Office of Indian Education's Management of the Professional Development Grant Program

FINAL AUDIT REPORT

ED-OIG/A19I0002
February 2010

NOTICE

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.

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

February 2, 2010

Memorandum

TO: Thelma Meléndez de Santa Ana, Ph.D.
                Assistant Secretary
                Office of Elementary and Secondary Education

FROM: Keith West /s/
                Assistant Inspector General for Audit

SUBJECT: Final Audit Report
                Office of Indian Education's Management of the
                Professional Development Grant Program
                Control Number ED-OIG/A19I0002

Attached is the subject **final audit report** that covers the results of our audit to determine the effectiveness of the Office of Indian Education's management of the Indian Education Professional Development grant program. We received the Office of Elementary and Secondary Education's comments concurring with the findings and associated recommendations in our draft report.

Corrective actions proposed (resolution phase) and implemented (closure phase) by your office will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System (AARTS). Department policy requires that you develop a final corrective action plan (CAP) for our review in the automated system within 30 days of the issuance of this report. The CAP should set forth the specific action items, and targeted completion dates, necessary to implement final corrective actions on the findings and recommendations contained in this final audit report.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the audits that remain unresolved after six months from the date of issuance.

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.

We appreciate the cooperation given us during this review. If you have any questions, please call Michele Weaver-Dugan at (202) 245-6941.

Enclosure

cc: Jenelle Leonard, Acting Director, Office of Indian Education
       Delores Warner, Audit Liaison Officer, Office of Elementary and Secondary Education

TABLE OF CONTENTS

EXECUTIVE SUMMARY

The objective of our audit was to determine the effectiveness of the Office of Indian Education's (OIE) management of the Indian Education Professional Development (IEPD) grant program. Through this program, authorized under the *Elementary and Secondary Education Act of 1965*, as amended by the *No Child Left Behind Act of 2001* (Public Law 107-110), awards are made primarily to institutions of higher education to prepare and train Indians to serve as teachers and school administrators. Funds may be used to finance students' educational expenses (in part or in full), provide monthly stipends and dependent allowances, and pay for personnel and other costs incurred in administering the grant. Individuals who receive training must perform work related to the training received under the program and that benefits Indian people (work payback) or they must repay all or a prorated part of the financial assistance received (cash payback). These individuals are also required to report semiannually to OIE on their compliance with the work requirement.

We determined that OIE must undertake significant efforts to improve its management of the IEPD grant program. We found OIE has failed to maintain adequate records on students receiving assistance under the program and subsequently ensure these students fulfill their payback obligation. As a result, OIE is unable to adequately account for the number of students actually being served by the program; adequately account for training funds provided to students under the program; determine whether students are fulfilling work payback requirements in support of program goals; ensure students who cannot fulfill work payback requirements are returning Federal funds received; and identify potential anomalies in student participation. The weaknesses noted have ultimately fostered an environment susceptible to fraud, waste, and abuse.

We also discovered OIE developed a database to be used in tracking IEPD grant program participants without having published the requisite Federal Register notice and currently maintains personal information on hundreds of individuals who received funds through the program. As a result, data on individual IEPD program participants are being stored without their knowledge, thus denying them the opportunity to contest any potentially inaccurate information.

Lastly, we determined a number of IEPD grants were awarded to schools that proposed spending less than half of their budgets on student training costs. Awarding grants to projects with low percentages of funds targeted for actual student training may defeat the purpose for which these grants are intended and decrease the numbers of students that could actually benefit from the program.

To correct the weaknesses identified, we recommend that the Assistant Secretary for Elementary and Secondary Education take the following actions, among other things:

- Require that OIE conduct a review of its grant and student files to identify all IEPD grant program participants who have failed to provide employment verification letters, in accordance with program regulations, and submit to the Office of the Chief Financial Officer (OCFO)/Accounts Receivable Group (ARG) the names of any such individuals.
- Require that OIE submit immediately to OCFO/ARG the names of all individuals known to have withdrawn or been terminated from an IEPD project, and for whom there have been no approved deferments.
- Review the management and staff structure of the IEPD grant program office and make changes, as appropriate, to ensure that the program is managed and implemented consistent with statutory requirements.
- Establish and implement written policies and procedures regarding the monitoring of the IEPD grant program, to include the collection of participant information that will allow OIE to account for and track students receiving funding under the program, review of grantee performance reports for information on students that have withdrawn or been terminated from the program, and filing procedures for pertinent information.
- Provide adequate funding and other support to allow OIE to hire a full-time employee whose primary, if not sole, responsibility is the tracking of former IEPD grant program participants.
- Require that OIE work with the Office of Management and Budget (OMB) and the appropriate Department of Education (Department) officials to develop a standard payback agreement to be used to collect personally identifiable information on individuals who receive funds through grants awarded under the IEPD grant program.
- Ensure that OIE promptly refers to OIG any credible evidence of suspected fraud or other criminal misconduct on the part of students and/or grantees.
- Require that OIE work with OMB and the responsible Department officials to have approved its current system of records and/or any future system(s) developed for the purpose of tracking recipients of funds under the IEPD grant program.
- Require OIE staff and management to assess for reasonableness the percent of each budget devoted to student training costs, taking into account historical averages as well as other relevant factors, prior to awarding grant funds.

In its response to the draft audit report, the Office of Elementary and Secondary Education (OESE) concurred with our findings and recommendations. OESE's comments are summarized at the end of each finding. The full text of OESE's response is included as Attachment 3 to this report. No changes were made to the report as a result of OESE's response.

BACKGROUND

The Indian Education Professional Development (IEPD) grant program is authorized under the *Elementary and Secondary Education Act of 1965* (ESEA), as amended by the *No Child Left Behind Act of 2001* (Public Law 107-110). It is administered by the Office of Indian Education (OIE), whose mission is, "to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the unique educational and culturally related academic needs of American Indians and Alaska Natives so that these students can achieve to the same challenging State standards as all students."

The purpose of the IEPD grant program is to prepare and train Indians to serve as teachers and school administrators. These grants are awarded to: increase the number of qualified individuals in professions that serve American Indians; provide training to qualified American Indians to become teachers, administrators, teacher aides, social workers, and ancillary education personnel; and improve the skills of those qualified American Indians who already serve in these capacities. Grants are awarded to eligible entities, which include (1) institutions of higher education (IHEs), including Indian IHEs; (2) State education agencies or local educational agencies, in consortium with IHEs; (3) Indian tribes or organizations, in consortium with IHEs; and (4) Bureau of Indian Affairs-funded schools.

Grant funds may be used to fully finance a student's educational expenses or supplement other financial aid – including Federal funding other than loans – for meeting a student's educational expenses. Grantees are also permitted to provide monthly stipends to students (with the maximum amount set yearly by the Secretary of Education), pay for certain induction services after the student completes his or her training program, and use funds for grant-related administrative expenses.

Individuals who receive training must perform work related to the training received under the program and that benefits Indian people (work payback) or they must repay all or a prorated part of the assistance received under the program (cash payback). Participants are also required to report semiannually to OIE on their compliance with the work requirement.

Approximately $104 million was obligated under 139 IEPD grants awarded between Fiscal Years (FY) 1999 and 2009.

AUDIT RESULTS

We determined that OIE must undertake significant efforts to improve its management of the IEPD grant program. Specifically, we found that (1) OIE has failed to maintain adequate records on students receiving assistance under the program and subsequently ensure these students fulfill their payback obligation, (2) OIE developed a database to be used in tracking IEPD grant program participants without having published the requisite Federal Register notice, and (3) a number of IEPD grants were awarded to schools that proposed spending less than half of their budgets on student training costs.

As a result, OIE is unable to adequately account for the number of students actually being served by the program; adequately account for training funds provided to students under the program; determine whether students are fulfilling work payback requirements in support of program goals; ensure students who cannot fulfill work payback requirements are returning Federal funds received; and identify potential anomalies in student participation. In addition, data on individual IEPD program participants are being stored without their knowledge, thus denying them the opportunity to contest any potentially inaccurate information. Awarding grants to projects with low percentages of funds targeted for actual student training may defeat the purpose for which these grants are intended and decrease the numbers of students that could actually benefit from the program.

FINDING NO. 1 – Significant Improvements Are Needed in OIE's Management of the Professional Development Grant Program

OIE must undertake significant efforts to improve its management of the IEPD grant program. We found OIE has failed to maintain adequate records on students receiving assistance under the program and subsequently ensure these students fulfill their payback obligation. As a result, OIE is unable to adequately account for the number of students actually being served by the program; adequately account for training funds provided to students under the program; determine whether students are fulfilling work payback requirements in support of program goals; ensure students who cannot fulfill work payback requirements are returning Federal funds received; and identify potential anomalies in student participation. The weaknesses noted have ultimately fostered an environment susceptible to fraud, waste, and abuse.

OIE Has Not Maintained Adequate Records on Students Receiving Assistance Under the Program

We found OIE has not maintained adequate records to report accurately on the total number of students trained through grants awarded under the IEPD grant program, nor has it fully identified individual program participants and the amount of assistance received by each. Specifically, for the 82 grants awarded between FYs 1999 and 2004, we found OIE maintained separate student files for only 52 (63 percent).

The files that were maintained varied significantly in both the quantity and quality of information contained within.[1] Although some included student names, addresses, phone numbers, social security numbers (SSNs), signed payback agreements, individual funding amounts, class schedules, and graduation dates, others lacked even the most basic personally identifiable information (PII).[2] In many cases, we had to review the performance reports contained in the official grant files in an attempt to identify participants and whatever limited contact and/or status information project directors would occasionally provide.

In order to determine the number of students who received training during the time period reviewed, we used the information contained in the existing student files and information contained in performance reports in the official grant files. We could not identify the number of students trained for four of the nine FY 1999 awards. We subsequently calculated that approximately 1,660 individuals received training through grants awarded under the IEPD grant program during the time period reviewed.

Of the 1,660 students trained, we were able to identify 1,187 by name. We later determined 48 of these 1,187 participants (4 percent) were listed more than once, either under (1) a different grant awarded to the same grantee, (2) a different grant awarded to a different grantee in the same State, or (3) a different grant awarded to a different grantee in a different State. We noted nearly half of the duplicates (49 percent) were associated with just two grantees.

In early 2007, OIE began developing a "Master Student Database" to assist with the tracking of students receiving assistance under the IEPD program. Our review of this database found it to be largely incomplete and unreliable. We found the database did not include any students receiving assistance under FY 1999 IEPD grants. In comparison to the above, we found the database included the names of 1,217 students trained under grants awarded in FYs 2000-2004. For many of the students, the only data maintained was their name.

To determine whether OIE's recordkeeping has improved in more recent grant years, we reviewed a sample of grantees and associated student files from FY 2005 through FY 2007. We found the structure of student files appears to have improved, with summary lists of students attached at the beginning of the files and subfolders for each of the students listed. However, although the structure of the student files may have improved, we still identified students who did not have participation agreements on file, students who were specifically identified in the grantee-submitted performance reports who were not included in OIE's files, student information that was included in the wrong file, and student information that was not entered into OIE's student tracking database.

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[1] Grants awarded from FYs 2005 through 2007 were not reviewed to the same extent as earlier grants because of the structure of the IEPD grant program. Because these grants are for 4-year programs, it was determined the majority of students would not have completed their training at the time of our review, thus, it was not expected of OIE to have yet developed and be maintaining comprehensive files concerning the employment of individual participants.

[2] PII is defined in Office of Management and Budget (OMB) Memorandum 07-16 as, "Information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc…."

OIE Has Not Ensured Students Fulfill Their Payback Obligation

We found OIE has not satisfied its responsibility to adequately monitor individual program participants to ensure they fulfill their work-related payback or cash payback obligation. Specifically, we identified the following areas of concern: (1) a notable absence of employment verification letters; (2) inappropriate granting of exemptions and/or inappropriate notice of completion of payback obligations; and (3) lack of followup with individuals reported as withdrawn or terminated from IEPD projects.

Of the approximately 1,660 students identified as having been trained under IEPD projects with performance periods that had ended prior to our review, we could find documentation to support work payback for only 262 (16 percent).[3] We determined these 262 individuals were trained under 43 (52 percent) of the 82 grants reviewed, meaning not a single employment verification letter was provided and/or retained on file for participants from 39 grantees (48 percent).

Of the 262 participants for whom evidence of work payback was found, we were able to locate the required semiannual certifications for only 8 (3 percent). We further noted that written notices of intent to perform work payback, required by regulation, and requests for deferment, which if approved would allow participants to postpone payback, were also uncommon, with such documentation maintained for participants in less than 20 percent of the grants awarded between FYs 2000 and 2004.

According to the database maintained by OIE, evidence of employment has been provided for 397 (33 percent) of 1,217 FY 2000-2004 IEPD participants. Thus, even by OIE's own count, approximately two-thirds of the individuals trained under the IEPD grant program for the time period noted are of unknown status.

We also noted OIE officials issued nine certifications for completion of work payback without creditable evidence of such and may have exempted some participants under at least one FY 2000 IEPD project from their payback obligation. We were unable to determine the reasons the officials may have granted exemptions. An analysis of emails relevant to our review, as well as statements made by former OIE employees, disclosed that the idea was discussed over email and during at least one staff meeting in October 2005. We reviewed a letter exempting these participants that was drafted and shared within OIE. Based on a subsequent review of emails related to the IEPD grant program, it appears the letter was mailed to at least some students who were trained under two projects administered by the same grantee. The emails, however, allude to the letter being sent in error to either some or all of these students, and another letter was drafted informing any such recipients that they should disregard the previous letter. We also noted that in one email to the most recent OIE Director, the Discretionary Grants Group Leader stated, "We had decided to begin payback with 2001."[4] Our discussion with the applicable

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[3] We relied on the program regulations in determining what would be considered adequate evidence to support work payback. This included letters from school supervisors as well as copies of employment contracts. Emails or letters from students and/or notations from project directors in performance reports were not considered sufficient. From our review of the OIE database, however, it appears such documentation was accepted – either on occasion, or as a matter of policy.

[4] The OIE Director at the time of our fieldwork retired from the Department of Education (Department) in July 2009; consequently, she is referred to as the "most recent" OIE Director throughout this document. The Department's Director for School Support and Technology Programs is currently serving as the Acting Director of OIE.

Office of General Counsel (OGC) attorney noted that program officials do not have the authority to exempt program participants from payback requirements. She further noted that OGC was not consulted on this matter.

In our review of performance reports, we also noted at least one grantee that was improperly granting exemptions from payback. This included waivers to students who withdrew from the program because of "personal" circumstances, and students being excused from payback obligations as a result of local government layoffs and budget cuts. When asked whether they were aware this occurred, the most recent OIE Director and the Discretionary Grants Group Leader stated they were not and noted any such action is beyond the scope of a grantee's authority.

We found information on participants who were terminated or withdrew from their respective programs was often provided to OIE, but in most cases we could find no evidence of followup in either the official grant or associated student files. We identified 116 participants who were dropped from grants awarded between FYs 1999 and 2004. These individuals collectively received approximately $1.4 million in IEPD grant program funds.[5] At the time of our review, we determined that only seven individuals were on cash payback (none of whom were previously identified as having been dropped from the program), and that payback for at least one was initiated at the participant's own request.[6] In those few instances where followup did occur, we found communications to be minimal at best. We also found information indicating OIE may not have pursued appropriate action against one individual identified by a grantee as potentially being in serious violation of program regulations. Specific examples include the following:[7]

- In January 2001, OIE was informed by a grantee that two participants had withdrawn from its FY 2000 IEPD project. These students received approximately $15,400 in program funds. Two years later, the same grantee informed OIE that another participant – and recipient of more than $38,000 in program funds – had also withdrawn from the project. The project director provided names, addresses, and signed payback agreements with SSNs for all three individuals. Between January 2004 and June 2005, OIE was provided the names of four more individuals who were terminated or withdrew from an FY 2002 IEPD grant awarded to the same grantee. These students received approximately $75,000 in program funds. In April 2007, the grantee once again notified OIE that participants – this time a total of 21 – had withdrawn from an FY 2007 IEPD project. These students received just over $74,000 in program funds and were also identified by name, address, and SSN. Thus, we determined that this grantee provided over $202,000 in financial assistance to individuals who were subsequently terminated or withdrew from its IEPD projects. It appears a monitoring site visit was scheduled for September 2007, but we found nothing to indicate any further action was taken with

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[5] We determined OIE counts 49 participants as having dropped from IEPD projects, though none are on cash payback. These individuals received just over $629,000 in program funds, according to information maintained in OIE's student database.

[6] Three of the seven individuals received assistance under IEPD projects funded between FYs 1999 and 2004. We were unable to locate any information on the other four, which suggests they may have received assistance under more recent IEPD grants.

[7] The cases cited below represent just some of the more egregious examples of OIE's failure to hold participants accountable for cash payback. For each, OIE was provided indisputable evidence/statements regarding participant withdrawals and/or terminations, in addition to sufficient contact information, but did not initiate collection activities.

regard to this issue until the Office of Inspector General (OIG) mentioned it during a meeting between the audit team and the OIE Discretionary Grants Group Leader. We followed up with this individual to determine what OIE planned to do with regard to the dropped students and were told that OIE employees were in the process of verifying the information maintained on each student. Once this was completed, the students would be notified of the payback requirements by letter and afforded the opportunity to contest their debt and/or provide evidence of work payback before being referred to OCFO/ARG for collection. Whether OIE followed through with this as planned is unknown, however none of the students are currently on cash payback.

- An FY 2000 grantee identified four participants who were terminated or withdrew from its IEPD project in a 2001-2002 annual grant performance report. Three of these four individuals received a total of approximately $29,200 in program funds; the other withdrew prior to the first disbursement of funds. The grantee provided the then-OIE Discretionary Grants Team Leader with a followup report in January 2003 in which two additional participants who had dropped from the program were identified. These individuals received approximately $21,800 in program funds, bringing the total funds expended on dropped participants under this grant to just over $51,000. An accounting of funds disbursed by program year was provided for all six students, along with their SSNs. None of the students are currently on cash payback.

- Between October 2003 and November 2004, OIE was informed that four participants had dropped from an FY 2002 IEPD project and was provided documentation on each. Their names, addresses, and SSNs were also included in the final grant performance report submitted in late 2006. These individuals received approximately $83,400 in program funds. We found this same grantee notified OIE in March 2005 that a student had dropped from its FY 2004 IEPD project, again providing a name, address, phone number, SSN, and signed payback agreement. OIE's response, however, was that they did "not have an official setup here in DC to accept paybacks… it is being constructed now." The official went on to state that, "Until it is ready, we CANNOT accept any money… You need to get… contact information and basically have her sit tight until our system is up and running. I know this is a risk when she is willing to pay it now, but there is no way we can process it."[8] None of the students are currently on cash payback.

- In December 2005, a former OIE employee emailed students known to have participated under an FY 2001 IEPD project asking that they contact the office to verify their employment status. Records show at least one individual – the recipient of approximately $7,900 in program funds – responded that she had not completed the program and would like to set up a repayment plan, but there is no evidence OIE pursued the matter. We found this same grantee reported in a spring 2006 quarterly grant performance report that four students had dropped from one of its FY 2004 IEPD projects. An attachment to the report, however, identified six students who were

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[8] Records and testimony provided by officials in the Office of the Chief Financial Officer's (OCFO) Accounts Receivable Group (ARG) indicate they met with OIE management and/or staff on multiple occasions prior to this. These meetings were informational in nature (i.e., explanation of the accounts receivable process) and always initiated by OCFO/ARG, rather than OIE. When asked about the outcome of these discussions, the Supervisor, OCFO/ARG, stated OIE provided no indication that any students had defaulted on their service obligation or that OCFO's services would be required.

terminated from the project. These individuals received approximately $69,000 in program funds. OIE was provided copies of signed payback agreements, which included SSNs, for each student. Three students also left or were suspended from the grantee's other FY 2004 IEPD project, according to a summer 2007 quarterly performance report. Funding information was not provided for two of the participants, but the third received total financial assistance of over $46,400, bringing the total known funds expended on dropped participants by this grantee to over $123,000. OIE was again provided copies of signed payback agreements for each student, but this time no SSNs. None of the students are currently on cash payback.

▪ OIE was provided information on eight students who either withdrew or were dropped from an FY 2002 IEPD project in late 2005. These individuals received approximately $116,500 in program funds. Signed payback agreements were submitted by the grantee. None of the students are currently on cash payback.

▪ Another FY 2002 grantee provided OIE a detailed accounting of funds disbursed to each of its IEPD project participants in a summer 2005 quarterly grant performance report. The grantee identified four students who had withdrawn from the project after having received over $101,000 in program funds. Signed payback agreements are on file for each. None of the students are currently on cash payback.

▪ An FY 2003 grantee informed OIE in a summer 2006 quarterly grant performance report that two of its IEPD project participants had been terminated from the program. Two others had not been heard from in some time, with all attempts to contact them described as "unsuccessful." As a result, their status could not be ascertained. These four individuals, for whom payback agreements are on file, received in excess of $163,000 in program funds. None of the students are currently on cash payback.

▪ In October 2006, OIE was alerted to the fact that a student had been participating and receiving funds under two separate FY 2004 IEPD projects. This student received approximately $26,000 from one grantee and an unknown amount from the other. In an email to OIE, the grant project director stated efforts had been made to contact the student to try to remedy the situation, but that the individual was unwilling to cooperate, subsequently withdrew from both programs, and had not been heard from in some time. This information appears to have been shared with the most recent OIE Director and the Discretionary Grants Group Leader, though the extent to which the case was pursued cannot be determined based on a review of the files maintained by OIE and discussions with OIE management. In a July 2007 grant performance report, the same grantee informed OIE that eight participants (including the individual described above) had withdrawn from its IEPD project. These students received approximately $109,000 in program funds and were identified by name, address, and SSN. OIE also has copies of signed payback agreements for each participant. None of the students are currently on cash payback.

▪ A final evaluation report completed by a contractor for another FY 2004 grantee, and subsequently provided to OIE, notes six students withdrew from the project. We identified five of these students by name through our review of the student files maintained by OIE. These individuals, for whom participant agreements are on file,

received approximately $72,500 in program funds. None of the students are currently on cash payback.

Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control,* states

> Management has a fundamental responsibility to develop and maintain effective internal control. The proper stewardship of Federal resources is an essential responsibility of agency managers and staff. Federal employees must ensure that Federal programs operate and Federal resources are used efficiently and effectively to achieve desired objectives. Programs must operate and resources must be used consistent with agency missions, in compliance with laws and regulations, and with minimal potential for waste, fraud, and mismanagement.

With regard to the IEPD grant program itself, section 7122(h)(1) of the ESEA, states

> The Secretary (of Education) shall require, by regulation that an individual who receives training pursuant to a grant made under this section –
> (A) perform work –
> (i) related to the training received under this section; and
> (ii) that benefits Indian people; or
> (B) repay all or a prorated part of the assistance received.

Section 7122(h)(2) of the ESEA states

> The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning compliance with the work requirement under paragraph (1).

Title 34 of the Code of Federal Regulations (C.F.R.) § 263.10 states

> (a) Notice of intent. Participants shall submit to the Secretary, within 30 days of completion of their training program, a written notice of intent to complete a work-related or cash payback, or to continue in a degree program as a full-time student.
> (b) Work-related payback. If the participant proposes a work-related payback, the written notice of intent shall include information explaining how the work-related service is related to the training received and how it benefits Indian people.
> (1) For work-related service, the Secretary shall review each participant's payback plan to determine if the work-related service is related to the training received and that it benefits Indian people. The Secretary approves the payback plan if a determination is made that the work-related service to be performed is related to the training received and benefits Indian people, meets all applicable statutory and regulatory requirements, and is otherwise appropriate.
> (2) The payback plan for work-related service shall identify where, when, the type of service, and for whom the work will be performed.
> (3) A participant shall notify the Secretary in writing of any change in the work-related service being performed within 30 days of such change.

(4) For work-related payback, individuals shall submit a status report every six
months beginning from the date the work-related service is to begin. The reports
shall include a certification from the participant's employer that the service(s)
have been performed without interruption.

(5) For participants that initiate, but cannot complete, a work-related payback, the
payback reverts to a cash payback that is prorated based upon the amount of time
the work-related payback has been completed.

(c) Cash payback. If a cash payback is to be made, the Department will contact the
participant to establish an appropriate schedule for payments.

The regulations at 34 C.F.R. § 263.9(b), however, permit the Secretary to defer the payback
requirement for any participant who plans to continue his or her education, "as a full-time
student without interruption, in a program leading to a degree in an accredited institution of
higher education." Requests for deferment must be submitted within 30 days of leaving an IEPD
project and include information on school attendance and the degree being sought. Students in
deferment status must also, "submit to the Secretary a status report from an academic advisor or
other authorized representative… showing verification of enrollment and status, after every
grading period."

We found OIE's lack of sufficient records on IEPD grant program participants and substandard
tracking/implementation of student payback requirements resulted primarily from negligence on
the part of OIE staff and management involved with the program. Specifically, we found OIE
did not require its grantees to provide information concerning individual students receiving
training funds under the program, did not have a process established to properly review and file
information that was received, and failed to take actions that could significantly increase the
Department's ability to locate and collect from participants who fail to fulfill their payback
obligation.

Several current and former OIE employees also attributed the problems noted to an inefficient
use of OIE staff, lack of management attention – including an adversity to working with
OCFO/ARG and OMB, and a dysfunctional work environment. In addition, when resources
were devoted to the program, it appears they were either ignored, encountered resistance, or
reassigned when issues were brought to light and they tried to proactively address the situations
encountered.

Grantees Were Not Required to Provide Adequate Information

We noted a significant lack of consistency in the type and amount of information provided by
grantees in their quarterly and annual performance reports. Although some grantees included
detailed information on their project participants, such as names, addresses, and SSNs, others
were less forthcoming, such that OIE would have no idea who was actually receiving funds in
order to ensure accountability with future payback requirements. We found little documentation
to suggest OIE followed up with grantees who may have failed to provide adequate information
on their projects and/or participants in grant performance reports.

Lack of Process to Properly Review and File Information

The most recent Director, who held several high-level positions within OIE over the last 20 years, noted the bulk of OIE's work is and always has been in formula grants.[9] Far less money and grantees are involved with the two discretionary grant programs administered by the office, one of which is the IEPD grant program. She stated that given the substantially higher dollar value, it is likely OIE employees spent the majority of their time on formula grants, perhaps to the detriment of the discretionary grants. She also noted OIE has gone from a staff of about 45 full-time equivalents (FTE) during the 1990s to 15 FTE currently. She noted that stability has not been a feature of OIE, noting that there have been a number of Directors and Acting Directors over the years, each with his or her own idea about how to best run the office. As a result, certain processes and procedures (e.g. maintaining sufficient grant records to allow for the tracking of student payback) were never formalized, communicated to staff, and/or implemented consistently throughout the office. Guidance has been provided on a piecemeal basis, with some supervisors taking greater initiative than others. She also noted OIE would be in a difficult situation enforcing payback without a signed payback agreement, adding this doesn't mean there is no chance of recouping the money, but that it would be difficult, especially when dealing with grants and grantees from early in the IEPD program (i.e., FYs 1999, 2000). OIE would have to rely heavily on information obtained from the grantees. When asked why, if this is the case, a better effort was not (and has not been) made to collect signed payback agreements and track participants, she again highlighted the instability of both OIE and some of its grantees.

Inefficient Use of OIE Staff/Lack of OIE Management Attention

Between 2002 and 2004, the IEPD grant program was essentially administered by one employee, who was also responsible for all aspects of discretionary grants management, from administering annual competitions and making grant awards to, among other things, providing technical assistance, monitoring grantees for adequate performance, and ensuring fiscal requirements were met. This former employee noted this was an almost impossible task for one person, with 120-150 grants in progress at any given time. He readily acknowledged difficulties with recordkeeping.

According to the former OIE employee, issues with the IEPD grant program were first brought to the attention of the then-Special Assistant to the OIE Director (now most recent Director) sometime in 2003. It was not until October 2004, however, that another OIE employee was instructed by this official to focus specifically on organizing the grant files and attempting to identify the number of students who had received training under the program. This coincided with the hiring of the current OIE Discretionary Grants Group Leader in January 2005 – and, according to the most recent Director, primary person involved with payback since then. During a discussion with the audit team, the most recent OIE Director stated the first request for an additional FTE was actually made during the FY 2003 budget process, but that OIE was not able to hire someone until 2005. This is effectively when OIE began tracking students.

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[9] Among this individual's former job titles are Group Leader, Special Assistant to the Director, Deputy Director, and Acting Director – a position she held on more than one occasion during the past few years.

In April 2005, OIE brought on an FTE with the sole task of tracking student payback. This individual was asked by the most recent OIE Director and the Discretionary Grants Group Leader to locate names and contact information for those participants trained under grants awarded in FY 2001, and follow up as necessary to ensure they were fulfilling their service payback obligation. When finished with FY 2001, he was to move on to FY 2002, then FY 2003 and so on and so forth until caught up to the current day. According to the now-former OIE employee, he was told by his supervisors not to pursue grantees from FYs 1999 and 2000 because of a lack of sufficient records to substantiate individual students' participation in the program.

This individual stated he found the IEPD grant program files to be incomplete and in a general state of disarray – sentiments echoed by successors in this position, including both former and current OIE employees. Documents were not properly filed, but rather scattered throughout the office – on the floor and on top of and behind filing cabinets. Some grant files were nearly empty.

Despite this obstacle, by August 2005, the former employee had constructed a Microsoft Excel database file to be sent to all FY 2001 IEPD grant program project directors to verify contact information for their former participants. This individual recounted encountering a certain level of resistance from the project directors he contacted and noted some of them seemed to lack any real working knowledge of the program, including what information should be provided to the Department to allow for the tracking of student payback. He also noted some never responded to his requests and some had invalid email addresses and/or disconnected phone numbers.

In September 2005, the employee provided the current OIE Discretionary Grants Group Leader an electronic copy of the file, complete with the results of his review. Two months later, the individual also sent a copy of the file to the Supervisor, OCFO/ARG, for reference if OIE management ever contacted OCFO/ARG for assistance with debt collection, which OCFO/ARG confirmed they never did. According to OCFO/ARG, this was the first individual from OIE that was responsive to OCFO/ARG's assistance and provided related data for possible collection efforts.[10]

Around this time, it appears this employee was transferred to another group within OIE because of concerns the most recent OIE Director and the Discretionary Grants Group Leader had regarding his allegedly brusque interaction with grantees. A different OIE employee – also no longer employed in the office – was subsequently tasked with continuing the effort to identify former program participants, beginning with FY 2002 grantees.

According to this individual, the information she inherited from her predecessor showed students who had received funds through grants awarded under the IEPD grant program in FY 2001 were not being tracked, and that there was almost no accountability when it came to the payback portion of the program. She found even greater discrepancies when she began compiling information for FY 2002 grantees and beyond, noting there were few student records and that

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[10] OCFO/ARG first initiated a meeting with OIE in May 2003 to provide information about the collection services provided by the Department and share a draft letter that OIE could use to send to individuals that appeared to warrant collection activity. A second meeting was initiated by OCFO/ARG in February 2005 to determine whether OIE had identified any such individuals.

those she was able to pull were of no value in terms of the contact and status information provided.

Between March and June 2006, this individual met at least twice with officials in OCFO/ARG – first to gain an understanding of the debt collection process, and later to share her concern that debts were being forgiven by the most recent OIE Director and the Discretionary Grants Group Leader (in excess of their authority) for students who failed to complete their work payback. Between June and September 2006, she provided OCFO/ARG the names and addresses of 177 individuals who had participated in IEPD projects but never submitted documentation to support their work in schools serving Indian students – the primary goal of the program. Of these, 108 (61 percent) had already received a letter from OIE regarding their payback obligation. Copies of these letters, which were signed and date-stamped, were forwarded to OCFO/ARG by this individual so that receivables could be established, or "formally" referred, in the words of one official.[11] These students alone represent $2.29 million in debts owed the Department. It remains unclear whether or not any of the other 69 individuals (39 percent – the "informally" referred) were ever contacted by OIE. The former employee admitted this was at times done without the knowledge and consent of her supervisor, but stated she had concerns that information she provided was being held back from OCFO/ARG for some unknown reason. OCFO/ARG officials succeeded in contacting a number of these individuals, but stated they received many calls from students who disputed their apparent failure to fulfill the service requirement. These students were directed to call OIE, with the end result being the Discretionary Grants Group Leader requesting that all collection efforts be suspended in July 2007. By this time, OIE employees had also located employment verification letters for some of the students.

The former employee stated she took her findings to the then-Assistant Secretary of the Office of Elementary and Secondary Education (OESE) in December 2006, once it had become clear to her that her direct supervisors were not going to take action to collect from former participants who had failed to fulfill their service payback obligation. Attendees at an ensuing presentation included the current Director of the Office of the Secretary's Risk Management Service; former OESE Executive Officer; then-Acting Director of OIE; current OCFO/ARG Supervisor; and both the most recent OIE Director and the Discretionary Grants Group Leader. According to this individual, those present – with the exception of the most recent OIE Director and the Discretionary Grants Group Leader – listened intently and expressed concern that adequate records were not being kept and monitoring by OIE was basically non-existent. She added the most recent OIE Director and the Discretionary Grants Group Leader interrupted her throughout, claiming the information being presented was false and misleading, but providing no support for their claims. The current OCFO/ARG Supervisor indicated these individuals also hesitated when asked to obtain and/or provide SSNs for the students referred by the former OIE employee, despite OCFO/ARG's (1) assurance that it would be permissible under the *Privacy Act of 1974*, provided the required steps were taken, and (2) offers of assistance – both then and in future communications. OCFO/ARG requires SSNs in order to forward uncollectible delinquent debts to the U.S. Department of the Treasury for further collection action, as mandated under the *Debt Collection Improvement Act of 1996*.

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[11] OCFO/ARG noted that SSNs were provided for just 50 of these 108 individuals, making it difficult to initiate billing actions.

Lack of Resources Committed to Development of Functional Student Database

When the aforementioned employee left the Department in January 2007, another OIE program specialist was detailed to payback, at the request of the then-Acting Director of OIE. This individual was tasked with organizing documents and information on students trained under IEPD projects from FYs 2000 to 2006 (a continuation of efforts undertaken by the former staffers); compiling a list of each projects' student cohort(s); and developing an electronic tracking system (referred to in later communications as the "master student database") to monitor individual participants' paybacks.

Upon assuming the detail, the employee was provided access to the grant files – which she, too, found to be in disarray – as well as approximately 40 documents dating back to 2002, attached to an email from the most recent OIE Director. Among these were questions from project directors and participants – some of which appear to have been answered – as well as intra-office correspondence. In one email from July 2006, one of the former OIE employees responsible for payback notified the OIE Discretionary Grants Group Leader that many of the project directors he contacted informed him they had already provided information to OIE on their students, and that at least one was "irate" in his response.

The detailed employee stated she spent a good deal of time simply organizing the files, in order to get the information ready for entry into the database she was developing in Microsoft Access. She was at times assisted in this task by three other OIE employees, but noted she struggled with management to get help. When asked whether this may have been because of resource issues, she stated that was "definitely not the case." This individual added that by the time the team was finished going through the files, the list of participants had grown from the approximately 500 identified by her predecessors to nearly 1,800.

From our review of emails related to the IEPD grant program, we learned the database was operational by, and perhaps before, July 2007. Around this time, the individual described above emailed her supervisor, the OIE Discretionary Grants Group Leader, stating she was prepared to begin training support staff on how to enter data into the participant tracking system. A series of emails followed in which the Discretionary Grants Group Leader expressed concerns with how the detailed employee was spending her time and questioned whether it was necessary to involve additional staff in the project. The then-Acting Director of OIE responded that establishing the payback system was "priority work" and, further, that he was the one who requested that others in the office provide assistance in order to finish the project by the end of the summer – a request he was told previously would not be a problem. The emails end with the Discretionary Grants Group Leader voicing disapproval of the situation, and both the then-Acting Director and most recent Director of OIE advising that the managers meet to discuss the issue.

Failure to Take Actions That Could Significantly Increase the Department's Ability to Locate and Collect From Participants

In addition to the apparent hesitancy, if not unwillingness of OIE management to actively work with OCFO/ARG, we also noted ongoing resistance with regard to working with OMB to have approved a standard participant payback agreement or some other form that would provide OIE with the information necessary to adequately track students and enforce payback obligations. Such an agreement would allow the office to collect SSNs and other PII deemed necessary for

the purpose of tracking IEPD grant program participants. To store this information, OIE would also need to notify OMB of its intent to establish a system of records.[12] More than one interviewee, however, stated the most recent OIE Director was averse to dealing with both OMB and the Department's internal approving officials, and resisted doing so for years. This has left OIE in a difficult position, as OCFO/ARG requires SSNs to initiate debt collection activities.

When asked to comment on this, the most recent OIE Director stated OIE has not developed and mandated the use of a standard payback agreement form because "the agreement is between the grantee and student." She stated OIE provides project directors with a sample payback agreement but does not require that they use it as presented. We questioned this logic, noting OIE – not each grantee – is ultimately responsible for ensuring all students fulfill their payback obligation and that taxpayer dollars are properly accounted for. She then provided additional rationales for the decision to forgo standardization and acknowledged the approval process can be difficult, long, and tedious.

We determined this issue was discussed at least as far back as August 2005 during our review of emails related to the IEPD grant program. In notes provided to the most recent OIE Director and others following a team meeting, the OIE Discretionary Grants Group Leader wrote the following: "[OIE program specialist] suggested to create a standard payback agreement form to distribute. However, this would require OMB clearance and not an activity warranted for OIE to attempt." Why this activity was deemed unwarranted for OIE to attempt remains unknown.

Recent OIE Efforts

OIE appears to have recently made some progress toward remedying the situation with regard to student payback, beyond development of the database. This includes scanning quarterly grant performance reports for information on program participants and maintaining separate student files for each grantee from the start of the grant performance period, rather than waiting until later in the grant lifecycle. However, we noted a disconnect persists between the various individuals responsible for oversight of the IEPD grant program, and it remains ambiguous as to who is ultimately responsible for receiving participant information, ensuring it is properly documented and filed, and actually tracking students both pre- and post-graduation.

Specifically, the individuals interviewed with regard to this process provided conflicting descriptions of what actually occurs. The OIE employee tasked with reviewing the quarterly grant performance reports stated he is not responsible for entering information on participants into OIE's student database nor is he personally involved in the tracking of former participants to ensure they are fulfilling the cash or work payback requirement. Rather, he forwards any such information to his supervisors, who in turn see to it that the database is updated. One of these supervisors – a Discretionary Grants Team Leader who has since left OIE for another position within the Department – confirmed this individual forwards information on students contained in the quarterly performance reports, but not to her. The former Team Leader stated that copies are provided to two other OIE employees – one who inputs the information into the student database and another who files the hardcopy documents. However, we had previously learned that the individual identified as being responsible for inputting the data was actually the detailed employee described above, who returned to her permanent position in OIE in March 2008. The

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[12] See additional discussion under Finding No. 2.

employee's other supervisor – the OIE Discretionary Grants Group Leader – stated he is responsible for monitoring program participants, but did not elaborate on the process.

Through communications with the current OIE Discretionary Grants Group Leader and aforementioned Team Leader toward the end of our fieldwork, we learned OIE has also begun working with the Department's Budget Service and Institute of Education Sciences on the "Data Quality Initiative" (DQI). The DQI places an increased emphasis on Government Performance and Results Act (GPRA) requirements, and encourages greater interaction with OMB. Most recently, we discovered OIE published a Federal Register Notice of Proposed Information Collection Requests (NPICR) in July 2009, and we were informed that the office has submitted the paperwork to advertise for a Career Intern Position specifically to work on student payback.

The NPICR abstract describes OIE's intentions to implement a (1) Semi-Annual Participant Report (SAPR), (2) Participant Follow-Up Protocol, and (3) Employment Verification Survey. According to OIE, the information collected using these forms is necessary to (1) assess the performance of the IEPD grant program on its GPRA measures, (2) determine whether participants are fulfilling the terms of their work payback requirements, and (3) provide project-monitoring and compliance information to IEPD grant program staff.

We reviewed an attachment detailing the electronically submitted SAPR and found that OIE will require that grantees provide, among other things, student names, SSNs, home addresses, phone numbers, email addresses, and information on their program completion and placement status. OIE will also require that grantees provide alternate contact information for each participant if they cannot be located. According to the current OIE Discretionary Grants Group Leader, information on this process will be presented to all IEPD project directors at an upcoming conference.

Overall Impact on IEPD Grant Program

As a result of the above, OIE is unable to:

- adequately account for the number of students actually being served by the program;
- adequately account for training funds provided to students under the program;
- determine whether students are fulfilling work payback requirements in support of program goals;
- ensure students that cannot fulfill work payback requirements are returning Federal funds received; and
- identify potential anomalies in student participation.

The weaknesses noted significantly increase the risk of fraud, waste, and abuse under this program.

For the 82 grants awarded between FYs 1999 through 2004, we determined OIE obligated approximately $62.9 million. Based on our review of the approved budgets included in the grant files, we determined approximately $41.3 million (66 percent) was to be used to pay for the costs associated with training individual students, i.e., tuition, books, fees, stipends for those attending school on a full-time basis, and dependent allowances. However, we subsequently found OIE did not maintain adequate records to account for approximately $24.4 million (59 percent) of the

funds budgeted for costs associated with student training; we were only able to tie back approximately $16.9 million (41 percent) to less than 800 unique participants – half the number of participants identified through our review of the grant and student files.

OIE's lack of recordkeeping has significantly hindered OCFO/ARG's ability to effectively pursue cash payback. As previously stated, between June and September 2006, a former OIE program specialist provided OCFO/ARG the names and addresses of 177 IEPD grant program participants for whom she could find no documentation to support their work in schools serving Indian students. OCFO/ARG officials succeeded in contacting a number of these individuals, but stated they subsequently received a number of calls from students who disputed their alleged failure to fulfill the service requirement and noted they had already provided the necessary information to OIE.[13] OCFO/ARG was also contacted by at least one project director who wanted to follow up on behalf of a number of former students in the same situation. These students were directed to call OIE, with the result being the Discretionary Grants Group Leader requesting that all collection efforts be suspended in July 2007 to allow time for OIE staff to organize the program files and develop a computer database. In her letter to OCFO/ARG, the OIE Discretionary Grants Group Leader stated OIE would, "… provide updated information regarding students previously forwarded to Debt Management and possibly additional students by September 4, 2007." However, it was not until November 2007 that OIE began to provide OCFO/ARG updates on the status of a number of these debts, and only after several followup inquiries from OCFO/ARG. A similar situation occurred between June and November 2008, with no less than four requests from OCFO/ARG to OIE regarding the status of certain debtors. OIE finally responded on December 1, 2008, advising OCFO/ARG to proceed with collection, but failing to provide the information necessary to do so.

OCFO/ARG provided OIG with updated information between January and March 2009 showing OIE had requested that the debts of at least 62 of the 108 individuals "formally" referred for collection be withdrawn. Of these 62, 32 (52 percent) were trained under the same IEPD project for which the idea of a blanket exemption was discussed. At the time we reviewed OIE's files, documentation supporting work payback had been provided for just 8 (25 percent) of these 32 individuals. These students received approximately $84,200 in program funds. In total, we determined OIE maintained evidence to support some level of work payback (i.e., at least one letter from a school official) for 23 (37 percent) of the 62 individuals included on the withdrawal lists. The other 39 participants, for whom no such documentation could be found, received approximately $643,200 in program funds.

We also learned OIE provided conflicting information in subsequent communications with OCFO/ARG. For instance, in March 2009, after having previously requested that the debts of dozens of IEPD grant program participants be withdrawn, the OIE Discretionary Grants Group Leader notified OCFO/ARG that she only had employment verification letters for two individuals, and that OCFO/ARG should proceed with collection on the other accounts. We reviewed our files for information on these two participants and found that no such documentation was available at the time of our initial file review. Conversely, we noted that a

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[13] An email exchange in July 2007 documents one student's experience with OIE. In her email, the student states she was contacted regarding her failure to provide any employment information, but notes she had already done so. An OIE employee responded she found a letter from the student, dated October 2005, but would need something on official school letterhead to comply with program regulations.

number of the individuals for whom the OIE Discretionary Grants Group Leader recommended the initiation of collection activities did, in fact, provide valid employment verification letters. One even provided required semiannual certifications – one of just eight IEPD grant program participants who did so.

Just days later, the same individual provided OCFO/ARG withdrawal letters for six IEPD grant program participants, meaning documentation to support work payback was apparently found in OIE's files. According to OCFO/ARG officials, this issue of inconsistency in statements and actions has persisted for some time and has had an adverse effect on their ability to collect from IEPD grant program participants.

Lastly, OIE's inadequate recordkeeping has hindered its ability to identify anomalies that could indicate problems. For example, with regard to those participants identified as having received funds under different grant awards, there exists the possibility they were either participating in two programs simultaneously or enrolling in one program after completing or dropping from another – either legitimately (continuing their education, in which case documentation of a deferment request and approval should be on file), or illegitimately (for the sole purpose of obtaining additional Federal grant funds).

We identified one grantee that had served, and thereby funded, three individuals under three separate IEPD grants (awarded in FYs 1999, 2000, and 2002). These students – two of whom are listed as having the same last name, address, and phone number – received approximately $236,749 in program funds. We found OIE maintained documentation to support work payback for all three participants, but we question the reasonableness of students participating in multiple IEPD projects over many years. Allowing individuals to enter and drop at their discretion presents serious accountability concerns, and although the grantee in question kept adequate records to report back to OIE the amount of financial assistance provided and time owed, there is no guarantee others will.

When asked to comment on the situation, the most recent OIE Director stated she was generally unsure how this might occur, but she did note that some grantees – unbeknownst to OIE at the time – were recruiting additional students toward the end of the grant performance period if there was money left over. Assuming the grantee was awarded another grant, the student might then show up on the lists of participants from both the old and new grants. The OIE Discretionary Grants Group Leader stated she, too, could not explain why this occurred but indicated it should have been flagged by OIE.

Recommendations

We recommend that the Assistant Secretary for OESE take the following actions:

1.1   Require that OIE conduct a review of its grant and student files to identify all other IEPD grant program participants who have failed to provide employment verification letters, in accordance with program regulations, and submit to OCFO/ARG the names of any such individuals.

1.2   Require that OIE submit immediately to OCFO/ARG the names of all individuals known
        to have withdrawn or been terminated from an IEPD project, and for whom there have
        been no approved deferments.

1.3   Review the management and staff structure of the IEPD grant program office and
        make changes, as appropriate, to ensure that the program is managed and implemented
        consistent with statutory requirements.

1.4   Establish and implement written policies and procedures regarding the monitoring
        of the IEPD grant program, to include the collection of participant information that will
        allow OIE to account for and track students receiving funding under the program, review
        of grantee performance reports for information on students that have withdrawn or been
        terminated from the program, and filing procedures for pertinent information.

1.5   Provide adequate funding and other support to allow OIE to hire an FTE whose
        primary, if not sole, responsibility is the tracking of former IEPD grant program
        participants.

1.6   With respect to the above, require that this individual provide monthly status reports on
        student tracking efforts to the Director and Discretionary Grants Group Leader, OIE;
        Deputy Assistant Secretary for Management and Planning, OESE; and Supervisor,
        OCFO/ARG.

1.7   Conduct a comprehensive assessment of the OIE Master Student Database to
        identify weaknesses, missing information, and potential areas for improvement.

1.8   Require that OIE work with OMB and the appropriate Department officials to develop a
        standard payback agreement to be used to collect PII on individuals who receive funds
        through grants awarded under the IEPD grant program.

1.9   Encourage OIE management to conduct additional research on best practices
        employed by programs with similar payback requirements, both at the Department and in
        other agencies, and engage in discussions with relevant officials. [See Other Matters
        section]

1.10   Ensure that OIE continues working with the Department's DQI to further enhance
        its data collection efforts.

1.11   Ensure that OIE promptly refers to OIG any credible evidence of suspected fraud or
        other criminal misconduct on the part of students and/or grantees.

OESE Comments

OESE concurred with the finding and recommendations, stating that OIE has recently recruited
staff specifically assigned to work on payback. This individual is developing and/or completing
payback files for each participant funded through the IEPD grant program from 1999 to 2009.
Project Directors will be contacted for any missing information or documentation. OIE will
begin providing monthly updates to OCFO/ARG regarding participants who are identified for

cash payback. Beginning in 2010, project directors will be required to complete and submit new information collection forms that will provide consistency in participant information collected and in calculating expected payback service completion. Lastly, OESE noted that OIE remains in need of additional program specialist staff for its discretionary grant program.

FINDING NO. 2 – OIE Created a System of Records without Proper Notification and Authorization

We found OIE developed a database to be used in tracking IEPD grant program participants without having published the requisite Federal Register notice and currently maintains personal information on hundreds of individuals who received funds through the program. Agencies have an obligation to develop procedures that allow individuals to ascertain whether a system of records contains a record pertaining to them, and, if so, how to gain access to any such record and contest its content.

As noted in Finding No. 1, we learned OIE began developing a "Master Student Database" in early 2007 to track IEPD grant program participants. From our review of emails related to the IEPD grant program, we learned the database was operational by, and perhaps before, July 2007.

Although generally deficient in terms of the amount of information available, it nevertheless contains records – in some cases replete with PII – on individuals who were trained under the program. Data fields include name, address, phone number, email, the amount of financial assistance provided and for how long, graduation date, degree, certification area, and current status. Each trainee is assigned a unique identifier composed of the first three letters of their last name and first two letters of their first name (e.g., John Smith = SMIJO). Individual records are retrieved by entering all or part of the participant's first and/or last name.

Section 552a(a)(4) of the *Privacy Act of 1974* defines "record" as

> Any item, collection or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual… .

Section 552(a)(5) of the *Privacy Act of 1974* defines "system of records" as

> A group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

Section 552a(e)(4) of the *Privacy Act of 1974* requires that

> Each agency that maintains a system of records shall—
>
> > (4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include—

(A) the name and location of the system;
(B) the categories of individuals on whom records are maintained in the
system;
(C) the categories of records maintained in the system;
(D) each routine use of the records contained in the system, including the
categories of users and the purpose of such use;
(E) the policies and practices of the agency regarding storage,
retrievability, access controls, retention, and disposal of the records;
(F) the title and business address of the agency official who is responsible
for the system of records;
 (G) the agency procedures whereby an individual can be notified at his
request if the system of records contains a record pertaining to him;
(H) the agency procedures whereby an individual can be notified at his
request how he can gain access to any record pertaining to him contained
in the system of records, and how he can contest its content; and
(I) the categories of sources of records in the system….

Office of Management Directive 6-104, *The Privacy Act of 1974 (The Collection, Use, and
Protection of Personally Identifiable Information),* includes the following definitions:

> System of Records – Any group of records under ED's control from which information is
> retrieved by a personal identifier.

> Personal Identifier – Name, Social Security Number, fingerprint, voice print, photograph,
> or any other coding device that correlates directly to an individual.

We determined that this issue occurred because of an apparent misunderstanding of the law on
the part of OIE management, specifically, the most recent OIE Director. We were informed at
various times and by numerous employees (including the Discretionary Grants Group Leader)
that OIE could neither request nor retain SSNs because it lacked an OMB-approved form – with
the process of obtaining one described as "not an activity warranted for OIE to attempt."[14]
However, we found this reasoning to be faulty, as OIE collected, with the intent to store, other
PII on IEPD grant program participants. Based on interviews with OIE employees and
management, it appears officials were not aware such information also constitutes PII.

OIE is currently in noncompliance with the *Privacy Act of 1974*. As such, data on individual
IEPD program participants are being stored without their knowledge, thus denying them the
opportunity to contest any potentially inaccurate information.

We learned OIE previously stored such information on participants under its Fellowships for
Indian Students program.[15] The program – though no longer authorized – could serve as a
reference should OIE management pursue action on the system of records.

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[14] See additional discussion under Finding No. 1.
[15] A Federal Register notice from June 1999 includes mention of a "Fellowships for Indian Students-Applications
and Awards System," which OIE planned to use to store information on program participants, including, among
other things, names and SSNs.

Recommendations

We recommend that the Assistant Secretary for OESE take the following actions:

2.1   Ensure that OIE management and staff receive training on the *Privacy Act of 1974*, as
        well as related OMB guidance and Departmental Directives.

2.2   Require that OIE work with OMB and the responsible Department officials to have
        approved its current system of records and/or any future system(s) developed for the
        purpose of tracking recipients of funds under the IEPD grant program.

OESE Comments

OESE concurred with the finding and recommendations, stating that OIE has been working with
the Department's Regulatory and Information Management Services/Records Management and
Privacy Division since October 2009 for approval to maintain a system of records. OIE staff will
also be required to attend training on the *Privacy Act of 1974* by July 30, 2010.

**FINDING NO. 3 – OIE Awarded Funds to Grantees With Low Amounts
                   Proposed for Actual Student Training**

During the course of our audit, we discovered a number of IEPD grants were awarded to
grantees that proposed spending less than half of their budgets on student training costs. We
identified 11 grants (made to 8 unique grantees) with training budgets under 50 percent of the
total grant award. Seven of these, including four below 40 percent, were awarded in FY 2000.
One FY 2004 grantee proposed spending just $205,000 (24 percent) of an $852,000 grant on
participants' tuition, books, fees, and stipends. Another was awarded million-dollar grants in
FYs 2000, 2001, and 2004, each with a proposed training budget under 40 percent of the total
grant award. According to the OIE Discretionary Grants Group Leader, an allocation for student
training costs of approximately 60 to 70 percent of the total budget is generally considered
reasonable. This mirrors our calculated average of approximately 66 percent for the 82 grants
awarded between FYs 1999 and 2004.[16]

When asked to comment on these grants, the most recent OIE Director stated there are a number
of factors that could account for variations in training costs among grantees, including the costs
of tuition, books, and fees; level of stipend provided; number of participants with dependents;
and whether students are attending school part-time or full-time. Further, some schools opt to
pay for professors to travel to the reservations to teach students, rather than have the students
commute. This was cited as an example in which one might see an increase in administrative
costs, but decrease in training costs.

OCFO-04, *Handbook for the Discretionary Grants Process*, Section 4.3.1, requires that program
staff conduct a cost analysis of each applicant's budget before setting the amount of any new
grant. This analysis should include, among other things, a determination of whether the costs are

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[16] We could not locate detailed budget data for all FY 1999 grants.

necessary and reasonable for the proper and efficient performance and administration of the grant project.

Both the most recent OIE Director and the Discretionary Grants Group Leader stated OIE performs such an analysis for those grantees it intends to fund. The latter attributed the anomalies we identified – of which she appeared surprised to learn – to oversight errors on the part of OIE.

Awarding grants to projects with low percentages of funds targeted for actual student training may defeat the purpose for which these grants are intended and decrease the numbers of students that could actually benefit from the program.

Recommendations

We recommend that the Assistant Secretary for OESE:

3.1   Require OIE staff and management to assess for reasonableness the percent of each budget devoted to student training costs, taking into account historical averages as well as those factors described by the most recent OIE Director, prior to awarding grant funds.

OESE Comments

OESE concurred with the finding and recommendation, stating that OIE will screen and review all proposed budgets in the upcoming 2010 grant competition to ensure that all costs identified are well-justified, allowable, and reasonable.

OTHER MATTERS

As part of our audit, we identified and researched other Federal grant and/or scholarship programs that include a service obligation/payback requirement. Four of these programs are administered by the Department. They are:

- Teacher Education Assistance for College and Higher Education (TEACH) Grant Program *[Federal Student Aid (FSA)]*
- Teacher Quality Enhancement (TQE) Grant Program *[Office of Postsecondary Education (OPE)]*
- Personnel Development Program to Improve Services and Results for Children with Disabilities *[Office of Special Education and Rehabilitative Services (OSERS)]*
- Rehabilitation Long-Term Training Program *(OSERS)*

The programs vary in the methods by which students are funded [i.e., (1) awarded to grantee, then to students by grantee (as is the case for the IEPD grant program); (2) awarded to student, but provided via conduit; or (3) awarded directly to student], but all require that trainees perform some sort of work payback for a specified period of time upon graduating. Based on our review, it also appears all programs have developed, or are in the process of developing, processes and procedures to (1) guarantee they have adequate documentation regarding program participants, and (2) track these participants to ensure they are fulfilling their service obligation (i.e., employment verification forms), or are referred to the appropriate office to initiate debt collection.

Examples of some of these data collection techniques are provided below:

- FSA requires that TEACH Grant recipients complete and submit an electronic Agreement-to-Serve (ATS), which involves providing a valid SSN. The ATS is accessible online.
- TQE Grant recipients must complete and submit an OMB-approved Scholarship Terms and Conditions Form, which also involves providing a valid SSN. According to program officials, a copy of the coversheet must be forwarded to the Department at this time for input into an internet-based tracking system, while the original, signed contract is maintained by the grantee until the student graduates or drops from the program, at which time it too must be forwarded to the Department. OPE also requires that former participants complete and submit an OMB-approved Verification of Teaching Obligation Form once each year.
- Recipients of grants under the Personnel Development Program to Improve Services and Results for Children with Disabilities will soon be required to provide status updates online. OSERS recently contracted with a research and consulting firm to establish the National Center on Service Obligation to track and verify fulfillment of the service obligation for all individuals funded from grants awarded in FY 2005 and later. This is to be accomplished via the Service Obligation Tracking System, which can be accessed by scholars, colleges and universities, and employers.

▪ Recipients of grants under the Rehabilitation Long-Term Training Program must complete and submit a Scholarship Agreement, which, again, involves providing a valid SSN. A 2006 program assessment noted OSERS was in the process of moving from a web-based "Payback Reporting System" – used since 2002 to collect annual data from grantees on the number of scholars supported, number of scholars graduating, payback location, and key indicators of performance – to a more comprehensive "Management Information System" (to be submitted to OMB for approval in 2009). The program assessment also notes OSERS had developed an internal system that allows staff to track the employment status of individual scholars and obtain data not otherwise available through web-based reporting by grantees – similar in notion to OIE's student database, but used in corroboration with other processes and/or systems.

The information above is intended to provide OIE management with an idea of what similar programs are doing to ensure they possess adequate data on their grant participants. Coordination among the various offices and programs that administer grants of this nature could be of great benefit to the Department, perhaps resulting in future efficiencies of operations.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine the effectiveness of OIE's management of the IEPD grant program. To accomplish our objective, we gained an understanding of internal control applicable to processes relating to the awarding and monitoring of IEPD grants including tracking of program participants. We reviewed applicable laws and regulations, OMB circulars, Department policies and procedures, Federal Register notices, and Government Accountability Office *Standards for Internal Control in the Federal Government*. In addition, we reviewed OCFO's Grants Administration and Payments System (GAPS) for information on grant obligations and available balances.

We conducted discussions with current and former OIE officials and staff to obtain an understanding of the history of the IEPD grant program and operating procedures, both past and present, and reviewed available emails and correspondence related to the program. We also held discussions with officials in the Department's OCFO/ARG and reviewed documentation provided related to their communications with OIE since May 2003. We reviewed information maintained by OCFO/ARG on individuals for whom OIE requested debt servicing and, in a number of cases, debt withdrawal. Data were most recently provided by OCFO/ARG to the audit team in July 2009.

The scope of our review included grants awarded from FY 1999 through 2004, with a limited analysis of grants awarded between FYs 2005 and 2007. We reviewed the official grant files and associated student participant files maintained by OIE for all grants awarded between FYs 1999 and 2004, and files for grants awarded in FYs 2005, 2006, and 2007 for which student participant files were maintained, as noted in the table below.

FY	Total No. of Grants	Grants Reviewed
1999	9	9
2000	28	28
2001	9	9
2002	15	15
2003	6	6
2004	15	15
2005	16	3
2006	12	5[17]
2007	9	1[18]
TOTAL	**119**	**91**

Grant files for FY 1999 through 2004 awards were reviewed to determine (1) grant award amounts (including funds budgeted specifically for student training costs), (2) numbers of participants served, (3) names of participants served (where noted), (4) individual financial

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[17] One FY 2006 grantee was funded under three separate IEPD grants, all of which were reviewed as part of our limited analysis of grants awarded between FYs 2005 and 2007.

[18] At the time of our review, OIE maintained an associated student file for just one FY 2007 grantee.

assistance provided, (5) students with evidence of work payback, and (6) students reported as having withdrawn or been terminated from their respective projects. Files for grants awarded in FYs 2005 through 2007 were reviewed primarily to determine whether improvements were noted with regard to student identification and tracking. We subsequently reviewed information provided by OIE officials between January and July 2009 regarding current efforts at tracking program participants.

For comparison to information obtained through our file reviews, we reviewed OIE's Master Student Database as of March 2008. As with the file reviews, we sought information on the number of students who participated in the IEPD grant program during FYs 1999-2004, and to determine what percentage of these individuals OIE identified as being employed.

We reviewed the Federal Audit Clearinghouse Single Audit Database for a judgmental sample of grantees from FYs 1999 to 2004 to determine (1) whether each grantee submitted an OMB Circular A-133 single audit report for the years in question, (2) whether the IEPD grant program was included in the report, and (3) if so, whether auditors identified any findings specific to this program.

We reviewed information available on other Departmental programs that have a payback requirement to determine how participants are being tracked to ensure that they are fulfilling their service obligation or are referred to the appropriate office to initiate debt collection. We held discussions with applicable officials where needed to obtain additional information on program requirements.

To achieve our objective, we relied in part on computer-processed data obtained from GAPS and the OIE Master Student Database. We compared data in the OIE Master Student Database with hardcopy source documentation maintained in grant and student participant files. We found the database contained inaccurate and incomplete information and deemed it unreliable. (See Finding No. 1 for additional information.) However, we relied primarily on information from the hardcopy documentation maintained to conduct our analysis, therefore, the information from the database did not have a material impact on our resulting conclusions and recommendations. GAPS is the official system of record for grant awards, widely used by Department officials, and respectively considered the best available data for the purpose of this audit.

We conducted fieldwork at Department offices in Washington, D.C., from January 2008 through July 2009. We provided our audit results to Department staff during an exit conference conducted on October 13, 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Funding/Participant Data by Grant Award Year

	1999	%	2000	%	2001	%	2002	%	2003	%	2004	%	TOTALS	%
Grantees	9		28		9		15		6		15		82	
Grantees with Individual Student Files	0	0.0	9	32.1	8	88.9	15	100.0	6	100.0	14	93.3	52	63.4
Funds Obligated by the Department *(via GAPS)*	$3.68		$21.55		$5.65		$12.66		$5.53		$13.80		$62.87	
Funds Budgeted for Training	$1.20	32.6	$14.24	66.1	$4.23	74.9	$8.53	67.4	$3.83	69.3	$9.27	67.2	$41.30	65.7
Funds Traceable to Individual Participants	$0.00	0.0	$3.96	27.8	$0.70	16.5	$7.70	90.3	$1.60	41.8	$2.97	32.0	$16.93	41.0
Number of Such Participants	0		229		60		251		62		162		764	
Total Participants	165		635		185		266		105		304		1,660	
Payback Agreement on File	0	0.0	231	36.4	62	33.5	234	88.0	64	61.0	239	78.6	830	50.0
Credible Evidence of Employment/Service Payback	0	0.0	45	7.1	74	40.0	89	33.5	26	24.8	28	9.2	262	15.8
Semiannual Certifications	0	0.0	1	0.2	2	1.1	4	1.5	0	0.0	1	0.3	8	0.5
Certification of Completion Issued w/o Evidence	0	0.0	0	0.0	6	3.2	3	1.1	0	0.0	0	0.0	9	0.5
Known Terminated/Withdrawn	1	0.6	39	6.1	2	1.1	26	9.8	11	10.5	37	12.2	116	7.0
Funds Received	*Unknown*		$0.39		$0.01		$0.45		$0.20		$0.37		$1.42	

Notes: Fund amounts in millions ($); all data from OIG grantee and student file reviews unless otherwise noted.

Acronyms/Abbreviations Used in this Report

ATS   Agreement-to-Serve

ARG   Accounts Receivable Group

C.F.R.   Code of Federal Regulations

Department   U.S. Department of Education

DQI   Data Quality Initiative

ESEA   Elementary and Secondary Education Act

FSA   Federal Student Aid

FTE   Full-Time Equivalent

FY   Fiscal Year

GAPS   Grants Administration and Payment System

GPRA   Government Performance and Results Act

IEPD   Indian Education Professional Development Grant Program

IHE   Institution of Higher Education

NPICR   Notice of Proposed Information Collection Requests

OCFO   Office of the Chief Financial Officer

OESE   Office of Elementary and Secondary Education

OIE   Office of Indian Education

OIG   Office of Inspector General

OGC   Office of General Counsel

OMB   Office of Management and Budget

OPE   Office of Postsecondary Education

OSERS	Office of Special Education and Rehabilitative Services
PII	Personally Identifiable Information
SAPR	Semi-Annual Participant Report
Secretary	U.S. Secretary of Education
SSN	Social Security Number
TEACH	Teacher Education Assistance for College and Higher Education Grant Program
TQE	Teacher Quality Enhancement Grant Program

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

To: Michele Weaver-Dugan   **JAN ? 0 2010**
            Director
            Operations Internal Audit Team
            Office of Inspector General

From: Alex Goniprow,
            Deputy Assistant Secretary for Management and Planning

Subject: Draft Audit Report
            Office of Indian Education's Management of the
            Professional Development Grant Program
            Control Number ED-OIG/A19I0002

This memorandum provides an initial response on the findings and recommendations identified in the Office of Inspector General's Draft Audit Report ED-OIG/A19I0002 regarding the management of the Office of Indian Education's Professional Development Grant Program.

Finding #1: Significant Improvements are needed in OIE's Management of the Professional Development Grant Program

We concur with Finding No. 1 and the recommendations. Within the last 30 days, the Office of Indian Education (OIE) has recently recruited staff specifically assigned to work on payback. This individual is developing and or completing payback files for each Professional Development grant from 1999 to 2009. Each payback file contains information and documentation on each participant funded through the grant. Where we have missing information or documentation, the project director is being contacted. All forms of contact are printed out and kept in the payback folder. The payback individual meets weekly with the Discretionary Grant Group Leader to update the progress on completing payback files and as needed for advice on a payback issue.

Additionally, OIE is in contact with Office of the Chief Financial Officer, Accounts Receivable Group. Throughout 2009, Ms. Estella Duenas has been our primary contact. We will provide monthly updates beginning January 29, 2010, regarding participants who are identified for fiscal payback.

Beginning in 2010, new information collection forms as well as guidance and training regarding these forms will be provided to all Professional Development Project Directors. OIE has been working with Data Quality Initiative contractors to develop these forms. These forms are currently in the clearance process with the Office of Management and Budget. The forms will provide consistency in participant information collected and in calculating expected payback service completion.

The Office of Elementary and Secondary Education is currently conducting a review of personnel needs by program offices. OIE remains in need to recruit additional program specialist staff for the discretionary grant program. Since 2007, four discretionary program specialist staff have left and no replacement recruitment has been possible. The career intern recently hired is serving as management analyst and assigned to work on payback. The OIE discretionary grant program has a Group Leader and one education specialist to manage and administer the Demonstration Grant for Indian Children CFDA 84.299A and the Professional Development Grant CFDA 84.299B.

Finding #2: OIE Created a System of Records without Proper Notification and Authorization

We concur with Finding No. 2 and the recommendations. In 2005, an individual was hired specifically to work on payback. Electronic files were developed to assist in managing the information being collected. Since October 2009, the Office of Indian Education has been working with the Regulatory Information and Management Services/Records Management and Privacy Division for approval to maintain a System of Records. Additionally, staff training on the Privacy Act of 1974 will be required and completed by July 30, 2010.

Finding #3: OIE Awarded Funds to Grantees with Low Amounts Proposed for Actual Student Training

We concur with Finding No. 3 and the recommendation. The Office of Indian Education develops budgets based on the information provided in the application. We fund applications that have been read and scored by outside readers and ranked by the Grants Administration and Payment System. We fund the highest scoring application and go down the slate. In the upcoming 2010 grant competition, we will screen and review all budgets to ensure that all costs identified are well justified, allowable and reasonable.

We are currently developing the Corrective Action Plan that will address each of the recommendations in detail. A preliminary draft of that plan is attached. We look forward to improving the management of the Professional Development program and working more effectively with all project directors to ensure program compliance and increased numbers of American Indian/Alaska Native participants to serve as teachers and school administrators across Indian country.