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OFFICE OF INSPECTOR GENERAL

AUDIT SERVICES

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Frank Brogan
Assistant Secretary
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202-4300

Dear Mr. Brogan:

This **final audit report**, titled *The Department's Oversight of the Indian Education Formula Grant Program*, presents the results of our audit. The objective of our audit was to determine whether the Department of Education (Department) has an adequate process in place to ensure grantees are using funds appropriately and performance goals are being met.

BACKGROUND

The Indian Education – Formula Grants to Local Education Agencies (Indian Education Formula Grant) program is authorized under the *Elementary and Secondary Education Act of 1965* (ESEA), as amended by the *Every Student Succeeds Act* (ESSA). It is the Department's principal vehicle for addressing the particular needs of Indian children. The program is designed to address the unique cultural, language, and educationally related academic needs of American Indian and Alaska Native (AI/AN) students, including preschool children, so that those students can achieve to the same State academic content standards and student academic achievement standards expected of all students. Under the program, formula grants are awarded to provide assistance to elementary and secondary schools for programs serving Indian students. Local educational agencies (LEAs), Department of the Interior/Bureau of Indian Education (BIE)-funded schools,¹ and Indian tribes (under certain conditions) are eligible for grants.²

¹ When applying, BIE-funded schools must indicate one of the following applicant types: BIE-operated school, BIE contract or grant school applying individually, or BIE contract or grant school applying as the lead of a consortium of BIE schools.

² Indian tribes whose members are 50 percent or more of the children in the schools of an LEA that does not apply for funding are also eligible for funding. In addition, under ESSA, effective July 1, 2017, eligible entities now include: (1) Indian organizations; (2) Indian community-based organizations; and (3) consortia of two or more LEAs, Indian tribes, Indian organizations, or community-based organizations.

In order to participate in the program, eligible applicants must have a minimum of 10 eligible Indian students enrolled in the LEA during a specific count period, or not less than 25 percent of the total number of individuals enrolled in the schools of the LEA. The minimum enrollment requirement does not apply in Alaska, California, or Oklahoma, or to LEAs located on, or in proximity to, a reservation. Since the program provides funds on a per pupil basis, the student count determines an applicant's funding for the grant. The Indian Education Formula Grant program requires applicants to use the Indian Student Eligibility Certification Form to document eligible Indian students, but BIE-funded schools may use either the Indian School Equalization Program (ISEP) count or the Indian Student Eligibility Certification Form count to verify their Indian student counts. Applicants submit their application through the Electronic Application System for Indian Education (electronic application system), also known as EASIE, an online application that is divided into two parts.³ In Part I, applicants submit their Indian student count and select the application time span. In Part II, applicants identify specific project objectives and submit a program budget based on the estimated grant amount that is calculated using the student count submitted in Part I. Applicants must certify that their Indian student counts are true, reliable, and valid under penalty of law.

The Office of Indian Education (OIE), located within the Office of Elementary and Secondary Education (OESE), is responsible for administering and overseeing the Indian Education Formula Grant program in addition to several discretionary grant programs. An OIE Director⁴ oversees a Formula Team in addition to a Discretionary Team. The Formula Team consists of a Group Leader⁵ and five program specialists. The primary responsibility of the Group Leader is to oversee the Formula Grant program and supervise the program specialists, one of whom is also the Team Leader. Program specialists' primary responsibilities in overseeing and monitoring grantees' performance and use of funds involve conducting desktop monitoring, verifying student counts, and reviewing annual performance reports (APRs). The Team Leader stated that in addition to completing the same activities as the other program specialists, she coordinates activities in OIE for the Formula Grant program. The former OIE Director and the former Group Leader noted these activities include coordinating monitoring lists and sending letters to grantees when they are selected for monitoring. The program, with around 1,300 grantees each year, was funded at approximately \$100.4 million annually during fiscal years (FY) 2014 through 2017 and at \$99.7 million in FY 2018. For the scope of our audit, FYs 2014 and 2015, awards ranged from \$4,000 to approximately \$3 million per year, with an average award of approximately \$78,000.⁶

³ While not part of the application process, there is a third part of the electronic application system- the annual performance report (APR). Much of the information in the APR is pre-populated from data included in Part II of the electronic application system, G5 (the Department's grants management system), and *EDFacts* (the Department's system for collecting and centralizing performance data from State education agencies).

⁴ The OIE Director retired in November 2016 and is referred to as the "former" OIE Director throughout this report. The Group Leader was subsequently named Acting OIE Director at that time, up until October 30, 2017, when a new Acting Director was named.

⁵ The Group Leader retired in December 2017 and is referred to as the "former" Group Leader throughout this report.

⁶ For FYs 2014 and 2015, BIE-operated schools represented 4 percent of the approximately 1,300 grantees that received awards each year and 2 to 3 percent of the approximately \$100.4 million in funding provided each year. The former Group Leader stated that the Department does not conduct individual monitoring of grants awarded to BIE-operated schools since grants to these schools are made via the Department of Interior transfer of funds agreement. The former Group Leader stated that BIE is responsible for overseeing these awards and that OIE does not maintain electronic grant files for the BIE-operated schools.

AUDIT RESULTS

Results in Brief

We determined that significant improvements are needed in OIE's oversight of Indian Education Formula Grant program grantees' performance and use of funds. Specifically, we found that while OIE conducts some monitoring, the monitoring activities it does conduct are insufficient with regard to ensuring that grantees are making progress toward meeting program goals and spending grant funds appropriately. We found that OIE's efforts related to monitoring are primarily limited to ensuring grantees are drawing down and spending grant funds by established deadlines and closing out the grant. For key program monitoring activities such as desktop monitoring, student count verification, and the collection and review of APRs, we found a lack of written comprehensive procedures, follow-through, and documentation.

We also found that while OIE developed plans to monitor grantees for FYs 2014 and 2015, it has not developed clear procedures for identifying which grantees to monitor, including taking into account multiple risk assessment factors. While OIE does collect some data on grantee performance and use of funds, there is little evidence that the data are used to provide assistance to grantees in implementing the program successfully. Without adequate monitoring of grantee progress and use of funds, OIE has little assurance as to whether Indian Education Formula Grant program grantees are making progress toward program goals and objectives and spending funds appropriately.

Scope Limitation

Government Auditing Standards (December 2011 Revision) section 7.11 states that auditors should report any significant constraints imposed on the audit approach by information limitations or scope impairments, including denials or excessive delays of access to certain records or individuals. Because of the limitations and constraints described below, we must qualify the conclusions that we have drawn based on the information that we reviewed as part of this audit.

Specifically, we cannot rely on the information provided during this audit, which presents an impairment by creating an unacceptable risk that could lead to incorrect or improper conclusions about OIE's oversight process, to include identifying the root causes of the weaknesses we found. In the course of our audit we encountered significant and recurring delays in obtaining information from Department staff and we also became aware that communications and responses we received from OIE had been screened by OESE senior management and the Office of the General Counsel (OGC). We learned that the former Group Leader directed Formula Team staff to clear communications through him, the former OIE Director, and OGC before sharing information with us. Despite our noted objections, we found that OGC and OESE senior management were involved in reviewing communications with us throughout the audit. We learned that the former Deputy Assistant Secretary had instructed OGC as well as OIE management and staff to ensure that all documents and responses were run through her and that

OGC was to sign off on materials and information sent to the OIG. We noted that OGC reminded OIE management of this review process several times during the audit. We were also told by two staff members that they were told to be as limited as possible with responses to our questions, and we identified specific instances where staff were instructed to not provide relevant information we had not specifically requested.

The OIG subsequently confirmed through a review of related emails that the screening of responses to our requests and questions was taking place throughout the audit and resulted in information prepared by OIE staff and management being altered or withheld.

OESE provided a management representation letter subsequent to the issuance of the draft report. In OESE's letter, the Deputy Assistant Secretary acknowledged that OESE is responsible for the fair representation of documents, records and other information provided for review as part of the audit, and that to the best of his knowledge and belief, the materials provided OIG afforded such a representation. However, the letter was subject to certain conditions, to include that OESE furnished all pertinent documents and information related to the audit with the exception of items OIG already likely noted through its own review of emails noted above. The letter also acknowledged that an OESE manager and program attorney may have had a more significant role at times in reviewing responses to OIG requests, in order to ensure responsiveness. Finally, the letter added that if OIG believed any statements made in the letter were erroneous or problematic in any way, to notify OESE at its earliest convenience so that it has the opportunity to clarify, provide context, correct, and/or investigate the facts underlying the statement as appropriate. As noted in our scope limitation above and our response to OESE beginning on page 24, regardless of the intent, we consider these qualifying statements to be factors supporting our rationale for a scope limitation.

A draft of this report was provided to OESE for comment. OESE did not disagree with the finding and agreed that the recommendations are fundamentally the right kinds of actions, controls, and procedures to have in place to ensure sound management of a program office. OESE acknowledged that much of the draft audit report aligned with its own assessment that OIE is struggling to adequately perform its functions, to include administering and overseeing the Indian Education Formula Grant program. OESE noted that given the alignment between its own assessment and much of the draft audit report, it has found much of the draft report helpful in its oversight and improvement of OIE. However, OESE noted concerns about the scope limitation and the inclusion of personnel information pertaining to OESE senior management assessments of performance for certain former OIE staffers.

OESE's comments are summarized at the end of the finding. We removed and will separately communicate to management our concerns regarding the performance assessments. We did not make any other changes to the audit finding or the related recommendations as a result of OESE's comments. The full text of OESE's response is included as Appendix 2 to this report.

FINDING – Significant Improvements Are Needed in the Office of Indian Education’s Oversight of the Formula Grant Program

We found that significant improvements are needed in OIE’s oversight of Indian Education Formula Grant program grantees’ performance and use of funds. While the OIE Formula Team conducts some monitoring activities, we found that these monitoring activities are insufficient with regard to ensuring grantees are making progress toward program goals or spending grant funds appropriately. Additionally, the OIE Formula Team has not developed clear procedures for identifying which grantees to monitor and monitoring plans do not place an emphasis on multiple risk assessment factors to ensure resources are leveraged to concentrate monitoring efforts on those grantees identified to be at risk or potentially at risk of poor performance and compliance. While the Formula Team does collect some data on grantee performance and use of funds, there is little evidence that the data are used to provide assistance to grantees in implementing the program successfully.

Monitoring Activities for the Indian Education Formula Grant Program Are Insufficient

We found that the OIE Formula Team has conducted insufficient monitoring to determine whether grantees are making progress toward meeting project objectives and program performance measures or whether grant funds are being spent appropriately. The Formula Team’s efforts related to monitoring are primarily limited to ensuring grantees are drawing down and spending grant funds by established deadlines and closing out the grants. For other key program monitoring activities such as desktop monitoring, student count verifications, and the collection and review of APRs, we found a lack of formal written detailed procedures, follow-through, and documentation, and an overall lack of substance related to the monitoring efforts being performed.

Desktop Monitoring

We found that the monitoring reviews conducted by OIE were insufficient with regard to ensuring whether grantees were making progress or spending grant funds appropriately. We found that monitoring reports lacked conclusions regarding whether grantees were meeting overall program objectives or the adequacy of grantee performance in the specific areas reviewed, grantees were not always asked to provide required documentation that was not submitted, and follow up on corrective actions was not always performed or documented.

OESE developed a monitoring framework, titled *Guidance for OESE Monitoring Plans* (Guidance), dated January 4, 2016.⁷ The Guidance notes that monitoring is an essential function for OESE and that effective monitoring is a key component of good project management. In general, this includes (1) assessing whether a recipient has made substantial progress in meeting the project’s approved goals and objectives; (2) assessing a recipient’s adherence to applicable laws, regulations, Office of Management and Budget (OMB) circulars, and the terms and conditions of the award; (3) identifying areas in which grantees need technical assistance or

⁷ This version revised guidance by the same name, dated January 23, 2012 and November 5, 2015. The guidance on monitoring plans is virtually the same in each version, with the revised guidance updating OESE’s preferred method for program offices to maintain official grantee files.

practices that could be shared with other recipients as “best” or “promising;” and (4) measuring a recipient's performance in terms of results attained. Additionally, OMB Circular A-123, *Management's Responsibility for Internal Control*, states that 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.

While there are several general oversight activities at OESE's disposal, the OESE Guidance notes that the major forms of monitoring include formal on-site monitoring and desktop monitoring. The OIE Formula Team's primary method for monitoring grantees is desktop monitoring.⁸ The Guidance explains that a desktop monitoring review is when the Department conducts a thorough examination of a specific set of topics. In most OESE programs, the reviewer(s) asks the grantee to submit specific documents, which the Guidance states are thoroughly reviewed. The reviewer(s) also conducts videoconferences, webinars, or telephone interviews with grant staff. The Guidance further notes that desktop monitoring reviews, while typically less comprehensive than on-site monitoring reviews, still often require a detailed examination of grant documents and generally follow a structured monitoring instrument and/or protocol.

We found that there were not any formal written procedures specific to OIE's desktop monitoring process; however, based on information contained in the monitoring letters OIE sends to selected grantees, we noted that the objective of its desktop monitoring is to determine if the services and activities provided by the project are consistent with the purpose of the program and to discuss the progress of the grantee's proposed services and activities for the school year being reviewed. During desktop monitoring, program specialists evaluate a grantee's performance as adequate or inadequate using a monitoring report instrument that includes the following sections: public/parent involvement, student count procedures, and administrative matters.⁹ Grantees selected for monitoring undergo phone interviews with Formula Team staff and are asked to submit related documentation for review. Typical items requested include public hearing notices, parent committee by-laws, parent committee meeting minutes, parent committee member rosters, lists of eligible Indian students with valid Indian Student Eligibility Certification Forms, official school enrollment rosters, fiscal expenditure reports, lists of equipment purchased with project funds in the past 3 years, lists of professional development opportunities for staff (including activities funded by project funds), and position descriptions for personnel paid with project funds. Each review culminates in a monitoring report that is reviewed by the Group Leader before it is sent to the grantee.

⁸ According to the former Formula Team Group Leader, OIE conducted site visits as a part of its monitoring activities prior to 2013. He stated that OIE switched from conducting site visits to desktop monitoring in 2013 due to limited travel funds.

⁹ Administrative matters consist of items related to fiscal expenditures, professional development opportunities, and position descriptions for personnel paid with project funds.

We reviewed the monitoring reports for 27 grantees included on the FY 2015 monitoring plan¹⁰ and 10 grantees judgmentally selected from 25 that were included on the FY 2016 monitoring plan.¹¹ We noted that only 5 (14 percent) of the 37 monitoring reports actually stated whether a grantee met its program objective(s) or not. Even then, the reports appeared to consist only of summaries of what the grantee stated, and it did not appear that program specialists made any requests for supporting documentation related to grantees' achievement of project objectives or performed any data verification. In addition, only 5 (14 percent) of the 37 monitoring reports included a conclusion with regard to the adequacy of grantee performance in every area reviewed. Five (14 percent) of the 37 reports did not include a conclusion regarding the adequacy of grantee performance for any of the areas reviewed.

We also found that the Formula Team did not always monitor grantees to ensure they were spending grant funds appropriately. Only 21 (57 percent) of the 37 monitoring reports indicated that the grantee submitted a copy of its fiscal expenditure report for review. Five (14 percent) of the 37 did not submit documentation of their fiscal expenditures and were subsequently asked to do so; however we found evidence that only one of these grantees subsequently submitted this information. For the remaining 11 grantees, it was unclear whether expenditure reports were submitted and reviewed. The conclusions made in this section of the monitoring report focused only on whether the grantee had a remaining balance and how often it drew down funds rather than if funds were being used appropriately.

In addition, we identified several other inconsistencies in the Formula Team's monitoring process. For example, we found that program specialists did not always evaluate grantees according to the same standards, did not document the results of their reviews consistently, and did not always follow up with grantees when they did not submit adequate documentation. We also found inconsistencies regarding when corrective actions were due even though all of the reports were reviewed by the former Group Leader and the former OIE Director signed all of the report cover letters that were sent to grantees. Specifically, we found that:¹²

- 22 (61 percent) of 36 monitoring reports had deadlines for corrective action plans that conflicted with the deadlines noted in the corresponding cover letters.¹³ The differences in the deadlines ranged from 15 to 39 days.
- 4 (29 percent) of the 14 grantees who were found by the program specialists not to have submitted adequate documentation to meet the public hearing requirement were not asked to submit further documentation.

¹⁰ The Formula Team completed monitoring reports for 27 of 29 grantees included on the FY 2015 monitoring plan. The Formula Team did not monitor one grantee included on the monitoring plan because it mistakenly monitored another grantee with a similar name. It did not produce a monitoring report for another grantee included on the monitoring plan because there was an ongoing investigation and OIE was told not to issue a report at the time.

¹¹ The scope of our audit was FY 2014 and FY 2015 grants. During our review, we found that FY 2014 grants were included on the FY 2015 monitoring plan and reviewed in FY 2015; FY 2015 grants were included on the FY 2016 monitoring plan and reviewed in FY 2016.

¹² Percentages reported in this audit report are not statistical estimates and should not be projected over the unsampled grants. See "Sampling Methodology" in Objective, Scope and Methodology for details.

¹³ We were unable to obtain a copy of the cover letter for one of the monitoring reports as it was not located in G5 and the program specialist could not provide a copy.

- 4 (50 percent) of the 8 grantees who were found by the program specialists not to have submitted adequate documentation to meet the by-laws requirement were not asked to submit further documentation.
- 6 (67 percent) of 9 grantees whose Indian Student Eligibility Certification Forms were included as part of the review¹⁴ were found by the program specialists to have inadequate forms, but only 2 were asked to submit corrective actions.

We also identified 6 cases where the student count period noted in the monitoring report by the program specialist did not correspond to the grant period being reviewed, and we found that Indian Student Eligibility Certification Forms were not reviewed at all during desktop monitoring in FY 2015, to the surprise of the former Group Leader.

With regard to following up on requested corrective actions, all 5 of the program specialists stated they are responsible for ensuring grantees submit required items and that they continue to follow up on corrective actions until they are completed. However, we found that program specialists generally did not follow up with grantees, and in cases where they did, it was not until long after the stated deadlines had passed. For the 37 monitoring reports we reviewed, 24 (65 percent) required the grantee to submit corrective action items to the Department (generally within 60 days). Of the 24 reports that required further action, only 10 (42 percent) reports had all requested actions completed and 9 of these had all actions completed by the required deadline. For a majority of the reports with unresolved items, there was no documentation provided that indicates program specialists attempted to follow-up with the grantees.

Furthermore, documentation was not always maintained in grantees' official grant files to substantiate that actions were actually completed. Of the 10 reports that had all follow-up actions completed, we noted that only 2 (20 percent) of the related grant files included documentation of the corrective action plans or evidence of the actions taken by the grantee to address follow-up actions requested in the monitoring reports. Documentation related to actions taken by the other grantees was maintained outside of the official grant files, to include in personal email folders and hardcopy binders.

The OESE Guidance states that official grant documents should be filed in the Department's Post-Award Monitoring (PAM) e-Folders system (rather than in hard copy in a physical filing cabinet). PAM allows users to add to, update, and retrieve documents in the electronic grant file from within G5 (the Department's grants management system). A major advantage of using PAM is that it establishes a standardized recordkeeping system so it is easy for staff who are not familiar with the grant to find materials. It notes that PAM also conforms to the filing requirements in the Department's Grant Bulletin #14-06, *Policy, Guidance, and Responsibilities for Principal Office Monitoring Frameworks* (Bulletin), dated December 26, 2014.¹⁵ The

¹⁴ One of the 10 FY 2015 grantees used their Indian School Equalization Program count for their student count.

¹⁵ Requirements in the Bulletin are also contained in the Department's more recent (and more comprehensive), *Guide for Managing Formula Grant Programs*, dated August 26, 2016. This guide establishes a Department-wide policy and procedural framework for formula grant programs, to be adopted by all principal offices that administer these types of programs.

Bulletin states that in maintaining documentation on a grantee's progress in meeting performance standards and compliance with grant requirements, program offices should maintain the following documentation at a minimum:

1. Monitoring Reports;
2. Corrective Action Plans;
3. Communications with the grantee related to monitoring activities;
4. Evidence of the actions taken by a grantee to resolve and close findings in monitoring reports;
5. Technical assistance provided to help the grantee correct the findings of noncompliance identified in the monitoring report (e.g., policy, guidance, or training); and
6. Documents supporting key internal controls in the monitoring process (e.g., analyses of documents reviewed, checklists, established criteria and standards).

Student Count Verification

We found that the student count verification process is insufficient as the OIE Formula Team does not consistently complete student count verification procedures or document associated activities. According to the former Group Leader, program specialists verify student counts submitted by both BIE contract or grant schools and by non-BIE-funded schools. While we were provided with a brief document noting steps involved with student count verification, the document appeared to be informal guidance specific to FY 2016. The former Group Leader provided further explanation of the process noting that applications submitted by non-BIE-funded schools are flagged by the electronic application system for student count verification if they meet certain criteria, including but not limited to established thresholds for changes from the prior year's student count. The former Group Leader stated that program specialists should communicate with flagged applicants and ask them to verify student counts and document the response. All comments and explanations provided by the grantee should then be individually documented by program specialists on a spreadsheet and uploaded to G5. Additionally, if the electronic application system is closed and an applicant needs to decrease its student count, it must fill out a student count reduction form with the adjusted student count and provide an explanation for the reduction.¹⁶ The program specialists should then upload a copy of the form to the grantee's grant file. The former Group Leader noted that BIE-funded schools may enter either their Indian School Equalization Program or Indian Student Eligibility Certification Form count as their Indian student count. The Indian School Equalization Program counts are verified by each BIE school and are further verified by the BIE Central Office, which then forwards the final verified count to OIE.

¹⁶ Counts may be increased only while Part I is open. Applicants may decrease their count during the open period for Part I; after Part I closes, the applicant may still decrease the count by contacting OIE directly.

We judgmentally selected a sample of 30 out of 2,469 non-BIE-operated grantees¹⁷ based on various risk factors¹⁸ and reviewed their student count submissions for FY 2014 and FY 2015. Fourteen (50 percent) of the 28 FY 2015 grants in our sample were flagged by the electronic application system for verification; however, we were able to locate documentation indicating that the grantee was contacted for only 4 (29 percent) of the 14 grants. The documentation did not always provide details or an explanation as to why the student count changed, to include whether a subsequent correction was needed. For FY 2014, 10 (33 percent) of the 30 grants awarded to these grantees met the established criteria for verification. We were unable to locate documentation indicating the grantee was contacted for any of the 10 grants.

We also reviewed reports generated by the electronic application system to determine whether student count changes had been made by any of the sampled grantees after the initial count had been submitted. We noted that student counts decreased for seven grantees; none of the grantees had a student count reduction form in their grant files. We further determined that three of these grantees met the criteria to be flagged for verification. In one case, the count was reduced by 79 percent from what was initially submitted. We noted that OIE had emailed this grantee as part of the verification process to verify the initial count but received an automatic reply that the office was closed for a break and, as a result, the program specialist made the judgment to just accept the initial count “as is.” We did not find any evidence that the other two had ever been contacted during the verification process.

For BIE-funded schools, no evidence was provided to suggest that OIE reviews the Indian School Equalization Program counts submitted by applicants despite the former Group Leader stating that he forwarded the list of verified Indian School Equalization Program counts to program specialists to compare the student counts against what was submitted by the applicants in the electronic application system. The former Group Leader added that he made sure to also forward the entire list to one program specialist in particular as her review acts as a second review. However, this program specialist stated that while she receives a copy of the list, she does not verify what is submitted because she believed the former Group Leader did this. In addition, the other program specialists stated they did not verify these counts and that their general understanding was also that the former Group Leader verified the student counts.

Annual Performance Reports

We found that APR reviews were insufficient with regard to determining whether grantees were actually making progress and that program specialists had differing understandings of the purpose and extent of the reviews. Reviews that were conducted were generally cursory in nature, focused on the sections of the report that were deemed necessary for grant closeout, and there was no documentation maintained to support that any follow-up was conducted with grantees when necessary.

¹⁷ All of the 30 grantees in our sample were awarded grants in FY 2014 and 28 were awarded grants in FY 2015. As a result, we reviewed a total of 58 grants.

¹⁸ We selected grantees based on relative level of risk for items such as large award amount, large percentage increase or decrease in student count, and a high risk rating as identified in a Department Entity Risk Review report. Entity Risk Review reports include data from A-133 audits and past program performance data, among other things.

The APR is an annual report that provides data on the status of a funded project that corresponds to the scope and objectives established in the approved application. It should demonstrate whether substantial progress has been made toward meeting project objectives and program performance measures. We did not find any formal detailed written procedures specific to OIE's review of APRs. We were provided with a brief informal document that appeared to be specific to FY 2014. The document did not clearly describe what the APR review should entail specific to performance data. It just noted that these sections of the APR should be reviewed and if there were any questions the project director should be contacted. According to the former Group Leader, program specialists are assigned specific grantees' APRs to review and are expected to review and cross-check the data in APRs with the information provided in the corresponding applications (e.g., objectives, activities, students served). The former Group Leader also stated that the expectation is that the program specialist assigned to an APR would be the one to follow up with the grantee to resolve any issues or provide technical assistance and document their communications.

We were able to locate the APRs for 55 of the 58 FY 2014 and FY 2015 grants we selected for review, as noted above. APRs for three grantees were received by the Department but not uploaded into their grant files. The program specialist assigned these APRs for review stated that if the APRs were not uploaded, then they were not reviewed. For the 55 APRs that we reviewed, we found that the program specialists performed only a cursory review of the information and that while they may be assigned to review specific APRs, they do not necessarily work with those same grantees to resolve noted issues.

As noted in the APR instructions to the grantees, for each project objective, the grantee is to identify if it has met or is making progress towards meeting the performance measure according to the data source chosen and explain how the data source demonstrates that it has met or is making progress towards meeting each project objective. In addition, if an objective was not met, the grantee is to provide steps for improvement. We found multiple cases where the grantee stated that the objective was met, but the data provided did not illustrate or support this; however, the program specialist did not question or conduct follow-up with the grantee. For example, one grantee stated its objective of enhancing problem solving and cognitive skills development was met, but the explanation simply stated that "the students have passed our expectations." We also noted that when objectives were not met, grantees did not always provide steps for improvement and program specialists did not follow up for additional information. For example, one grantee noted it did not meet its objectives of increasing school readiness and academic achievement, and simply stated for each objective that progress is noted but the goal is not fully met. No plans were provided for how to improve in these areas and no follow-up was performed.

When asked if they conducted follow-up with grantees when the data sources or explanations did not align with the grantee's objective, only one program specialist indicated the grantee was contacted while two program specialists noted that they have not often encountered this situation. When we pointed out specific examples to these two program specialists, one stated that OIE ultimately relies on grantees and the certifying official to be truthful, and when a grantee states that it has met an objective, OIE does not question it. The other program specialist stated that the

only way she could know for sure if a grantee has met an objective would be by going on site to review documentation, and they do not have funds to do on-site visits.

The remaining two program specialists stated that they did not follow up with grantees. One stated that they were instructed not to perform qualitative analysis of the APRs. The other noted that the program specialists are not told to perform any kind of in-depth analysis and probably would not have the time to do it anyway. When we told the former Group Leader that program specialists informed us that they were instructed not to perform any qualitative analysis, the former Group Leader stated that due to the high volume of grantees, it is not feasible to review all of the APRs. He added that the APRs are mainly used for their data rather than for monitoring grantees' performance.

Moreover, two program specialists believe that the APRs are not a tool for the Department, but are actually a tool for grantees to track their own progress and share their progress with parent committees. As a result, even when the data source or explanations in the APR do not align with the grantee's objective, program specialists do not feel it is their responsibility to question it.

In further discussions with program staff, two program specialists noted that they do not perform a qualitative review of the APRs. A majority of program specialists noted that they focus their review primarily on the last section of the APR, which includes items they deem necessary to close out the grant successfully. This section of the APR includes information from G5 with regard to funds remaining, provides options for the grantee to request a late liquidation, indicate whether a close out notice is needed, or request technical assistance.

In addition, while our review identified several APRs with information noted in this last section that should have resulted in follow-up with the grantee, we found little corresponding documentation in the official grant files. Issues we identified for the 55 APRs we reviewed included the following:

- 8 grantees requested technical assistance, but none of their grant files included evidence that technical assistance was provided.
- 4 grantees requested a late liquidation despite not needing one since they noted 100 percent of their grant funds had already been drawn down, but there is no evidence that technical assistance was provided to clear up the confusion.
- 3 grantees stated they needed signed close out notices despite their APRs noting they had less than \$100 in funds remaining;¹⁹ 2 grantees stated they did not need signed close out notices despite their APRs noting they had over \$100 remaining. None of the grant files included evidence that technical assistance was provided to clear up the confusion.

¹⁹ Signed close out notices are not required if there is less than \$100 remaining.

The former Group Leader stated that program specialists do follow up with grantees, but there is no tracking system for this. In many cases, the program specialists stated that they conducted follow-up, but the communications were not documented; therefore, we were unable to verify whether or not these conversations occurred.

Development of Monitoring Plans Needs Improvement

We found that although the OIE Formula Team developed monitoring plans for FYs 2015 and 2016, it did not have a clear process in place for identifying which grantees to monitor and its monitoring plans did not place an emphasis on multiple risk assessment factors. According to the former Group Leader, at the beginning of each Federal fiscal year, OESE's Executive Office (front office) requests that program directors provide a list of grantees that they plan to monitor that year. This list, also known as the monitoring plan, is to be based on data and information from previous school years and takes into account various factors. The Formula Team compiles a list of approximately 25 grantees every year, and once the list is final, sends the information to the OESE front office.

No Clear Process for Developing Monitoring Plans

The OIE Formula Team does not have any written procedures regarding the development of its monitoring plans, and Formula Team staff provided varied responses regarding how monitoring plans are developed. OESE's Guidance notes that since program offices do not have sufficient monitoring resources to be able to monitor every grantee every year, it is important to have a method for assessing risk and for prioritizing "higher risk" grants and grantees for review. The former OIE Group Leader stated that developing monitoring plans is an iterative process that happens through a series of meetings and communications among Formula Team staff. According to the former Group Leader, monitoring plans are the result of conversations with staff and are developed and sent to him by the Team Leader for review. The former Group Leader stated that these discussions occur at various times throughout the year, such as during team meetings, after Part I and Part II of the application process have closed, during or after webinars, and during the application review process.

However, a majority of the Formula Team staff described the process as one mainly involving the former Group Leader, Team Leader, and one other program specialist, with one program specialist noting that she only sees the list of grantees to monitor after it has been submitted to the OESE front office or when monitoring assignments are distributed. The Team Leader noted that a priority area is selected for monitoring each year, such as consortium grantees, and then a list of approximately 25 grantees that meet the priority is developed. Once the list is final, OIE sends the information to the OESE front office. Additional grantees may be added to the monitoring list throughout the grant year based on input from program specialists.

Due to the varied responses, we asked the OIE Formula Team to provide documentation related to the development of the monitoring plans involving OIE staff. The Team Leader provided a copy of an email that the former Group Leader sent to the program specialists asking them to identify any grantees they believed should be considered for monitoring in FY 2016 and to provide input within 2 business days. While this email shows that program specialists were

asked for some input into the FY 2016 monitoring plan, it does not illustrate the type of collaboration that was described by the former Group Leader. As a result, we asked the OIE Formula Team to provide any further evidence of collaboration or team discussions involving the development of either the FYs 2015 or 2016 monitoring plans but they did not provide any.

In addition, based on a review of available documentation and interviews with staff, we could not determine what data sources were used to select grantees for the FY 2015 and 2016 monitoring plans. All members of the Formula Team gave different answers when asked what data sources were used. Our review of documentation related to the data sources noted did not support a rationale for why certain grantees were selected over others.

Monitoring Plans Do Not Place an Emphasis on Multiple Risk Assessment Factors

We found that OIE's monitoring plans do not place an emphasis on multiple risk assessment factors when selecting grantees for review. The Department's Bulletin notes that in conducting a risk assessment, program offices should include all grantees each year or a subset of grantees that, over an appropriate time period, will enable the program office to ensure an appropriate level of oversight for all grantees. The program offices should also focus on the most critical risks which, if not mitigated, would jeopardize a grantee's ability to meet performance standards and comply with grant requirements. For programs with a high number of grantees, the OESE Guidance states that having a strong risk assessment tool is particularly useful so they can best target where remediation and technical assistance is needed. One option the Guidance suggests for programs with a high number of grantees is to request that the Risk Management Services group (RMS) run an Entity Risk Review report for all current grantees and use the list to identify grantees that are in institutions that have been determined to have a high level of risk. Additionally, Title VII of ESEA²⁰ states that for each fiscal year, in order to provide information as is necessary to carry out the responsibility of providing technical assistance, the Department shall conduct a monitoring and evaluation review of a sampling of the recipients of grants. The sampling shall take into account the size of and the geographic location of each LEA.

Of the approximately 1,300 entities that receive Indian Education formula grants annually, the OIE Formula Team sets a goal to complete a minimum of 25 desktop monitoring reports each year. The former Group Leader stated that the Formula Team takes several factors into consideration when selecting which grantees to monitor, such as the size of the award, the last time it was monitored, concerns relating to student count and/or parent committees, and frequent staff turnover. The former Group Leader stated that grantees may also be identified for monitoring as a result of a risk assessment by the Formula Team, which may involve communicating with the Department's RMS group and what he referred to as OESE's A-133 audit team.²¹

²⁰ While authorized under Title VII of ESEA, the Indian Education Formula Grant program was re-authorized under Title VI of ESSA and includes this same requirement.

²¹ RMS develops risk analysis tools and strategies for use by grant programs; trains Department staff to use these tools; coordinates activities for a select portfolio of Department grantees that have high concentrations of risk; and helps grant staff find, interpret, and use grant risk information. OESE's A-133 audit team is responsible for resolving single audits for grantees that have expended in excess of \$750,000 in Federal funds in a given fiscal year.

We searched the audit database maintained by the Federal Audit Clearinghouse (FAC) for any entities with A-133 audit findings related to the Indian Education Formula Grant program in FYs 2013 or 2014.²² The search resulted in 14 entities, 3 of which had findings in both FYs 2013 and 2014, for a total of 17 audit reports. Upon further review, we found that 6 (35 percent) of the 17 audit reports had findings that specifically mentioned the Indian Education Formula Grant program.²³ However, none of these grantees were included on the FY 2015 or FY 2016 OIE grant monitoring plans. These findings included issues such as having a negative balance, program funds being incorrectly classified, and questioned costs resulting from a lack of adequate documentation.

When asked for evidence that risk assessments were conducted when developing monitoring plans, the OIE Formula Team was unable to provide any. We also contacted RMS and were told that OIE has not made any requests for reports or services related to the Indian Education Formula Grant program since 2012.

In addition, of the 37 monitoring reports we reviewed for grantees included on the FY 2015 and FY 2016 monitoring plans, only one report cited the reason as to why the grantee was referred for review.²⁴ If any risk indicators identified prior to the desktop monitoring were alluded to in the other monitoring reports we reviewed, they generally only included the drawing down of funds which was not indicative that any other risk factors had been considered.

Data on Grantees' Performance are Not Used to Improve Program Success

We noted that while OIE collects some data on grantee performance for the Indian Education Formula Grant program, there is little evidence that the data are used by the program office to provide assistance to grantees in implementing the program successfully, even though grantees appear to be having difficulty meeting established performance targets. The OESE Guidance specifically notes that one of the purposes of monitoring is to understand the implementation and results of the grantee's program, particularly with regard to Government Performance and Results Act (GPRA)²⁵ indicators for the program.

According to the former Group Leader, there are two primary methods of evaluating program performance: performance measures developed under the GPRA and yearly APR submissions. At the program level, local and State assessment data collected through the National Assessment of Educational Progress (NAEP), Consolidated State Performance Report (CSPR), and *EDFacts* are used to compile data for the GPRA performance measures as noted in Table 1 below.

²² Because OIE develops monitoring plans in June/July and submits them in October of the subsequent fiscal year, we reviewed single audit reports for FYs 2013 and 2014; these reports would have been available when OIE was developing the FY 2015 and FY 2016 monitoring plans. For example, the FY 2015 monitoring plan was developed by OIE during June/July 2014 and submitted by October 2014. The FAC accepted date for the related FY 2013 single audits was generally in January/February 2014.

²³ For the remaining audits, the findings generally applied to all of the Federal programs that were reviewed in the single audit and related to such issues as Federal financial reports not being submitted timely.

²⁴ The grantee was referred for site review due to withdrawing all grant funds in the first quarter of the grant period.

²⁵ GPRA was passed to hold Federal agencies accountable for achieving program results. It requires Federal agencies to set program goals, measure program performance against those goals, and report publicly on progress made toward those goals.

Specifically, we found that none of the targets for the 9 performance measures were met going back as far as 2011. In addition, 4 of the performance measures decreased in performance from 2011 to the most current year noted, and even those that increased were far from reaching their target.

Table 1. Performance Measures and Goals

National Assessment of Educational Progress (NAEP) Measures	FY 2011 Target	FY 2011 Actual	FY 2013 Target	FY 2013 Actual	FY 2015 Target	FY 2015 Actual
The percentage of American Indian and Alaska Native students in grade 4 who score at or above the basic level in reading on NAEP.	54%	49%	56%	51%	58%	52%
The percentage of American Indian and Alaska Native students in grade 8 who score at or above the basic level in reading on NAEP.	65%	64%	67%	62%	69%	63%
The percentage of American Indian and Alaska Native students in grade 4 who score at or above the basic level in math on NAEP.	74%	68%	76%	68%	78%	69%
The percentage of American Indian and Alaska Native students in grade 8 who score at or above the basic level in math on NAEP.	59%	55%	61%	59%	63%	57%
State Performance Measures	FY 2011 Target	FY 2011 Actual	FY 2012 Target	FY 2012 Actual	FY 2013 Target	FY 2013 Actual
The percentage of Indian students in grades 3-8 meeting State performance standards by scoring at the proficient or the advanced levels in reading on State assessments.	84%	52%	89%	58.4%	95%	58.1%
The percentage of Indian students in grades 3-8 meeting State performance standards by scoring at the proficient or the advanced levels in mathematics on State assessments.	83%	49%	89%	53.2%	95%	52.1%
The difference between the percentage of Indian students in grades 3-8 scoring at the proficient or advanced levels in reading on State assessments and the percentage of all students scoring at those levels.	4.0%	7.3%	2.7%	5.0%	1.3%	11.6%
The difference between the percentage of Indian students in grades 3-8 scoring at the proficient or advanced levels in mathematics on State assessments and the percentage of all students scoring at those levels.	4.3%	11.4%	2.9%	11.0%	1.4%	12.9%
Percentage of Indian students who graduate from high school.	84.4%	71.0%	86.2%	66.9%	86.2%	69.0%

In addition to the above data, a majority of the Formula Team staff indicated that the data collected in the APRs are not being used in a meaningful way to assist with assessing program success, although the Team Leader stated OIE is working towards this. One program specialist noted that the system used to collect the APRs²⁶ does not generate any reports with useful statistical data that can be used to assess progress or gains. The former Group Leader corroborated this, stating that information from APRs is mainly used for data calls.²⁷ Currently, the only report OIE is able to run is a summary spreadsheet that includes requests for technical assistance and late liquidations, as well as key personnel changes. The former Group Leader stated that since it is costly to do data analysis in the electronic application system, they are hoping to get more help with the data analysis with a new contract. Such analysis could be used to identify trends and areas for improvement so that appropriate actions, such as technical assistance, can be taken to help improve program performance.

Reasons for Inadequate Oversight Process

Challenges encountered in grantee oversight can partly be attributed to a lack of resources and the difficulty in administering the program to a large number of grantees. However, we found that the concerns noted with regard to OIE's oversight of Indian Education Formula Grant program grantees' performance and use of funds resulted primarily from weaknesses in OIE management. Specifically, we found a lack of communication, inefficient management of monitoring activities, and a lack of established procedures contributed to OIE's inadequate oversight process. We also noted weaknesses in OESE senior management oversight.

Weaknesses in OIE Management Oversight

We found that the deficiencies in OIE's oversight activities can be largely attributed to weaknesses in OIE management oversight. OMB Circular A-123 states that management has a fundamental responsibility to develop and maintain effective internal control. However, we found that expectations and necessary information regarding monitoring processes were not adequately documented or communicated to staff, staff did not always understand their roles and responsibilities when performing monitoring activities, and monitoring activities were not efficiently or effectively managed. OIE management does not appear to promote a culture of accountability and ownership within the office and it largely ignored the results of a previous internal review of the program that documented many of the same weaknesses noted during our audit.

Lack of Communication

We found that expectations, to include defined roles and responsibilities, were not clearly stated or adequately communicated to program staff, which often resulted in inconsistent direction, confusion among program specialists, a lack of ownership and accountability, and activities being performed or not performed that the former Group Leader was not always aware of. As

²⁶ The APR is submitted electronically through the Department's *EDFacts* portal. The APR is located under Part III of the electronic application system.

²⁷ Examples of data calls given by the former Group Leader included budget justifications and requests from superintendents or Congressional districts.

stated previously, we noted several instances, to include verification of Indian School Equalization Program counts, compilation of monitoring plans, and review of APRs, where the former Group Leader provided descriptions of processes that conflicted with the program specialists' understanding of the same processes, and instances where program specialists provided descriptions of processes that conflicted with other program specialists' descriptions.

Inefficient Management of Monitoring Activities

We also noted a lack of consistency and continuity in assignments by management which appears to negatively affect grantee monitoring. Program specialists noted that they are not assigned a set list of grantees to monitor or work with for the duration of the 1 year grant period and that because they are constantly receiving new assignments, they may forget to follow up with grantees. Other concerns with this work arrangement included a duplication of effort or undue burden on grantees, not being able to provide targeted technical assistance, and not being able to become familiar with the strengths and weaknesses of individual grantees.

The former Group Leader agreed that this is not the most efficient way of handling assignments, but believed this allows staff to address concerns that need immediate attention, particularly areas that are of concern to superintendents and project directors. In addition, the former Director stated that if program specialists are assigned grants based on region, it becomes an issue when a program specialist is sick, as it impacts a whole region. Instead, they focus on the need or issue at the time rather than assign a set group of grantees to each specialist because of the volume of the program. The former Group Leader believed that because all of the program specialists know the basics of the program, any of them can address the general issues while more specific or complicated issues get assigned to more experienced staff. The former Group Leader stated that he has seen emails between program staff where they keep each other informed about grantees but he wishes that they would do it more. He added that the goal is to provide customer service as quickly as possible and that according to customer service surveys, they have had high numbers in grantee satisfaction.²⁸

Despite the stated need to provide fast customer service, the former Group Leader acknowledged that there is no system in place to keep track of communication or follow-up with grantees and that a better tracking system is also needed for when a grantee requests technical assistance. Grantees are instructed to email their corrective actions addressing findings in the monitoring reports to a general email account that was primarily overseen by the former Group Leader. Three program specialists noted the use of this email account as a reason for why they may not be aware of whether follow-up action was ever taken or whether certain communications from grantees were ever dealt with. One program specialist stated it is easy to lose track of responses from grantees if they are sent to the office email account, particularly since the office does not have a tracking system. The Team Leader also stated that having it set up this way may cause delays for individual program specialists. However, despite being aware of the issue, little action has been taken to address it.

²⁸ The most recent customer service survey invited 200 (15 percent) of the approximately 1,300 grantees to respond. Ninety one grantees actually responded. The survey noted that the program office provided the listing of grantees to be contacted for the survey.

In addition, we noted weaknesses with regard to grant file documentation processes, further exacerbating the inefficiencies in tracking of grantee oversight. In general, we found grant files in G5 were lacking documentation. The former Group Leader stated that files may be missing from G5 because OESE had established a new electronic filing system called PAM. Furthermore, with over 1,300 project files, some may not have been uploaded to PAM during the transition to the new system. However, the G5 Deputy Project Manager stated that as of May 2014, G5/PAM had imported everything that had been stored in OESE's previous electronic grant filing system. She added that program office staff were provided with training courses and written guidance, and that this included the expectation that users were aware of and would adhere to applicable Department grant policies. The former Group Leader noted that staff had training on G5. However, we found a majority of the program specialists were maintaining documentation on their computers or in personal hardcopy binders and were unaware of or unconcerned with official documentation requirements. When asked how staff would access grant files and documentation stored on a person's computer if the staff member were to leave abruptly, the Team Leader stated that in the past, a member of the Information Technology team was able to give them access to someone's files after he or she left.

Lack of Established Procedures

No formal or finalized standards or operating procedures were developed for monitoring of the Indian Education Formula Grant program. According to the former OIE Director, OIE's program is a "hybrid program" that is unlike other Department formula grant programs since it involves working with LEAs as opposed to States. She stated that even though OESE has a guide for formula programs, OIE does not use it and instead refers to the Department's *Handbook for the Discretionary Grant Process* for some guidance. She also noted that, in 2013, OIE developed an unofficial booklet for internal use that provides staff with information about OIE's grant programs and steps to follow when working on specific tasks. However, we noted that the booklet did not include steps to follow when working on tasks specific to the Formula Grant program, and that program specialists were generally not familiar with it—in one case only learning about it at a meeting following the start of our audit. The former OIE Director further stated that the electronic application system Frequently Asked Questions (FAQ) are the standard of practice actually used by staff. However, we noted that the FAQs are intended to be used as a source of information for applicants and grantees and do not contain standard operating procedures applicable to program staff for carrying out oversight and monitoring activities.

Lack of Follow-up on Prior OIE Program Management Review

We found that OIE management largely ignored the results of a 2011 program management review that found similar weaknesses in the program. The review was initiated at the request of the former OESE Deputy Assistant Secretary for Management with the expectation that the findings in the report would be used by the OIE Director at the time to create an improvement plan. The report noted that without strong leadership, there were no consistent mechanisms applied to ensure staff met regularly, understood respective roles and responsibilities, communicated with counterparts, and understood and implemented OESE and Department policies. The review also identified an absence of substantive monitoring priorities and comprehensive monitoring protocols and activities, and an abdication on the part of OIE to

require grantee accountability. Several recommendations were made to address these identified weaknesses.

Beginning in FY 2013, OESE senior management annually required the former OIE Director to submit a report on OIE's efforts to address the review recommendations, including a judgment as to whether an external third party reviewer would conclude that the identified issues had been resolved. OESE senior management eliminated the reporting requirement in FY 2016. We found no indication that a report was ever completed or that the former OIE Director was held accountable for doing so.

When asked about actions taken with regard to the recommendations, the former OIE Director expressed concern that we had a copy of the review as she was told that it would only be used for internal purposes. She stated that she was upset with how the review was conducted and had not shared the report with staff at the time because she did not want to hurt them further after a 2010 OIG audit of OIE's management of the Professional Development Grant program, which found that significant improvements were needed in OIE's management of that program. The former Group Leader, and subsequent Acting OIE Director, stated that he completed a cursory review of the report when it was provided to him by the previous Director upon her departure in November 2016. He stated that he was not sure if the office produced any responses addressing the findings and that he was waiting for the results of this OIG audit to determine whether the office needed to refine anything.

Lack of Resources

Challenges encountered in grantee oversight can partly be attributed to a lack of resources and the difficulty in administering the program to a large number of grantees. According to the former Group Leader, one of the biggest challenges with the program is the limited number of staff and the volume of grantees. At the time of our review, the Formula Team was comprised of five program specialists and a Group Leader who were largely responsible for administering and monitoring approximately 1,300 grantees that reapply for a formula grant every year. The former Group Leader stated that due to the low number of full time employees in OIE, staff is oftentimes stretched thin and doubling their duties. The former OIE Director informed the audit team that staff has downsized considerably in the past 15 years and, because of this, OIE has recently concentrated on cross-training staff. The former Group Leader stated that as a result, current Formula Grant program specialists assist with panel reviews and as screeners for OIE's discretionary grants program. He stated that OIE would like to have the ability to monitor more grantees; however, it must evaluate what is reasonable within established timeframes. OIE Formula Team staff generally agreed with this sentiment. We would note that under these circumstances, it is especially important that existing resources are leveraged to concentrate monitoring efforts on those grantees identified to be at risk or potentially at risk of poor performance and compliance, and to ensure that monitoring activities performed are focused to provide substance and quality.

Overall Impact on the Indian Education Formula Grant Program

The weaknesses noted in OIE management oversight, as evidenced by poor communication, a lack of continuity and consistency, and a lack of established procedures, has resulted in a dysfunctional work environment for the OIE Formula Team as a whole. The OIE Formula Team's inability to function effectively is exemplified by the lack of consistency in its oversight of grantees. In addition, because OIE management did not follow up on the prior OIE program management review findings, it has allowed these known issues to continue for years.

Without the adequate monitoring of grantees, OIE has little assurance as to whether Indian Education Formula Grant program grantees are making progress toward meeting program goals and objectives and that impacted students are receiving intended benefits. OIE's limited use and review of performance data it collects leaves it unable to detect areas where problems exist and provide targeted technical assistance to grantees that are having difficulty meeting their goal(s) and ultimately hold them accountable for program performance. In addition, OIE is unable to ensure that program funds are being used for intended purposes. We note that ESSA now explicitly requires that the Department review and analyze the results of monitoring and compliance reviews to understand trends and identify common issues, and to issue guidance to help grantees address such issues before the loss or misuse of taxpayer funding occurs.

As noted previously, targets for each of the related GPRA performance measures have not been met in the past several years. With adequate monitoring of grantee progress, OIE would have a better idea of the issues that may be preventing grantees from making further progress and could ensure that it implements interventions that assist grantees in implementing their programs successfully.

The risk of the misuse of funds also increases over time as grantees realize that their likelihood of being selected for monitoring is inherently very small, only cursory reviews of the information they provide in the APRs are being conducted, and information requested during desktop monitoring reviews is not always verified or followed up on when not provided. In regard to the APR, as noted previously, one program specialist stated that they were instructed not to perform qualitative analysis and another noted that they are not told to perform any kind of in-depth analysis. The one program specialist stated that while the APR is a great platform, it is not used as intended when grantees can say whatever they want, the program specialists do not know if it is true or not, and they do not follow up with the grantee. As grantees become aware that the Department is not verifying information, they may be more prone to misusing funds.

Additionally, the risk of misappropriation of funds increases as grantees realize that program specialists are not always verifying student counts or requiring explanations for large student count increases or decreases. We found that when program specialists contact applicants regarding student count changes, an applicant only needs to state if it verified its Indian Student Eligibility Certification Forms as part of the student count verification process in order for the change to be deemed acceptable. One program specialist noted that in previous years, if the student count had a significant change but the overall student count was less than 100, they were not expected to follow up with the applicant; however, as a result of the ongoing OIG audit, program specialists were instructed this year to obtain an explanation from the applicant even if

the grantee's student count was less than 100. She stated that it was a good exercise because it made grantees realize that OIE was looking at the student counts closely.

Finally, by not using a risk assessment process in the development of its monitoring plans that considers multiple risk factors, OIE hinders its ability to include a subset of grantees that, over an appropriate time period, would enable the program office to ensure an appropriate level of oversight for all grantees and may not be targeting its resources on grantees that are potentially at most risk for not meeting project objectives and complying with grant requirements.

Recommendations

We recommend that the Assistant Secretary for OESE:

- 1.1 Ensure that OIE management and the OIE Formula Team develop, finalize, and implement detailed written policies and procedures on monitoring grantees' performance toward achieving the program's goals and objectives, to include ensuring grantees submit all requested documentation, documenting conclusions with regard to adequacy of grantee performance in areas reviewed as well as overall conclusions on whether grantees are meeting program objectives, requesting and timely following up on corrective actions when needed, and that such monitoring is used to assist grantees in making progress in meeting those goals and objectives.
- 1.2 Ensure that OIE management and the OIE Formula Team develop, finalize, and implement detailed written policies and procedures for monitoring grantees' use of funds, to include ensuring documentation related to expenditures is submitted and reviewed to verify that funds are being used for allowable activities and that resulting conclusions are documented and applicable corrective actions are requested and timely followed up on.
- 1.3 Ensure that OIE management and the OIE Formula Team develop, finalize, and implement detailed written policies and procedures regarding the student count verification process to ensure that student counts are being appropriately verified and documented, and any issues are proactively identified.
- 1.4 Ensure that OIE management and the OIE Formula Team develop, finalize, and implement detailed written policies and procedures for developing monitoring plans that consider multiple risk factors. In doing so, consider requesting Entity Risk Review reports for grantees from RMS as suggested by OESE's *Guidance for OESE Monitoring Plans* for grant programs with a large number of grantees.
- 1.5 Encourage OIE management to conduct research on best practices employed by similarly situated programs, such as other formula grant programs at the Department with large numbers of grantees, and consider adapting and/or adopting practices that may be used to better oversee and monitor Indian Education Formula Grant program grantees.

- 1.6 Ensure that OIE management and the OIE Formula Team receive necessary training and guidance so they are prepared to adequately manage the responsibilities of effectively overseeing grantees.
- 1.7 Ensure that OIE management and the OIE Formula Team are aware of and comply with existing standards for grant file documentation that align with Department policies.
- 1.8 Require the OIE Formula Team to identify desktop monitoring reports with open or unresolved items and conduct necessary follow-up with grantees to close out the monitoring reports.
- 1.9 Ensure that OIE management develops, finalizes, and implements detailed written policies and procedures for reviewing APRs, to include ensuring all APRs are received and uploaded to the grant files, reviewing progress toward achieving project objectives, following up with grantees when necessary, and appropriately documenting related communications.
- 1.10 Ensure that APR and GPRA data are analyzed to identify areas for improvement and that such analysis is used so that appropriate actions can be taken to help improve program performance.
- 1.11 Ensure OIE management adequately communicates to program staff expectations related to monitoring, to include defined roles and responsibilities, to help ensure the effective and uniform monitoring of Indian Education Formula Grant program grantees.
- 1.12 Review the management and staff structure and resources of OIE and make changes, as appropriate, to ensure that proper oversight and monitoring of Indian Education Formula Grant program grantees is conducted.

OESE Comments

OESE did not disagree with the finding and acknowledged that much of the draft audit report aligned with its own assessment that OIE is struggling to adequately perform its functions, to include administering and overseeing the Indian Education Formula Grant program. OESE stated that for this reason, the draft report has proven to be helpful in its work in overseeing and helping improve OIE. OESE did note that it was deeply concerned about the scope limitation in the report. Specifically, OESE stated that it did not see evidence that OIE staff, OESE senior management at the time, or OGC did anything to limit the information and documents that OIG received as part of the audit process, nor did OESE see that there was any intention or actions taken on the part of OESE senior management at the time or on the part of OGC to interfere with OIG's efforts to collect information. Rather, OESE stated that OESE senior management and OGC were only trying to ensure that the information OIG received was accurate and as timely as possible.

OESE stated that its perception was that the following things were occurring:

1. Problems with OIE's performance;
2. The sudden loss of OIE leadership and several changes in OESE leadership occurring while the audit was underway;
3. OIG staff members' clear frustration with OIE's challenges in producing accurate and timely information in response to OIG's requests and in accordance with OIG's expected timeframes;
4. OIE staff members' fear, in response to OIG staff members' frustration and somewhat aggressive approach, that they had to produce certain documents and information whether they existed or not; and
5. New OESE senior management and OGC's efforts to ensure, in spite of OIE's challenges, that OIG received accurate and timely information while also meeting ongoing operational imperatives.

OESE further questioned whether the scope limitation was truly required since it believes that all of the information requested was ultimately provided, and it was ultimately communicated when certain documentation did not exist. OESE believes that OIG's Semiannual Report to Congress²⁹ makes the point of OIG's concerns and OESE's resulting responsiveness merits reconsideration of whether the additional scope limitation is necessary. In addition, OESE expressed concern regarding the inclusion of personnel information in the audit report pertaining to OESE senior management assessments of performance for certain former OIE staffers, noting the impact it could have on employees if they believe their performance reviews can be discussed in public documents.

OESE fundamentally agreed with our recommendations, noting that they are the right kinds of actions, controls and procedures to have in place to ensure sound management of a program office. OESE stated that OESE believes that it already exhibits the same in most of its program offices, and thus, it does not believe that the entire list of actions must be adopted and reported on since the rudiments of such a process exist in OESE and now in OIE as well. Instead, it provided a corrective action plan that highlights its agreement with OIG in three areas: written policies and procedures, staff training, and research on best practices for monitoring.

OIG Response

We appreciate OESE's acknowledgement that OIG's report has proven helpful in its work in overseeing and helping improve OIE. However, we do not agree with OESE's assessment regarding OESE senior management and OGC involvement in the audit nor do we agree with OESE's characterization of OIG staff members' behavior and approach during the audit.

OESE indicated that it believed that OESE senior management's and OGC's involvement during the audit was to ensure that the information OIG received was accurate and as timely as possible in spite of OIE's challenges. Also, it did not see that anything was done to limit the information and documents that OIG received or that there was any intention to interfere with OIG's efforts to collect information. We disagree. Due to actions noted during the audit, including ongoing

²⁹ OIG Semiannual Report to Congress, No. 74.

delays in receiving requested information, we reviewed email communications of relevant Department staff and noted that OIE staff were directed to clear communications through the former OIE Group Leader, the former OIE Director, and OGC before sharing information with OIG. This involvement began immediately after the audit entrance conference when OESE senior management and OGC began to coordinate OIE's response to our initial request for documentation. Soon thereafter, OESE senior management instructed OIE management to ensure that all documents and responses were sent to OESE senior management for review and sent to OGC for sign off before responding to OIG. We noted that after finding out that a program specialist had actually independently responded to a question from OIG during the audit without first obtaining sign off, the OGC program attorney asked the former OIE Group Leader to remind staff that they are supposed to clear email communications prior to responding to OIG. Some OIE staff also informed us they were specifically told to be as limited as possible with responses to our questions, to include only saying yes or no to questions even in cases where they wanted to provide more context, and to not provide information relevant to the audit that we had not specifically requested. This necessitated frequent follow-up by OIG staff to clarify inadequate or unclear responses.

Our review of emails revealed specific instances where information drafted by OIE staff was inappropriately edited and relevant information deleted. While the Department's intent may have been to provide accurate information, altering and deleting information prior to sending it to the OIG places a clear scope limitation on our work. To the extent that the original responses to our requests were incomplete or inaccurate, we would have undertaken additional follow-up and this process would have better enabled us to assess potential causes of the issues we found, such as lack of adequate staff training and unclear communications from managers. For example, after we informed the former OIE Group Leader that we had received conflicting answers from program specialists about the preparation of monitoring plans and asked him to describe the process for us, OESE senior management and OGC discussed with the former Group Leader how to edit the response he had originally drafted for OIG to allow for a more general answer that could accommodate any conflicting answers we had already received from program specialists. Information pertaining to the monitoring strategy that had been included in the draft response was also removed with a notation that we had not specifically requested it, even though it was pertinent to our audit scope. Because we did not see the original prepared response of the OIE group leader until months later, it affected our ability to conduct follow-up to identify the causes for inconsistent responses. While OESE stated that it believes that all of the information requested was ultimately provided, we do not have any assurance that the examples we identified are the only instances where information was withheld or altered. Specifically, we did not have access to all of the email communications covering the duration of the audit and some responses and documents drafted by program staff were shared through the Department's SharePoint site rather than through email. Furthermore, we have no assurance that other information was not altered or withheld based on verbal directives under the review process that was in place to respond to our information requests.

In addition, as we reported in the OIG Semiannual Report to Congress, No. 74, we encountered delays receiving responses to nearly all of our requests for information from OIE staff, ranging from 9 to 45 days from initial request to receipt date, with a median delay of 26 days. This included requests for information that should have been readily available, such as monitoring

plans, monitoring letters, and monitoring reports, as well as answers to basic questions. We had to follow up with OIE on multiple occasions by phone and/or email to receive a response. In some cases, in order to elicit a response after previous follow-up requests went unanswered, we had to inform OIE that we would assume it did not have the requested documents if it did not provide them by a specified date. These delays were in large part a result of the involvement of OESE senior management and OGC. Through our subsequent review of emails, we identified instances where program staff had prepared information and documentation to respond timely to our requests, but could not send these materials until after OGC had time to review them. In one instance, a program specialist and the former Group Leader contemplated if they had anything that could be sent to OIG while they waited for OGC to review documents that had been requested by OIG 1 month prior, noting there was one document from the request that had received OGC approval. In another instance, when we asked a program specialist for clarification on the monitoring plans, OGC and OESE senior management involvement resulted in an approximately 1 month delay from the initial request date.

This level of involvement continued throughout the audit despite our requests that we be given direct access to OIE staff and information. Specifically, in September 2016, OIG notified OIE management and OESE senior management that OIG must receive unrestricted access to personnel whom the OIG determines may have pertinent information and that employees are expected to respond promptly and completely to requests from the OIG for information and records or discuss with the OIG requestor any operations or practical reasons why the employee cannot promptly respond to a request. During a meeting held on January 31, 2017, OIG management again mentioned concerns regarding access to information and staff and explained to OESE senior management, OIE management, and OGC that due to OESE senior management's and OGC's involvement, OIG does not know if OIE program specialists or management are able to answer specific questions about how they carry out their jobs or provide basic documentation related to their work and noted the possibility that we would need to report a scope limitation in our report due to these ongoing actions.

Ultimately, we do not believe that this level of OESE senior management and OGC involvement in the audit provided an accurate representation of the program office and its activities. Instead of receiving unfettered access to information and OIE staff during the audit, OESE senior management and OGC were determining what information should be provided to us. Regardless of the stated intent, the result was that we were not given the opportunity to determine on our own how well OIE was performing its functions and what controls were in place within the office as the involvement of OESE senior management and OGC could have obscured additional underlying issues affecting OIE's performance.

In response to OESE's statements regarding OIG staff members' frustration and somewhat aggressive approach that led to OIE staff members being fearful that they had to produce certain documents and information whether they existed or not, we completely disagree. Concerns about any aggression or frustration on the part of OIG staff were never discussed or brought to our attention at any point during the audit, to include during the meeting noted above between OIG management and OESE senior management and OGC. The first mention of this did not occur until after OIG provided the draft audit findings to OESE for review, to include the scope limitation, just prior to the audit exit conference. OESE did not provide any evidence of the

aggressive behavior OIG staff purportedly displayed, nor did it provide any examples of when OIE staff members felt they had to produce certain documents and information whether they existed or not. OIG staff was professional and accommodating throughout the audit despite the ongoing obstacles and delays that occurred, including the environment that was created within OIE as a result of OESE senior management's and OGC's insistence that every response provided to OIG had to be reviewed by them first. OIG granted extensions to requests for information to accommodate staff schedules and workloads on multiple occasions throughout the audit and repeatedly noted that program specialists could contact us with any questions or concerns they had regarding requests for information. In addition, we offered to meet with the OGC program attorney separately to discuss anything of interest or concern to the program attorney upon our request not to attend meetings we had scheduled with individual OIE staff. Moreover, as we mentioned above, in some cases, in order to obtain a response to our requests for information after follow-up requests for the status of information that had been requested but not provided had gone unanswered, we were left with no choice but to inform OIE that we would assume it did not have the requested documents if it did not provide them by a specified date. In no way did this imply that OIE staff had to produce certain documents and information whether they existed or not. On the contrary, it implies that OIG understood that the program office may be unable to provide the requested documentation.

OESE also noted in its response that the sudden loss of OIE leadership and several changes in OESE leadership occurred while the audit was underway. While we acknowledge that some staff changes did occur, we believe that the changes to which OESE refers should have had little effect on how the audit was handled. Specifically, the former Deputy Assistant Secretary and former OIE Group Leader did not leave the Department until audit fieldwork was completed or nearly completed.³⁰ In addition, while the former OIE Director left the Department in November 2016, much of the knowledge related to the Department's oversight of the Indian Education Formula Grant program should have been retained since the former OIE Director specifically claimed no involvement in the process of monitoring grantees.

OESE questioned whether we needed to include the scope limitation, particularly since the OIG's Semiannual Report to Congress included these concerns. Government Auditing Standards (December 2011 Revision) section 7.11 states that auditors should report any significant constraints imposed on the audit approach by information limitations or scope impairments, including denials or excessive delays of access to certain records or individuals. This is a separate required reporting standard from the Inspector General Empowerment Act of 2016, which states inspectors general are required to include in the semiannual reports they submit to their agencies and Congress descriptions of any attempts by an agency to interfere with inspector general independence, including through budget constraints, resistance to oversight, or delayed information access. As such, both are required.

In response to OESE's concern regarding the inclusion of information pertaining to performance assessments, we believe there is a public interest in understanding the operations and activities of the government that can outweigh any privacy interest in the limited performance evaluation information we included in the draft report. We decided, however, to remove the discussion of

³⁰ The exit conference was held on October 12, 2017. The former Deputy Assistant Secretary left the Department in September 2017 and the former OIE Group Leader left the Department in December 2017.

performance assessments and separately communicate our concerns to management regarding the performance assessments.

Finally, in response to OESE's statement that it does not believe that the entire list of recommendations must be adopted and reported on, we disagree and have retained our recommendations. We note that a number of our recommendations are similar to recommendations in the 2011 OIE program management review as well as our 2010 audit of OIE's management of the Professional Development Grant program, indicating that recommended actions are not being implemented or implemented correctly or timely to address noted weaknesses in OIE program management.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine whether the Department has an adequate process in place to ensure grantees are using funds appropriately and performance goals are being met. Our audit originally consisted of an additional objective, which was to assess the effectiveness of the Department's coordination efforts with other Federal agencies involved in Indian education. This work primarily involved the White House Initiative on American Indian and Alaska Native Education, a completely different office from OIE. On July 13, 2017, we informed the OESE Audit Liaison Officer and other relevant Department staff of the OIG's decision to no longer pursue the second objective of this audit.

To accomplish our objective, we gained an understanding of internal controls applicable to the Department's monitoring of Indian Education Formula Grant program grantees' performance and use of funds. We reviewed applicable laws and regulations, policies and procedures, OMB guidance, and the Government Accountability Office's (GAO) "Standards of Internal Control in the Federal Government." In addition, to identify potential vulnerabilities, we reviewed prior OIG and GAO audit reports and a Department management review with relevance to our audit objective.

We conducted discussions with Indian Education Formula Grant program management and staff to obtain a more thorough understanding of the program. These discussions focused primarily on the monitoring process and other efforts undertaken to administer the program. We reviewed the official grant files maintained in G5 to determine the adequacy of the Department's monitoring of Indian Education Formula program grantees' performance and use of funds. The scope of our review was limited to the Department's monitoring activities for FY 2014 and FY 2015 Indian Education Formula Grant program grantees. Our sampling methodology is detailed below.

Sampling Methodology

To determine the adequacy of the Department's monitoring of Indian Education Formula program grantees' performance and use of funds, we reviewed grant documentation for two samples judgmentally selected from different universes. For one sample, we reviewed grant documentation such as monitoring reports and technical assistance correspondence for a subset of grantees included on OIE's monitoring plans. A second sample of grantees was selected from the remaining FY 2014 and FY 2015 grantees to review their associated APRs, student count verification spreadsheets, and technical assistance correspondence.

Specifically, for the first sample, we reviewed a total of 37 monitoring reports associated with 37 grants out of 54 grants listed on monitoring plans. We reviewed monitoring reports for 27 grantees included on the FY 2015 monitoring plan for which reports were produced³¹ and an additional 10 monitoring reports from the universe of 25 grantees included on the FY 2016 monitoring plan. The 10 grants included all 5 of the grants that had more than one program specialist assigned, as we were informed more staff are generally assigned to larger and/or more complicated grants. We grouped the remaining 20 grants in the universe based on which of the 5 program specialists was responsible for conducting or leading the review, as we wanted to ensure that a grant reviewed by each program specialist was represented in our sample. From each of these 5 groupings, we randomly selected 1 grant for review. Because we did not weight the sample results by their probabilities of selection, the percentages reported in this audit are not statistical estimates and should not be projected over the unsampled grants.

For the second sample, we judgmentally selected a sample of 30 grantees to review, specifically with regard to student count verifications and APRs, from the universe of 2,469 FY 2014 and FY 2015 non-BIE operated grants.³² The 30 grantees were selected based on the following attributes:

(a) Award Amount

We identified grants with the highest award amounts. We found that in both FY 2014 and FY 2015, the same 6 grantees received over \$1 million, representing approximately 11 percent of the total amount of dollars awarded in their respective years. We did not include one of the grantees as it was already included in our sample from OIE's FY 2015 monitoring plan. As a result, we selected a total of 5 grantees from this category.

(b) Student Count Change

We identified the FY 2014 and FY 2015 grants with the largest percentage change in student count.³³ We categorized the changes into increases or decreases and identified the percentage changes that were 75 percent or greater. We then selected any grantees that had a significant increase or decrease in both years, had a student count change greater than 100 percent, or initially submitted a different student count compared to their final or accepted

³¹ As noted in the Audit Results, OIE did not monitor one grantee included on the monitoring plan because it mistakenly monitored another grantee with a similar name. OIE did not produce a monitoring report for another grantee included on the monitoring plan because of an ongoing investigation and OIE was told not to issue a report at the time.

³² As BIE operated grants represented a very small percentage of the formula grants awarded and OIE does not conduct monitoring of these grants, we did not include them in our review. See footnote 6 for additional information.

³³ We excluded those grants that would have shown a significant percentage change but would not coincide with a significant change in the actual student count. For example, a grant with a student count of 1 in FY 2013 and student count of 2 in FY 2014 would show a 100 percent increase. We defined a significant change in student count as 10 or more students, as the regulations state a local educational agency shall be eligible for a grant if the number of Indian children eligible who were enrolled in the schools of the agency was at least 10 or constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

student count. We did not include any grantees included on OIE's FY 2015 or 2016 monitoring plans. This resulted in a total of 9 grantees selected from this category.

(c) Entity Risk Review Risk Rating

The Entity Risk Review analyzes risk and scores entities based on data elements consolidated into three risk categories: administrative, financial, and internal controls. We sorted the scores from highest to lowest and selected the entities with the highest score from each risk category. We then selected any entities that were scored as having significant potential risk in one category and elevated potential risk in another category. We did not include any grantees included on OIE's FY 2015 or 2016 monitoring plans. This resulted in a total of 5 grantees selected from this category.

(d) Key Contact

While reviewing the electronic application system foundation reports, we identified three individuals who were listed on multiple applications as key contacts a disproportionate number of times when compared to other individuals. For those individuals, we identified the applications where they were listed as the certifier and where the student count increased by at least 20 percent in both FYs 2014 and 2015. We did not include any grantees included on OIE's FY 2015 or 2016 monitoring plans. This resulted in a total of 8 grantees selected from this category.

(e) Previous Finding(s)

We identified 3 grantees with previous audit findings or other issues we became aware of during our audit that led us to include them in our sample.

In total, we selected 30 grantees. All 30 grantees were awarded grants in FY 2014 and 28 were also awarded grants in FY 2015. As a result, we reviewed a total of 58 grants as part of this sample. Since we selected the grantees judgmentally, results described in this report for count verification and APR may not be representative of all grantees and should not be projected.

Reliability of Computer-Processed Data

We relied on computer-processed data obtained from the electronic application system foundation reports and G5. Electronic application system foundation reports provided by OIE included initial and final student count data, key contact data, and grantees certified with errors. We corroborated the student count data against the certified with error spreadsheets and vice versa. We found that the grantees we identified for our judgmental sample were identified by OIE as certified with error based on the student count changes we calculated. We used G5 for the purpose of identifying the universe of grants awarded in FY 2014 and FY 2015 and related obligation and drawdown amounts. G5 is the official system of record for the Department's grants data and is widely used and relied on by Department officials. As a result, we considered it to be the best available data for the purpose of our audit.

Scope Limitation

As noted in the Audit Results section of the report, we were presented with a scope limitation for our audit. OESE's and OGC's review and screening of information requested by OIG resulted in cases where information was altered or completely withheld, reflecting negatively on the Department's credibility and leading us to question whether we were getting candid responses, especially in the absence of supporting documentation. This ultimately presented an impairment to the audit by creating an unacceptable risk that could lead to incorrect or improper conclusions about OIE's oversight process, to include identifying the root causes of the weaknesses we found.

We conducted fieldwork at Department offices in Washington, DC, during the period May 2016 through October 2017. We provided our audit results to Department officials during an exit conference conducted on October 12, 2017.

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 objective. Except for the limitations noted in the scope limitation section, we believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

ADMINISTRATIVE MATTERS

Corrective actions proposed (resolution phase) and implemented (closure phase) by your office(s) will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System (AARTS). The Department's policy requires that you develop a final corrective action plan (CAP) for our review in the automated system within 30 calendar 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 finding 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.

If you have any questions, please call Michele Weaver-Dugan at (202) 245-6941.

Sincerely,

Bryon S. Gordon /s/
Assistant Inspector General for Audit

Acronyms/Abbreviations Used in this Report

AI/AN	American Indian and Alaska Native
APR	Annual Performance Report
BIE	Bureau of Indian Education
CSPR	Consolidated State Performance Report
Department	U.S. Department of Education
ESEA	Elementary and Secondary Education Act of 1965
ESSA	Every Student Succeeds Act
FAC	Federal Audit Clearinghouse
FAQ	Frequently Asked Questions
FY	Fiscal Year
GAO	Government Accountability Office
GPRA	Government Performance and Results Act
LEA	Local Educational Agency
NAEP	National Assessment of Educational Progress
OESE	Office of Elementary and Secondary Education
OGC	Office of the General Counsel
OIE	Office of Indian Education
OIG	Office of Inspector General
OMB	Office of Management and Budget
PAM	Post-Award Monitoring
RMS	Risk Management Services
SY	School Year
Treasury	Department of the Treasury

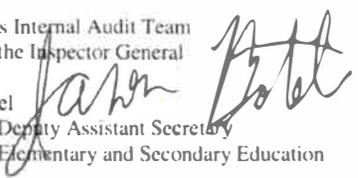
OESE Response to the Draft Report



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

DATE: **AUG 23 2018**

TO: Michele Weaver-Dugan
Director
Operations Internal Audit Team
Office of the Inspector General

FROM: Jason Botel 
Principal Deputy Assistant Secretary
Office of Elementary and Secondary Education

SUBJECT: Response to the Office of Inspector General draft audit report entitled, "*The Department's Oversight of the Indian Education Formula Grant Program.*"
Control Number ED-OIG/A19Q0002

I appreciate the briefing that Bryon Gordon of the Office of the Inspector General (OIG) gave me about the draft audit report and related electronic communications regarding the Office of Indian Education (OIE), a program office within the Office of Elementary and Secondary Education (OESE), and I appreciate the hard work that the OIG has done in conducting the audit and drafting the report. My understanding is that because I am a political appointee who was assigned to the audited principal operating component (POC) toward the end of the audited period, I would not normally be the person responding to the audit; normally a career staff member who had served in a leadership role throughout the audited period would send a response. In this case, due to the serious nature of some of the OIG's findings, I have chosen to send the response.

I have reviewed the draft audit report, and there is much in it that aligns with the assessments that I made soon after I was delegated the functions and responsibilities of the Assistant Secretary for Elementary and Secondary Education. In particular, OIE clearly was struggling to adequately perform its functions, including administering and overseeing the Indian Education Formula Grant Program. While OIE staff were accomplishing many of their duties appropriately, there were some challenges in the office that ranged from stability in leadership to uneven adherence to procedures to errors in record-keeping. With strong, insightful input from OESE senior career leaders, I assigned an experienced career leader from another program office to serve as Acting Director of OIE in October 2017, many months before I saw the draft audit report. The Acting Director has worked

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diligently and thoroughly with the OIE staff to correct systemic problems from the past and has helped improve the quality of the office's work.

In addition to assigning the new Acting Director, I requested, and gained, approval from Secretary DeVos to recruit and select, in collaboration with the National Advisory Council on Indian Education (NACIE), the next permanent Director of OIE. Soon afterward OESE senior career management and I met with NACIE to discuss the position and how to improve the effectiveness of OIE. The selection process for the Director position is now underway.

It is also worth noting that in the spring and early summer of 2018, along with other staff from the Department, I conducted a Tribal consultation and, along with leaders at the Department of the Interior, a listening session with Native American and Native Alaskan leaders, and some of my staff conducted a virtual Tribal consultation as well. While the topics discussed in those sessions went far beyond the work of OIE, I did receive helpful input about how we can increase our effectiveness in administering Indian Education grant programs.

In addition, in the spring OESE Deputy Assistant Secretary for Management Mark Washington and Deputy Assistant Secretary for Planning Lisa Ramirez led, and I participated in, a mid-point review process to evaluate the progress all our program offices, including OIE, are making against their annual performance and monitoring plans.

Given the alignment between my own assessments and much of the draft audit report, I find much of the draft report helpful in my work overseeing and helping improve OIE. That said, I am deeply concerned about the scope limitation in the draft report. I am also very concerned about the inclusion of personnel information pertaining to OESE senior management assessments of performance for certain former OIE staffers. As you know, I was not involved in the audit itself and much of it occurred before I began working in OESE, so I do not claim to have personally observed how OIE staff, OESE senior management at the time and the Office of the General Counsel (OGC) worked to respond to OIG requests for information and documents. But after receiving the briefing from OIG about the audit and scope limitation, I reviewed the materials OIG provided me and spoke at length with OESE senior management and OGC personnel, and I do not see evidence that OIE staff, OESE senior management at the time or OGC did anything to limit the information and documents that OIG received as part of the audit process.

Based on my review of the materials OIG provided me and the conversations I have had, my perspective is that the following things were occurring:

1. The aforementioned problems with OIE's performance;
2. The sudden loss of OIE leadership and several changes in OESE leadership occurring while the audit was underway;
3. OIG staff members' clear frustration with OIE's challenges in producing accurate and timely information in response to OIG's requests and in accordance with OIG's expected timeframes;

4. OIE staff members' fear, in response to OIG staff members' frustration and somewhat aggressive approach, that they had to produce certain documents and information whether they existed or not; and
5. New OESE senior management and OGC's efforts to ensure, in spite of OIE's challenges, that OIG received accurate and timely information while also meeting ongoing operational imperatives.

My mention of the items above is not to justify OIE or OESE's challenges in getting OIG the documents and information OIG requested. I feel strongly that when a program office is being audited by OIG, the program office has an obligation to provide accurate, timely information to OIG. But I do not see that there was any intention or actions taken on the part of OESE senior management at the time or on the part of OGC to interfere with OIG's efforts to collect information. Quite the contrary, I think OESE senior management and OGC were only trying to ensure that the information OIG received was accurate and as timely as possible, and much of the lapses that OIG noted had much more to do with OIE's struggles to fulfill audit requests while also trying to perform the office's work.

I understand that OIG felt strongly enough about all of this that it both made notations about its concerns in its semi-annual report to Congress, and now the proposed scope limitation. While not challenging the OIG's right to do so, I wonder, taking all of the information and perspectives as a whole, whether the latter is truly required, in that to my knowledge, all of the information requested available was ultimately provided, and it was ultimately communicated when certain documentation did not exist. I believe the reporting to Congress makes the point of OIG's concerns, and I think OESE's resulting responsiveness merits reconsideration of whether the additional scope limitation is necessary.

On the matter of personnel information of employees being included in the draft audit report, I worry that its inclusion embarks on a perilous and slippery slope—and it is one which we cannot even comment upon or defend, for concerns of privacy. I worry about the impact it could have on our employees if they believe their performance reviews can be discussed in audit reports, which of course are public documents.

We are appreciative of the recommendations you made as well regarding potential corrective actions. As a practical matter, we agree that these are fundamentally the right kinds of actions, controls and procedures to have in place to ensure sound management of a program office. Accordingly, we believe OESE exhibits the same in most of its program offices, and thus, do not believe that the entire list of actions must be adopted and reported on, as in our view, the rudiments of such salient process exist in OESE and now in OIE as well. However, our proposed corrective action plans will highlight our agreement with you in three specific areas, where we will:

- 1) Ensure that OIE management updates or develops, finalizes and implements written policies and procedures to ensure the proper oversight and management of the OIE formula grant program;

- 2) Review the management and staffing of OIE to ensure that program management and staff receive adequate training to ensure the proper management and oversight of the OIE formula grant program; and
- 3) Encourage OIE management to conduct research on best practices employed by similarly situated programs, such as other formula grant programs at the Department with large numbers of grantees, and consider adapting and/or adopting practices that may be used to better oversee and monitor Indian Education Formula Grant program grantees.

Thank you for this opportunity to share my comments. I would welcome the opportunity to discuss them in person.