice, social services, child welfare assistance, and other related expenses.
- \$100 million for tribal housing improvement.
- \$20 million to provide and deliver potable water.
- \$7.5 million for related Federal administrative costs and oversight.

BIE:

- \$535.5 million for the BIE's 183 K-12 schools.
- \$229.5 million for Tribal Colleges and Universities.
- \$85 million for investments, such as the buildout of a Learning Management System and facility ventilation improvement projects.

**Total: \$708.8 million**

**Total: \$1.75 billion**

<sup>22</sup> DOI OIG, *January 2021: Where's the Money?*, dated March 29, 2021, ([https://www.oversight.gov/sites/default/files/oig-reports/%5Bnode%3Afield-submitting-oig%3Afield-abbreviation%5D/archive/145771//DOIOIGCARESActWherestheMoneyJan2021032921\\_0.pdf](https://www.oversight.gov/sites/default/files/oig-reports/%5Bnode%3Afield-submitting-oig%3Afield-abbreviation%5D/archive/145771//DOIOIGCARESActWherestheMoneyJan2021032921_0.pdf)).

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## **Appendix 3: Response to Draft Report**

The Bureau of Indian Affairs' and the Bureau of Indian Education's response to our draft report follows on page 14.



United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS  
Washington, DC 20240

To: Ms. Kathleen R. Sedney  
Assistant Inspector General for Audits, Inspection, and Evaluations  
U.S. Inspector General

Through: Bryan Newland  
Assistant Secretary – Indian Affairs  
U.S. Department of the Interior

 OCT 11 2022

From: Darryl LaCounte  
Director  
Bureau of Indian Affairs

**Darryl LaCounte**

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Tony Dearman  
Director  
Bureau of Indian Education

**TONY DEARMAN**

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Date: 2022.10.04 17:46:58 -04'00'

Subject: Draft Inspection Report – The Bureaus of Indian Affairs and Indian Education  
Have the Opportunity To Implement Additional Controls To Prevent or Detect  
Multi-dipping of Pandemic Response Funds Report No. 2021–ER–015

The Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE) appreciate the opportunity to provide a response on the Office of Inspector General's (OIG) *Draft Inspection Report – The Bureaus of Indian Affairs and Indian Education Have the Opportunity To Implement Additional Controls To Prevent or Detect Multi-dipping of Pandemic Response Funds Report No. 2021–ER–015*. On behalf of both the BIA and BIE, we have carefully reviewed the OIG's evaluation of pandemic response funds for developed controls to prevent or detect multi-dipping to reduce the potential for misuse of pandemic response funds. Please see both BIA's and BIE's combined response to this report.

**Recommendation 1: Develop and implement policies, procedures, or guidance designed to prevent or detect multi-dipping.**

**Recommendation 2: Communicate the policies and procedures developed and train bureau personnel and tribes on preventing and detecting multi-dipping.**

**Response: Non-concur**

The Indian Affairs does not concur with the recommendations from Report No. 2021-ER-015. **There are processes in place to prevent and detect multi-dipping of funds. Multiple consultations with the Tribes took place and resources such as FAQs were made available to the Tribes through the Indian Affairs website.** In the Indian Affairs' [FAQ's ARP Funding Requirements/Restrictions](#) section, Number 5, explicitly addressed commingling ARP Act funds with regular BIA Operations of Indian Program (OIP) funds. It states that "There must be a segregation of funds. There must be separate accounts set up for audit purposes and separate tracking of expenditures. In addition, each appropriation has different purposes and authorizations that must be adhered to." Segregation of funds was mentioned four different times throughout the FAQ to make it perfectly clear that pandemic response funds should not be commingled with other funding.

The Bureau of Indian Affairs directly administers and funds tribally operated infrastructure, law enforcement and justice, social services (including child welfare), tribal governance, and trust land and natural and energy resources management programs for the nation's federally recognized American Indian and Alaska Native tribes. It does this through four program offices (Indian Services, Justice Services, Trust Services, and Field Operations), 12 regional offices, and over 80 field agencies. Tribal schools do not receive funding from the BIA.

The Bureau of Indian Education (BIE) directly appropriated pandemic funds (1) (CARES Act), (2) Department of Education – Education Stabilization Funds (ESF-I and ESF-I), and (3) American Rescue Plan Act funds, permit phased use of these funds in accordance with the Congressional statutory language, OMB, and U.S. Treasury apportionments. The enactment of each of these pandemic appropriations (direct and transfer) allow BIE recipients of these resources to phase their use of funds over varying availability periods. For example, BIE schools were provided CARES Act pandemic allocations with a statutory availability period ending September 30th, 2021, and received ESF-I pandemic allocations with a statutory available period also ending September 30th, 2021. Schools' use of both these funds is not "multi-dipping" but spending two different pandemic allocation within the same availability period permitted by Congress, the U.S. Treasury, and Department of Education.

During FY 2020 and FY 2021, many schools exhausted CARES Act funds and shifted to ESF-I funds to meet their pandemic resourcing needs – this is not "multi-dipping." Moreover, BIE Schools received a second DOE Education Stabilization fund allocation (ESF-II) with an extended availability period ending September 30, 2022, and this was followed by American Rescue Plan Act Funds (available indefinitely). The ongoing length of the pandemic resulted in multiple Congressional appropriations which schools are permitted to use concurrently to meet pandemic response needs. Congressional legislation statutory use of pandemic funds, U.S. Treasury guidance, and Department of Education (DOE) guidance, provide policy guidance on the intent and purpose of BIE appropriated and transfer pandemic funding.

BIE FAQs, funding distribution documents, grant awards, and spend plan guidance cite references to existing public laws and statutory guidance from Congress, U.S. Treasury, and DOE. School spend plans have been specifically developed based on categories of Congressional language specific to the use of pandemic funds. BIE's pandemic funding webinars, initial and updated FAQs, and COVID support teams provide schools with guidance relating to existing pandemic public law, DOE, and U.S. Treasury policies.

In summary, Indian Affairs' (BIA and BIE) use of multiple pandemic funds within availability periods is not multi-dipping - such use follows the sequential pattern of the multiple direct and transfer appropriations received during the extended pandemic and approved by OMB and U.S. Treasury apportionment of pandemic funds.

Additionally, Indian Affairs has its existing policies and internal controls that are designed to detect disallowable expenditures in IA programs. Specifically, 5 IAM 2, Management Accountability - Single Audit, which is intended to provide assurance to the Federal Government that a non-federal entity has adequate internal controls in place, and is generally in compliance with program requirements. As part of the Single Audit, auditors review major program funded by multiple agencies to ensure recipients have adequate internal controls to meet applicable program requirements.

Attachments:

- [5 IAM 2 – Management Accountability Single Audits](#)

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## Appendix 4: Status of Recommendations

| Recommendation | Status     | Action Required  |
|----------------|------------|--|
| 1, 2           | Unresolved | We will refer these recommendations to the Office of Policy, Management and Budget for resolution. |

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# REPORT FRAUD, WASTE, ABUSE, AND MISMANAGEMENT

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