



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

RECOVERY

## **RECOVERY OVERSIGHT ADVISORY**

Issues with Bureau of Indian Affairs Recovery Act  
Construction Projections



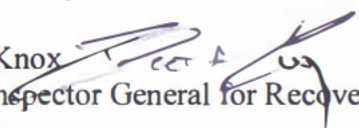
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Memorandum

AUG 20 2012

To: Rhea S. Suh  
Assistant Secretary for Policy, Management and Budget

Through: Mary Pletcher  
Deputy Director, National Business Center

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

Subject: Recovery Oversight Advisory Issues with Bureau of Indian Affairs Recovery Act Construction Projects  
Report No. RO-B-BIA-045-2011

This advisory regarding construction projects managed by the Bureau of Indian Affairs (BIA) Office of Facilities Management and Construction (OFMC) is part of our ongoing effort to oversee and ensure the accountability of funding appropriated to the U.S. Department of the Interior (DOI) in the American Recovery and Reinvestment Act of 2009 (Recovery Act). During our review, we found issues relating to project planning, design, quality assurance, and funding processes that impacted effective and efficient use of Recovery Act funds.

### **Background**

OFMC received approximately \$278 million in Recovery Act funding for school replacement and major facility improvement and repair (FI&R) projects at existing schools. These projects represent 56 percent of the Recovery Act funds appropriated to BIA.<sup>1</sup>

To prepare this report, we conducted 41 informational meetings with OFMC staff, contract staff working on behalf of OFMC (e.g., construction inspectors and construction administrators), architectural-engineering (A-E) firm staff, school representatives, general contracting staff, and contracting officers. In addition, we spoke with OFMC project managers for 6 school replacement and 10 FI&R projects. We also conducted three site visits: two to FI&R projects at Flandreau Indian School (Flandreau, SD) and Cibecue Community Schools (Cibecue, AZ), and one to a school replacement project, Kaibeto Boarding School (Kaibito, AZ). Further, we evaluated funding in relation to contract obligations for five Recovery Act projects as of September 30, 2011.<sup>2</sup>

<sup>1</sup> Indian Affairs, Office of the Secretary, Assistant Secretary-Indian Affairs, "American Recovery and Reinvestment Act (ARRA) Implementation Plan," June 15, 2009.

<sup>2</sup> Flandreau Indian School, FI&R; Cibecue Community School, FI&R; Marty Indian School, FI&R; Sherman Indian High School, FI&R; and Kaibeto Boarding School, school replacement.

**OFMC Response:** In its response to our draft report, OFMC cited different BIA and OFMC project funding totals. OFMC cited the BIA “Program Plan,” dated April 21, 2009.

**OIG Rebuttal:** The totals we reported are found in the BIA “Implementation Plan,” dated June 15, 2009.

## Findings

### *Planning, Communication, and Staffing Challenges Impacted Several OFMC Recovery Act Construction Projects*

When we met with OFMC management in July 2009 during an earlier critical point evaluation, they reported that they did not receive annual appropriations for project planning for 2 years prior to the Recovery Act.<sup>3</sup> This suggests that planning challenges predated the Recovery Act and that the accelerated contract obligation and project mobilization deadlines associated with the Recovery Act goals worsened an existing issue. During this evaluation, we found that OFMC staff turnover and communication challenges contributed to two school replacement projects and the FI&R projects that we visited not meeting the shovel-ready intent set forth for Recovery Act projects. The evidence suggests that these challenges increased project costs and decreased customer satisfaction despite involvement by several BIA offices:

- OFMC’s Division of Planning and Programming (Planning Division), which conducted high-level operational planning and developed project budgets;
- OFMC’s Division of Budget (Budget Division), which administered the financial decisions made by Planning;
- OFMC’s Division of Design and Construction (project managers), which directly oversaw the design process and some details of project planning ;
- BIA’s Division of Safety and Risk Management (DSRM), which conducted safety reviews of OFMC’s design submittals as well as safety inspections; and
- several acquisition offices, which procured design and construction-related services on behalf of OFMC.

Project team members told us that communication between OFMC and project stakeholders contributed to project challenges. Two facility managers, for example, said that they stopped participating in project meetings because their concerns were consistently overruled or not addressed. One was asked by OFMC: “Do you want the project or not?” after he spoke up. The perception by onsite school facility experts that there is a lack of close communication and coordination with OFMC increases our concerns about effective project planning, especially with regard to complex construction projects.

We concluded that the Flandreau project was particularly susceptible to delays due to communication challenges and staff changes because the project requirements were very complex. Since the FI&R project at Flandreau began, there have been five different OFMC

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<sup>3</sup> See ROO-ROA-BIA-2008-2010, “Indian School Replacement and Repair Programs,” dated April 27, 2010 ([http://www.doiioig.gov/images/stories/BIA-2008\\_F4-27-10.pdf](http://www.doiioig.gov/images/stories/BIA-2008_F4-27-10.pdf)).

project managers and assistant project managers. According to one project team member, the project was delayed after every turnover while new staff familiarized themselves with project specifics. Based in part on these delays, the budget for Flandreau exceeds the original \$15 million budget by approximately \$5 million. Despite the millions of dollars spent at Flandreau, one school representative said at the time of our visit that the campus was worse than before the project started.

**OFMC Response:** OFMC refuted this finding in its response to our draft report. OFMC wrote that “scope and funding changes were discussed with [BIA] staff during project assessments held every two weeks on [Recovery Act] projects. Tribes and school boards were notified and asked to meet with [BIA] staff at OFMC to discuss scope changes. All change orders were handled within the requirements of the [Federal Acquisitions Regulations] 638 contract agreement and 297 grant requirements.” In addition, OFMC stated that inclement weather, unforeseen conditions, managing scope of the FI&R projects, aggressive scheduling due to delays in contract awards, issuance of notices to proceed, and security clearance requirements were contributing factors to project outcomes.

**OIG Rebuttal:** While we agree that these factors pose significant challenges, they do not negate the concerns we found during our site visits and the dozens of interviews we conducted of field and central office personnel.

#### *Accelerated Project Designs Led to Increased Costs and Safety Concerns*

We found that greatly accelerated obligation and mobilization deadlines mandated by DOI (March and June 2010, respectively) played a significant role in the number of change orders made to contracts and resulted in higher costs. Project team members told us that based on their non-Recovery Act project experience, the planning and design phases of these large, complex projects—especially the FI&R projects—were in some cases greatly accelerated. In an effort to streamline acquisition lead times, design documents were issued to eligible contractors at the 75 percent complete phase.

On one of the large, complicated projects we reviewed, eligible contractors had fewer than 30 days to prepare their proposals. After award, the selected contractor proposed change orders that required reviews and evaluations in consultation with other contractors, the project inspector and other design team members. In addition to the increased costs to bring the construction documents (CDs) to 100 percent completion, the operational pressures put on OFMC, DSRM, and acquisition offices to consider, process, and approve multiple change orders after task order award diminished the capacity of groups already facing significant organizational challenges.

CDs are a critical component of successful project completion. We understand that no CD set is perfect; however, we learned of projects in which CDs were substantially incomplete and inaccurate. Some CDs, for instance, did not include infrastructure requirements (e.g., utility rights-of-way) and hazardous materials assessments (e.g., asbestos abatement) because these planning elements had not been specified in the contracts with the A-E firms hired to review and verify planning documents. In addition, accelerated planning and design phases resulted in CDs

that did not accurately reflect actual site conditions. None of the projects that we visited, for example, were released to eligible contractors with full and complete CDs.<sup>4</sup> Construction contractors, therefore, based proposals on preliminary documents, resulting in project delays and significant cost increases after award.

In some cases, accelerated project designs led to incomplete construction drawings and contributed to safety concerns. We found the following at Flandreau:

- Flandreau is located in South Dakota, where the winter temperatures average between 10 and 25 degrees Fahrenheit but can be as low as minus 50 degrees Fahrenheit. Insufficient freeze protection installed in the school's new water tower could leave Flandreau without potable water and fire protection in the event of an extended freeze.
- In February 2011, a lengthy period of cold weather highlighted a lack of adequate and consistent ambient temperatures in most classrooms, some of the student dormitory rooms, and in all of the dormitory counseling centers. Without remedial action, these conditions are likely to reoccur during future freezes. OFMC estimates that necessary repairs will not occur until summer of 2012.
- The installation of a new and improperly sized water heater in the cafeteria kitchen may have caused dishwater temperatures to be inadequate to ensure proper sterilization of dishware, cookware, and utensils.

Unforeseen site conditions at antiquated school facilities are a major issue at more than one Recovery Act project site. At Sherman Indian School in Riverside, California, for example, significant environmental and structural issues—*asbestos, mold and rusty joists*—were discovered after construction began. The conditions were significant enough that remedial actions exceeded the project budget, and the school had to eliminate the renovation of three of the six dorms from the project scope. One team member told us that the remaining dorms are a safety hazard due to unabated rust, asbestos, and mold conditions. He estimated that OFMC will need an additional \$6 million to complete the project and renovate the dorms. Because the buildings are at least 40 years old, these types of site conditions are not unusual.

Three project team members attributed several issues at Sherman to poor design based primarily on accelerated deadlines:

- The A-E firm did not have sufficient review time onsite during the validation and design development stages.
- Although the project scope included more than 13 buildings, eligible contractors were onsite for only 1 day prior to submitting their proposals—not enough time to thoroughly evaluate site conditions.
- Eligible contractors placed bids based on 90 percent complete CDs, but one team member estimated that, based on his construction industry experience, the documents were not more than 75 percent complete.

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<sup>4</sup> The Kaibeto project was awarded as a two-part construction project (i.e., a design-build project). As a result, 100 percent CDs would not be expected; however, the planning documents that the successful general contractor based their bid on were incomplete and not completely consistent with the BIA Design Handbook.

- While the original design phase was to last approximately 90 days, it was compressed to 60 days in order to meet an accelerated obligation deadline.

The accelerated planning and design deadlines at the beginning of the projects led not only to potential safety issues but also to increased project budgets.

**OFMC Response:** OFMC wrote in its response: “Changes to scope and funding for the major improvement and repair projects were based on encountering more extensive deterioration than foreseen during the formulation of the project scope during project scope development.” In addition, OFMC wrote that school safety is “never compromised” and that unforeseen site conditions cannot be known before demolition begins.

**OIG Rebuttal:** We understand that site conditions at the older schools could be difficult to predict. We maintain, however, that if more extensive testing had been done during the planning phase of the FI&R projects to determine the precise nature of facility conditions (e.g., asbestos, mold, rusty pipes) rather than contractors relying on visual assessment of the facilities, deficiencies could have been incorporated from the beginning of project planning, when it is more efficient and less expensive to design the appropriate remedy.

#### *OFMC’s Quality Assurance Process Is Inadequate*

We found that OFMC’s quality assurance/quality control (QA/QC) processes and procedures contributed to project delays and increased costs. By internal policy, neither OFMC nor DSRM conducts thorough technical or safety reviews of planning and preliminary design documents. To ensure adherence to BIA guidelines prior to design and construction contract solicitation, OFMC’s internal policy relies primarily on contracted A-E firms to know and implement BIA’s design guidelines and requisite codes as well as to conduct plan reviews. DSRM typically does a first review when the 70 percent design development drawings and specifications are submitted. As a result, contractors developed and submitted their proposals based on incomplete and inaccurate requirements. We learned that at least two contractors claimed that changes required by DSRM during design development were outside the planning and preliminary design documents upon which the contractors based their bids, making them subject to change orders and additional compensation.

**OFMC Response:** OFMC stated that its QA/QC protocol is closely followed and that onsite inspectors, construction administrators, and commissioning agents ensure that projects meet the documented design and performance criteria. Based on OFMC’s policy, A-E contractors are responsible for the professional quality, technical accuracy, completeness, and coordination of all services required under their contracts as well as all BIA health and safety codes and standards.

**OIG Rebuttal:** As noted above, the planning and design phases are not subject to an independent QA/QC process by OFMC or DSRM. While inspectors, commissioning agents, and contract administrators provide real and necessary services after construction begins, we found a significant gap in the QA/QC system during the planning and

preliminary design phases. It is far less expensive to incorporate changes while they are still on paper than when construction crews are mobilized and working onsite.

*Inconsistencies in Recovery Act Project Funding Identified Weaknesses in the Budgeting Process*

Funding of individual school construction and renovation projects starts with identifying the work to be performed, developing a budget, and then initiating a funding document (FD) to transfer<sup>5</sup> appropriated funds (Recovery Act and non-Recovery Act) to individual project budget codes. The codes are classified according to the tasks being performed during each project (e.g., inspection, site utilities, construction/academic, and construction/dormitories codes). Funding for a project can also be assigned to a contingency code until it is needed (for example, to fund contract amendments), whereupon the specific amount is transferred to the correct budget code.

Our analysis of the funding for five Recovery Act-funded school replacement and FI&R projects revealed significant problems with project FDs and contracts. We found instances in which Recovery Act and non-Recovery Act contractual obligations were over- or underfunded, funding was transferred in and out of budget codes without explanation, and funding identified for specific contractual obligations was misclassified under the contingency code. One reason for these issues was that OFMC's Budget Division staff had been reduced from three analysts (including the director) to one, and the role of the office<sup>6</sup> had been subordinated from functioning as a control over the use of appropriated project funds to simply processing FDs initiated by the Planning Division. In August 2011, a new Budget Division director was hired to fill a position that had been vacant for over a year; the new director is rebuilding the division with active budgetary control.

The following are summaries of what we found at the five schools, along with the new director's comments:

- **Project Funding.** In two of the five projects we reviewed, the funding for contractual obligations was insufficient or the funding exceeded the obligation. For instance, our analysis of the contracts and FDs for the Kaibeto School replacement project identified a \$299,593 post-Recovery Act contractual obligation, dated February 18, 2011, for a generator. As of September 2011, however, there was no corresponding FD to fund the obligation and thus no means of transferring the funds to the appropriate budget code.

In another example, the Cibecue project showed that Recovery Act funding exceeded contractual obligations by \$126,164 under demolition and \$2,747,297 for the construction/academic budget code. In addition, \$96,000 of non-Recovery Act funding had been provided without any contractual obligations, and the site/utilities budget code was funded with \$531,000 of Recovery Act funds but with no obligation.

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<sup>5</sup> An FD is initiated by the Planning Division and requires various levels of approval.

<sup>6</sup> The Budget Division's responsibilities, which include monitoring budget execution within OFMC and maintaining controls on fund expenditures, mirror those of the DOI Office of Budget.

The Budget Division director told us that funding for a project should be based on the specific contract obligations and that any shortage or overage should be corrected so that the funding accurately matches the contractual obligations.

- **Fund Transfers.** In three of the five projects we reviewed, FDs had been used to transfer money in and out of project budget codes without a specific reason. For example, the Kaibeto project had funded \$685,067 of non-Recovery Act funds in November 2010, but the entire amount was removed in September 2011. For Cibecue, the contract administration budget code was initially funded in January 2010 with \$830,000 of Recovery Act monies. By May 2010, however, the code consisted of three contracts totaling only \$422,183. It took three FDs over a 3-month period to reduce the funding enough to bring it in line with the total amount obligated. In addition, during January 2010, \$1,717,866 of Recovery Act funding for the Flandreau project was transferred into and then back out of the contract administration budget code.

The Budget Division director stated that moving money among budget codes indicated an insufficient understanding of the funding needed for the projects. Further, FDs need to adequately explain the reason for transferring funds.

- **Contingency Budget Code.** For all five projects, Recovery Act and non-Recovery Act funds were misclassified under the contingency budget code even though specific contractual obligations had been established. For example, Cibecue had Recovery Act and non-Recovery Act contingency funding of \$2,413,349 and \$559,324, respectively. Contract amendments with the prime contractor showed that renovation work totaling \$323,225 (Recovery Act) and \$340,466 (non-Recovery Act) was classified as a contingency. Since a contingency is not an allowable project expense, the funding should have been transferred from the contingency budget code to the appropriate code for this contractual work.

The OFMC Deputy Director stated that classifying funding for an actual contractual obligation in the contingency budget code was the office's usual practice, and that the contingency account was corrected after the project was completed. The Budget Division director told us that this practice, even if only temporary, was misleading because it overstated the amount of money available for projects.

**OFMC Response:** OFMC stated that the BIA Budget Office was responsible for the budget execution of \$305.6 million of OFMC's Recovery Act programs. OFMC also stated that OIG should not have interviewed the Budget Officer because she was new to the job.

**OIG Rebuttal:** The Budget Office relied on the onsite officials, including budget officials within OFMC, to ensure that funding transfers were justified and correct for the Recovery funds.

In addition, we disagree with OFMC's statement that we should not have interviewed the new Budget Officer. The Budget Officer had 18 years of Federal budget experience,



including experience at the BIA Wildland Fire program in Boise, ID, and at BIA's headquarters Budget Office in Washington, DC. Therefore, the auditor concluded that the Budget Officer had more than sufficient experience to knowledgeably answer questions regarding the classification of funding and contractual obligations under construction budget codes, including the function of a budget office.

## Recommendations

We recommend that the Director, OFMC:

1. Implement an improved project management system to involve project stakeholders (e.g., OFMC, DSRM, acquisition staff, Bureau of Indian Education staff, general contractor team members, and tribal representatives) and to include regular stakeholder meetings, tracking of project milestones, and key activity checklists, for example.
2. Ensure that all health and safety issues at Flandreau Indian School are addressed in a timely manner, including—
  - insufficient freeze protection installed in the school's new water tower;
  - inadequate and inconsistent ambient temperatures in some classrooms and student dormitories; and
  - installation of a new and improperly sized water heater in the cafeteria kitchen.
3. Incorporate an independent and detailed federal QA/QC process (apart from contractor review) by OFMC and DSRM to ensure that planning and design documents comply with BIA codes, standards, and guidelines prior to design and construction contract solicitation.
4. Implement procedures to keep funding and obligations for project budget codes—including the contingency code—accurate.

**OFMC Response:** OFMC reported that the safety concerns raised in the second recommendation regarding Flandreau Indian School have been resolved, and for that reason disagreed with the recommendation. OFMC also disagreed with the remaining recommendations because, it says, it has appropriate processes in place and implements them.

**OIG Rebuttal:** While we understand that systems may be in place at headquarters and at the central office, we found a lack of complete implementation at the field level, where the majority of project work is actually done.

Please provide a written response to this advisory within 30 days of receipt detailing the corrective actions DOI will implement to meet our recommendations, as well as targeted completion dates and title(s) of the official(s) responsible for implementation. We will post this advisory on our Web site ([www.doioig.gov/recovery/](http://www.doioig.gov/recovery/)) and on Recovery.gov. Information contained in this advisory may also be included in our semiannual reports to Congress. We performed our work in accordance with the applicable Quality Standards for Inspection and

Evaluation adopted by the Council of the Inspectors General on Integrity and Efficiency. Please contact me if you have any questions.

cc: Deputy Secretary, U.S. Department of the Interior  
Director, Office of Executive Secretariat and Regulatory Affairs  
Director, Office of Acquisition and Property Management  
Acting Director, Office of Financial Management  
Acting Assistant Secretary - Indian Affairs  
Director of the Office of Facilities, Environmental and Cultural Resources  
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