



U.S. Department of the Interior
Office of Inspector General

SURVEY REPORT

INVESTMENTS AND DEPOSITS OF
PUBLIC LAW 100-297 GRANT FUNDS BY
SCHOOLS OPERATED BY INDIAN TRIBES
AND TRIBAL ORGANIZATIONS

REPORT NO. 99-I-126
DECEMBER 1998



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

December 11, 1998

SURVEY REPORT

Memorandum

To: Assistant Secretary for Indian Affairs

From: Robert J. Williams *Robert J. Williams*
Assistant Inspector **General for Audits**

Subject: Survey Report on Investments and Deposits of Public Law 100-297 Grant Funds
by Schools Operated by Indian Tribes and Tribal Organizations (No. 99-I-126)

INTRODUCTION

This report presents the results of our survey of investments and deposits of Federal grant funds made by schools that were operated by Indian tribes and tribal organizations under grants authorized by Public Law 100-297. The objective of the survey was to determine whether these schools invested Bureau of Indian Affairs grant funds in accordance with the requirements of the statute.

BACKGROUND

The Bureau's Office of Indian Education Programs is responsible for providing comprehensive education programs and services for approximately 50,000 students enrolled in Bureau-funded schools. The Director, Office of Indian Education Programs, reports directly to the Assistant Secretary for Indian Affairs. The Indian Self-Determination and Education Assistance Act (Public Law 93-638, as amended) ensured Indian participation in the direction of educational and other Federal services to Indian communities in order to make these services responsive to the needs and desires of the communities. Public Law 93-638 authorized Indian tribes and tribal organizations to enter into contracts with the Bureau to operate Indian education and other programs. The Tribally Controlled Schools Act of 1988 (Public Law 100-297, as amended) provided Indian tribes and tribal organizations with greater control of the education of Indian children by "assuring maximum Indian participation in the direction of educational services so as to render such services more responsive to the needs and desires of those communities."

Public Law 100-297 states that its objective is to

. . . provide the resources, processes, and structures which will enable tribes and local communities to effect the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measures of self-determination essential to their social and economic well-being

Public Law 100-297 authorizes the Bureau to provide grants to Indian tribes and tribal organizations to operate tribally controlled schools and requires the Bureau to release grant funds to schools in advance of their needs as follows: one payment equal to one-half of the school's prior year funding is to be made by July 15 of each year, and the remainder of the grant funds are to be paid by December 1. Public Law 100-297 allows schools to invest and deposit grant funds received from the Bureau and to keep any investment income or interest that was earned on the grant funds advanced. Public Law 100-297 states that grant funds

. . . may be (A) invested only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or (B) deposited only in accounts that are insured by an agency or instrumentality of the United States.

Section 112 of the Department of the Interior and Related Agencies Appropriations Act of 1998 provided more specific guidance on the investment and deposit requirements for Federal funds advanced to "Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.)." The Appropriations Act states that advanced funds

. . . may be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purpose of the grant, compact, or annual funding agreement so long as such funds are (a) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States, or (b) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the Funds, even in the event of a bank failure.

Further guidance on the use of funds advanced under Public Laws 93-638 and 100-297 was provided by the Associate Solicitor, Division of Indian Affairs, in a February 4, 1998, memorandum to the Acting Inspector General. The memorandum affirmed that funds provided under these public laws are available only for authorized purposes as specified in

legislation and the funding agreements. Regarding the investment provision of Public Law 100-297, the memorandum states:

This provision clarifies three important issues: (1) that tribally controlled schools grantees are to expend grant funds only "for the purposes for which such funds were provided," (2) that the manner in which a grantee may invest these funds is limited, and (3) that the interest or investment income that accrues on the appropriate investment of such funds are the property of the grantee and may be used for purposes beyond those stated in the grant.

It is extremely important to note that grant funds are not appropriated as part of tribal priority account base, and in no way become part of the tribe's overall funding. Grant funds, therefore, cannot be transferred or used for purposes outside of enabling legislation.

Indian tribal organizations that receive Public Law 93-638 or Public Law 100-297 funds are required to submit to the Bureau annual or biannual financial audits conducted pursuant to the Single Audit Act of 1984. The scope of these single audits includes the testing of internal controls over major programs and a determination by the auditor of "whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs." The Bureau uses the single audit reports as its principal tool to monitor the use of funds by contract and grant recipients.

For the 1995-1996 school year, the Bureau received about \$352 million in Indian School Equalization Formula, student transportation, facilities operation and maintenance, and Administrative Costs Grant funds to operate 187 schools. The funds consisted of the following: \$206.6 million for 80 schools that were operated by Indian tribes and tribal organizations under Public Law 100-297 grants and for 18 schools that were operated by Indian tribes and tribal organizations under Public Law 93-638 contracts and \$145.7 million for 89 schools that were operated by the Bureau. (Bureau-operated schools do not receive Administrative Costs Grants.)

SCOPE OF SURVEY

Our survey was conducted in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. We judgmentally selected 41 of the 80 grant schools and focused our review on the most recent audit reports (fiscal years 1994 through 1996) required by the Single Audit Act of 1984 to determine whether grant funds were invested and deposited in accordance with the requirements of Public Law 100-297.

We also reviewed the Department's Accountability Report for fiscal year 1996, which includes information required by the Federal Managers' Financial Integrity Act of 1982, and

the Bureau of Indian Affairs annual assurance statement for fiscal year 1996 to determine whether any reported weaknesses were within the objective and scope of our review. Neither the Accountability Report nor the Bureau's assurance statement addressed the investment and deposit of Public Law 100-297 grant funds by tribal schools.

PRIOR AUDIT COVERAGE

Neither the Office of Inspector General nor the General Accounting Office has issued a report during the past 5 years on the investment and deposit of Public Law 100-297 grant funds.

RESULTS OF SURVEY

We found that at least 18 of the 41 schools reviewed invested Bureau of Indian Affairs grant funds in obligations and securities that were not guaranteed or fully insured by the Government and/or deposited grant funds into accounts that were not insured by the Government. Public Law 100-297 states that grant funds "may be ... invested only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or ... deposited only into accounts that are insured by an agency or instrumentality of the United States." However, school personnel stated that they were not aware of the requirements of Public Law 100-297; were not knowledgeable of the insurance limits (\$100,000) on checking and savings accounts; and were not knowledgeable of obligations, securities, and accounts that were guaranteed or insured by the Government. In addition, we noted that 12 of the single audit reports for the 18 schools did not identify the investment of funds in unsecured or uninsured obligations and accounts as a reportable audit finding. As a result, at least three schools lost grant funds of about \$691,000 that were invested in obligations, securities, and accounts which were not adequately insured or guaranteed.

Based on our review of the single audit reports for fiscal years 1994 through 1996 (most recent available) of the 41 schools that had unexpended grant funds provided pursuant to Public Law 100-297 at the end of each of the fiscal years, we found the following: audit reports for 22 schools did not provide sufficient information for us to determine the amount of grant funds that was invested and/or deposited in accordance with the requirements of Public Law 100-297; 1 school had invested and/or deposited all of its grant funds (about \$1.2 million) in accordance with the requirements of Public Law 100-297; and 18 schools (Appendix 2) had grant funds of about \$11.9 million as of September 30, 1996, invested in securities and/or deposited into accounts which were not insured by the Government, as required by the public law. We determined that uninsured investments of 3 of the 18 schools resulted in losses of grant funds totaling about \$691,000 as follows:

- In fiscal years 1994 and 1995, Sicangu Oyate Ho, Inc., St. Francis, South Dakota, lost grant funds of \$450,000 that were invested in mutual funds which were not insured by the Government. These losses were charged to Public Law 100-297 Grant Numbers GTA07X32802 (\$399,000) and GTA07X32804 (\$51,000). Therefore, we question the costs

of \$450,000 because the grant does not contain provisions for charging investment losses. According to the school's audit report, the school, at the end of fiscal year 1995, had Public Law 100-297 grant funds of \$435,000 invested in securities and accounts that were not insured by the Government.

- In fiscal years 1994 and 1995, the Crazy Horse School, Wanblee, South Dakota, lost grant funds of \$192,000 that were invested in securities which were not insured by the Government. The investment losses were charged to the School board's trust fund rather than to Public Law 100-297 grants. The School board's trust fund, which was used to supplement school operations, received most of its revenues from income earned on investments of Public Law 100-297 grant funds. According to the School's audit report, the School, at the end of fiscal year 1995, had grant funds of about \$1.5 million invested in securities and deposited into accounts that were not insured by the Government.

- In fiscal year 1995, the White Shield School, Roseglen, North Dakota, lost grant funds of about \$49,000 that were invested in securities which were not insured by the Government. The investment losses were charged to the School's Public Law 100-297 grant (grant number not disclosed by the single audit). We question costs of \$49,000 because the grant does not contain provisions for charging investment losses. According to the School's fiscal year 1995 audit report, the School had changed its investments so that all Public Law 100-297 grant funds were in securities that were insured by the Government.

School personnel said that grant funds were invested in obligations and securities and deposited into accounts which were not guaranteed or insured by the Government because they were not aware of (1) the Public Law 100-297 requirements for investing and depositing grant funds; (2) the insurance limitations (\$100,000) of Federally insured checking and savings accounts; and (3) what constituted securities, obligations, and deposits which were guaranteed or insured by the Government. For example, at the Mescalero Apache School in Mescalero, New Mexico, the finance director, who was responsible for investing grant funds, stated that he thought that grant funds could be invested only in Federally insured checking and savings accounts. At the end of fiscal year 1996, this school had Public Law 100-297 grant funds of about \$1.9 million in a checking account, which significantly exceeded the \$100,000 that is insured by the Government. At the Santa Fe Indian School in Santa Fe, New Mexico, the comptroller, who was responsible for investing grant funds, stated that he believed that mutual funds which invested only in Federally insured obligations and securities and any investment which was collateralized with Federally insured securities were considered to be in compliance with the investment requirements of Public Law 100-297, even though the investments (mutual funds) were not guaranteed or insured by the Government. At the end of fiscal year 1996, this school had Public Law 100-297 grant funds of about \$1.6 million invested in mutual funds that consisted of Federally insured securities (\$1.4 million) and in uninsured securities that were collateralized with Federally insured securities (\$217,000). Although these investments were not in accordance with the requirements of the Act, they are appropriate under the revised investment requirements included in the Department's appropriations act for 1998.

To clarify the limitations on investments and on the uses of advance funds, the Assistant Secretary for Indian Affairs issued, on February 20, 1998, a memorandum to all area office directors, the Director of the Office of Self-Governance, the Director of the Office of Indian Education Programs, and other senior-level officials. The memorandum provided a copy of the Associate Solicitor's February 4, 1998, memorandum, which highlighted the legislative restrictions on investments and instructed the officials to provide the opinion to "all awarding officials and to all tribes, tribal organizations, and school boards which receive awards." Regarding single audits, the Director of the Office of Audit and Evaluation issued a memorandum on February 23, 1998, to all auditors from whom the Office had received audit reports during fiscal years 1996, 1997, and 1998 to provide "information in several areas to assist you in future audits." Regarding investments, the memorandum stated:

Congress has placed statutory limitations on the securities that can be purchased and the accounts in which the funds can be deposited. These limitations, which are found in section 112 of the Department of the Interior and Related Agencies Appropriations Act, 1998, P.L. [Public Law]105-83, are discussed on pages 7 and 8 of the enclosed Solicitor's Opinion [the Associate Solicitor's memorandum of February 4, 1998].... Any deviations from these investment limitations are not allowed and should be reported as an audit finding. Losses on any type of investment activity may not be charged to BIA [Bureau of Indian Affairs]-funded programs.

In addition, the Office of Inspector General will issue a supplemental letter to Indian organizations and to area directors which will highlight the directions for investments and fund transfers as stated in the Associate Solicitor's February 4 memorandum. Finally, based on a preliminary draft of this report, the Assistant Secretary, in a July 13, 1998, memorandum to the Director, Office of Indian Education Programs, directed that "education line officers amend the grant documents with respective school boards to include the investment restrictions contained in the Department of the Interior's Appropriations Act for Fiscal Year 1998" by September 30, 1998. We believe that these actions will help ensure compliance with the limitations on investments and deposits.

On September 4, 1998, we met with representatives of the Office of Audit and Evaluation, Assistant Secretary for Indian Affairs, and the Office of the Solicitor, Division of Indian Affairs, to discuss the time frame for recovering the investment losses charged to the Public Law 100-297 grants. In that regard, Section 106(f) of Public Law 93-638¹ seems to indicate that the Secretary can disallow grant/contract costs only if the action to do so is initiated within 1 year of receipt of the annual single audit report. Section 106 (f) states:

Any right of action or other remedy (other than those relating to a criminal offense) relating to any disallowance of costs shall be barred unless the Secretary has given notice of any such disallowance within three hundred and sixty-five days of receiving any required annual single agency audit report or,

¹Public Law 100-297 incorporates certain provisions of Public Law 93-638, including Section 106(f).

for any period covered by law or regulation in force prior to enactment of Chapter 75 of title 31 [“Requirements for Single Audits”], United States Code, any other required final audit report. ... For the purpose of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with Chapter 75 of title 31, United States Code, or noncompliance with any other applicable law.

For the two schools cited in the report (page 4), the Secretary received the single audit reports more than 1 year ago, and no action was taken to recover the losses charged against the Public Law 100-297 grants because the reports did not identify or include the losses in a schedule of questioned costs. An attorney from the Office of the Solicitor said that he believed that Section 106(f) prohibited the Secretary from attempting to recover the investment losses because the Secretary had not initiated action to recover the losses within 1 year of receipt of the applicable single audit reports. However, the Office of General Counsel for the Office of Inspector General said that it is not entirely clear whether Section 106(f) prohibits all rights of action, including those based on discretionary audits, such as those conducted by the Office of Inspector General or prohibits only those actions based on a disallowance of costs contained in a single audit report.

Our draft report recommended that the Bureau recover the investment losses that were charged against the grants. However, because Section 106(f) is subject to varying interpretations, we believe that the issue of disallowing covering costs which are questioned in audit reports or other reviews that are conducted 1 or more years after the applicable single audit report is received by the Secretary should be resolved. As such, we have revised our recommendation.

Based on a review of the draft report by the Office of Audit and Evaluation, Assistant Secretary for Indian Affairs, we have revised the report to incorporate that office’s comments and to reflect the advice of the Office of the Solicitor regarding disallowed costs.

Recommendation

We recommend that the Assistant Secretary for Indian Affairs request an opinion from the Office of the Solicitor to determine whether Section 106(f) of Public Law 93-638 prohibits the Secretary of the Interior from recovering disallowed questioned costs that are identified in audit reports or other reviews conducted 1 or more years after the applicable single audit report is received. If the Solicitor’s opinion states that the questioned costs can be recovered, the Assistant Secretary should ensure that the investment losses are recovered or returned to the appropriate grant program.

Assistant Secretary for Indian Affairs Response and Office of Inspector General Reply

In the October 16, 1998, response (Appendix 3) to the draft report, the Assistant Secretary for Indian Affairs agreed with the recommendation and provided a copy of the October 8, 1998, request for a Solicitor's opinion. Based on the response, we consider the recommendation resolved but not implemented. Accordingly, the recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

The response also stated that, in addition to the actions described in the report (page 6), the Office of Audit and Evaluation is working with our office and the Office of Management and Budget to develop "information for inclusion in the Single Audit Compliance Supplement." In addition, the response requested that we update the information in our report on the basis of the fiscal year 1996 single audit report for Sicangu Oyate Ho, Inc., "to the extent the additional information falls within the scope of your audit." The fiscal year 1996 single audit for Sicangu Oyate Ho, Inc., had not been issued at the time of our audit. Therefore, we have not revised our report on the basis of the 1996 single audit.

Since the report's recommendation is considered resolved, no further response to the Office of Inspector General is required (see Appendix 4).

The legislation, as amended, creating the Office of Inspector requires semiannual reporting to the Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

We appreciate the assistance of Bureau and school personnel in the conduct of our survey.

CLASSIFICATION OF MONETARY AMOUNTS

<u>Finding</u>	<u>Questioned Costs</u>
Investment losses	\$691,000

**SCHOOLS WITH BUREAU OF INDIAN AFFAIRS GRANT FUNDS
IN NONGUARANTEED OR FULLY INSURED INVESTMENTS***

School	Location	Amount Invested
Alamo Navajo School Board	Magdalena, New Mexico	\$400,206
American Horse School	Allen, South Dakota	3 16,904
Cibecue Community Ed. Board	Cibecue, Arizona	2,191,265
Crazy Horse School	Wanblee, South Dakota	396,900
Grey Hills High School	Grey Hills, Arizona	223,010
Hannahville Indian Community	Wilson, Michigan	1,391,000
Lac Courte Oreilles	Hayward, Wisconsin	929,067
Laguna Pueblo Middle School	Laguna, New Mexico	384,884
Menominee Indian Tribe	Neopit, Wisconsin	572,445
Mescalero Apache School	Mescalero, New Mexico	1894,627
Navajo Preparatory School	Farmington, New Mexico	678,117
Fon Du Lac Ojibway School	Cloquet, Minnesota	220,095
Paschal Sherman Indian School	Oneida, Wisconsin	255,800
Porcupine School	Porcupine, South Dakota	52,513
Santa Fe Indian School, Inc.	Santa Fe, New Mexico	1,232,494
Sicangu Oyate Ho, Inc.	St. Francis, South Dakota	435,000
Tiospa Zina Tribal School	Agency Village, South Dakota	300,5 15
Wa He Lute Indian Community School	Olympia, Washington	5,472
Total		<u>\$11,880,314</u>

*This information is based on data contained in the most recent single audit report for each school available at the time of our review. This consisted of information from reports for fiscal years 1994, 1995, and 1996 because some schools did not have reports for all 3 years.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, D.C. 20240

OCT 14 1998

Memorandum

To: Assistant Inspector General for Audits

From: Assistant Secretary - Indian Affairs *Kevin Kelly*

Subject: Draft Survey Report on Investments and Deposits of Public Law 100-297 Grant Funds by Schools Operated by Indian Tribes and Tribal Organizations (Assignment No. C-IN-BIA-006-97)

The subject survey report concluded that 18 of the 41 schools reviewed invested Public Law 100-297 (Tribally Controlled Schools Act of 1988) grant funds in obligations and securities that were not guaranteed or fully insured by the Government and/or deposited grant funds into accounts that were not insured by the Government. In addition, the report noted that 12 of the single audit reports for the 18 schools did not identify the investment of funds in unsecured or uninsured obligations and accounts as a reportable audit finding. Finally, the report noted that three schools lost grant funds of about \$69 1,000 that were invested in obligations, securities, and accounts which were not adequately insured or guaranteed. Two of the schools charged the losses to the Public Law 100-297 grants.

In preparing the survey report, the Office of Inspector General (OIG) incorporated the additional information regarding actions taken by the Bureau of Indian Affairs in response to the preliminary draft report to help ensure that Federal funds advanced to Indian tribes and tribal organizations are deposited or invested in accordance with law and adequately protected from loss. Since our initial comments, we have undertaken one additional action which we believe will further assist in identifying inappropriate investments and deposits. Working with the OIG's Assistant Director for Single Audits and the Office of Management and Budget, the Office of Audit and Evaluation is developing information for inclusion in the Single Audit Compliance Supplement.

We have one additional comment on the contents of the report. The single audit report of Sicangu Oyate Ho, Inc., for fiscal year 1995 (Report No. 96-A-101) states that "[a]ll principal amounts lost have been replaced by nonfederal sources and with the settlement of the litigation, additional amounts should be recovered." Further in commenting on the losses in the single audit report for fiscal year 1996 (Report No. 98-A-39), the auditors noted that the School had realized the losses in its unrestricted funds and that the first of three payments from the settlement with the brokerage firm had been received. To the extent this additional information falls within the scope of your audit, we ask that the report be revised.

As a result of the actions discussed above, the report contains only one recommendation:

We recommend that the Assistant Secretary for Indian Affairs request an opinion from the Office of the Solicitor to determine whether Section 106(f) of Public Law 93-638 prohibits the Secretary of the Interior from recovering disallowed questioned costs that are identified in audit reports or other reviews conducted 1 or more years after the applicable single audit report is received. If the Office of the Solicitor opinion determines that the questioned costs can be recovered, the Assistant Secretary should ensure that the cost of the investment losses are recovered.

The Bureau concurs with the recommendation. Attached is our request for opinion to the Associate Solicitor, Division of Indian Affairs. If the Solicitor opines that the Bureau can seek to recover the costs, the Education Line Officers will prepare the necessary findings and determinations. Regarding the wording of the recommendation, the Assistant Secretary can not ensure that the costs are recovered. The awarding officials can only disallow the costs and issue a bill for collection. The awarding official's decision can be appealed, and the debt dismissed by the administrative law judge, or the debt can be compromised or forgiven by the Departments of the Interior or Justice.

Attachment



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

OCT 8 1998

Memorandum

To: Associate Solicitor, Division of Indian Affairs

From: Director, Office of Audit and Evaluation

Subject: Request for Opinion Regarding Limitations on Remedies for Cost Disallowances

The Office of Inspector General has completed a review of investments and deposits of Federal grant funds made by schools that were operated by Indian tribes and tribal organizations under grants authorized by the *Tribally Controlled Schools Grants Act* [Act] [Title 25 U.S.C. § 2501 *et seq.*]. A copy of the Survey Report is attached for reference [Attachment 1].

Background

In performing this audit, the OIG relied on Single Audit Reports which had previously been submitted to the Office of Inspector General. The Survey Report identified two schools which charged investment losses against the grant awards. The draft version of the Survey Report recommended that the Office of Indian Education Programs recover these losses.

While we agree that the losses should not have been charged against Federal awards, we believe that Indian Affairs is time-barred from collecting any amounts from White Shield School and may be time-barred in collecting from Sicangu Oyate Ho, Inc.

At a September 4, 1998, a staff attorney from the Indian Affairs Division attended a meeting of staff from this office and from the OIG. While the attorney supported our position, the General Counsel, Office of Inspector has concluded that the statutory language is not entirely clear in this case. Consequently, the OIG has recommended that we request a Solicitor's Opinion.

Subsection 2508(a) of the Act incorporates that provision of the Indian Self-Determination and Education Assistance Act which bars action on collection of disallowed costs unless notification of such disallowance has been given within 365 days of the Secretary's receipt of the grantee's Single Audit Report [Title 25 U.S.C. § 450j-1(f)]. The relevant Single Audit Reports were received by the Office of Inspector on the dates indicated on the following page.

<u>Organization</u>	<u>FY</u>	<u>Audit ID</u>	<u>Received</u>
Sicangu Oyate Ho, Inc.	1994	96-A-0450	11/30/95
Sicangu Oyate Ho, Inc.	1995	96-A-1041	06/03/96
White Shield School	1995	96-A-0985	05/29/96

There are different circumstances between the two schools which may indicate that we could collect from one school, but not from the other.

White Shield School

The White Shield Single Audit Report was issued by the Office of Inspector General on June 27, 1996. While the information contained in the report clearly disclosed that the investment losses had been charged against the grant funds, these amounts were not identified as questioned costs either by the accounting firm which audited the financial statements, nor by the OIG when the report was issued. In addition, the report did not disclose the noncompliance with the statute regarding the investment of funds [Title 25 U.S.C. § 2507(b)(2)] as a reportable condition. The Bureau responded to the audit report on July 19, 1996, resolving the one internal control finding, and the audit was closed by the OIG on September 4, 1996. Selected portions of the Single Audit Report are provided as Attachment 2.

Sicangu Ovate Ho. Inc.

The FY 1994 Single Audit Report was issued by the OIG on February 22, 1996. While the notes to the financial statement disclose that BIA grant funds were used for investment activities and that there was a loss on investments, the financial statement indicates that the loss was charged against the Unrestricted Operating Fund and not against the BIA funds (Restricted Grant and Contract Funds). Selected portions of this Single Audit are provided as Attachment 3.

The FY 1995 Single Audit Report was issued by the OIG on July 18, 1996. Not only are the investment losses classified as expenses under the Unrestricted Operating Funds, but the notes include the following statement: "All principal amounts lost have been replaced by nonfederal sources. ..." Despite this statement, the OIG questioned these costs because of the large account balances in the due to and due from accounts, the deficit in the unrestricted account, the amount of income realized by the School from non-Federal sources, and other statements and comments in the report. Additional verification work will have to be done by the awarding official prior to issuing a bill of collection to determine whether the costs should be disallowed. Selected portions of this Single Audit are provided as Attachment 4.

Request for Opinion

In each of the following scenarios, assume that an audit by either the Inspector General or by the General Accounting Office is issued more than 365 days following receipt of the Single Audit Report for the fiscal period in question:

- If a Single Audit Report accurately identifies inappropriate charges to or conditions concerning BIA awards but does not specifically question the charges or identify a reportable condition, does the issuance of a subsequent audit report by OIG/GAO that identifies the same inappropriate charge serve as a basis for BIA to initiate collection action? [White Shield]
- If a Single Audit Report which was accepted by the OIG contains insufficient information, and subsequent OIG/GAO analysis questions costs in a later audit report, may BIA initiate collection action? [Sicangu Oyate Ho, Inc.]
- In general, discuss the ramifications of the receipt of Single Audits on subsequent discretionary audits of tribes and tribal organizations which may be conducted by the OIG or GAO.

Your assistance in this matter is appreciated. If additional information is needed regarding the audit report findings or the OIG's interpretation of Title 25 U.S.C. § 450j-1(f), please contact Mr. Roger La Rouche, Director of Performance Audits at 208-5520 or Ms. Tamara Gelboin, Attorney, Office of General Counsel, at 208-4356.

Attachments

[NOTE: ATTACHMENTS NOT INCLUDED WITH OCTOBER 14, 1998, RESPONSE FROM ASSISTANT SECRETARY FOR INDIAN AFFAIRS.]

STATUS OF AUDIT REPORT RECOMMENDATION

Finding/ Recommendation Reference	Status	Action Required
1	Resolved; not implemented	No further response to the Office of Inspector General is required. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

ILLEGAL OR WASTEFUL ACTIVITIES
SHOULD BE REPORTED TO
THE OFFICE OF INSPECTOR GENERAL

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