

June 17, 2008

Kevin Skenandore, Acting Director  
Bureau of Indian Education  
Department of the Interior  
1849 C Street N.W.  
MIB MS 3609  
Washington, DC 20240

Dear Mr. Skenandore:

We appreciate the work that you and the Bureau of Indian Education (BIE) have accomplished during the past year to correct management and accountability issues in the BIE's administration of U.S. Department of Education (Department) funds. We also appreciate the collaboration and cooperation between our agencies that has marked your tenure.

In response to serious concerns raised in 2005 by the Department concerning BIE's administration of Elementary and Secondary Education Act (ESEA) and Individuals with Disabilities Education Act (IDEA) programs, the Department of the Interior (Interior) developed the Program Improvement and Accountability Plan (PIAP). The PIAP is Interior's plan for meeting the statutory requirements set forth in the No Child Left Behind Act (NCLB) and IDEA for properly managing federal funds, improving the achievement levels of Indian students, and meeting the responsibilities for accountability that NCLB and IDEA have established. The PIAP also contains Interior's strategies for the overall improvement of program services and management related to all other funds it has available to support education programs for Indian children.

In June 2005, prior to your agency's submission of the final version of its PIAP, we put Interior on notice that if the Department determines that BIE is not successfully executing its plan, we would consider taking further action that could include the establishment of special conditions on BIE's receipt of funds. BIE began implementing the PIAP in school year 2005-2006 and modified it in school year 2006-2007. BIE intended to complete the corrective actions identified in the PIAP by July 1, 2007.

Because of lack of satisfactory progress implementing the PIAP<sup>1</sup>, the Department placed special conditions on Interior's receipt of all fiscal year (FY) 2007 NCLB and IDEA

---

<sup>1</sup> Additionally, by June 2007, BIE was unable to document for Title I, Part A of the ESEA that (1) all BIE-funded schools were implementing BIE's guidance for submission of data on adequate yearly progress, student assessment and other student information, and that BIE provided appropriate training to its education line officers (ELOs) and school staff, (2) all BIE-funded schools had correctly reported teacher-qualification data, and (3) all students identified as English language learners are being appropriately assessed annually on a measure of English language proficiency, and that training has been provided to ELOs and school staff. Similarly, with regard to the IDEA, BIE was unable to: (1) ensure timely

funds the Department provided to Interior. As part of the FY 2007 special conditions, the Department imposed requirements regarding further PIAP reporting and submission of supporting documentation that would enable Interior to demonstrate full compliance with the requirements of NCLB and IDEA as of the summer of 2008.

The BIE has been submitting quarterly reports to the Department on its progress in implementing the PIAP, and the BIE and the Department have been meeting quarterly to discuss the BIE's progress in implementing the PIAP's corrective actions. At the November 9, 2007 quarterly PIAP meeting, BIE expressed its desire to revise the PIAP in order to ensure that all of the tasks, subtasks and milestones were more closely aligned with NCLB and IDEA statutory and regulatory requirements. At the February 14, 2008 quarterly PIAP meeting, BIE and the Department agreed that BIE would revise the 2007-2008 PIAP as follows:

Section A, as revised, would address the findings in the Department's 2007 Title I, Part A Monitoring Report. Thus, BIE would need to submit a corrective action plan to address all monitoring report findings of noncompliance, and report quarterly on the revised activities.

Section B, as revised, would address only those key milestones required by the Department's Office of Safe and Drug Free Schools (OSDFS).<sup>2</sup> BIE would report quarterly on these key milestones.

Section C, which concerns IDEA, would not be revised. The BIE would continue to report quarterly on all activities in Section C.

The BIE and the Department agreed that BIE would provide a revised PIAP with these changes after BIE's receipt of the Title I, Part A Monitoring Report, which occurred on or about May 15, 2008, and report quarterly on Sections A-C of the revised PIAP in accordance with the reporting requirements described in the special conditions dated June 27, 2007. In addition, the Department encouraged BIE to continue to carry out the tasks and subtasks identified in Sections D, E and F to improve its management capability, fiscal accountability and communication. However, because the provisions of NCLB and IDEA do not require BIE or any State to carry out these tasks and subtasks, the Department indicated that it did not consider reporting to it on Parts D, E, and F of the PIAP to be a part of the special conditions it established June 27, 2007.

In revising the PIAP, so that BIE and BIE-funded schools may work from a single plan of program improvement and accountability, the Department encouraged BIE to consider supplementing Parts A, B and C as may be appropriate with other tasks, subtasks,

---

correction of findings of noncompliance, particularly in tribally controlled schools, (2) ensure complaints are investigated and decisions issued within 60 days of BIE's receipt of them, unless an extension is granted due to exceptional circumstances, or (3) document completion of corrective actions resulting from complaints filed during 2004.

<sup>2</sup> The key milestones required by OSDFS are described in Susan Benbow's email to Stan Holder dated February 21, 2008.

milestones and performance metrics that – based on program monitoring or other information – it determines are needed to help ensure that BIE is meeting program requirements and ensuring Department funds are properly used. However, assuming that NCLB and IDEA do not require these additional activities, BIE was told that any supplements of this kind are not part of BIE’s reporting responsibilities under the special conditions established on June 27, 2007.

At this time, BIE has failed to complete all of the corrective actions contained in the revised 2007-2008 PIAP for Sections B and C. BIE’s quarterly report on Sections B and C of the revised PIAP for the quarter ending March 31, 2008 indicated a 31 percent completion rate.<sup>3</sup> Additionally, in 2007 a team from the Department’s Student Achievement and School Accountability (SASA) Program office monitored the BIE’s administration of the Title I, Part A program under NCLB. Several areas of noncompliance were cited in this report. As stated above, revised Section A of the PIAP will contain the corrective actions necessary to address all monitoring report findings of noncompliance. Examples of noncompliance cited in the report include:

- The BIE’s procedures for monitoring its Education Line Offices and schools for compliance with Title I of the ESEA were insufficient to ensure that all areas of noncompliance were identified and corrected in a timely manner;
- The procedures used by the BIE to calculate adequate yearly progress (AYP) do not ensure valid and reliable accountability determinations within States or for BIE results across States;
- The BIE has failed to publish an annual report card in a timely manner;
- The BIE has not fully implemented a Statewide System of Support that specifically addresses and provides ongoing and sustained support to BIE Title I schools in corrective action and/or restructuring.

Therefore, BIE has not demonstrated full compliance with the statutory and regulatory requirements of NCLB and IDEA. Consequently, the Department is imposing the enclosed special conditions on Interior’s receipt of all funds the Department is providing to Interior from FY 2008 funds available for obligation as of July 1, 2008 and on all existing funds that are still available for obligation.

The Department continues its commitment to working closely with you to improve the delivery of federally supported education services, and looks forward to seeing your agency’s progress as it addresses its many challenges and meets the special conditions.

Sincerely,

/s/ Philip A. Maestri

Philip A. Maestri, Director  
Risk Management Service

---

<sup>3</sup> BIE was given an extension until June 27, 2008 to submit its revised Section A of the PIAP.

Department of the Interior – Special Conditions  
Federal Fiscal Year (FY) 2008

1. **Final Report on 2007-2008 PIAP, as revised:** The Department of the Interior (Interior) must submit to the Department of Education (Department) by July 31, 2008, its final revised PIAP report for the 2007-2008 school year. The report will contain (a) the status of each task and subtask as reflected in Philip A. Maestri's letter dated June 17, 2008 addressed to Kevin Skenandore, scheduled to be completed, (b) Interior's supporting documentation regarding completion of these subtasks, including explanation of delays for all subtasks and expected completion dates for all unimplemented actions, and (c) other data or documentation as the Department may request in order to verify the completion of tasks and subtasks.
2. **Submission of a Revised PIAP:** Based on the BIE's written response to findings in the Title I, Part A, monitoring report due on June 27, 2008, Interior will submit to the Department by July 15, 2008, a revised PIAP with Parts A-C as discussed in Philip A. Maestri's letter to Kevin Skenandore, Director of BIE, dated June 17, 2008. Interior will specify as part of the revised PIAP the individual(s) who will have ownership of each task and subtask, the projected schedule for completion of each of these tasks and subtasks, and the key milestones or indicators it will use to indicate whether or not the task or subtask is on schedule.
3. **Implementation of Revised PIAP and 2008-2009 Reporting Requirements:** Interior will continue to implement the revised PIAP for the summer term of 2008 and school year 2008-2009.

To ensure progress, Interior will provide the Department with quarterly progress reports, which will be due to the Department 30 days after the end of each quarter. Each quarterly report will contain:

- (a) a description of activities and progress for each subtask during the reporting period;
- (b) the status of each subtask scheduled to be completed during the reporting period along with specific completion dates for all tasks, subtasks, and key milestones;
- (c) supporting documentation regarding completion of the subtasks, including explanation of delays for all subtasks and expected completion dates for all unimplemented actions;
- (d) updates to ensure that previously completed tasks and subtasks remain completed; and
- (e) other data or documentation as the Department may request in order to verify the completion of tasks and subtasks.

The revised PIAP and all required reports submitted to the Department under these special conditions should be sent to:

Susan Benbow  
Risk Management Service  
Office of the Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW, Room 7E208  
Washington, DC 20202