



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

AUDIT OF AGREEMENT No. A13AP00043 BETWEEN THE BUREAU OF INDIAN AFFAIRS AND THE CROW TRIBE

This is a revised version of the report prepared for public release.



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

Memorandum

JUN 21 2018

To: Susan Messerly
Acting Regional Director, Bureau of Indian Affairs

From: Chris Stubbs *Christopher Stubbs*
Director, Office of Financial and Contract Audits

Subject: Final Audit Report – Audit of Agreement No. A13AP00043 Between the Bureau of Indian Affairs and the Crow Tribe
Report No. 2017-FIN-041

The Bureau of Indian Affairs (BIA) requested that we audit costs claimed on a contract dated November 7, 2016, associated with Government to Government Agreement No. A13AP00043 that the BIA issued to the Crow Tribe. We could not perform the audit because the contractor and the BIA could not provide the necessary documentation for its contract or claim. Thus, we could not determine whether the contractors' claimed costs of \$14,492,813 were allowable under Federal laws and regulations, allocable to the contract, incurred in accordance with the contract's terms and conditions, and reasonable and supported by the contractor's records. We question, therefore, the entire claim of \$14,492,813.

Objective

The objective of our audit was to determine whether the \$14,492,813 in costs claimed by the Tribe were allowable under applicable Federal laws and regulations, allocable to the contract, incurred in accordance with the contract's terms and conditions, and reasonable and supported by the contractor's records.

Appendix 1 includes the details of our audit scope and methodology.

Background

The Crow Tribe Reservation in Montana entered the Tribal Transportation Program Agreement with the BIA to plan, research, design, engineer, construct, and maintain highway, road, bridge, parkway, or transit facility programs or projects that are located on, or provide access to, the Tribe or its communities. Tribal Transportation Program Agreements are entered by the Director of the BIA for and on behalf of the United States Department of the Interior, the BIA, and by the Crow Tribe, Montana, under the authority of the constitution and by-laws of the Tribe and by resolution of the Tribal Government. The purpose of this agreement is to transfer to the Tribe all the functions and duties that the Secretary of the Interior would have performed with respect to this program.

A Government to Government (G2G) agreement is a programmatic agreement for transportation funding between the Federal Government and a Tribe. The BIA's Division of Transportation created G2G agreements in 2011 as a new program delivery method for Tribal transportation appropriations under United States Code (23 U.S.C., Chapter 2). Under such G2G agreements, Tribes administer their own Tribal transportation program, as authorized by Public Law (Pub. L.) 112-141, *Moving Ahead for Progress in the 21st Century* (MAP 21). A Tribe with a G2G agreement has flexibility to use the funding on projects from its approved transportation improvement program without obtaining project-by-project approval. As a result, there is less administrative work for both the Tribe and BIA staff, which increases the BIA's availability to provide technical assistance to Tribes.

What We Found

We determined that the Tribe did not comply with the agreement. Specifically, we found that the Tribe did not:

1. Submit timely or accurate Federal Financial Reports (SF-425s) to the BIA, or they were not submitted at all
2. Track the expenses allocated to the agreement within its accounting system
3. Provide supporting documentation for claimed costs of \$14,492,813
4. Submit a completed Single Audit for the fiscal year ending September 30, 2016

These deficiencies occurred because the Tribe did not adequately manage the terms within the Agreement due mainly to turnover within the finance department. The contractor that managed the Tribe's finance department from December 2016 to July 2017 was let go in July 2017. The Tribe's finance department was only re-established after the contractor and all the finance personnel working for the contractor were let go. Tribal officials told us that the reason they could not support expenses claimed on the Agreement was because the Tribe had to hire a new finance department to help manage its Federal agreements and the accounting records. The old contractor did not know how to manage Federal agreements and the accounting records associated with the agreements. The Tribe did not have adequate internal controls and a sufficient accounting system to track claimed costs. As a result, the Tribe was unable to support expenses claimed on the Agreement. We question the entire contract in the amount of \$14,492,813.

1. The Tribe's SF-425 Reports were not timely or accurate.

Reporting requirements state that SF-425's shall be submitted no later than 90 days after the end of each reporting period. The reporting period for G2G awards is semiannual with March and September filing periods. We identified for the 3-year period we reviewed that every SF-425 was either submitted late, was inaccurate, or was not submitted. For example, we found:

- The Tribe filed the original SF-425 on July 10, 2014, for the semi-annual period ending March 31, 2013, over a year late.

- The Tribe did not file any other SF-425s after the September 30, 2015 report. The BIA sent out delinquency notices to the Tribe for the reports required, but has not received the SF-425s for the periods ending on March 31, 2016; September 30, 2016; March 31, 2017; and September 30, 2017.
- The SF-425 report ending September 30, 2015, shows that the total Federal funds authorized on this agreement is \$16,318,131. The Tribe could not identify why this SF-425 does not correlate with the agreement amount of \$14,492,813, a difference of \$1,825,318.

These issues demonstrate that the Tribe does not have the necessary internal controls to properly report funding and to reconcile its records with the SF-425s.

2. The Tribe's claimed expenses were not properly tracked in the accounting system.

We found that expenses claimed on SF-425s differed from expenses listed in the Tribe's general ledger by \$3,157,979. The total amount of the expenditures on the SF-425 ending in September 30, 2015, was \$13,971,950. The Tribe submitted a general ledger to us with claimed costs of \$10,813,971. This makes up the difference of \$3,157,979.

The Tribe stated that the total amount of the agreement spent was \$14,492,813. The Tribe has not provided an SF-425 to the BIA showing all the claimed expenditures in the amount of \$14,492,813. We requested the detailed general ledger that agrees to the \$14,492,813 in claimed costs. The Tribe submitted a general ledger to us with claimed costs of \$10,813,971. The Tribe could not provide records to account for the \$3,678,842 difference between the agreement and the general ledger. These issues demonstrated that the Tribe did not have the necessary internal controls to properly report expenses and reconcile its records with the SF-425s. We found that the Tribe claimed \$14,492,813 in costs that were not allowable or allocable, and that these questioned costs resulted from deficient internal controls. We conclude that the Tribe's accounting system is inadequate to handle Federal funds.

3. The Tribe did not submit supporting documentations for payments made.

The Tribe could not provide any supporting documentation for \$14,492,813 in payments to subcontractors, vendors, and internal transactions. Unsupported payments are payments for goods and services without documentation that describes how the money was spent. We requested the necessary documentation numerous times during two site visits, and through emails to the finance and legal departments and the chairman of the Tribe. They all stated that the records have not been located. Therefore, we question the total amount of the Agreement's \$14,492,813.

4. The Tribe had not completed the Single Audit for FY 2016.

The Tribe had not completed and submitted the Single Audit for FY 2016 that ended September 30, 2016. The Single Audit was due at the Federal Clearinghouse 9 months after the end of the fiscal year, specifically June 30, 2017. As of the date of this report, the Tribe does not know when the Single Audit will be completed. The Tribe explained that the auditors working on the Single Audit are having a difficult time finding the supporting documentation for the Federal agreements. The Tribe stated that it could not find any supporting documentation for the transportation agreement.

Because the Tribe has failed to submit its FY 2016 single audit, the BIA sent a letter to the Tribe on October 26, 2017, stating that the Tribe is on Level 1 Sanctions. Level 1 Sanctions involves limiting the payment of all grant funds to monthly advance installments until all delinquent audits have been submitted.

Recommendations

We recommend that the Bureau of Indian Affairs:

1. Ensures the Tribe completes and submits timely and accurate SF-425s.

Bureau Response: The BIA concurred with the recommendation and stated that the Crow Tribe is no longer operating its Tribal Transportation Program under a program agreement.

OIG Reply: We consider this recommendation resolved.

2. Ensures the Tribe implements an accounting system that identifies all program income and expenses and can report all program income and expenses on an SF-425.

Bureau Response: The BIA concurred with the recommendation and stated that the Crow Tribe hired new Certified Public Accountants (CPAs) to work on the accounting system.

OIG Reply: In its response to our draft report, the BIA did not include target dates for completion or more details on the actions planned for this recommendation. As such, we consider this recommendation resolved but unimplemented.

3. Resolves the \$14,492,813 in questioned costs claimed by the Tribe.

Bureau Response: The BIA concurred with the recommendation and stated that it was working with the Tribe on resolving the questioned costs.

OIG Reply: The BIA did not include target dates for completion in its response to our draft report. As such, we consider this recommendation resolved but unimplemented.

4. Ensures the Tribe maintains supporting documentation for claimed costs.

Bureau Response: The BIA concurred with the recommendation.

OIG Reply: The BIA did not state what it plans to do with the past unsupported claimed costs and did not include target dates for completion in its response to our draft report. As such, we consider this recommendation unresolved.

5. Ensures the Tribe properly completes and submits its Single Audit for FY2016.

Bureau Response: The BIA concurred with the recommendation.

OIG Reply: We consider this recommendation resolved. The Tribe submitted the Single Audit for FY2016.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

Appendix 2 includes the BIA's response to our draft report.

Appendix I: Scope and Methodology

Scope

We focused on the Crow Tribe's claimed costs incurred under Agreement No. A13AP00043 with the Bureau of Indian Affairs (BIA). Though we intended to do so, we could not audit Agreement No. A13AP00043 because the supporting documentation records could not be obtained from the Tribe. The Tribe claimed costs totaled \$14,492,813 for October 1, 2012, through March 31, 2017, the time period we selected for review. Our audit included the Tribe's compliance with applicable Federal regulations, BIA policies and procedures, and agreement/contract terms and conditions. We conducted our fieldwork from April 2017 through October 2017.

Methodology

We conducted this 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. To accomplish our objectives, we:

- Interviewed the BIA awarding official's technical representative
- Interviewed the Tribe's employees and other appropriate individuals
- Reviewed required reports and cash management practices
- Reviewed the Code of Federal Regulations pertaining to claimed costs
- Reviewed Crow Tribe's three most recent Office of Management and Budget single audit reports
- Reviewed the Tribe's response to an internal control questionnaire sent by our office
- Reviewed the agreements for compliance requirements
- Reviewed the support related to the Tribe's compliance
- Reviewed the Tribe's policies and procedures for its management and accounting system
- Conducted a site visit to the Tribe's location in Crow Agency, MT

We also evaluated the internal controls over transactions recorded in the Tribe's accounting and payroll systems and tested their operations and reliability. We did not project the results of the tests to the total population of recorded transactions.

To test the accuracy of the computer-generated general ledger provided by the Tribe, we performed several analytical tests on the data. We relied on computer-generated data to verify expenditures made by the Tribe.

Appendix 2: Response to Draft Report

The Bureau of Indian Affairs' response to our draft report follows on page 9.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Rocky Mountain Regional Office

2021 4th Avenue North

Billings, Montana 59101

IN REPLY REFER TO:
Division of Transportation
Code 370

APR - 6 2018

MEMORANDUM

TO: Office of Inspector General
Attention: Chris Stubbs, Director, Office of Financial and Contract Audits

FROM: Susan Messerly 
Acting Director, Rocky Mountain Region

SUBJECT: Final Report – Audit of Agreement No. A13AP00043 between the Bureau of Indian Affairs and the Crow Tribe Report No. 2017-FIN-041 February 2018

The Bureau of Indian Affairs (BIA) is providing the information on actions taken and/or planned, to include target dates and the titles of officials responsible for implementation.

The Crow Tribe is now operating their Tribal Transportation Program (TTP) under a P.L. 93-638 agreement as well as their Road Maintenance Program. The Tribe has been designated as “High Risk” and must now receive funding on a reimbursable basis only. The Tribe was under Self Determination for the entire FY-16, as their High Risk designation precluded them from being in a Government to Government Agreement.

Recommendations from the Audit of Agreement:

1. Ensures that Tribe completes and submits timely and accurate SF-425s
2. Ensures the Tribe implements an accounting system that identifies all program income and expenses, and can report all program income and expenses on an SF-425.
3. Resolve the \$14,492,813 in questioned costs claimed by the tribe
4. Ensures the Tribe properly maintains supporting documentation for claimed costs.
5. Ensures the Tribe properly completes and submits its Single Audit for FY-16.

Plan of Action that the BIA Division of Transportation has taken or will take:

1. **Ensures the Tribe completes timely and accurate SF-425 Financial Reports.**
 - The Crow Tribe is no longer operating their Tribal Transportation Program (TTP) under a Program Agreement. The Crow Tribe has been designated “High Risk” and is under a P.L. 93-638 Self Determination contract on a reimbursable basis. The Tribe must submit SF-425 reports and a “reimbursement package” for approval from the Awarding Official (AO) and Awarding Officials Technical Representative (AOTR).

- If there are discrepancies in the SF-425 or the supporting documentation, upon the BIA's review the Tribe will be notified and required to correct the SF-425 within 15 days.
2. **Ensures the Tribe implements an accounting system that identifies all program income and expenses and can report all program income and expenses on a SF-425.**
 - The correspondence indicated that the Tribe had been previously operating without a Certified Public Accountant, and that the newly hired accountants are Certified Public Accountants.
 - On February 27, 2018, the Crow Tribe notified the BIA that [REDACTED] of Joseph Eve has been designated as the Crow Tribe CPA, and that he will serve full time in the Finance Office. This correspondence also said that [REDACTED] would be assisted by [REDACTED] CPA.
 3. **Resolve the \$14,492,813 in questioned costs claimed by the Tribe.**
 - There has been communication in which the Crow Tribe has advised there is an ongoing effort to complete the Single Audit for FY-16. The lack of internal controls within the Tribes Finance Department has apparently resulted in the deficiency of not being able to retrieve supporting documentation for income and expenses.
 - Questioned costs require supporting documentation from the Tribe. In the event there is no supporting documentation for the questioned costs will be disallowed and the Tribe will receive a Bill for Collection for the associated expense.
 4. **Ensures that the Tribe maintains supporting documentation for claimed costs.**
 - Currently, when the Tribe submits a financial report for reimbursement, the reimbursement package must contain supporting documentation for the reimbursable costs.
 - Costs without supporting documentation will be disallowed.
 5. **Ensures the Tribe properly completes and submits its single audit for FY-16.**
 - Now that the Crow Tribe has recently hired CPA, [REDACTED] assisted by [REDACTED] CPA The Tribe will be required to complete and submit a copy of their Single Audit Report for FY-16 to the BIA within 60-90 days.
 - The BIA Self Determination Program officials have indicated that the requirement for the Tribe to complete annual Single Audits will be adhered to.

The Regional Transportation Office will be meeting with the Crow Tribe within the next 30 days to include the newly hired CPA, [REDACTED]. BIA will follow up with OIG to provide target dates once set.

Some of the Regional Transportation staff will be attending the following training courses in the next three (3) weeks, Cost Principles for Federal Grants, 2 CFR 200 (Subpart E), April 18-19, 2018. Audit of Federal Grants and Cooperative Agreements, 2 CFR 200 (Subpart F) April 23-24, 2018. The office is searching for training on reviewing Standard Financial 425 Reports, to be completed within the next three (3) to six (6) months.

The responsible officials for ensuring these actions are completed and on the G2G Agreement will be Mr. Richard Taptto, Regional Supervisory Civil Engineer, and Mr. Mike Toland, Highway Engineer.

Should you have any questions, please contact, Ms. Susan Messerly, Acting Regional Director, at (406) 247-7943.

Appendix 3: Status of Recommendations

In response to our draft report, the Department concurred with all 5 recommendations and provided the names of officials responsible for implementation. The response did not include dates for completion or a plan for implementation (see Appendix 3). Based on this response, we consider two recommendations resolved, two recommendations resolved but unimplemented, and one recommendation unresolved. We will forward them to the Office of Policy, Management and Budget for implementation and resolution.

Recommendations	Status	Action Required
1 and 5	Resolved	None
2 and 3	Resolved but unimplemented	We will refer these recommendations to the Assistant Secretary for Policy, Management and Budget to track implementation.
4	Unresolved	We will refer this recommendation to the Assistant Secretary for Policy, Management and Budget for resolution.

Report Fraud, Waste, and Mismanagement



Fraud, waste, and mismanagement in Government concern everyone: Office of Inspector General staff, departmental employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and mismanagement related to departmental or Insular Area programs and operations. You can report allegations to us in several ways.



By Internet: www.doioig.gov

By Phone: 24-Hour Toll Free: 800-424-5081
 Washington Metro Area: 202-208-5300

By Fax: 703-487-5402

By Mail: U.S. Department of the Interior
 Office of Inspector General
 Mail Stop 4428 MIB
 1849 C Street, NW.
 Washington, DC 20240