



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

**Recommendations for the Report
Titled *Stronger Internal Controls
Needed Over Indian Affairs Loan
Guarantee Program*
(Report No. 2016-CR-036)**



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Memorandum

SEP 23 2020

To: Tonya R. Johnson
Deputy Chief Financial Officer and Director, Office of Financial Management

From: Amy R. Billings *Amy R Billings*
Regional Manager, Central Region

Subject: Verification Review – Recommendations for the Report Titled *Stronger Internal Controls Needed Over Indian Affairs Loan Guarantee Program* (Report No. 2016-CR-036)
Report No. 2020-CR-031

The Office of Inspector General (OIG) has completed a verification review of the 13 recommendations presented in the subject report. Our objective was to determine whether the Bureau of Indian Affairs (BIA) implemented the recommendations as reported to the Office of Financial Management (PFM), Office of Policy, Management and Budget. The PFM reported to us that it considered the recommendations resolved, implemented, and closed. We concur that all 13 recommendations have been resolved and implemented.

Background

Our report, *Stronger Internal Controls Needed Over Indian Affairs Loan Guarantee Program* (Report No. 2016-CR-036), dated November 9, 2017, made 13 recommendations designed to help the Office of Indian Energy and Economic Development (IEED) improve the Division of Capital Investment's (DCI's) internal controls and clarify the responsibilities of the DCI and its staff.

The BIA concurred with the report's recommendations in a memorandum dated September 14, 2017, and detailed the DCI's plans to implement them. On the basis of the DCI's response to the draft report, we considered 3 recommendations (1, 2, and 6) resolved and implemented and 10 recommendations resolved but not implemented. In a December 4, 2017 memorandum, we referred 10 recommendations (3 – 5 and 7 – 13) to the Assistant Secretary for Policy, Management and Budget to track their implementation.

Scope and Methodology

The scope of this review was limited to determining whether the DCI implemented the 13 recommendations in our report. To accomplish our objective, we reviewed the supporting documentation that agency officials provided and discussed actions taken to implement the report's 13 recommendations. We did not conduct internal control testing, site visits, or fieldwork.

to determine whether the underlying deficiencies that were initially identified have been corrected. As a result, this review was not conducted in accordance with generally accepted government auditing standards, issued by the Comptroller General of the United States, or the *Quality Standards for Inspection and Evaluation*, issued by the Council of the Inspectors General on Integrity and Efficiency.

Results of Review

We found the DCI's actions have met the intent of resolving and implementing all 13 recommendations:

Recommendation 1: DCI – Stop approving loan guarantee applications that result in total indebtedness exceeding \$500,000 for borrowers incorporated as the sole owner of an Indian business entity.

Action Taken: According to the acting chief of the DCI, he notified staff on June 6, 2017, to stop approving loan guarantee applications that result in total indebtedness exceeding \$500,000 for borrowers incorporated as the sole owner of an Indian business entity, in compliance with 25 C.F.R. § 103.5. The DCI has opted to consistently apply existing 25 C.F.R. | § 103.5 language to new applications, as specified in the *Division of Capital Investment Policies and Procedures Manual for the Indian Loan Guarantee and Insurance Program*, until it is able to update the regulations to allow for a borrower incorporated as the sole owner of an Indian business entity to exceed \$500,000 in total indebtedness.

Recommendation 2: DCI – Communicate the importance of approving loan guarantee applications in compliance with 25 C.F.R. § 103.5.

Action Taken: According to the acting chief of the DCI, he notified staff on June 6, 2017, to comply with the strict wording of 25 C.F.R. § 103.5. Then, on April 8, 2020, the DCI issued the Manual, requiring adherence to the 25 C.F.R. § 103.5.

Recommendation 3: DCI – Implement a process to periodically verify that loan guarantees are being approved in accordance with 25 C.F.R. § 103.5.

Action Taken: The acting director of the IEED issued an internal policy memorandum on February 22, 2018. The DCI also built a verification procedure into its new loan accounting and management software that requires an affirmative check for 25 C.F.R. § 103.5 compliance before an application can be processed. Additionally, on April 8, 2020, the DCI issued the Manual (Sections II(a)(2)(C) and IV) for use by DCI personnel.

Recommendation 4: DCI – Develop and implement clarifying guidance for how to interpret the equity and collateral sections of the loan guarantee rule to ensure consistent application.

Action Taken: The Manual includes clarifying guidance for how to interpret the equity and collateral sections at 25 C.F.R. part 103. Specifically, Section IV of the Manual provides interpretive discussions after the regulatory citations at 25 C.F.R. §§ 103.7 and 103.44.

Recommendation 5: DCI – Have the Solicitor review the guidance to ensure it is in compliance with the collateral and equity sections of the loan guarantee rule.

Action Taken: The DCI asked the Office of the Solicitor (SOL) to review the policy guidance offered in the draft Manual and confirm that it properly distinguishes the concepts of equity and collateral in Section IV of the Manual and to review the policy commentary that follows regulations 25 C.F.R. §§ 103.7 and 103.44. On April 5, 2019, the acting chief of the DCI received an email from the IEED stating that the SOL had uploaded its edits and comments and noting the lack of comments on the glossary.

Recommendation 6: DCI – Develop and implement a process where the credit committee declines to review incomplete applications.

Action Taken: The DCI instructed its collections coordinator not to schedule credit committee meetings until the applications are complete. This procedure was included in the Manual, issued on April 8, 2020.

Recommendation 7: IEED – Require the DCI chief to document justifications for disagreeing with the credit committee’s recommendations for loan guarantee application.

Action Taken: The acting director of the IEED issued a policy memorandum to the DCI credit committee members outlining a process to address disagreements between the director of the DCI and the credit committee. According to the memorandum, effective February 15, 2018, the acting chief of the DCI shall prepare a written justification any time he disagrees with the recommendation of the credit committee regarding the approval or denial of a loan guarantee application. The DCI incorporated the policy memorandum into its Manual.

Recommendation 8: IEED – Review instances where the DCI chief’s determination differs from the credit committee’s decision and make the final determination on approving or disapproving the loan application.

Action Taken: The IEED updated the Manual to require the IEED director to make the final decision when the DCI chief’s determination differs from that of the credit committee.

Recommendation 9: DCI – Redesign functions to segregate duties of staff, including when delegating authority to staff, and update position descriptions as necessary. If unable to segregate duties due to staffing size, then mitigating controls should be established.

Action Taken: The DCI (1) eliminated often inconsistent position descriptions and General Schedule levels, (2) rewrote performance appraisal plans for each position, (3) automated audit capabilities in its new loan management system software, and (4) laid out and defined the roles of each official in the DCI’s new Manual, Section II(a)(1). Section II(a)(2)

now instructs the seven distinct staff positions how to perform their duties in the context of workflow.

Additionally, the DCI had the SOL review the entire Manual.

Recommendation 10: DCI – Implement a tracking process to ensure that loan guarantee conditions, including quarterly reporting, are monitored regularly.

Action Taken: The DCI updated its Manual on April 8, 2020, to include a tracking process. Specifically, Section II of the Manual describes the roles, responsibilities, and job expectations of DCI officials, including periodic reporting and loan monitoring. In addition, Section IV of the Manual includes interpretations of regulations and outlines the DCI’s reporting requirements under 25 C.F.R. part 103.

Recommendation 11: DCI – Conduct an A-129 strategic program review within the current fiscal year and conduct a review every 2 years or under other such timeframe as approved by OMB (Office of Management and Budget).

Action Taken: The DCI conducted a strategic program review of the Indian Loan Guarantee Program in accordance with OMB Circular A-129. The acting chief of the DCI informed the OMB that the assessment did not identify any issues of which the DCI was unaware. The results were sent to the OMB on February 8, 2018.

Recommendation 12: DCI – Modify the performance measure to mitigate the incentive.

Action Taken: The acting director of the DCI revised Element 3 in the supervisory performance plans to include judiciousness for processing loan guarantee applications.

Recommendation 13: AS-IA (Assistant Secretary – Indian Affairs) – Work with the Office of the Solicitor to clarify the DCI’s authority and update the Program regulations.

Action Taken: The DCI obtained an SOL opinion that clarified the DCI’s authority to operate. The SOL issued a memorandum on February 20, 2018, that concluded the DCI has the delegated authority to approve Indian loan guarantees and payments on defaulted loans.

Conclusion

We conclude that all 13 recommendations are resolved and implemented. We informed DCI officials of the results of this review on June 29, 2020, and no further actions are necessary.

If you have any questions or concerns about this verification review, please contact me at 303-236-9243.

cc: Andrea Brandon, Deputy Assistant Secretary for Policy, Management and Budget
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