



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

RECOVERY

RECOVERY OVERSIGHT ADVISORY


Indian School Replacement, Improvement and Repair
Programs



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INSPECTOR GENERAL**
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APR 27 2010

To: Larry EchoHawk
Assistant Secretary – Indian Affairs

From: Robert A. Knox 
Assistant Inspector General for Recovery Oversight

Subject: Recovery Oversight Advisory – Indian School Replacement, Improvement and Repair Programs (ROO-ROA-BIA-2008-2010)

To safeguard taxpayer dollars, Congress provided us with funding to oversee and ensure accountability of the \$3 billion appropriated to the Department of the Interior (DOI) in the American Recovery and Reinvestment Act of 2009 (Recovery Act). We are focused on: preventing fraud, waste, and mismanagement; reducing misuse of dollars through early detection; and ensuring transparency in our oversight efforts. As part of our collaboration with the Department, this advisory discusses our findings and concerns regarding the Indian Affairs' (IA) school replacement, improvement, and repairs programs funded by the Recovery Act.

Please provide, within 30 days from receipt of this advisory, a written response detailing the corrective actions that Indian Affairs plans to take to implement the recommendations, including targeted completion dates. We will post this advisory on our website (www.doi.ig.gov) and Recovery.gov. Information contained in this advisory may also be included in our semiannual report to Congress. Please contact me if you have any questions.

Background

Indian Affairs, through the Office of Facilities Management and Construction (the Office), received approximately \$272.8 million in Recovery Act funds for the following three tribal school programs: (1) new school construction (\$134.5 million for five projects); (2) major improvements and repairs (\$99 million for 14 projects); and (3) minor improvements and repairs (\$39.3 million for 77 projects).

Projects are either directly implemented by the Office or through the respective tribe (depending on its level of financial and management risk). Under the direct method, the Office manages all aspects of the project, including contractor selection and construction oversight. A tribe that is permitted to manage its own project is required to sign Recovery Act amendments to its existing Public Law (P.L.) 93-638¹ contract (638 contract) or P.L. 100-297² grant (297 grant), regarding construction, transparency, accountability, and reporting. These amendments outline

¹ P.L. 93-638, the Indian Self-Determination and Education Assistance Act of 1975, allows tribes to contract for programs and services previously performed by the Federal Government such as operation of their school system.

² P.L. 100-297, the Tribally Controlled School Act of 1988, as amended, allows tribes and tribal organizations, such as school boards, the option of receiving a grant rather than a 638 contract for the operation of elementary and secondary schools. Further, the grant allows the schools to receive funding for school planning, design, construction, improvement, and repair.

requirements on project management and procedures for progress payment documentation and submission.

From June through September 2009, we identified internal controls that were established by the Office to manage the three programs. We visited three project sites (one for each of the programs) to verify the scope of work and determine how aware tribal officials were of their Recovery Act responsibilities. We identified problems concerning a premature advance of funds, an incomplete scope of work, an unauthorized release of funds, and a failure to educate on whistleblower protection. We also determined a promising practice for project management.

Premature Advance of Funds

The Mississippi Band of the Choctaw Indians (Mississippi Band) was awarded a 297 grant totaling \$2,549,533 on August 12, 2009, for 17 minor improvement and repair projects at six schools. Per the terms of the grant, the Mississippi Band was issued an advance payment of \$1,283,452³ on August 18, 2009, for six projects anticipated to be completed within the first three months of its effective date. The projects included the installation of energy-efficient systems at three schools and the replacement of metal canopies, boilers, and the high school's gymnasium roof. The Mississippi Band, however, had issued only one contract (\$267,884) for re-roofing of the Central High School gymnasium as of October 14, 2009.

During our visit in August, we learned that although the Mississippi Band was aware of the Recovery Act projects, it had not developed scopes of work for each project, procurement plans, or the project implementation schedules, each of which should be in place to effectively identify which projects could be implemented within the first three months of the grant for computing the advance payment. The Office acted prematurely in advancing funds for five of the six projects.

Incomplete Scope of Work

The Oglala Sioux Tribe of Pine Ridge, SD, was going to receive \$4,143,000 for major improvements and repairs to the Pine Ridge Elementary School classroom and gymnasium buildings. Gymnasium work included renovating mechanical and plumbing systems, adding an electrical transformer and power distribution panel, and replacing damaged floor tiles and windows. All the work was to be accomplished under one 638 contract.

We found that much of the gymnasium's northern external wall was unfinished during our inspection on September 2, 2009. The adjoining roof edge was also damaged. A project official stated that Office officials were aware of these conditions, but declined to include the repairs under the Recovery Act project's scope of work. Office officials agreed to add the repair work to the project after we met and discussed our observations and concerns on September 23, 2009.

³ The total amount advanced was \$1,329,297, which included \$45,845 for a Recovery Act on-the-job training program that the Mississippi Band was going to manage for the Office.

Project costs increased and the technical drawings were delayed because the repairs were not included in the original scope. The project budget has now been revised to \$4,236,868, and both the Office and the Tribe signed the contract in December 2009.

Unauthorized Release of Recovery Act Funds

Two regional Bureau of Indian Education (BIE) offices released 100 percent of the Recovery Act funds for repair projects (three minor and one major), even though the schools were only authorized to receive a small advance payment (followed by monthly progress payments based on completed work) under the 297 grant terms and conditions. When the Office became aware of the overpayments, it notified BIE on October 22, 2009, and requested each school be sent a bill of collection for the \$2,949,508. The regional BIE officials subsequently requested that the schools return the overpayments.

Grant amendment terms and conditions address procedures for both advance and progress payments, specifically to prevent this problem. The Office and BIE had also signed two Memoranda of Understanding for the improvement projects, dated September 16, 2009, which distinguished between the duties of an Office project manager and a BIE Education Line Officer⁴ and also between the following activities: project monitoring, review, and payment request processing.

We spoke with a regional Education Line Officer whose office issued the funds and a person from the regional Office responsible for monitoring the projects. We noticed confusion regarding their respective roles.

Failure to Educate on Whistleblower Protection

During our visit to the Rough Rock School construction site, we noted that the contractor's employee bulletin board for Federal and state labor and occupational protection regulations failed to display a notice about the whistleblower protection provisions in Section 1553 of the Recovery Act.

The whistleblower provisions protect employees for disclosing information such as the inappropriate use of funds, serious wrongdoing or gross mismanagement. These protections were recently extended to the employees of non-Federal employers with the enactment of the Recovery Act. Although it has been incorporated into the Office's 638 contracts and 297 grants, the potential benefit is diminished because neither the tribe nor its subcontractors are required to educate their employees about the protection.

Promising Practice: Internet-Based Project Management Service

During our visit to the Pine Ridge School in South Dakota, we learned that the construction contractor used a web-based service to manage project documents, including technical drawings, inspection approvals, and progress-payment requests, and would also be using it with the Recovery Act project.

⁴ Education Line Officers, who work for the Bureau of Indian Education, are the Grant Officers for each of the P.L. 100-297 grants at Tribal schools within their region. They have authority and responsibility to approve all grant amendments and to release the grant funds to the tribes.

A real-time project management program is especially advantageous when key project personnel are separated by distance. In this case, the contractor and inspector are in Pine Ridge at the project site, the Office project manager is in Albuquerque, NM, and the contract manager is in Omaha, NE. Viewing and working with the same set of project records from different locations saves both costs and time in the duplication and transfer of documents.

One vendor estimated a cost savings from \$5,100 to \$15,200 for construction projects ranging between \$1 million and \$75 million, respectively. The same vendor said that typical subscription fees for the service ranged from \$1,050 for projects \$1 million or less to \$5,950 for projects ranging from \$12 to \$15 million.

Recommendations

We recommend that the Assistant Secretary for Indian Affairs ensure that:

1. The Office determines which Mississippi Band projects will not be completed in accordance with grant terms and obtains a refund of those advance payments. Further, the Office assesses each tribe or school board's project planning efforts before computing advance payments.
2. The Office ensures building repairs and improvements are funded enough to be completed and fully functional.
3. The Office and BIE eliminate confusion about the roles and responsibilities of personnel in charge of the accountability and transparency of Recovery Act funds.
4. The Office directs all tribes and contractors to post information about whistleblower protections on the project site.
5. The Office and tribes consider using a secure web-based project management system for Recovery Act construction projects.

cc: Deputy Secretary, Department of the Interior
Senior Advisor to the Secretary for Economic Recovery and Stimulus
Director, Bureau of Indian Education
Assistant Secretary – Policy, Management, and Budget
Director, Office of Acquisition and Property Management
Acting Director, Office of Financial Management
Department GAO/ OIG Audit Liaison
Audit Liaison, Office of the Secretary
Audit Liaison, Indian Affairs
Director, Office of Facilities Management and Construction (OFMC), IA
Recovery Coordinator, Assistant Secretary, Indian Affairs