



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

THE WIND RIVER TRIBES MISAPPLIED FEDERAL FUNDS FOR THE TRIBAL TRANSPORTATION PROGRAM

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



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

Memorandum

JUL 12 2018

To: Darryl LaCounte
Acting Director, Bureau of Indian Affairs

From: Chris Stubbs *Chris Stubbs*
Director, Financial and Contract Audits

Subject: Final Audit Report – The Wind River Tribes Misapplied Federal Funds for the Tribal Transportation Program
Report No. 2017-CG-042

This memorandum transmits the findings of our audit of the Joint Programs of the Wind River Tribes' Tribal Transportation Program (Agreement No. A13AP00014). We make 11 recommendations to help the Bureau of Indian Affairs (BIA) oversee the Wind River Tribes' transportation program and resolve questioned costs. We also identified \$6.2 million in questioned costs claimed by the Wind River Tribes.

In response to our draft report, the BIA concurred with our findings and recommendations. Base on the response, we consider all 11 of the recommendations resolved but not implemented.

If you have any questions regarding this report, please contact me at 202-208-5745.

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.

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Results in Brief

We audited the Joint Programs of the Northern Arapaho and Eastern Shoshone Tribes of the Wind River Reservation's Tribal Transportation Agreement (Agreement No. A13AP00014) with the Bureau of Indian Affairs (BIA) to determine whether: 1) the costs claimed by the Wind River Tribes were allowable, allocable, and reasonable according to applicable Federal laws and regulations and BIA guidelines; and 2) the BIA oversaw the agreement in accordance with applicable Federal laws and regulations and BIA guidelines.

We determined costs claimed by the Wind River Tribes on their Tribal Transportation Program were not allocable to Agreement No. A13P00014. This occurred because the Tribes' accounting system and procedures are not configured to manage Federal funds.

As a result, the Wind River Tribes could not support expenses claimed on Agreement No. A13AP00014. We question \$6.2 million in costs claimed by the Wind River Tribes—specifically, \$3.6 million in unapproved capital expenditures, \$2.6 million in indirect costs claimed without an approved indirect cost rate, and \$7,422 in unallowable costs. The monetary impact for this report can be found in Appendix 2.

In addition, we determined the BIA did not oversee the agreement in accordance with applicable Federal laws and regulations and BIA guidelines. This occurred because BIA management overseeing the Tribes' transportation program did not provide their staff with sufficient training to fulfill their responsibility to provide oversight and administration to the Tribes since 2013.

We make 11 recommendations to help the BIA oversee the Wind River Tribes' transportation program and resolve questioned costs.

Introduction

Objective

Our audit of the Joint Programs of the Northern Arapaho and Eastern Shoshone Tribes of the Wind River Reservation Tribal Transportation Agreement (Agreement No. A13AP00014) with the Bureau of Indian Affairs (BIA) focused on two objectives:

1. Were the costs claimed by the Wind River Tribes allowable, allocable, and reasonable according to applicable Federal laws and regulations and BIA guidelines?
2. Did the BIA oversee the agreement in accordance with applicable Federal laws and regulations and BIA guidelines?

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

Background

On March 21, 2013, the Wind River Tribes entered into the Tribal Transportation Agreement (No. A13AP00014) with the BIA. The purpose of the agreement was 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 Wind River Indian Reservation.

The Northern Arapaho and Eastern Shoshone tribes both reside on the Wind River Indian Reservation. The Tribes perform governmental services, such as the transportation and roads program, through a Joint Business Council. In 2014, the Northern Arapaho Tribe withdrew from the Joint Business Council. In August 2016, the Joint Programs of the Wind River Tribes released all but three staff from the Tribal Transportation Program when a new transportation agreement with the BIA was not renewed. Tribal Transportation agreements are renewed every 3 years, with funding agreements established annually.

In July 2017, the Northern Arapaho and Eastern Shoshone signed a memorandum of understanding to create a new cooperative system to manage natural resources, transportation, the judiciary, education, and solid waste. In September 2017, the operation of the Wind River Tribes' transportation program resumed operations under a new agreement with the BIA.

Findings

We determined costs claimed by the Wind River Tribes on their Tribal Transportation Agreement were not allocable to Agreement No. A13P00014. This occurred because the Tribes' accounting system and procedures were not configured to manage Federal funds.

As a result, the Wind River Tribes could not support expenses claimed on Agreement No. A13AP00014. We question \$6.2 million in costs claimed by the Wind River Tribes—specifically, \$3.6 million in unapproved capital expenditures, \$2.6 million in indirect costs claimed without an approved indirect cost rate, and \$7,422 in unallowable costs. The monetary impact for this report can be found in Appendix 2.

In addition, we determined the BIA did not oversee the agreement in accordance with applicable Federal laws and regulations and BIA guidelines. This occurred because BIA management overseeing the Wind River Tribal Transportation program have not provided sufficient training to fulfill their responsibility to provide oversight and administration to the Tribes since 2013.

Costs Claimed Were Not Allocable to the Tribal Transportation Agreement

The Wind River Tribes' claimed costs that were not allocable to projects completed under the tribal transportation agreement. We found that the Tribe's accounting system and procedures were not configured to manage Federal funds. We also found that the Tribes submitted financial reports that were not supported by the accounting records, failed to submit their single audit reports within required time frames, and claimed indirect costs without an approved indirect cost rate.

Accounting System Does Not Track Costs by Funding Agreement or Project

The Wind River Tribes commingled all funds received so tracking Tribal Transportation Program funding by agreement or allocating expenses by project was impossible. The Tribes' accounting staff categorized the majority to transportation costs to a single expense account. In addition, the Tribes' accounting system was not set up to track costs by funding agreement or project. For example, the Acting Transportation Director for the Wind River Tribes informed us the Crow Creek Bridge replacement project had been completed, but neither the Tribe's financial status reports nor accounting records included the approximate \$575,000 in costs associated with the project.

Financial Reports Submitted Were Not Supported

The Wind River Tribes submitted financial reports to the BIA that were inaccurate and not supported by accounting records. The Tribal Transportation

Agreement required the Wind River Tribes to submit a semi-annual progress report with a narrative of work accomplished, and a semi-annual financial status report using Standard Form 425 (SF-425), as well as an annual single audit report. The Wind River Tribes did not track Tribal Transportation Program funding by agreement or allocate expenses by project.

We found the Wind River Tribes adjusted financial status reports submitted via SF-425 without subsequently adjusting the accounting system or documenting the reason for the adjustments. The Wind River Tribes relied on a contractor to generate financial status reports from the Tribes' accounting records. The contractor adjusted the financial status reports based on the information provided by the Director and the Assistant Director of the Tribal Transportation Program. After submitting the SF-425s to the BIA, the Wind River Tribes did not document the reason for the adjustments, and did not ensure the accounting records matched the amounts submitted on the financial status reports. As a result, the information the Tribes submitted to the BIA on the SF-425s did not match the information in the Wind River Tribes' accounting system.

For example, in 2014, the Wind River Tribes submitted, and BIA's Department of Transportation approved, a request for \$4,063,533 to construct the Lenore Bridge. A temporary bridge, designed for 2 years of use, was put in place in December 2014. The Wind River Tribes awarded the Reiman Corporation a \$2,568,757 contract to build the Lenore Bridge, and the BIA allocated \$1,007,996 in the 2015 Tribal Transportation Program funds to complete approaches to the bridge. In August 2016, prior to constructing the approaches for the Lenore Bridge, the Wind River Tribes ran out of funding and did not have a new tribal transportation plan to continue transportation projects (see Figure 1).



Figure 1. The Lenore Bridge project has not been completed, as the approaches still have not been constructed. Source: OIG.

In February 2017, the Reiman Corporation contacted the BIA regarding \$863,034 in unpaid invoices related to the construction of the Lenore Bridge. The Tribes did not allocate expenses for Lenore Bridge in their accounting system; the bridge cost over \$4 million but the Tribes' accounting system only reflected \$864,964 in costs. Figure 2, below, illustrates the difference between the amounts reported by the Wind River Tribes' financial status reports submitted to the BIA and the accounting records.

Project	FY 2014 Financial Records			FY 2015 Financial Records		
	SF 425	Accounting System	Net Difference	SF 425	Accounting System	Net Difference
Uncategorized Expense	\$5,085,958	\$6,857,926	\$(1,771,968)	\$2,607,824	\$3,790,692	\$(1,182,868)
17 Mile Road	464,482	405,008	59,474	-	1,965	-1,965
Lenore Bridge	172,435	157,380	15,055	6,397	707,583	-701,187
East Boulder Flats	103,058	63,299	39,759	-	7,828	-7,828
Great Plains Extension	367,552	205,634	161,918	2,309	29,122	-26,813
Left Hand Circle	144,683	110,292	34,391	1,501	6,410	-4,909
Lone Bear Lane	-	-	-	50	50	0
Little Shields Road	20,037	17,703	2,334	0	2,303	-2,303
Crooked Creek Road	442	442	-	3,852	10,699	-6,847
Great Plains Housing	192	192	-	1,903	3,433	-1,530
Charlie Town Housing	-	-	-	5,547	5,547	0
Yellowcalf Road	23,194	23,194	-	14,353	14,353	0
Driskell Lane	1,398	1,398	-	50	16,021	-15,971
Tribal Road Maintenance	554,741	480,419	74,322			0
Transit Program	-			340,987	329,565	11,422
Total	\$6,938,172	\$8,322,887	\$(1,384,715)	\$2,984,773	\$4,925,571	\$(1,940,798)

Figure 2. Differences between the amounts reported in the Wind River Tribes' financial status reports and the accounting records for fiscal years (FYs) 2014 and 2015.

Recommendation

We recommend the BIA:

- I. Require the Wind River Tribes to track Tribal Transportation Program expenses by funding source and allocate expenses by project.

Single Audit Reports Not Submitted Within Required Time Frames

The Wind River Tribes have not complied with requirements to submit their single audit in required time frames. Consistent with 2 C.F.R. 200.338, recipients

who fail to submit a Single Audit report by the due date are subject to three levels of sanctions, with the most severe calling for the BIA to initiate non-emergency re-assumption procedures (see Figure 3). The BIA imposed Level 1 sanctions on the Wind River Tribes on October 27, 2015, for failing to submit their 2014 Single Audit Report. As of December 2017, over two years after imposing a Level 1 sanction, the Wind River Tribes have not submitted their single audit reports for 2015 and 2016. We question whether this sanction level is appropriate given the Wind River Tribes continued noncompliance.

Sanction Level	Actions Imposed
Level 1	Involves limiting the payment of all grant funds, including contract support costs, to monthly advance installments until all delinquent audits have been submitted
Level 2	Involves limiting the payments of all grant funds to monthly advance installments and withholding contract support payments until all required audit reports are submitted
Level 3	Results in the non-emergency re-assumption of the contracted programs

Figure 3. Different levels of sanctions can be imposed for failure to complete and submit a single audit report within required timeframes. Source: 2 C.F.R. 200.338.

Recommendation
<p>We recommend the BIA:</p> <ol style="list-style-type: none"> 2. Place the Wind River Tribes on the appropriate sanctions level for not submitting their single audits within required time frames.

Indirect Cost Rate Not Obtained

The Wind River Tribes did not obtain an approved negotiated indirect cost rate and claimed \$2,602,866 in indirect costs for FYs 2013, 2014, and 2015. The Wind River Tribes were required to obtain approved negotiated indirect cost rates from their cognizant Federal agency, the Interior Business Center (IBC).¹ Tribal officials were not aware that an indirect cost rate needed to be negotiated and approved by the IBC, or that indirect costs must be reported on their SF-425. Instead, they applied an indirect cost rate of 15 percent, which consists of 10 percent of overhead cost for transportation and 5 percent for finance. The Wind River Tribes could not justify using the 15 percent indirect cost rate. The Tribes applied the unapproved indirect cost rate of 15 percent to the Referenced Funding Agreement (RFA) amounts to calculate and claim the indirect costs during FYs 2013, 2014, and 2015.

¹ 2 C.F.R. § 225 Appendix E, D. 1 (c)

RFA Date	Rate Applied	Base Applied	Indirect Costs Claimed
10/10/2012	15%	\$3,290,272	\$493,541
4/3/2013	15%	2,093,057	313,959
7/16/2013	15%	1,742,242	261,336
1/15/2014	15%	1,320,169	198,025
5/9/2014	15%	3,044,154	456,623
3/4/2015	15%	932,307	139,846
3/26/2015	15%	2,135,209	320,281
7/30/2015	15%	2,795,031	419,255
Total			\$2,602,866

Figure 4. The Wind River Tribes applied an unapproved indirect cost rate to the RFA amounts to calculate and claim indirect costs for FYs 2013, 2014, and 2015.

Indirect Costs Were Billed Twice

We determined the Wind River Tribes improperly included various indirect costs when calculating expenditures on the SF-425s. For example, the Tribes included indirect costs such as telephone bills, internet, and utilities, with a total value of \$138,145, on the expenditure reports used to calculate the total expenditure on SF-425 for FYs 2013, 2014, and 2015. The Tribes should have identified and excluded these indirect costs because they already applied an indirect cost rate of 15 percent to claim indirect costs.

Recommendations
<p>We recommend the BIA:</p> <ol style="list-style-type: none"> 3. Require the Wind River Tribes to obtain an approved indirect cost rate. 4. Require the Wind River Tribes establish and implement a process to account for indirect costs. 5. Provide training to the Wind River Tribes to account for indirect costs. 6. Resolve the \$2.6 million in indirect costs claimed without an approved indirect cost rate.

BIA Provided Inadequate Oversight

BIA did not oversee the agreement with the Wind River Tribes in accordance with applicable Federal laws and regulations and BIA guidelines. Specifically, BIA did not provide a timely or thorough review of financial status reports, approve capital purchases, or identify unauthorized purchases.

Financial Status Reports Not Timely Reviewed

BIA’s Rocky Mountain Region Department of Transportation did not complete timely reviews of financial status reports submitted by the Wind River Tribes. In addition, when the BIA reviewed reports, it failed to identify the errors. BIA officials stated that they did not review reports submitted by the Wind River Tribes in 2013 and 2014 until the fall of 2016. BIA officials also stated they had difficulty reviewing the financial reports submitted by the Tribes because they were not familiar with how to review the reports and had not received training.

Recommendation
<p>We recommend the BIA:</p> <p>7. Develop and implement a training program for BIA personnel who review semiannual reports submitted via SF-425.</p>

Capital Equipment Purchased Without BIA Approval

The Wind River Tribes did not obtain BIA’s required approval before purchasing \$3.6 million in capital equipment with funds from Agreement No. A13AP00014 (see Figure 5). The Tribal Transportation Agreement allowed the Wind River Tribes to purchase construction equipment, provided the equipment did not exceed 25 percent of the Tribes’ transportation funds, or a maximum \$500,000. The Wind River Tribes believed the purchases did not require BIA’s approval because they procured the equipment under rent-to-own agreements. BIA officials were unaware of the capital expenditures because the Wind River Tribes did not report the purchases and BIA officials did not review the financial status reports submitted by the Tribes.

Asset Purchased	Date Purchased	Amount
2011 Chevy Tahoe	8/7/2013	\$47,966
Kenworth T-800 Fuel/Lube Truck	9/9/2013	202,980
2015 Chevy Silverado	8/13/2014	45,600
2013 Lease/Rental Construction Equipment	Various	2,108,778
2013 Capital Outlay Equipment	Various	216,135
2014 Lease/Rental Construction Equipment	Various	782,925
2015 Lease/Rental Construction Equipment	Various	79,494
Total Capital Expenditures		\$3,583,879

Figure 5. Capital assets purchased by the Wind River Tribes in FYs 2013 through 2015, during the performance of Agreement No. A13AP00014.

Recommendations

We recommend the BIA:

8. Require the Wind River Tribes obtain approval prior to making capital expenditures.
9. Resolve the \$3.6 million in unapproved capital expenditures.

Unallowable Items Purchased

The Wind River Tribes purchased unallowable items with funds from Agreement No. A13AP00014. The Wind River Tribes used Tribal Transportation Program funds and claimed \$4,042 in expenses for a 2012 holiday party (see Figure 6), as well as \$3,380 worth of gifts, in the form of either a holiday turkey or prime rib, for each transportation employee in December 2012 and December 2014 (see Figure 7). This occurred because the Wind River Tribes' personnel had not identified these as ineligible expenses, even though 2 C.F.R. 200.404 requires that program expenditures be reasonable and necessary for the operation of the Federal program.

The image shows a 'Banquet Event Order' form from Wind River Casino. The form includes logos for Wind River Casino and 789 Entertainment & Catering. It specifies the event name as 'S & A Tribes Transportation Dinner' on Saturday, December 1, 2012, at 6:00 PM in the Entertainment Room. The form also includes a table with event details and a large black redaction box covering the menu and price information. A 'PAID' stamp is visible at the bottom right.

Banquet Event Order

BEOW 2-10223 File# C/0092 Name of Group: Shoshone & Arapaho Tribes Transportation dept

Meeting Name: Shoshone & Arapaho Tribes Transportation dept Address: P.O. Box 217
Primary Contact: [REDACTED] Fort Washakie, WY 82514
In-House Contact: [REDACTED]

Start	End	Function Name	Room & Set-up	People
Sat 12/01/2012 05:00PM	Sat 12/01/2012 08:00PM	S & A Tribes Transportation Dinner	Entertainment Room Cafeteria	244

Saturday December 1, 2012
S & A Tribes Transportation Dinner
6:00pm in Entertainment Room

Menu Price: [REDACTED]

PAID

Figure 6. The Wind River Tribes claimed \$4,042 in food charges to Agreement No. A13AP00014 for transportation program employees (names redacted) to attend a holiday party in 2012.

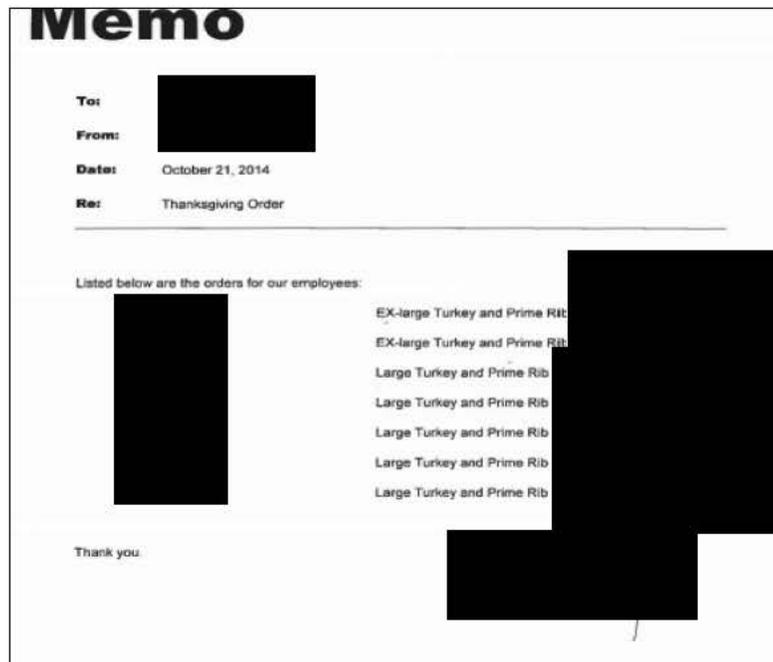


Figure 7. The Wind River Tribes claimed \$3,380 in food charges to Agreement No. A13AP00014 for gifts to transportation program employees (names redacted) in December 2012 and 2014.

Recommendations

We recommend the BIA:

10. Require the Wind River Tribes to develop and implement policies and procedures to ensure Federal funds are expended on allowable, reasonable, and allocable activities and items.
11. Resolve the \$7,422 in unallowable costs claimed by the Wind River Tribes.

Conclusion and Recommendations

Conclusion

We determined the costs claimed by the Wind River Tribes on their Tribal Transportation Agreement were not allocable to the agreement with the BIA. The Wind River Tribes accounting system and procedures are not adequate to manage Federal funds. Specifically, the Tribes' submitted inaccurate and unsupported financial reports to BIA, did not submit single audit reports within required time frames, and claimed indirect costs without an approved rate.

In addition, the BIA did not oversee the agreement in accordance with applicable Federal laws and regulations. BIA personnel did not review financial status reports submitted by the Tribes in a timely manner, nor did they approve capital purchases made by the Tribes or identify unallowable purchases submitted with the Tribes' financial status reports. BIA oversight of the agreement was inadequate in part because BIA management did not provide sufficient training for personnel overseeing the agreement.

We question \$6.2 million in costs claimed by the Wind River Tribes — specifically, \$3.6 million in unapproved capital expenditures, \$2.6 million in indirect costs claimed without an approved indirect cost rate, and \$7,422 in unallowable costs.

Our recommendations should help the BIA provide better oversight and training for the Wind River Tribes, improve the accuracy of financial status reports, and assist the Tribes with tracking project costs, and securing and obtaining required approval when purchasing equipment.

Recommendations Summary

The BIA formally responded to our draft report and concurred with all recommendations. Based on the BIA's response, we consider all 11 recommendations resolved but not implemented. We recommend the BIA:

1. Require the Wind River Tribes to track Tribal Transportation Program expenses by funding source and allocate expenses by project.

BIA Target Date for Completion: August 31, 2018

2. Place the Wind River Tribes on the appropriate sanctions level for not submitting their single audits within required time frames.

BIA Target Date for Completion: August 31, 2018

3. Require the Wind River Tribes to obtain an approved indirect cost rate.
BIA Target Date for Completion: August 31, 2018

4. Require the Wind River Tribes establish and implement a process to account for indirect costs.

BIA Target Date for Completion: December 31, 2018

5. Provide training to the Wind River Tribes to account for indirect costs.

BIA Target Date for Completion: October 30, 2018

6. Resolve the \$2.6 million in indirect costs claimed without an approved indirect cost rate.

BIA Target Date for Completion: December 31, 2018

7. Develop and implement a training program for BIA personnel who review semiannual reports submitted via SF-425.

BIA Target Date for Completion: December 31, 2018

8. Require the Wind River Tribes obtain approval prior to making capital expenditures.

BIA Target Date for Completion: October 30, 2018

9. Resolve the \$3.6 million in unapproved capital expenditures.

BIA Target Date for Completion: November 30, 2018

10. Require the Wind River Tribes to develop and implement policies and procedures to ensure Federal funds are expended on allowable, reasonable, and allocable activities and items.

BIA Target Date for Completion: December 31, 2018

11. Resolve the \$7,422 in unallowable costs claimed by the Wind River Tribes.

BIA Target Date for Completion: November 30, 2018

Appendix I

Scope

We focused on the Joint Programs of the Wind River Tribes' (Wind River Tribes') claimed costs incurred under Agreement No. A14AP00014 with the Bureau of Indian Affairs (BIA). We reviewed costs claimed by the Wind River Tribes from October 1, 2013, through September 30, 2015. We were unable to determine a precise amount of funds spent on Agreement No. A14AP00014 by the Wind River Tribes due to commingled funds and deficiencies in the Tribes' accounting system. Our audit included the Wind River Tribes compliance with applicable Federal regulations, BIA policies and procedures, and agreement and contract terms and conditions. We conducted our fieldwork from May 2017 through November 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 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 Wind River Tribes' employees and other appropriate individuals
- reviewed required reports and cash management practices
- reviewed the Code of Federal Regulations pertaining to claimed costs
- reviewed support for the Wind River Tribes' claimed costs, including direct costs, indirect costs (overhead), and general and administrative expenses
- reviewed the Wind River Tribes' FY 2013 and FY 2014 Office of Management and Budget single audit reports
- reviewed Agreement No. A13AP00014 for compliance requirements
- reviewed the supporting documentation related to the Wind River Tribes' compliance

- reviewed the Wind River Tribes' policies and procedures for its management and accounting system
- conducted a site visit to the Wind River Indian Reservation, located in Fort Washakie, WY

We also evaluated the internal controls over transactions recorded in the Wind River Tribes' accounting and payroll systems and tested their operation 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 Wind River Tribes, we performed several analytical tests on the data. We relied on computer-generated data to verify expenditures made by the Wind River Tribes.

Appendix 2 Monetary Impact

Description	Category	Amount
Holiday Party and Gifts for Wind River Transportation Employees	Unallowable	\$7,422
Unauthorized Purchases	Unallowable	\$3.5 million
Use of Unapproved Indirect Cost Rate	Unsupported	\$2.6 million
Total		\$6.2 million

Appendix 3 Response to Draft Report

The Bureau of Indian Affairs' response to our draft report follows on page 17.



United States Department of the Interior

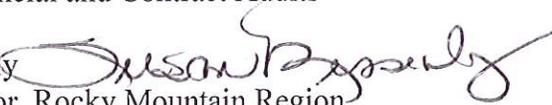
BUREAU OF INDIAN AFFAIRS
Rocky Mountain Regional Office
2021 4th Avenue North, Room 100
Billings, Montana 59101-1397

IN REPLY REFER TO:
Division of Transportation
Code 370

MAY 9 2018

Memorandum

To: Chris Stubbs
Director, Financial and Contract Audits

From: **Acting** Susan Messerly 
Acting Director, Rocky Mountain Region

Subject: Draft Audit Report – The Wind River Tribes Misapplied Federal Funds
for the Tribal Transportation Program Report No. 2017-CG-042

Indian Affairs appreciates the opportunity to comment on the Office of Inspector General (OIG) Draft Report “The Wind River Tribes Misapplied Federal Funds for the Tribal Transportation Program”. Indian Affairs provides the following response to the report recommendations.

Recommendation 1: Require the Wind River Tribes to track Tribal Transportation Program expenses by funding source and allocate expenses by project.

Response: Indian Affairs concurs with Recommendation 1.

The Program Agreement (PA) A13AP00014, with The Wind River Inter-Tribal Council (WRIC), formerly known as Joint Business Council, expired September 30, 2015. Since this time we have not provided any additional funding through this PA. The WRIC does not meet the criteria for a PA for the transportation program activities. The alternative for the WRIC will be to receive contracts/grants thru P.L.93-638; whereas the Self Determination Specialist will be able to structure deliverables in order to coincide with payments. The WRIC was awarded several non-transportation program activities contract/grants awards thru P.L.93-638. To date, the WRIC has complied with reporting requirements.

The Regional Director has issued two separate letters to WRIC. The first one is in regard to their request for a PA. In this letter the Regional Director conveyed the information that they do not meet the requirements and what is required in order to meet eligibility. In the second letter we provided information on the alternative contract methods which is through P.L.93-638.

We are currently working closely with our Regional Self Determination staff, to ensure future awards have deliverables and payments that coincide.

We have received all the SF-425s for A13AP00014 and are currently reviewing them to determine if expenses are allowable, allocable and reasonable. Completion of the review will be

no later than August 31, 2018.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: May 30, 2018

Recommendation 2: Place the Wind River Tribes on the appropriate sanctions level for not submitting their single audits within required time frames.

Response: Indian Affairs concurs with Recommendation 2.

In coordination with the Regional Self Determination Officer, it has been determined that the Wind River Inter-Tribal Council did submit an audit report for CY 15. However after further review it was noted that none of the programs contracted under P.L. 93-638 were included in the report. The Self Determination Office will follow-up to ensure WRIC is put on the appropriate sanctions for non-submission of the CY 2015 single audit report. For CY 2016 it has been determined that there was no funding awarded to the tribes during this period due the Internal Conflict between the two tribes. With assistance from the Regional Self Determination Office, a review will be conducted, to verify the tribes' submission of a Single Audit Report for CY 2015 & CY 2016.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: August 31, 2018

Recommendation 3: Require the Wind River Tribes to obtain an approved indirect cost rate.

Response: Indian Affairs concurs with Recommendation 3.

The Regional Self Determination Officer provided a copy of Eastern Shoshone and Northern Arapaho Tribes' 2015 IDC rate which was negotiated with the National Business Center on June 16, 2016.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: August 31, 2018

Recommendation 4: Require the Wind River Tribes establish and implement a process to account for indirect costs.

Response: Indian Affairs concurs with Recommendation 4.

In coordination with the Regional Self Determination Officer, we will follow the guidance under 13 Indian Affairs manual relating to Indirect Cost Rates. In coordination with the awards under P.L.93-638, we will utilize the guidance self-determination contain in 13 IAM Chapter 7.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: December 31, 2018

Recommendation 5: Provide training to the Wind River Tribes to account for indirect costs.

Response: Indian Affairs concurs with Recommendation 5.

With assistance from the Regional Self Determination Officer, we will seek an instructor who can provide training to all the tribes who have Tribal Transportation Program Agreements and agreements through P.L. 93-638.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: October 30, 2018

Recommendation 6: Resolve the \$2.6 million in indirect costs claimed without an approved indirect cost rate.

Response: Indian Affairs concurs with Recommendation 6.

Providing same response as what was stated in Recommendation #3. The Regional Self Determination Officer provided a copy of Eastern Shoshone and Northern Arapaho Tribes' 2015 IDC rate which was negotiated with the Interior Business Center on June 16, 2016.

Based on this information, we will review the expenses claimed for Indirect Cost to determine if they are all allowable, allocable and reasonable. We will also ensure we are not duplicating costs contained in their IDC cost pool before applying the current rate for this time period.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: December 31, 2018

Recommendation 7: Develop and implement a training program for BIA personnel who review semiannual reports submitted via SF-425.

Response: Indian Affairs concurs with Recommendation 7.

The Regional Transportation Office will develop, by the target date, Standard Operating Procedures and Organizational Procedures to ensure SF-425 is timely received and reviewed, site visits are scheduled when necessary and questioned costs are addressed timely.

Training was provided on April 18-19, 2018, for four (4) Regional Transportation staff personnel to attend; 2 CFR 200 Cost Principals for Federal Grants (Subpart E).

Course completion participates:

██████████, Supervisory Civil Engineer
██████████ Administrative Officer
██████████ Supervisory Civil Engineer
██████████ Highway Engineer

Training was provided on April 23-24, 2018, for four (4) Regional Transportation staff personnel to attend; 2 CFR 200 Audit of Federal Grants and Cooperative Agreements (Subpart F).

Course completion participates:

██████████ Supervisory Civil Engineer

Administrative Officer
, Supervisory Civil Engineer
Highway Engineer

Quarterly annual SF-425 reports - Training will be provided for 638 Model 108 and Subpart J 638 Contracts to Regional Transportation Awarding Officer Technical Representative's (AOTR) to ensure that staff is able to perform AOTR duties to the Awarding Officials on 638 Self-Determination Contracts.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: August 31, 2018

Recommendation 8: Require the Wind River Tribes obtain approval prior to making capital expenditures.

Response: Indian Affairs concurs with Recommendation 8.

The Regional Transportation Office will provide the Wind River Tribes training on capital expenditures and requirements of prior approval that meet Final Rule: 25 CFR Part 170 and 2 CFR 200 (Subpart E & F) requirements. This training will be provided in the onboarding process when Tribes enter into contracts and agreements for the Tribal Transportation Program.

The Wind River Tribe must first provide the Regional Transportation Office written notice, a written "cost analysis". The Regional Transportation Office will review and perform a Quality Assurance (QA) on the request and forward for approval to Central Office, Office of Indian Services, and Division of Transportation (BIA-DOT). BIA will notify tribes of decisions when they are completed.

- a. Construction – develop a lease/purchase cost analysis that identifies the overall benefit of purchasing the piece of equipment versus leasing. This analysis must be submitted to BIA for approval per §170.113. If approved, the funding must be identified on a Federal Highway Administrative (FHWA) approved Transportation Improvement Plan (TIP) in order to be expended in accordance with 23 U.S.C. 202(b)(4)(B).
- b. Maintenance – the equipment costs are considered part of the funding identified in 23 U.S.C. 202(a) (8) and must be identified on a FHWA approved TIP in accordance with 23 U.S.C. 202(b) (4) (B) in order to be expended.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: October 30, 2018

Recommendation 9: Resolve the \$3.6 million in unapproved capital expenditures.

Response: Indian Affairs concurs with Recommendation 9.

The Regional Transportation Office is in receipt of all the SF-425 reports for A13AP00014. We are currently reviewing the SF-425 reports and will meet with the Wind River Tribes to reconcile the \$3.6 million of unapproved capital expenditures. We will ensure a final list of all equipment

items purchased is completed. We will also review the Wind River Tribes procedures to account for, track and dispose of equipment.

The Regional Transportation Office will request the Wind River Tribes to put together a binder for each single capital expenditures with supporting backup documentation (copies of their sub-contracts, vendor receipts, i.e.,) to establish exact amount of equipment purchases, determine that all equipment purchases were allowable or disallowable as prior approval was not sought or approved by BIA. Any disallowable costs will be followed by a Bill of Collection.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: November 30, 2018

Recommendation 10: Require the Wind River Tribes to develop and implement policies and procedures to ensure Federal funds are expended on allowable, reasonable, and allocable activities and items.

Response: Indian Affairs concurs with Recommendation 10.

The Wind River Tribes will be requested to provide documents to the Regional Self Determination Office, RMRO Branch of Transportation and BIADOT before contracts and agreements are awarded to confirm the Wind River Tribes have sufficient financial management systems, procurement, property and Transportation Program policies and procedures in place to sufficiently provide internal controls to ensure all funds expended are allowable and reasonable. The tribal management systems as they pertain to 25CFR Subpart F 900.35 through 900.41 and 900.42 through 900.46 will be reviewed for compliance by BIA. The Financial Management system certification from a licensed accountant every two years will be included in the review.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: December 31, 2018

Recommendation 11: Resolve the \$7,422 in unallowable costs claimed by the Wind River Tribes.

Response: Indian Affairs concurs with Recommendation 11.

The Regional Transportation Office will include the \$7,422 of unallowable costs in a Bill for Collection with other questioned costs that are determined to be unallowable.

Responsible Party: Richard Taptto, Regional Transportation Supervisor (406) 657-6675

Target Date: November 30, 2018

The Responsible Official for ensuring these actions are completed is Mr. Richard Taptto, Regional Transportation Supervisor at (406) 657-6675.

If additional information is needed, please contact Ms. Susan Messerly, Acting Regional Director, Rocky Mountain Region at (406) 247-7943.

Appendix 4 Status of Recommendations

In its response to our draft report, the Bureau of Indian Affairs concurred with our findings and recommendations (see appendix 3). Base on the response, we consider all 11 of the recommendations resolved but not implemented.

Recommendations	Status	Action Required
I through II	Resolved but not implemented	We will refer these recommendations to the Assistant Secretary for Policy, Management and Budget to track their implementation.

