



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL
1999 BRYAN STREET, HARWOOD CENTER, SUITE 1440
DALLAS, TEXAS 75201-6817
PHONE: (214) 661-9530 FAX: (214) 661-9531



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Control Number
ED-OIG/A06F0019

Mr. Thomas Dowd
Director, Bureau of Indian Education
Department of the Interior
1849 C Street, N.W.
MIB MS 3609
Washington, DC 20240

Dear Mr. Dowd:

This **Final Audit Report** summarizes the results of five audits of the Individuals with Disabilities Education Act (IDEA), Part B requirements at schools under the supervision of the Department of the Interior's (Interior) Bureau of Indian Affairs (BIA). Our objectives were to determine: (1) whether BIA schools administered IDEA, Part B funds in accordance with requirements, laws, and regulations, and provided services to eligible children in accordance with the student's Individualized Education Program (IEP); and (2) if other Department of Education funds administered by Interior might be at risk. Our review covered the period July 1, 2001, through September 30, 2003.

BACKGROUND

The Department of Education (Department) provides funding for disadvantaged and disabled students to the BIA through the Department of the Interior.¹ The BIA allocates these funds to elementary and secondary schools operated or funded by the Secretary of the Interior, including tribal-operated schools that are funded by the BIA. Overall, the Department provided \$140 million in education funds to BIA in 2002 and \$188 million in 2003.

IDEA, Part B requires the Department to provide funds to the Secretary of the Interior to assist in providing special education and related services to children with disabilities. From the amount appropriated for any fiscal year, the Department reserves 1.226 percent to provide assistance to

¹ Interior recently reorganized its Office of Indian Education Programs (OIEP) creating a Bureau of Indian Education (BIE). The BIE will be a co-equal bureau with the Bureau of Indian Affairs and will report directly to the Assistant Secretary of Indian Affairs. The Center for School Improvement (CSI) that serves as the State Education Agency (SEA) is now the Division of Compliance, Monitoring, and Accountability (DCMA). For purposes of this report, all references will be to the entities as structured during the audit period.

the Secretary of the Interior of which 80 percent is allotted for serving children ages 5 through 21 with disabilities. From the amount allotted for serving children ages 5 through 21, the Department of the Interior may use five percent of its payment for administrative costs. The Secretary of the Interior is required to submit information to the Department that it meets the requirements of IDEA. In addition, the Secretary of the Interior provides several assurances, including an assurance that the Department of the Interior will cooperate with the Department in its compliance with monitoring and oversight requirements.

The Office of Indian Education Programs (OIEP), located within the BIA in the Department of the Interior, provides technical assistance to and has oversight responsibility for 185 BIA-funded elementary and secondary schools, and two post-secondary colleges. Additionally, OIEP provides support for 24 tribal-controlled community colleges and acts as an advocate for American Indian and Alaskan Native children enrolled in public schools. The Center for School Improvement (CSI), a component of OIEP, is responsible for assisting with the implementation of the policies, plans, regulations, and guidelines of the OIEP. The CSI, located in Albuquerque, New Mexico, carries out the OIEP's function as the State Education Agency (SEA) for Department programs. To help manage the schools, BIA has 24 regional agencies, called education line offices (line office) that are similar to public school districts.

The BIA uses the IDEA, Part B funds one year after they are appropriated: for example, IDEA funds appropriated in fiscal year 2001-2002 are expended and used by BIA in fiscal year 2002-2003. As a result, our review of BIA fiscal years 2001-2002 and 2002-2003 resulted in a review of fiscal years 2000-2001 and 2001-2002 IDEA appropriations. For clarification purposes, we will refer to the BIA fiscal year throughout this report.

We selected seven BIA schools for review based upon the amount of IDEA, Part B funds received, student body population, and recommendations from officials at BIA. The results of those audits are summarized in Attachment 1. BIA received over \$111 million in IDEA, Part B funds, which included administrative and other non-direct service costs, for 7,474 students with disabilities for fiscal years 2001-2002 and 2002-2003. The schools reviewed in our audits received \$6,602,145 in IDEA, Part B funds for direct services for 1,605 students with disabilities. The funds distributed to the seven schools were—

| | |
|-------------------------------|--------------------|
| Fond du Lac | \$ 869,851 |
| Circle of Nations | \$1,554,466 |
| Bread Springs Day School | \$ 334,855 |
| Wingate Elementary | \$1,491,800 |
| Turtle Mountain High School | \$1,064,770 |
| Turtle Mountain Elementary | \$ 678,533 |
| Turtle Mountain Middle School | <u>\$ 607,870</u> |
| Total | <u>\$6,602,145</u> |

AUDIT RESULTS

The seven BIA schools reviewed did not administer IDEA, Part B funds in accordance with applicable requirements, laws, and regulations and were unable to demonstrate that 68 percent of the students in our sample received the planned special education and related services in accordance with their IEPs. In addition, because the CSI was unable to adequately account for the entire \$111 million of IDEA, Part B funds appropriated during our audit period, we determined that other Department of Education funds, also administered by Interior and valued at over \$217² million, might be at risk during the two-year audit period.

We received BIA's comments concurring with Finding 1 and Recommendations 1.1 through 1.3. BIA did not concur with Finding 2 and Recommendations 2.1 and 2.2. BIA concurred with Recommendation 2.3 and said no corrective action was necessary. The comments are summarized at the end of each finding along with the OIG's response. In addition, Attachment 2 contains our summary of the attachments included in the BIA response. The full text of BIA's comments is included as Attachment 3 to the report. Copies of the attachments that were included with the response are available upon request.

Finding 1: IDEA, Part B, Special Education Services May Not Have Been Provided to 5 through 21 Year Old Children With Disabilities

BIA was unable to demonstrate that the seven schools audited provided the planned special education and related services in accordance with their IEP to 68 percent of the students in our sample. Of the 194 students with disabilities we reviewed, 131 either did not receive the services as described in their IEP, or we could not determine if the services were provided.

According to 34 C.F.R. § 300.341(a)(2), "The [Secretary of the Interior]³ shall ensure that each public agency [e]nsures that an IEP is developed and implemented for each eligible child" The IEP must contain certain elements according to 34 C.F.R. § 300.347(a)(3), including: "A statement of the special education and related services and supplementary aids and services to be provided to the child"

Further, 34 C.F.R. § 300.350(a)(1) requires that each public agency must provide special education and related services to a child with a disability in accordance with the child's IEP.

We concluded that these conditions occurred because school officials did not have procedures in place to both ensure and document that special education and related services were provided in accordance with the student's IEP. Based on the high error rates found at the seven schools,

² This figure includes \$27.8 million for 3-5 year olds in IDEA, Part B; \$9.9 million in IDEA, Part C; \$129.5 million in Title I; \$21.8 million in Title II; \$16.2 million in Title IV; and \$12.1 million in various smaller Department programs.

³ The regulations specifically refer to the SEA. However, 34 C.F.R. § 300.267 requires the Secretary of the Interior to comply with specific sections of 34 C.F.R. Part 300, including 34 C.F.R. § 300.341.

IDEA, Part B funds disbursed for these students may not have been properly spent and students may not have received services they were required to receive. In addition, because we found similar issues at all seven schools, we believe the problems identified may be systemic throughout BIA schools. Based on issues related to the administration of Special Education, we also concluded that other Federal education programs could be affected by the weaknesses. Finding 2 more fully discusses accounting related issues applicable to Special Education programs and other Federal education programs.

Recommendations

We recommend that the Assistant Secretary for Special Education and Rehabilitative Services—

- 1.1 Obtain an assurance from BIA officials that the \$111 million of IDEA, Part B funds was used to deliver educational assistance to the children with disabilities at all of the BIA funded schools and return any funds not used for those purposes to the Department, to the extent authorized by law.
- 1.2 Verify that BIA instructed all BIA funded schools to document all special education and related services provided to each current student with disabilities.
- 1.3 Ensure the problems identified in our individual school audits are corrected at all BIA funded schools.

Auditee's Comments to Finding 1

BIA concurred with Finding 1 and the three recommendations. Regarding Recommendation 1.1, BIA provided information that it felt demonstrated it properly accounted for the funds in question and would also address Finding 2 and its accompanying recommendations.

As for Recommendations 1.2 and 1.3, BIA concurred with the recommendations and stated that all the schools involved in the OIG individual school audits have developed and implemented corrective action plans. As of March 22, 2006, the U.S. Department of Education's Office of Special Education Programs had sent letters indicating that all corrective actions required to address the audit findings had been effectively implemented and the audits were considered closed. In response to the preliminary discoveries/findings of the seven individual school audits conducted, the Center for School Improvement provided to all schools a model policy and procedures for documentation of the provision of special education and related services. This policy was developed by the Eastern Navajo Agency as a component of its individual corrective action plan resulting from the individual schools' audits. This policy was presented to all 23 education line offices at a professional development session held the week of August 22–26, 2005.

OIG’s Response

For reasons discussed in our response to BIA’s comments to Finding 2, we concluded that BIA’s response and additional information still did not demonstrate that the IDEA Part B funds were used for providing special education services to students with disabilities. Therefore, we modified Recommendation 1.1 to require BIA to provide an assurance that all \$111 million of IDEA, Part B funds was used to provide special education services. BIA indicated that it implemented Recommendations 1.2 and 1.3. We modified Recommendation 1.2 to obtain verification that the corrective action was taken. BIA’s response did not specifically address whether corrective action on problems identified in our individual school audits were taken for all BIA funded schools. Therefore, we retained Recommendation 1.3.

Finding 2: Other Department Funds Administered by the Department of the Interior Might Be at Risk

In addition to the over \$111 million of IDEA, Part B funds received by Interior during our audit period, Interior also received over \$217 million of additional funding from the Department of Education in other program areas (see table below). CSI was unable to adequately account for the entire \$111 million of IDEA, Part B funds appropriated during our audit period, and BIA did not use IDEA, Part B funds in accordance with applicable requirements nor in a way that provided the most benefit to the 5-21 year olds for which those funds were appropriated. Because CSI functioned as the SEA for all Department programs, we considered the additional \$217 million also might be at risk.

| | Funding in Millions |
|-------------------------------------|----------------------------|
| IDEA, Part B for 3-5 year olds | \$ 27.8 |
| IDEA, Part C | \$ 9.9 |
| Title I | \$129.5 |
| Title II | \$ 21.8 |
| Title IV | \$ 16.2 |
| Various Smaller Department Programs | \$ 12.1 |
| Total | \$217.3 |

Inadequate Accounting of IDEA, Part B Funds

The CSI was unable to adequately account for the entire \$111 million of IDEA, Part B funds appropriated during our audit period. In addition, the BIA was unable to provide reliable information regarding the distribution of the IDEA, Part B funds to the schools, and the amounts expended for the Comprehensive System of Personnel Development (CSPD) program (staff training), the Special Education Coordinators (SECs), and administrative costs.

OMB Circular A-123, *Management's Responsibility for Internal Control* provides that management is responsible for establishing and maintaining internal control to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations. The circular is issued under the authority of the *Federal Managers' Financial Integrity Act of 1982*.

Pursuant to the *Federal Managers' Financial Integrity Act of 1982*, Sec. 2 (d)(1)(A)(iii), internal accounting and administrative controls of each executive agency shall be established in accordance with standards prescribed by the Comptroller General, and shall provide reasonable assurances that -- revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets.

The data provided by the CSI was often unreliable and unusable. For example, IDEA, Part B funding to schools was incomplete and detailed expense reports were not always provided. The amounts expensed for the CSPD program were available for 2002-2003 only. SEC and administrative costs were available for 2001-2002 and 2002-2003, but detailed expense reports were not available. In addition, the CSI did not have accounting procedures established to adequately account for IDEA, Part B expended funds.

Although BIA could account for some of the IDEA, Part B funds disbursed directly to the tribal-operated schools in 2001-2002, BIA could not account for IDEA, Part B funds disbursed to individual BIA-operated schools. They could not account for the funds because those funds were distributed through the line office responsible for the school and accounted for at the line office level. When IDEA, Part B funds are distributed through the line offices, the Federal Distribution Documents (FDD) do not always include the individual funding amounts to the schools. The line offices we visited could not always identify the amount of IDEA, Part B funds disbursed to the schools. Additionally, the amount of IDEA, Part B funds expensed for CSPD, SECs, and administrative costs could not be determined because of inadequate documentation. Further, in July 2002, CSI had used all of its funds, including IDEA, Part B funds, because it did not have a system established to track expenditures to the budget amount. Consequently, there were not enough funds to cover the fourth quarter salaries that totaled approximately \$500,000 and BIA provided alternate BIA funds to be used to cover the \$500,000 shortfall. When the BIA received the next year's (2002-2003) IDEA, Part B funds, \$500,000 was withheld from CSI's CSPD funds to reimburse BIA.

In 2002-2003, BIA changed the way funds were disbursed to the BIA-operated schools; however, the funding information was still unreliable. Some IDEA, Part B funds were directly disbursed to BIA-operated and tribal-operated schools. But in other cases, IDEA, Part B funds for the individual schools were disbursed to the line offices.

Use of IDEA, Part B Funds

BIA did not use IDEA, Part B funds in a way that provided the most benefit to the 5-21 year olds for which those funds were appropriated. BIA is allowed to use five percent of IDEA, Part B funds, for 5-21 year olds, for administrative costs (34 C.F.R. § 300.262(a)). BIA used more than five percent of the funds for training to address identified needs for in-service preparation and for the salaries of SECs at the area line offices. In FY 2002-2003, BIA reserved \$6 million for the CSPD program and over \$2.4 million for SECs' salaries in the line offices. As a result, BIA used about 19 percent of the IDEA, Part B funds for non-direct services in FY 2002-2003. Additionally, BIA used at least 10 percent of the IDEA, Part B funds for non-direct services in 2001-2002. The exact percentage of non-direct services could not be determined for FY 2001-2002 because of the lack of documentation at BIA. Due to BIA's high level of non-direct expenditures, some 5-21 year olds may not have received the most benefit from the IDEA, Part B funds.

The following table represents the IDEA, Part B funding to Interior and the use of IDEA, Part B funds. This information was compiled from several sources, some of which we determined to be unreliable. However, it was the best information available from BIA.

| Education Funding FY | 2000-2001 | 2001-2002 |
|---|-------------------------|------------------|
| BIA Year of Usage | 2001-2002 | 2002-2003 |
| Total IDEA Appropriation Including 20% Reserved for 3-5 year olds | \$61,173,538 | \$77,724,538 |
| 80% Reserved for 5-21 year olds* | \$48,938,830 | \$62,179,630 |
| 5% Allowed Administrative Fee* | \$2,446,942 | \$3,108,982 |
| Amount Available After 5% Administrative Fee* | \$46,491,889 | \$59,070,649 |
| Additional Amount Used for CSPD | <i>Data unavailable</i> | \$6,000,000 |
| Additional Amount Used for SEC Salaries | \$2,334,747 | \$2,547,734 |
| Amount Available to Schools* | \$44,157,142 | \$50,522,915 |
| Amount Allocated to Schools per BIA | <i>Data unavailable</i> | \$43,278,737 |
| Total Amount Retained By BIA for Non-Direct Services | \$4,781,689** | \$11,656,716*** |

* Figure is an OIG calculation.

** Amount is incomplete because of missing data. The total amount retained for non-direct services is the sum of the 5 percent Administrative Fee Allowed of \$2,446,942, plus the Additional Amount Used for SEC Salaries of \$2,334,747.

*** The total amount is the sum of the 5 percent Administrative Fee Allowed of \$3,108,981, plus the Additional Amount Used for CPSD of \$6 million, plus the Additional Amount Used for SEC Salaries of \$2,547,734.

In 2002-2003, BIA budgeted \$6 million for CSPD of which \$5.3 million was for contracts with colleges and universities (colleges) for various training programs. We reviewed expenditures for four colleges and determined that none of the colleges expended all of their IDEA, Part B funds for 2002–2003. The four colleges had over \$1.7 million remaining in their accounts, before BIA obligated over \$2.2 million in IDEA, Part B funds for the next year. According to a BIA official, this was done to prevent the IDEA, Part B funds from being used for expenses incurred elsewhere within OIEP/CSI. In addition, BIA de-obligated over \$400,000 in FY 2002-2003 IDEA, Part B funds from these four colleges and due to poor accounting records could not identify where the de-obligated funds went.

We determined that these problems occurred because CSI had not established accounting policies and procedures to account for disbursements and expenditures. This resulted in inconsistencies in how IDEA, Part B funds were requested and disbursed from the FDD system. Because BIA was unable to demonstrate that planned special education and related services were provided to 68 percent of the students in our sample and did not properly account for the IDEA, Part B funds, we determined that all Education funds administered by Interior, totaling over \$328 million, may be at risk.

Recommendations

We recommend the Deputy Secretary—

2.1 Coordinate with Interior to require BIA to account for the remaining \$217 million in other Department funds it received during the audit period or return those funds to the Department to the extent authorized by law.

We also recommend the Assistant Secretary for Special Education and Rehabilitative Services instruct the BIA to—

2.2 Establish written accounting policies and procedures to properly account for IDEA, Part B funds and all Department funds.

2.3 Limit the amount of funds reserved for non-direct purposes.

Auditee's Comments to Finding 2

BIA did not concur with Finding 2 and Recommendations 2.1 and 2.2. BIA concurred with Recommendation 2.3 and said no corrective action was necessary. BIA asserted that the evidence provided in response to Finding 1, Recommendation 1.1 indicates that the entire \$111 million was used in accordance with applicable requirements and in a way that provided the most benefit to the 5-21 year olds for whom those funds were appropriated. Based on that assertion, BIA does not agree that other Department of Education funds administered by the Department of Interior are at risk. In addition to its comments, BIA provided 34 attachments. A listing of the attachments, along with an explanation of our review, is shown in Attachment 2.

Regarding the distribution of IDEA, Part B funds to schools, BIA provided two cumulative spreadsheets that it felt identified and accounted for the Part B allocation and all expenditures of that allocation for both FY 2001-2002 and FY 2002-2003. BIA explained that upon the approval of supplemental applications, FDDs were generated indicating amounts of supplemental program dollars to be provided to each school. Attachments 3 through 17 were presented to support 2001-2002 and 2002-2003.

OIG's Response

While BIA believes it has adequately accounted for the IDEA, Part B funds, we do not consider that to be the case. Although BIA provided additional information in its response that was not presented during the audit fieldwork (as described in Attachment 2), the additional information provided did not include any detail support documentation, was outside the audit period, was incomplete, or did not address the findings or recommendations. BIA provided budget and expenditure information in its response. This same budget information was provided to us during our audit work. The only actual expenditure information provided to us during our two visits to Albuquerque was the 2002-2003 CSPD expenditures. The detail support for the expenditures was not included in the response.

The audit team was aware of the distribution process identified. However, the IDEA, Part B funding for 2001-2002 was incomplete and several schools that had received IDEA, Part B funds were listed as not receiving any IDEA, Part B funds. As a result of this and other issues, we determined that in 2001-2002, BIA could not account for IDEA, Part B funds disbursed to individual BIA-operated schools because those funds were distributed through the line office responsible for the school and accounted for at the line office level. In 2002-2003, the funding information was still unreliable. Some IDEA, Part B funds were directly disbursed to BIA-operated and tribal-operated schools. But in other cases, IDEA, Part B funds for the individual schools were disbursed to the line offices. When IDEA, Part B funds were distributed through the line offices, the FDDs did not always include the individual funding amounts to the schools. In addition, the line offices visited could not always identify the amount of IDEA, Part B funds allocated to the schools.

Auditee's Specific Comments on Tracking Expenditures and the Use of IDEA, Part B Funds

Regarding its ability to track expenditures and the use of IDEA, Part B funds on the CPSD Program and SEC salaries, BIA stated it tracks allocations by obligation amount, expenditures, and un-obligated balances based on Status of Funds reports and allocation tables accessed from its accounting system. In addition, the accounting system provides for the review of daily and monthly transactions against specific programs and cost accounts. BIA provided Attachments 18 through 19a to support its position.

BIA stated the auditors questioned the legitimacy of the use of funds beyond the five percent allowed for administrative costs for the CSPD Program and SEC salaries. BIA agreed they used Part B funds, beyond the five percent for administration, to pay for CSPD training and SEC salaries based on OSEP's approval. BIA provided Attachment 20 to support its position.

OIG's Response

During the time of the audit, the documentation provided to support expenditures was incomplete and unreliable. Additionally, BIA did not provide any additional documentation that caused us to change our finding or recommendations. We did not question the legitimacy of using funds beyond the five percent administrative cost limit; we questioned the excessive amount of Part B funds used by BIA for non-direct expenses. BIA used about 19 percent of the IDEA, Part B funds for non-direct services in FY 2002-2003 and at least 10 percent of the IDEA, Part B funds for non-direct services in 2001-2002. In addition, we questioned the excessive amount of funds that were expensed for the CSPD Program because the colleges and universities were not using all of the funds allocated. In 2002-2003, BIA budgeted \$6 million for CSPD of which \$5.3 million was for contracts with colleges and universities for various training programs. CSPD information for 2001-2002 was not presented to the auditors.

In addition to our concerns with BIA's accounting ability, the Government Accountability Office (GAO) issued an audit report in September 2003,⁴ which determined that because BIA did not collect detailed expenditure data from its schools, GAO was unable to assess the overall adequacy of funding to the schools. Additionally, Interior's FY 2004 Performance and Accountability Report indicated that BIA needed to improve its financial management processes, and the independent auditors found that BIA financial management policies and procedures were not fully developed or consistently applied throughout BIA.

Auditee's Specific Comments on the Shortage of Funds

Regarding the shortage of funds identified in 2001-2002, BIA stated that when the shortfall occurred, the Finance System Specialist suggested changing the fiscal year to begin July 1. The Special Education program would be allocated \$500,000 in July with the balance being allocated October 1, 2003, and the 2002-2003 fiscal year would then end June 30, 2003. BIA further stated that contrary to the Draft Audit Report, Special Education Administration funds of \$500,000 were used, not CSPD funds, and that no funds were used that were set aside for the schools.

OIG's Response

BIA stated it used \$500,000 of Special Education Administration funds, not CSPD funds or any funds set aside for the schools, to cover the identified shortfall. However, BIA did not provide any additional documentation to substantiate this statement. Regardless of what funds were used, the shortfall occurred in one fiscal year, the shortfall was covered by BIA, and BIA reimbursed itself when the next year's IDEA, Part B funding was received. This occurred because CSI did not have an adequate system to track expenditures to the budget amount and consequently overspent its budget.

⁴ Titled, *Bureau of Indian Affairs Schools, Expenditures in Selected Schools Are Comparable to Similar Public Schools, but Data Are Insufficient to Judge Adequacy of Funding and Formulas.*

Because BIA's response and additional documentation provided did not adequately account for the \$111 million of IDEA, Part B funds or the \$217 million of additional funding received from the Department of Education in other program areas, we did not change our finding or recommendations.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to determine: (1) whether BIA schools administered IDEA, Part B funds in accordance with requirements, laws, and regulations, and provided services to eligible children in accordance with the student's IEP; and (2) if other Department of Education funds administered by Interior might be at risk.

To accomplish our objectives, we—

- Reviewed financial statements, compliance reports, grant applications, and budgets for the seven schools;
- Reviewed detailed expense reports and payroll information for IDEA, Part B expenditures for the seven schools reviewed, and compared the information to budget information. We also performed reasonableness tests on the information provided;
- Reviewed organization charts and Special Education rosters;
- Reviewed Student Rosters for the 2001-2002 and 2002-2003 school years for the seven schools;
- Selected a random sample of 194 disabled students from a universe of 1,605 disabled students;
- Reviewed files for IEPs, progress reports, and a list of services to be provided to students. We then compared the list of services to supporting documentation (e.g., teacher attendance books, special education providers' attendance books, and other relevant documentation);
- Reviewed FDDs and other financial information at CSI, various agency line offices, and the schools;
- Interviewed various Department of Interior BIA officials in Albuquerque, New Mexico, line office officials, and school administrators; and
- Interviewed Department of Education officials.

We judgmentally selected seven schools for audit -- three tribal-operated schools (Fond du Lac, Circle of Nations, and Turtle Mountain High School) and four BIA-operated schools (Wingate Elementary School, Bread Springs, and Turtle Mountain Elementary and Middle schools). The seven schools represented various demographic characteristics such as school size, size of disabled student population, geographical location, and the availability of special education services.

We relied upon the computerized student roster lists provided by school officials for selecting our sample. We tested the student roster lists for accuracy and completeness by comparing selected source records to the roster list. Based on this test, we concluded that the student roster lists at all seven schools were sufficiently reliable to be used for the sample population. BIA officials provided a document generated from the FDD system with school IDEA, Part B funding levels. We determined this information to be unusable because, although the FDD documents identified the total funding amount, they did not break down the funding amounts to the individual schools or to the line offices. Additionally, the FDD information at CSI was incomplete and other financial data provided was unreliable.

As part of our audit, we conducted an assessment of internal controls, policies, procedures, and practices applicable to BIA's administration of IDEA, Part B funds. Our testing identified weaknesses that adversely affected BIA's ability to adequately account for and use those funds in accordance with applicable regulations. These weaknesses are discussed in the AUDIT RESULTS section of this report.

We conducted our fieldwork at the seven schools between November 2003 and March 2004, and held an exit conference with BIA officials on April 27, 2004 to discuss the results of those audits. We conducted our fieldwork at CSI and BIA between September 2003 and June 2004. We had ongoing contact with BIA officials through October 2005 and held an exit conference with BIA officials on December 7, 2005.

Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department official, who will consider them before taking final Departmental action on this audit:

John H. Hager
Assistant Secretary
Special Education and Rehabilitative Services
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202

It is the policy of the U. S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

If you have any questions, please call me at 214-661-9526.

Sincerely,

/s/
Sherri L. Demmel
Regional Inspector General
for Audit

Attachments

cc: Inspector General, Department of the Interior

Summary of Findings at the BIA-funded Schools

The following is a brief summary of our audits at the seven BIA-funded schools, which resulted in five audit reports. The Eastern Navajo audit report contains the results of two schools, Bread Springs Day School and Wingate Elementary. Additionally, the results of the Turtle Mountain Elementary and Turtle Mountain Middle School audits are contained in one report.

Fond du Lac: (Report A06E0001, dated August 30, 2004)

Fond du Lac is located in Cloquet, Minnesota, and is part of the Fond du Lac Band of the Lake Superior Chippewa. The BIA disbursed \$869,851 of IDEA, Part B funds to Fond du Lac for our two-year audit period as follows—

| | |
|-----------------------|------------------|
| School Year 2001-2002 | \$343,297 |
| School Year 2002-2003 | <u>\$526,554</u> |
| Total | \$869,851 |

For school year 2001-2002, Fond du Lac had an enrollment of 203 students with 103 classified as disabled. For school year 2002-2003, enrollment was 225 students with 93 classified as disabled. The average amount of IDEA, Part B funds per pupil was \$3,333 in school year 2001-2002, and \$5,662 in school year 2002-2003.

To determine whether Fond du Lac was providing the required services and documenting those services, we selected a random sample of 10 of 103 students with disabilities in school year 2001-2002 and 15 of 93 students in school year 2002-03. We reviewed the files for the 25 selected students and found that all the files contained an IEP. However, Fond du Lac did not provide any services to 3 students and we could not determine what services, if any, were provided to 11 other students because of a lack of documentation.

Circle of Nations: (Report A06E0002, dated December 9, 2004)

Circle of Nations is a boarding school located in Wahpeton, North Dakota. The BIA disbursed \$1,554,466 of IDEA, Part B funds to Circle of Nations for our two-year audit period as follows—

| | |
|-----------------------|--------------------|
| School Year 2001-2002 | \$ 330,834 |
| School Year 2002-2003 | <u>\$1,223,632</u> |
| Total | \$1,554,466 |

For school year 2001-2002, Circle of Nations had an enrollment of 208 students with 138 students classified as disabled. For school year 2002-2003, enrollment was 201 students with 145 students classified as disabled. The average amount of IDEA, Part B funds per pupil was \$2,397 in school year 2001-2002 and \$8,439 in school year 2002-2003.

To determine whether Circle of Nations was providing the required services and documenting those services, we selected a random sample of 15 of 138 students with disabilities in school year 2001-2002 and 17 of 145 students in school year 2002-2003. We increased the 10 percent random sample to include 3 additional files because 3 of the 32 student files did not contain an applicable IEP and we were unable to do any additional review work. Although 25 of the 29 remaining students had an IEP, 4 students did not receive any services as required by their IEPs, and 24 did not have adequate documentation to support what special education and related services were provided.

Eastern Navajo: (Report A06E0005, dated December 9, 2004)

Eastern Navajo Agency, located in Crownpoint, New Mexico, serves as the education line office and administers funds for 16 BIA controlled and two contract schools on the Eastern Navajo Indian Reservation. During our two-year audit period, the BIA disbursed \$9.5 million of IDEA, Part B funds to Eastern Navajo of which \$1,826,655 was disbursed to the two schools we visited, Wingate Elementary and Bread Springs Day School, as follows—

| | |
|-----------------------|--------------------|
| School Year 2001-2002 | \$ 812,455 |
| School Year 2002-2003 | <u>\$1,014,200</u> |
| Total | \$1,826,655 |

For school year 2001-2002, Wingate Elementary and Bread Springs Day School had an enrollment of 807 students with 159 classified as disabled. For school year 2002-2003, enrollment was 816 students with 154 classified as disabled. The average amount of IDEA, Part B funds per pupil was \$5,110 in school year 2001-2002 and \$6,586 in school year 2002-2003.

To determine whether Wingate Elementary and Bread Springs Day School were providing the required services and documenting those services, we selected a random sample of 25 of 159 students with disabilities in school year 2001-2002 and 28 of 154 students in school year 2002-2003. We found that all of the files contained an IEP, and 52 of the 53 files contained the required progress reports. However, Eastern Navajo could not provide documentation to support that it provided the required special education services to 29 of the 53 students.

Turtle Mountain High School: (Report A06E0010, dated December 13, 2004)

Turtle Mountain High School is located in Belcourt, North Dakota, and is part of the Turtle Mountain Band of Chippewa. The BIA disbursed \$1,064,770 of IDEA, Part B funds to Turtle Mountain High School for our two-year audit period as follows—

| | |
|-----------------------|-------------------|
| School Year 2001-2002 | \$ 492,400 |
| School Year 2002-2003 | <u>\$ 572,370</u> |
| Total | \$1,064,770 |

For school year 2001-2002, Turtle Mountain High School had an enrollment of 592 students with 146 classified as disabled. For school year 2002-2003, enrollment was 591 students with 151 classified as disabled. The average amount of IDEA, Part B funds per pupil was \$3,373 in school year 2001-2002 and \$3,791 in school year 2002-2003.

To determine if Turtle Mountain High School was providing the required services and documenting those services, we selected a random sample of 16 of 146 students with disabilities in school year 2001-2002 and 15 of 151 students in school year 2002-2003. We found that Turtle Mountain High School did not provide any services to 4 of the 31 students in our sample; and, due to a lack of documentation, we could not determine what services, if any, were provided to 25 other students. Additionally, Turtle Mountain High School did not develop the required progress reports informing the parents of their child's progress as specified in the student's IEP for 8 of the 31 students.

Turtle Mountain Elementary and Middle Schools: (Report A06E0011, dated December 13, 2004)

Turtle Mountain Elementary and Middle Schools are located in Belcourt, North Dakota. The BIA disbursed \$1,286,403 of IDEA, Part B funds to these two schools for our two-year audit period as follows—

| | |
|-----------------------|-------------------|
| School Year 2001-2002 | \$ 655,160 |
| School Year 2002-2003 | <u>\$ 631,243</u> |
| Total | \$1,286,403 |

For school year 2001-2002, Turtle Mountain Elementary and Middle Schools had an enrollment of 989 students with 261 classified as disabled. For school year 2002-2003, enrollment was 1,002 students with 255 classified as disabled. The average amount of IDEA, Part B funds per pupil was \$2,510 in school year 2001-2002 and \$2,475 in school year 2002-2003.

To determine if Turtle Mountain Elementary and Middle Schools were providing the required services and documenting those services, we selected a random sample of 26 of 261 students with disabilities in school year 2001-2002 and 27 of 255 students in school year 2002-2003. We found that all files contained an IEP. However, Turtle Mountain Elementary and Middle Schools did not provide any services to 3 of the 53 students in our sample and we could not determine what services, if any, were provided to 25 other students because of a lack of documentation.

The following table is a list of attachments contained in the BIA’s response to the Draft report along with OIG’s review of the attachments:

| | | OIG Review of Attachment |
|---|--|---|
| 1 | Fiscal Year 2001-2002 Budget Spreadsheet | BIA described the attachment as a cumulative spreadsheet, titled Budget, which identifies and accounts for the Part B allocation and all expenditures for FY 2001-2002. The spreadsheet contained no explanation as to where the cumulative expenditure information came from and there were no supporting details for the expenditure amounts. |
| 2 | Fiscal Year 2002-2003 Budget Spreadsheet | See explanation above. |
| 3 | Part B Questions and Answers Document | Questions and answers pertaining to timing of Part B funding and how Indian School Equalization Program (ISEP) funds compliment the Part B funds. Attachment did not address audit findings or recommendations. |
| 4 | Part B Allocations Based on Weighted Student Units for 2001-2002 | This is a letter instructing staff to disseminate funds; these are not the actual allocations. |
| 5 | Example of School Consolidated School Reform Plan Budget | This is a sample budget schools use when awarding various funds under the school-wide reform plan. The audit team was aware of the Budget plans; however, there was no expenditure information included. Attachment did not address audit findings or recommendations. |
| 6 | Example of Fund Distribution Document | Audit team reviewed the FDD documents as part of the audit. Attachment did not address audit findings or recommendations. |
| 7 | Summary of Part B Unmet Needs for 2001-2002 | This document describes the additional Part B funds the schools requested when ISEP special education funds were not sufficient to meet the needs of the students. The unmet needs amount would be added to the original Part B funds awarded to the schools. |
| 8 | Sample Part B Unmet Needs Application | Blank unmet needs application and instructions. Attachment did not address audit findings or recommendations. |

| | | |
|----|---|--|
| | | |
| 9 | Example of School IDEA, Part B Budget Request | Audit team reviewed the Part B Budget request documents as part of the audit. The document is a budget request, rather than the actual awarded amount. Attachment did not address audit findings or recommendations. |
| 10 | 1994 OSEP Monitoring Report, pg. 44 | The excerpt from the 1994 OSEP Monitoring report discusses the finding regarding "Placement in Least Restrictive Environment." Attachment did not address audit findings or recommendations. |
| 11 | 1998 OSEP Monitoring Report, pgs. 10, 11, 12, 18, 19, 20 and 22 | The excerpt from the 1998 OSEP Monitoring report discussed the findings regarding "Placement in the Least Restrictive Environment with Appropriate Supports," "Availability and Provision of Extended School Year Services," and "General Supervision." The OIG audit report did not address these issues. Attachment did not address audit findings or recommendations. |
| 12 | May 30, 2002 Special Education Budget for 2002-2003 Memorandum and Guidance Documents | Instructions to assist schools in developing and finalizing its Consolidated School Reform Plan (CSRP). This is a sample document and did not address audit findings or recommendations. |
| 13 | BIA Special Education Eligibility Document, Section 3 Funding, pgs. 32-34 | Identifies Part B funding priorities. Attachment did not address audit findings or recommendations. |
| 14 | 2002-2003 Unanticipated Needs Application and Budget Summary Form | Blank application for unanticipated needs. Attachment did not address audit findings or recommendations. |
| 15 | Special Education Reference Manual | Manual regarding special education; it does not include instructions on accounting for funds or documenting the services provided. Attachment did not address audit findings or recommendations. |
| 16 | April 2003 Memorandum from Director, OIEP | Letter explaining 2002-2003 funding change. Attachment did not address audit findings or recommendations. |
| 17 | "Guidelines for the Provision of Special Education Services" | Document regarding special education; does not include guidance on accounting for funds or for documenting services. |

| | | |
|-----|---|---|
| | | Attachment did not address audit findings or recommendations. |
| 18 | Sample Financial Program Plan | The audit team reviewed this document during the audit. This document contains budget information, but no actual expenditure data was included. |
| 19 | BIA 520 Report | This report contains useful accounting information such as obligated amounts, expenditures, and unobligated balances. However, the information provided is for FY 2006, which is outside the audit period. |
| 19a | BIA 010 Report | This report accompanied the BIA 520 report (above) and contained information for specific organizations (schools). This report contains useful accounting information for various programs, object codes, obligated amounts, expenditures, and unobligated balances. However, the information provided is for FY 2006, which is outside the audit period. |
| 20 | Letter from David Dickman, OSEP Response | The audit team reviewed this letter during the audit. The June 2001 letter from OSEP addressing concerns Mr. Dickman, Special Education Coordinator, Salt River Pima-Maricopa Indian Community, had regarding the distribution of Part B funds, including use of funds beyond the 5 percent administrative fee. |
| 21 | BIA's Special Education Eligibility Document | The audit team reviewed this document during the audit. The document contains information regarding special education. It does not include accounting for funds or for documenting services. Attachment did not address audit findings or recommendations. |
| 22 | BIA 010 Report, September 2002 BIA 520 Report, October 2002 | These reports contain information for specific organizations (schools). Although these reports contain accounting information for various programs, they do not account for all of the IDEA, Part B funds, and do not contain any supporting documentation. |
| 23 | Fund Distribution Documents Reimbursement Authorization a. No. 02-0024 b. No. 02-0523 | Two FDDs that show, according to BIA officials, the administrative costs (\$2,446,942) and the additional CSPD costs (\$3,569,000) for 2001-2002. The second FDD was for the CSPD cost and |

| | | |
|----|--|--|
| | | the document showed a total of \$6,515,942 to the Branch of Exceptional Education (special education office), a \$500,000 difference between the total of the two FDDs and the allocation amount. BIA officials did not provide the \$500,000 FDD or an explanation on the extra funding. |
| 24 | A Consolidated Staffing Plan, April 11, 2002 c. ALCT 97900, 5/23/2002 d. ALCT 97420, 5/23/2002 | Document showing a positive balance in the two program funding accounts (IDEA, Part B and Title I) as of May 23, 2002. However, by the end of the fiscal year there was a shortfall of funds, which BIA does not deny. |
| 25 | Letter, dated October 7, 2005, from OSEP to OIEP Director, Eastern Navajo Agency Letter, dated October 7, 2005, from OSEP to OIEP Director, Turtle Mountain Elementary and Middle Schools Letter, dated November 23, 2005, from OSEP to OIEP Director, Circle of Nations School Letter, dated March 22, 2006, from OSEP to OIEP Director, Fond du Lac Ojibwe School | Letters from OSEP indicating that four of the five corrective actions required to address the audit findings had been effectively implemented and the audits were considered closed. The Turtle Mountain High School audit was not included in the submitted documentation. While close out letters have been issued for the specific schools in our audit, this is not an indication that the recommendations in this report are completed. |
| 26 | Bureau of Indian Affairs, Office of Indian Education “A New IDEA” Training Agenda | Agenda of a professional development seminar that shows a session regarding “Documenting Services to Student.” |
| 27 | Policy and Procedures for Documentation of Services Funded by Part B Eastern Navajo Agency | This document includes an extensive service documentation process that was developed by Eastern Navajo Agency. |
| 28 | Attendance Log (Model Form) | Sample Attendance Log to document services provided. |
| 29 | ISEP Training Schedules | BIA’s five-year training schedule (2001-2004) regarding ISEP counts. Attachment did not address audit findings or recommendations. |
| 30 | Office of Indian Education Programs – ISEP Special Education Certification | Checklist used by line officers to certify that students with disabilities were receiving the required services identified |

| | | |
|----|--|---|
| | Form | on their IEPs. Attachment did not address audit findings or recommendations. |
| 31 | Special Education File Review Form | Form used by BIA during monitoring of schools. |
| 32 | Continuous Improvement Monitoring Process Final Monitoring Report Fond du Lac Ojibwe School, October 30, 2004 | Results of a BIA monitoring visit to Fond du Lac. The report did not identify any issues with regards to special education. |
| 33 | 2 nd Tier Special Education File Review Protocol | This document addresses disability assessment, IEPs, and other eligibility issues. Attachment did not address audit findings or recommendations. |
| 34 | Office of Special Education Programs' Monitoring Report to the OIEP Director, dated January 20, 2006, pgs. 12 and 13 | The document referenced the OIG audits at the five BIA schools and the OSEP verification visit at Fond du Lac and Wingate schools. The report stated that both schools had clear documentation of services on IEPs and logs documenting related services received by students. We were unable to determine the author of the document because the attachment was an excerpt from a larger document and no identifying information was included. |



United States Department of the Interior
BUREAU OF INDIAN EDUCATION
Washington, D.C. 20240

IN REPLY REFER TO:

OCT 02 2006

Sherri L. Demmel
Regional Inspector General for Audit
U.S. Department of Education
Office of the Inspector General
1999 Bryan Street, Suite 1440
Dallas, TX 75201

Re: Draft Audit Report ED-
OIG/A06F0019

Dear Ms. Demmel:

Please find enclosed the U.S. Department of Interior, Bureau of Indian Education's (BIE), formerly the Office of Indian Education Programs, response to the U.S. Department of Education, Office of Inspector General (OIG) Draft Audit Report: ED-OIG/A06F0019, dated August 2, 2006. The BIE appreciates the opportunity to provide a complete response to the draft audit report's two audit findings. We also acknowledge and appreciate the IG's extension of time to submit this response.

The BIE is confident that the attached narrative explanation and documentation serve to thoroughly document that all Part-B funds for Fiscal Years 2001-2002 and 2002-2003 have been properly accounted for and that all Part-B funds were expended appropriately. We also believe that all funds were properly managed and used in accordance with applicable statutes and regulations.

The BIE has provided complete explanations and supporting documentation where we differ with the OIG's findings and recommendations. Should you have questions or require additional documentation, please feel free to contact me at (202) 208-6123 or Dr. Angelita Felix at (505) 563-5237.

Sincerely,

Thomas M. Dowd
Director

**Bureau of Indian Education
Response to the U.S. Department of Education
Draft Audit Report – ED-OIG/A06F0019**

Finding 1: Special Education Services May Not Have Been Provided to Students

Recommendation 1.1–Require BIA to properly account for \$111 million of IDEA, Part B funds received for Fiscal Years 2001-2002 and 2002-2003 or return those funds to the Department [of Education] to the extent authorized by law.

The Bureau of Indian Education (BIE) concurs with Finding 1 and Recommendation 1.1, which requires the BIE to properly account for \$111 million of IDEA, Part B funds for Fiscal Years (FYs) 2001-2002 and 2002-2003. BIE provides the following documentation to demonstrate that BIE has properly accounted for the funds in question. Attachment 1 is a cumulative spreadsheet that identifies and accounts for the Part B allocation and all expenditures of that allocation for FY 2001-2002. Attachment 2 is a cumulative spreadsheet that identifies and accounts for the Part B allocation and all expenditures of that allocation for FY 2002-2003.

Attachment 1 Fiscal Year 2001-2002 Budget Spreadsheet

Attachment 2 Fiscal Year 2002-2003 Budget Spreadsheet

In addition to the accounting provided by the two cumulative spreadsheets, the BIE provides the following additional information and documentation to address specific concerns and allegations presented in the audit results regarding: 1) the distribution of IDEA, Part B funds to schools; 2) the amounts expensed for the Comprehensive System of Personnel Development (CSPD Program – staff training); 3) the Special Education Coordinators' (SEC's) salaries; and 4) administrative costs.

1. IDEA, Part B Fund Distribution to Schools (FY 2001-2002)

The BIE provides the following explanations and accompanying documentation to address the OIG's concerns and allegations regarding how the BIE distributed and accounted for Part B funds to both BIE-operated schools and tribally-controlled schools.

Basic funding for all BIE-funded schools occurs through the Indian School Equalization Program (ISEP). This program provides base dollars to all schools and is comprised of a "weighted student unit" system. In 2001-2002, students with disabilities were counted and funded through this system based upon the hours of services required by their Individualized Educational Programs (IEP's) for special education and related services. In addition to the base ISEP funding provided, schools applied for supplemental program dollars (i.e, Title and IDEA, Part B) through various application processes. In FY 2001-2002, schools were required to develop a Consolidated School Reform Plan (CSRPs), which indicated what programs and services were being planned for students and what funds from which sources were being allocated for the provision of those programs and

services. CSRP's were submitted by individual schools to their respective Education Line Offices for review and approval and were then forwarded to the Center for School Improvement (CSI) which also functioned as an equivalent State Education Agency (SEA). Staff at CSI reviewed the CSRP's and approved them both programmatically and financially. Upon approval, fund distribution documents (FDD's) were generated indicating amounts of supplemental program dollars to be provided to each school. If ISEP special education funding was not sufficient to meet the needs of students, schools could submit an Unmet Needs application to request additional Part B funds. All Unmet Needs applications from 2001-2002 were kept on file and schools' CSRP budget forms were amended to include the funding change. There were a total of 52 schools funded. The applications are on file by agency in three two-inch binders for review by the U.S. Department of Education auditors.

The following attachments are provided as documentation of the FY 2001-2002 IDEA, Part B distribution process to schools:

| | |
|--------------|--|
| Attachment 3 | Part B Questions and Answers Document |
| Attachment 4 | Part B Allocations Based on WSUs for 2001-2002 |
| Attachment 5 | Example of School Consolidated School Reform Plan Budget |
| Attachment 6 | Example of Fund Distribution Document |
| Attachment 7 | Summary of Part B Unmet Needs for 2001-2002 |
| Attachment 8 | Sample Part B Unmet Needs Application |

2. IDEA, PART B Distribution to Schools 2002 — 2003 (FY 2002-2003)

There was a difference in the distribution of Part B funds between FY 01-02 and FY 02-03 due to the Office of Special Education Program's (OSEP) citation of the BIE in 1994 for failing to revise the ISEP special education funding formula to reflect placement neutral funding. The BIE was cited again in the 1998 official monitoring report for failure to revise the ISEP special education funding formula. As a result, through the tribal consultation process, BIE changed the ISEP special education formula to a funding neutral placement formula that was implemented in Fall 2002. This funding formula was approved by OSEP on May 28, 2002, in a teleconference between the BIE and OSEP, as well as through the conditional approval of the Eligibility Document (July 2002).

Beginning Fall 2002, the new funding formula was implemented and Part B funds were distributed to schools based on student needs as evidenced by students' Individualized Educational Programs (IEP's). The application for Part B funds was administered by the Center for School Improvement. Needs based funding was incorporated into the schools' CSRP and budget requests. The new formula required schools to document utilization of 15% of their basic ISEP funding for the provision of special education and related

services. If the 15% base ISEP was not sufficient to meet all of the identified special education and related services needs, schools submitted a Part B application. In addition, schools could also continue to apply for additional IDEA, Part B funds during the school year via the "Unanticipated/Unmet Needs" application process. This allowed schools to request additional funds after the initial application process had been completed and initial funds distributed. The following attachments are provided as documentation supporting the BIE's Part B distribution process to schools in 2002-2003:

| | |
|---------------|--|
| Attachment 9 | Example of school IDEA, Part B Budget Request 1994 |
| Attachment 10 | OSEP Monitoring Report pg. 44 |
| Attachment 11 | 1998 OSEP Monitoring Report pgs. 10, 11, 12, 18, 19, 20 and 22 |
| Attachment 12 | May 30, 2002 Special Education Budget for 2002-2003 Memorandum and Guidance Documents |
| Attachment 13 | BIE Special Education Eligibility Document Section 3, funding pgs. 32-34 2002-2003 Unanticipated Needs Application and Budget Summary Form |

With the change in how IDEA, Part B funds were distributed to schools in 2002-2003, the BIE developed and disseminated several technical assistance documents to Education Line Offices and schools in order to support appropriate implementation of services and documentation of expenditures. Training sessions were also provided during this transition period.

The following attachments are provided as documentation of BIE's efforts in this area:

| | |
|---------------|--|
| Attachment 15 | Special Education Reference Manual |
| Attachment 16 | April 2003 Memorandum from Director, OIEP |
| Attachment 17 | "Guidelines for the Provision of Special Education Services" |

3. BIE's Ability to Track Expenditures

The Federal Finance System (FFS) is the Department of Interior's accounting system and the BIE is required to use this system. BIE-operated schools are required to develop Financial Program Plans (FPP's) and these form the basis for budget development and various reports within this system provide funding status. Allocations are tracked by obligation amount, expenditures and unobligated balances based on Status of Funds reports and allocation tables accessed from the FFS. In addition, the system provides for the review of daily and monthly transactions against specific programs and cost accounts.

Within the BIE, schools are required to reconcile their financial program plans on a quarterly basis with the FFS reports. A Status of Funds report is available for agencies and schools to track their funding status.

The Education Line Officer (ELO) serves as the grant officer for tribally controlled schools and is responsible for transferring funds to the grant school using the Grant Amendment Process. ELOs were responsible for the oversight of all funding that flowed through their offices. The following attachments are provided as documentation that BIE did have a system in place to track fund allocations and expenditures:

Attachment 18 Sample Financial Program Plan

Attachment 19 BIA 520 Report

Attachment 19 a. BIA 010 Report

4. Use of Part B Dollars for The Comprehensive System of Personnel Development (CSPD)

The auditors questioned the legitimacy of the use of funds beyond the five percent allowed for administrative costs for the CSPD Program. As required by P.L. 105-17, sections 300.380-300.382, the BIE during FY 2001-2002 developed a CSPD plan and identified professional development staffing needs, in-service and pre-service improvement strategies. BIE provided CSPD Part B funding for school staff to attend training and take college courses to improve their skills and increase their knowledge to better meet the needs of children with special needs. A letter to OSEP from Mr. David Dickman, Special Education Coordinator, Salt River Pima-Maricopa Indian Community, posed eight questions which were responded to by Patricia Guard, Acting Director, Office of Special Education Programs (July 23, 2001). Question 2 in this letter posed the use of Part B funds for the purpose of professional development and staff training. Ms. Guard confirmed that Part B funds over the 5% administrative funds could be used for training purposes. The BIE accepted this guidance and proceeded with implementation of the CSPD plan.

All CSPD funding distributed to schools or placed in contracts for FYs 2001-2002 and 2002-2003 is accounted for. The Education Specialist responsible for CSPD activities kept activity logs of all FDD requests and prepared reports on all CSPD activities.

The following attachment is provided as documentation that BIE requested and received clarification from OSEP regarding use of Part B funds in excess of the 5% in FY 2001-2002 and FY 2002-2003.

Attachment 20 Letter from David Dickman / OSEP Response

5. Special Education Coordinators' Salaries

The auditors questioned the legitimacy of the use of Part B funds beyond the 5% administrative costs for salaries for the special education coordinators (SEC's) assigned to assist schools from the Education Line Office locations. The BIE did use Part B funds to pay for SEC salaries beyond the 5% for administration based on the Office of Special Education Program's (OSEP) approval of the Eligibility Document and the previous Special Education State Plan that included these positions. A letter to OSEP from Mr. David Dickman, Special Education Coordinator, Salt River Pima-Maricopa Indian Community, posed eight questions which were responded to by Patricia Guard, Acting Director, Office of Special Education Programs (July 23, 2001). Question 3 posed the use of Part B funds for the purpose of funding SEC salaries. Ms. Guard confirms that Part B funds can be used.

In FY 2001-2002 and FY 2002-2003, the SEC cost forms were provided to the ELOs. After review and approval by the CSI, final Part B funding was provided to each ELO. These positions were under the supervision of the ELO who ensured proper expenditures according to the BIA's established Federal Finance System (FFS) timelines. Special education detailed expense reports were maintained at the ELO level and reconciled with budget tracking documents such as payroll detail costs and status of funds reports, which provided information on expenditures, undelivered orders, unobligated balances and percentage obligated during the year. In addition, daily transaction reports provided more specific budget information. The CSI special education office did not maintain detailed expense reports, except for the budgets submitted by the ELO for the SEC position. Special Education funding to agencies and schools was tracked by the Department of Interior's FFS.

The following attachments are provided as documentation that the BIE requested and received permission from OSEP to utilize funds in excess of the 5 % administrative costs for the special education coordinators' salaries and that the BIE can account for Part B expenses provided for the SEC's during the audit period:

Attachment 21 BIA's Special Education Eligibility Document

6. Administrative Costs

The administrative costs allowed for FY 2001-2002 and FY 2002-2003 were \$2,446, 942 and \$3,108,982, respectively. Financial program plans were developed and approved by CSI officials based on planning and projected activities for both fiscal years.

- A. The FFS is the federal accounting system used for internal financial and budgetary controls, i.e., planning, research, budget planning and execution, tracking and reconciliation. During 2001-2003, FFS was used to account for all administrative, CSPD, and SEC/school expenditures.

Attachment 22

- BIA 010 Report, September 2002
- BIA 520 Report, October 2002

B. During FY 2001-2002, CSI was allocated \$2,446,942 for Administrative costs in addition to \$3,569,000 for CSPD - see Attachment 23. SEC distributions were allocated after CSI's Special Education staff approved proposed SEC budgets from the field. When approved, SEC fund transfer requests were submitted to the Finance System Specialist (FSS) in Washington, DC for action. CSI's Special Education program kept the documentation for budget approval on file and CSI's administrative department (Albuquerque, NM and Washington, DC) kept the Fund Distribution Documents (FDD) with necessary supporting documentation on file in both locations. During the Audit Review, this question or scenario was not discussed relative to the Draft Audit Report. The FDD's are maintained in both locations, CSI and in the office of the FSS, Dr. Joe Herrin. In addition, Dr. Herrin keeps the allocation and all supporting records as well. This is necessary for approval by the Director of BIE (OIEP) who signs every FDD. The Director has the opportunity to discuss and question each financial transaction.

Attachment 23

- Fund Distribution Documents Reimbursement Authorization
 - a. No. 02-0024
 - b. No. 02-0523

C. In FY 2001-2002, the Budget Analyst assigned to CSI, Maria Safi, developed the FPP and gave monthly reports to the CSI Division Chief. At this time, monthly reports were made by the Budget Analyst with discussion by all program managers. During April 2002, the Budget Analyst prepared a new Staffing Plan to help CSI prepare the FY 2002-2003 budget period. Using the calculations by Ms. Safi, the needed salary expense was \$648,694 for half of May 2002 and June, July, August, and September of 2002 for all CSI staff. The Budget Analyst reported available funds as of May 23, 2002, for Special Education Part B, Program 97420 of \$716,249 and \$681,874 for Program 97900, Title administrative funds. At that time there was no indication of a shortage for the last quarter of FY 2001-2002.

Attachment 24

- A Consolidated Staffing Plan, April 11, 2002
 - a. ALCT 97900, 5/23/2002
 - b. ALCT 97420, 5/23/2002

D. In July 2002, CSI became aware that contracts and expenditures were hitting against our accounts that were creating a deficit in our Program 97420 account. Upon investigation, CSI found that many of these expenditures and contracts were approved at the Washington, DC office. The total expenditure by the DC office came to approximately \$484,000 creating a shortfall for the CSI office. At that time, the Director's office had authority to expend out of CSI funds as necessary or when needed. In this way, the communication and financial flows were hindered.

E. Special Education appropriations were allocated in June of every year. BIE had determined in previous years to move the Fiscal Year for BIE/OIEP to begin October 1 and end September 30 to coincide with BIA appropriations, thus establishing OIEP's fiscal year to be parallel to the BIA's financial allocation process. However, Special Education funds were allocated beginning July 1; it is appropriate to say that CSI's program planning used July 1 to June 30 as a base of funding and program planning even though BIE distributed the funds October 1 of each year. A fiscal year change back to July –June 30 had been discussed by program managers, Division Chief, and OIEP Director throughout the year but no change had been made. When the shortfall occurred, the Finance System Specialist, Dr. Herrin, suggested changing the fiscal year to begin July 1 as we had discussed. He advised us that our Special Education program 97420 would be allocated \$500,000 in July while the balance would be allocated October 1, 2003 with the 2002-2003 fiscal year ending June 30, 2003. It is important to note, contrary to the Draft Audit Report, that Special Education Administration funds of \$500,000 were used, not CSPD. No funds were used that were set aside for the schools. In FY 2002-2003, CSI was allocated \$2,608,981 for administration instead of the \$3,108,982 (5%). In FY 2002-2003, CSI requested that Special Education administrative funds be allocated into a separate account for FY 2003-2004; the FSS established the following codes that are used today: KOOE20 97420 for Part B Administration and KOOE50 for CSPD.

For FY 2003-2004, CSI developed, implemented, and maintained its own system of financial management that is used internally to reconcile with the FFS system of financial management. CSI's system supports the accurate recording and tracking of all financial transactions from initiation through reconciliation while recording important information regarding each transaction. Since 2002 when the system was being designed and developed, CSI has been able to control not only the finance system of accounting but also manage its vast contract and record administration across all programs..

The Bureau of Indian Education concurs with the following recommendations for Finding 1:

Recommendation 1.2-Instruct BIA (now officially BIE) to require all BIE funded schools to document all special education and related services provided to each current student with disabilities; and

Recommendation 1.3-Ensure the problems identified in the individual school audits are corrected at all BIE funded schools.

The BIE provides the following information as explanation and documentation of the corrective actions taken to address the finding and recommendations.

7. CORRECTIVE ACTIONS TAKEN TO DATE

A. All schools involved in the individual school audits developed and implemented corrective action plans. As of March 22, 2006, the Office of Special Education Programs had sent letters indicating that ALL corrective actions required to address the audit findings had been effectively implemented and the audits were considered closed. The following attachment includes the following documents:

Attachment 25

- Letter dated October 7, 2005 from OSEP to OIEP Director — Eastern Navajo Agency
- Letter dated October 7, 2005 from OSEP to OIEP Director — Turtle Mountain Elementary and Middle Schools
- Letter dated November 23, 2005 from OSEP to OIEP Director — Circle of Nations School
- Letter dated March 22, 2006 from OSEP to OIEP Director – Fond du Lac Ojibwe School

B. In response to the preliminary discoveries/findings of the seven individual school audits conducted, the Center for School Improvement [now the Division of Compliance, Monitoring and Accountability (DCMA)] provided to all schools a model policy and procedures for documentation of the provision of special education and related services. This policy was developed by the Eastern Navajo Agency as a component of its individual corrective action plan resulting from the individual schools' audits. This policy was presented to all twenty-three education line offices at a professional development session held the week of August 22—26, 2005. A model form was also distributed. The following attachments are provided as documentation for this action:

Attachment 26 Bureau of Indian Affairs, Office of Indian Education "A
New IDEA" Training Agenda

Attachment 27 Policy and Procedures for Documentation of Services Funded by Part B
Eastern Navajo Agency

Attachment 28 Attendance Log (Model Form)

C. As part of the annual Indian Student Equalization Program (ISEP) audit of students receiving special education and related services, Agency Special Education Coordinators and Education Line Officers were required to certify that students with disabilities were receiving the required services identified on their Individualized Education Programs (IEP's). The BIE provides annual trainings on the regulations and procedures to be utilized in the ISEP certification process. The following attachments are provided as documentation for this action:

Attachment 29 ISEP Training Schedules

Attachment 30 Office of Indian Education Programs – ISEP Special Education
Certification Form

D. The Bureau of Indian Education monitors all schools on a five-year cycle as required by the Individuals with Disabilities Education Act (now P.L. 108-446) 20 USC 1416 Sec. 616. Monitoring, Technical Assistance, and Enforcement. The Center for School Improvement (now DCMA) functions as the SEA for the BIE and is responsible for monitoring implementation of the IDEA in all BIE-funded schools. The Bureau utilizes the model of a Continuous Improvement Monitoring Process (CIMP) to conduct its general supervision/monitoring responsibilities. As a component of the on-site monitoring visit, monitors review student files utilizing a standardized protocol to ensure compliance with IDEA requirements. *Item 1 General Requirement, n. All IEP services are being provided (CFR 300.350 – 1997 IDEA)* is an item on the standardized protocol that is verified by the on-site monitors. A copy of the CIMP monitoring report for Fond du Lac Ojibwe School is included to verify that this is an item that is included in the on-site monitoring visits that occur at all BIE-funded schools. The following attachments are provided as documentation for this action:

Attachment 31 Special Education File Review Form

Attachment 32 Continuous Improvement Monitoring Process Final Monitoring
Report Fond du Lac Ojibwe School – October 30, 2004

E. In addition to the Continuous Improvement Monitoring Process that occurs with all BIE funded schools on a cyclical basis, all BIE-funded schools also receive yearly monitoring of IDEA implementation conducted by the Special Education Coordinators. This monitoring is called "2nd Tier Monitoring." 2nd Tier monitoring consists of a comprehensive review of students' confidential special education files utilizing a prescribed protocol and observations in classrooms, etc. to ensure that services are being provided as identified on students' IEP's. Lesson plans, attendance logs, and supervision logs are reviewed as additional documentation to verify that students are being appropriately served. 2nd Tier monitoring also provides follow-up to any issues that surfaced during the annual ISEP Certification Audits to ensure that they have been corrected. The following attachment is provided as documentation for this action:

Attachment 33 2nd Tier Special Education File Review Protocol

F. The Office of Special Education Programs conducted a verification visit to the BIE in September 2005. A component of this visit included follow-up on the corrective actions undertaken by BIE and the BIE-funded schools for which there had been findings of non-compliance by the OIG's office. As part of OSEP's visit, they visited the Eastern Navajo Education Line Office, the Minneapolis Education Line Office, Fond du Lac Ojibwe School, and Wingate Elementary School in addition to the visit that was conducted at CSI (now DCMA). OSEP reviewed random samples of student records at Fond du Lac Ojibwe School and Wingate Elementary School and found clear documentation of services on IEP's, activity logs documenting related services received by students, and

copies of student progress reports that had been issued to parents. Based upon record reviews and interviews with staff at schools and Agency Line Offices, as well as, staff at DCMA, OSEP found that the issues identified in the OIG audits have been corrected. The following attachment is provided as documentation:

Attachment 34 Office of Special Education Programs' Monitoring Report to OIEP
Director Dated January 20, 2006 pp. 12 - 13

The BIE believes that the financial documentation provided in response to recommendation 1.1 in combination with the corrective actions delineated above which adhered to the OIG's recommendations 1.2 & 1.3 to address **Finding 1: Special Education Services May Not Have Been Provided to Students** clearly demonstrate that the issues inherent in this finding have been corrected. It is our position that no further corrective action is required.

Finding 2: Other Department Funds Administered by the Department of the Interior are at Risk

The BIE does not concur with this finding. This finding was based on the IG's assertion that BIE could not adequately account for the entire \$111 million of IDEA,, Part B funds appropriated during the audit period. The evidence provided in response to Finding 1, Recommendation 1.1 indicates that the entire \$111 million was used in accordance with applicable requirements and in a way that provided the most benefit to the 5 – 21 year olds for whom those funds were appropriated. Given that the documentation provided in response to Finding 1 demonstrates that BIE could provide valid and reliable documentation, we do not agree that other Department of Education funds administered by the Department of Interior are at risk.

Recommendation 2.1-Coordinate with Interior to require BIA to account for the remaining \$217 million in other Department funds it received during the audit period or return those funds to the Department [of Education] to the extent authorized by law.

The BIE does not concur with this recommendation for the same reasons as stated above. Adequate documentation and evidence has been provided in response to Finding 1 indicating that the BIE did appropriately account the entire \$111 million in IDEA, Part B funds; therefore other Department of Education funds administered by the Department of the Interior are not at risk.

Recommendation 2.2-Establish written accounting policies and procedures to properly account for IDEA, Part B funds and all Department [of Education] funds.

The BIE does not concur with this recommendation. The Federal Finance System is the Department of Interior's accounting system and the BIE is required to use this system. Policies and procedures exist for the use of the Federal Finance System and all

Department funds administered by the Department of the Interior are entered into this system.

Recommendation 2.3-Limit the amount of funds reserved for non-direct purposes.

The BIE concurs with this recommendation; however no corrective action is necessary due to the reauthorization of IDEA 2004. Section 611 Para. A (i), (ii) of Public Law 108-446 that requires 80% of Part B funds be distributed to schools by July 1 of each year, and the remaining 20% be distributed to schools no later than September 30 each year.

The BIE has developed a formula to accomplish the distribution of Part B funds in compliance with the statutory requirements cited in this paragraph. 100% of the schools' appropriations are distributed by the September 30 timeline. In addition, 34 CFR §300.710, Use of funds under Part B of the Act a) The Secretary of the Interior may reserve five percent of its payment under section 300.707 (b) in any fiscal year, or \$500,000, whichever is greater, for administrative costs in carrying out the provisions of 300.707, 300.709, 300.711 and 300.713 through 300.716. The BIE, by statute, can only reserve 5% as 100% of the schools' allocations must be distributed to schools. Therefore, there is no need for the Assistant Secretary for Special Education and Rehabilitative Services to instruct the BIE to limit the amount of funds reserved for non-direct purposes. This has been accomplished by the change in the IDEA statute.

Closing Comments

The BIE appreciated this opportunity to respond to the Draft Audit Report provided by the Office of the Inspector General for the U.S. Department of Education. As this is a Draft report and is pre-decisional as stated in the OIG's letter dated August 2, 2006, the BIE submits this response to help resolve to these findings and to demonstrate BIE's compliance with statutes and regulations governing the use and accountability of Part-B funds. The BIE has demonstrated as a result of this response that other Department funds were not, and are not at risk. The BIE has worked diligently to strengthen our partnership with the U.S. Department of Education and the Office of Special Education Programs. BIE looks forward to a positive working relationship with these agencies and to strengthen our agencies commitment to providing comprehensive services to students in need of Special Education Services