



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

**AUDIT REPORT – AUDIT OF INCURRED
COSTS OF CONTRACT ASSOCIATED
WITH PUBLIC VOUCHER
No. PV08C55091 BETWEEN THE
BUREAU OF INDIAN AFFAIRS AND
THE CHIPPEWA CREE TRIBE**



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Memorandum

AUG 28 2017

To: Darryl LaCounte
Regional Director, Bureau of Indian Affairs

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

Subject: Audit Report – Audit of Incurred Costs of Contract Associated with Public Voucher No. PV08C55091 Between the Bureau of Indian Affairs and the Chippewa Cree Tribe
Report No. 2016-CG-030

The Bureau of Indian Affairs (BIA) requested that we audit costs claimed on a contract dated August 11, 2011, associated with Public Voucher No. PV08C55091 that the BIA issued to the Chippewa Cree Tribe. We could not perform the audit because the contractor and BIA could not provide the necessary documentation for its contract or claim. We, therefore, could not determine whether the contractor's claimed costs of \$2 million 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 the entire claim of \$2 million.

Background

Congress passed the Rocky Boy's/North Central Montana Regional Water System (NCMRWS) Act of 2002,¹ which authorized the Department's involvement in creating and operating a rural water system at Rocky Boy's Reservation, MT. The purpose of the Act is to ensure safe and adequate water for the reservation's residents and those in surrounding communities. The Act states that the U.S. Bureau of Reclamation will plan, design, and construct the Rocky Boy's/NCMRWS core system, and that the BIA will operate, maintain, and replace the core system and on-reservation water distribution systems. The Act also establishes in the U.S. Treasury a trust fund—the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund—to be managed and invested by the Secretary of the Interior. The trust is funded with contributions of \$15 million from the Federal Government and \$5 million from the Tribe, a total of \$20 million.

The Act defines the parts of the water system that constitute the "core system" and requires that the operation, maintenance, and replacement costs of the core system be funded as set forth in a self-governance compact under title IV of the Indian Self-Determination and

¹ Pub. L. No.107-331, tit. IX, §§ 901-914, 116 Stat. 2834, 2861.

Education Assistance Act (ISDEAA), 25 U.S.C. §§ 5361-5368. The tribal share of these costs must be funded out of the trust fund. The other share of the costs is to be paid by the North Central Montana Regional Water Authority. The operation and maintenance of the non-core system is solely the responsibility of the North Central Montana Regional Water Authority.

The Act stipulates that the Tribe, for its share of the costs, will use accrued interest from the trust for operation, maintenance, and replacement of the core system and the on-reservation distribution, pursuant to an operation, maintenance, and replacement plan approved by the Secretary. The Tribe is only allowed to use the accrued interest and it may only do so for those purposes. The Tribe may withdraw all or part of the trust upon approval of a tribal management plan by the Secretary.² In addition to other legal requirements, this tribal management plan for trust withdrawals must also limit the Tribe to spending only accrued interest for operation, maintenance, and replacement pursuant to an approved plan. The operation and maintenance plan must describe the purpose of and manner in which funds made available to the Tribe will be used. The Tribe submits an annual report to the Secretary that describes all expenditures from the trust during the year covered by the report.

When the Tribe makes a request to draw down the fund, it is supposed to go through several layers of approval, including the Office of Facilities Management and Construction (OFMC). The OFMC oversees program management, sponsors periodic audits of expenditures and project field reviews and visits, insures the statutory requirements are fulfilled, schedules and conducts audits, and prepares third-party inspection schedules and other program management activities as required. The OFMC would work with the Tribe, regional offices, and Office of Special Trustee (OST) to ensure that the funds are expended according to the statutes, and that accountability for the funds are adequately controlled. The OFMC would review the fund request and supporting documents and then send an approval letter to the regional director for approval and signature to release the funds. That approval and signature from the regional director would be sent to OST for the release of the funds to the Chippewa Cree Tribe.

What We Found

BIA released \$2 million from the Chippewa Cree Water System Operation, Maintenance, and Replacement Account (No. WR4003351) without the proper documentation required by law. This account only contains the trust funds established under the Act. At the time of our review, the Secretary had received neither a tribal management plan nor an annual report from the Tribe, yet the BIA regional director approved the Tribe's request for \$2 million without the authority to do so, even if such a plan had been in place.

The Tribe received the money and indicated it had been spent for appropriate expenses related to the operation, maintenance, and replacement of the reservation's core water system; however, the Tribe provided no specific documentation to show a plan for how funds would be managed, nor did it provide a detailed purpose showing specifically how the money had been spent.

² This is in accordance with the separate American Indian Trust Fund Management Reform Act of 1994, 25 U.S.C. § 4022.

Further, the BIA regional director did not follow BIA protocol already in place, which directs that the OFMC review and approve any trust fund requests prior to the regional director's approval and signature. The regional director approved the \$2 million draw down request from the Tribe's trust fund account without sending it to OFMC first and without an approved tribal management plan.

The regional director sent a memo to the financial trust services officer on September 12, 2011, approving the draw down and stating that he had reviewed the documentation provided for the draw down request: an SF-1034 (Public Voucher for Purchases and Services Other Than Personal) request for \$2 million; a letter from the chairman of Chippewa Cree Tribe (Resolution No. 82-11); the account balance of Account No. WR4003351; and the final draft of the Rocky Boy's/NCMRWS Project (Budget). It was not until February 2012 that the OFMC deputy director became aware of the draw down and questioned the regional director about his approval without OFMC input.

Objective

The objective of our audit was to determine whether the \$2 million in costs claimed by the Tribe that were withdrawn from the trust 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.

Results

We are questioning the entire \$2 million in costs because:

- The Act (Public Law 107-331) mandates that there must be an approved tribal management plan and there was not.
- BIA protocols for drawing down the trust stipulate that the OFMC would review and concur with any draw down requests and it did not.
- There are no supporting documents for funds spent.

As a result, we could not audit the costs claimed in the contract associated with Public Voucher No. PV08C55091 as BIA requested because we could not ascertain whether the funds were spent appropriately with no documentation stating how the money would be or had been used.

We requested the tribal management plan from the Tribe, the BIA regional office, OFMC, and OST, but none had a copy of it to show why the money was drawn down from the trust account because, as we later found, the Tribe did not have an approved tribal management plan. The Tribe and BIA did provide us with a letter from the Tribe's chairman—Tribal Resolution No. 82-11 (SF-1034)—and the trust's account balance. The Tribal Resolution is the

Tribe's official documentation approving the requested withdrawal of \$2 million, but there was still no documentation stating how the money would be used.

Recommendations

We recommend that the Bureau of Indian Affairs:

1. Resolve the \$2 million in questioned costs claimed by the Tribe.
2. Get an approved tribal management plan from Chippewa Cree Tribe signed by the Secretary of the Interior.
3. Review and update policies to ensure trust funds are adequately safeguarded and properly drawn down.

Please respond to this report by October 12, 2017. Your written response should provide detailed information on the actions you have taken, or plan to take, to address each recommendation, as well as target dates and titles of officials responsible for implementing these actions. Please send your response to aie_reports@doioig.gov.

Although we will not approve extensions to this 45-day response period, we will contact your office to schedule a meeting on or before September 11, 2017, to discuss any questions or issues you may have about the report. If you have any questions regarding this report, please contact Mr. Jason Kessel, at 303-236-9243, or 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.

