



## CARES Act Flash Report

# Lessons Learned for Indian Country

The DOI is providing

**\$522 million**

in CARES Act funding to Indian Country:

- **\$453 million** for the Bureau of Indian Affairs
- **\$69 million** for the Bureau of Indian Education

**Other Federal departments** will also provide CARES Act funding to Indian Country:

- **\$8 billion** from the U.S. Department of the Treasury
- **\$153.75 million** from the U.S. Department of Education
- **\$33.5 million** from the U.S. Department of Health and Human Services

Compared to the general U.S. population, **Native Americans experience higher rates of underlying health conditions** that increase the risk of severe illness and death from COVID-19.

On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provided the U.S. Department of the Interior (DOI) with \$756 million to support the needs of DOI programs, bureaus, Indian Country, and the Insular Areas.

The DOI will award most of its CARES Act funding to Indian Country through grants to the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE). Of the \$756 million, \$522 million (69.0 percent) will be funded to Indian Country. As of June 13, 2020, \$419,462,721, or 80.4 percent, had been obligated.

These emergency response awards from the DOI—together with more than \$8.7 billion in awards to Indian Country from other Federal departments—present a higher risk because they must be spent in a short period of time. In addition, we have identified Indian Country as a high-risk area in our recent Top Management Challenges reports because in the past, the BIA, the BIE, and tribes have faced many challenges with handling grant funds. This further increases the risk that Federal tax dollars will be misused, abused, and vulnerable to fraud. In addition, emergency situations could grow rapidly in size, scope, or complexity, thereby elevating the risk even higher.

In this report we present lessons learned in our prior work that the DOI, the BIA, and the BIE should consider as they make awards, promote safety, and provide oversight under the CARES Act. In our previous reports, we found that the following areas are important for improved safety and successful oversight:

- Ensuring Indian school safety and health while providing educational services
- Providing oversight to help prevent mismanagement of financial awards
- Minimizing the spread of the virus while maintaining safety within tribal detention centers

The BIA, the BIE, tribes, and tribal organizations will have specific challenges in responding to the COVID-19 pandemic. We know there



*A room upstairs in a 1930s building that holds elementary classes. The school is listed in good condition.*

### Key Facts on Indian Schools

- Indian schools have been on the Government Accountability Office's high risk list since 2017.
- All BIE schools have been closed since March 23, 2020, due to the COVID 19 pandemic.
- Compared to the national average of 81 percent, only 53 percent of American Indians and Alaskan Natives attending BIE schools graduate high school.
- During fiscal year 2019, 69 percent of key administrative positions at BIE schools were not filled.
- The BIE took over the management of school facilities from the BIA in fiscal year 2020.
- Several studies have found that students in decaying school environments score lower on the academic achievement tests than their peers who attend schools in fair or good condition.

are risks and complexities surrounding emergency funds that can be difficult to manage. As such, we plan to help provide oversight and ensure the CARES Act moneys are spent appropriately.

## Ensuring Student Safety and Health While Providing Educational Services

The BIA and the BIE fund and oversee 185 Indian schools throughout the Nation, with an estimated annual attendance of more than 45,000 students. The BIE plans to focus its CARES Act funds on immediate needs for facility maintenance, transportation, and personal protective equipment (PPE) as students and communities prepare to return to school. In addition, the BIE will need to act quickly to address these needs if it determines schools will reopen for the next school year. Some students are bused into schools and some students live in dormitories on campus, so the BIE will need to resolve the backlog of deficiencies in those areas before school can safely resume. If schools remain closed, school lunch programs and internet connectivity will need to be addressed.

Indian schools are facing unique challenges in the wake of COVID-19 such as:

- Ensuring student safety and health by purchasing adequate quantities of cleaning supplies and PPE for students and staff
- Providing low-income student meal services and housing
- Meeting (or obtaining waivers for) assessment and accountability requirements of the Every Student Succeeds Act and the minimum amount of instruction hours for a complete school year
- Obtaining IT infrastructure and internet access for distance learning
- Offering summer learning programs to students

In our prior work on Indian schools, we found many issues with the condition and safety of school facilities. These concerns, as well as other oversight issues, still exist today. The BIE should begin to address some of these issues with CARES Act funds.

In a [2016 evaluation](#), we found major facility deficiencies and health and safety concerns such as non-functional fire safety systems, structural and roofing issues, toxic substances (i.e., asbestos, radon, and mold), and electrical, plumbing, and drainage problems. Much of this information was not being documented in BIA's facilities



*A portable Learning Center in visibly poor condition, with damaged walls, gutters, roof, and window treatments.*

#### **BIE Allocations:**

- 1) **\$23 million** Tribal Colleges and Universities
- 2) **\$46 million** BIE and Tribal School Needs
  - Addressing costs of closing schools
  - Transporting students home
  - Enhancing online learning, IT hardware capacity, and Wi Fi connectivity

#### **BIE Implementation:**

- 1) **Tribal Colleges and Universities** distribute funding equally
- 2) **BIE and Indian schools** near term COVID 19 response at schools, and longer term more complex challenges like building effective online learning capabilities
- 3) **Education Stabilization Fund** the CARES Act also provides \$153.75 million to the BIE through the Department of Education

management systems. We also found systemic programmatic weaknesses, including inadequate oversight of the management of school facilities. For example, the BIA and the BIE had not consistently communicated their roles and responsibilities to each other or the schools, provided adequate oversight of fund expenditures or project completion, or ensured that necessary school inspections were completed.

CARES Act funding for Indian schools needs to be spent quickly and judiciously. In a [2018 investigative report](#), we found that an Indian school had been operating without fully functioning fire alarm and fire suppression systems since approximately 2005. School officials attempted to contract for the repairs on its own from roughly 2005 to 2012, then relinquished responsibility to the BIE. The BIA, which administers contracts on behalf of the BIE, awarded two contracts for approximately \$1.2 million to repair the systems. We also confirmed the BIA contracting personnel did not include lightning protection in the contract scopes of work despite at least two lightning strikes that had damaged the systems and contributed to cost overruns and project delays. Thirteen years later, in 2018, work on the systems was completed and passed the initial safety inspection.

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**Key Actions:** Prioritize the health and safety of Indian school students and staff, conduct necessary facility inspections and maintenance, and ensure that education funds are spent in the high-risk areas impacted by COVID-19.

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## **Providing Oversight to Help Prevent Mismanagement of Federal Funds**

Given the recent influx of Federal funds, establishing robust internal controls and increasing fraud awareness are critical to the management and oversight of CARES Act funds. To help with this, we plan to offer tailored training on fraud awareness and internal controls to the BIA and the BIE as well as the tribes. Internal reviews of incurred costs and high-risk contracts and grants can help the BIA and tribes provide better oversight of CARES Act funds.

Our prior audits and investigations have found internal control weaknesses and fraud in federally funded programs and operations in Indian Country. In the past, issues such as improper commingling of Federal funds with tribal funds, insufficient accounting and reporting, embezzlement, and poor BIA oversight have been prevalent in Indian Country. By applying lessons learned from our prior reports, the BIA can improve its oversight of Federal funds and tribes can improve their accounting and reporting practices to ensure that CARES Act funds are not mismanaged.



**Improper commingling of Federal funds and tribal funds** occurs when a tribe's accounting system and procedures are not capable of tracing funds to a level of expenditure that can show the funds were used in accordance with Federal regulations. We frequently see this issue in our work, meaning **tribes and tribal organizations are more susceptible to misuse and fraud.**

**The BIA can impose sanctions** when a tribe fails to complete and submit a single audit report within required timeframes:

**Level 1.** Limits the payment of all grant funds to monthly advance installments until all delinquent audits have been submitted.

**Level 2.** Limits the payment of all grant funds to monthly advance installments and withholds contract support payments until all required audit reports are submitted.

**Level 3.** Results in the nonemergency reassumption of the contracted programs.

**Currently, the BIA has placed Level 1 sanctions on 14 tribes and Level 2 sanctions on 7 tribes.**

### *Unallowable Costs and Commingling of Tribal and Federal Funds*

In a [2016 audit](#) of two contracts between a Tribe and the BIA, we found the Tribe claimed \$385,127 in unallowable and questionable costs. Some of the questioned costs included unsupported payments to related parties and vendors, and unallowable payments to vendors. In addition, we found that the BIA did not adequately oversee the contracts in accordance with Federal laws and regulations and BIA guidelines, resulting in the Tribe claiming costs that were unsupported and unallowable.

In a [2018 audit](#) found that a Tribe commingled all funds received, making it impossible to track funds by agreement or allocate expenses by project. Additionally, the Tribe submitted financial reports to the BIA that were inaccurate and not supported by accounting records. In addition, we determined the BIA did not oversee the contract in accordance with applicable Federal laws and regulations and BIA guidelines. This occurred because BIA management overseeing the Tribes' transportation program did not provide staff with sufficient training to provide oversight and administration to the Tribe since 2013.

### *Embezzled and Diverted Funds*

In another [2018 investigative report](#), we found that a former tribal administrator embezzled \$297,731 from a Tribe through unauthorized use of the tribal credit card. She embezzled the money by taking cash advances at casinos and other locations, and by making personal purchases with tribal funds. These expenditures included paying for personal travel that included a trip to Hawaii for herself and a family member, online university courses, personal credit card bills, personal vehicle maintenance, and personal shopping, among other things. She resigned, pleaded guilty to one count of embezzlement, was sentenced to 18 months of incarceration followed by 3 years of supervised release, and was ordered to pay \$297,731 in restitution.

In a [2019 investigative report](#), we found that the tribal chief judge improperly diverted \$44,804 of Federal funds that had been allocated for the purchase of a court vehicle to cover other tribal expenses. We also found the Tribe paid \$21,320 in severance to an out-going judge who was a family member of the chief judge. Further, we found that the court administrator misused approximately \$20,520 in program funds designated for the tribal court. The Tribe removed the chief judge and the court administrator from their positions.

### *Success Story*

The Blackfeet Tribe, located in northwestern Montana with about 17,000 members, substantially improved its financial processes and





## Top Five Indian Country Recipients

1. Navajo Nation  
\$9,530,481
2. Cherokee Nation  
\$7,459,874
3. Choctaw Nation of Oklahoma  
\$6,450,137
4. Association of Village Council  
\$6,358,805
5. Kawerak, Inc.  
\$5,583,291

## Single Audits

Single Audits are an important oversight tools for recipients of Federal grants. Any non Federal recipient who expends \$750,000 or more in Federal funds in a year must get a single audit. Much of the CARES Act moneys will be reviewed during single audits.

Compared to other grantees, tribal single audits are significantly worse, with severe deficiencies and material weaknesses.

reporting. The BIA designated the Tribe as high risk after the 2011 single audit determined that it did not properly safeguard BIA funds. In 2015, the BIA placed the Tribe on Level 1 sanctions for failing to submit its single audit report within required timeframes.

The Tribe took steps to improve financial capacity and compliance. It secured a \$10-million loan to restore the unspent funds from the DOI. The Tribe also improved staff capacity and hired an accounting firm to oversee and improve financial operations. As a result, the Tribe improved compliance, and the BIA lifted the sanctions in 2016. In addition, our 2018 audit of costs claimed on four agreements found a minimal amount of funds that could be put to better use and did not identify deficiencies with contract terms, Federal laws, or BIA guidance.

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**Key Actions:** Ensure proper internal controls are in place to monitor and track CARES Act funds to prevent fraud, increase the BIA’s oversight by requesting detailed grant submissions, and increase internal reviews on how tribal governments spend the funds.

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## Minimizing the Spread of the Virus While Maintaining Safety Within Tribal Detention Centers

Detention centers face unique challenges in the struggle with COVID-19. Issues such as moving inmates, cleaning and decontaminating facilities, purchasing personal protective equipment, increasing the amount of staff overtime, and overcrowding may lead to conditions where COVID-19 can easily spread. Further, concerns about detention centers not following guidelines from the Center for Disease Control (CDC) and inconsistent decisions from tribal courts regarding early release and confinement could further exacerbate the spread of COVID-19 in Indian Country. We are currently working with the BIA’s Office of Justice Services’ detention centers to identify COVID-19 issues and concerns.

The DOI allocated CARES Act funding to the Office of Justice Services to combat the virus. These funds should help detention centers address the spread of the virus within an already vulnerable population. For example, several COVID-19 cases and one death have already been reported at tribal detention centers:

- Two inmates tested positive at the Wind River Reservation’s jail
- One inmate tested positive at the Natrona County Regional Juvenile Detention Center



*Loosely encased wire meshed windows at a detention center.*

### **BIA Allocations:**

- 1) **\$420 million** for payments to tribes
  - \$380 million for aid to tribal governments
  - \$20 million for welfare assistance
  - \$20 million for welfare or other unforeseen needs
- 2) **\$33 million** managed centrally by the BIA:
  - Facility cleaning
  - Inmate quarantine
  - Overtime pay for essential services
  - Protective equipment
  - Enhancing telework capacity and connectivity

### **BIA Implementation:**

- 1) **Aid to Tribal Government** allocated across all tribes based on tribal enrollment numbers
- 2) **Welfare Assistance** allocated by the same method (tribes can prioritize general assistance, adult care, burial assistance, and child assistance)

- Nine inmates and four correctional officers tested positive at the White Mountain Apache Tribe Department of Corrections
- A Navajo Nation juvenile detention officer died in April

Accurate reporting of COVID-19 in detention centers is critical for providing care and taking the necessary precautions to ensure the safety of staff and inmates. In a [2016 evaluation](#), we found serious incidents at the detention facilities—including attempted suicide, escapes, and in-custody deaths—were not always reported in the DOI’s centralized system, and the incident data that did exist were unreliable. In addition, the BIA had not completed required annual health and safety inspections in the prior 3 years at 17 of the 26 facilities we visited. Further, facility maintenance needs were at risk of going unaddressed because maintenance work orders were not consistently recorded in an electronic system. Lastly, we noted that overcrowding and staffing were problems at some facilities. These issues had a negative impact on the condition of detention facilities and the health and safety of inmates and correctional staff.

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**Key Actions:** Ensure that detention centers follow the CDC guidelines for social distancing and cleaning, continue to monitor the health of corrections staff and facility inmates, and proceed with caution before lessening restrictions.

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