



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Great Plains Regional Office
115 Fourth Avenue SE, Suite 400
Aberdeen, South Dakota 57401

IN REPLY REFER TO:
Self Determination
MC-206A

JAN 19 2024

Certified Mail – Return Receipt Requested – 7015 1520 0003 4670 4188

The Honorable Mark Fox
Chairman, Three Affiliated Tribes
307 5th Avenue
New Town, North Dakota 58763

Dear Chairman Fox:

The Three Affiliated Tribes (Tribe) is operating Bureau of Indian Affairs (BIA) Programs under Public Law 93-638 contracts. The BIA intends to impose sanctions because the Tribe has failed to submit a response to the Audit Findings for Fiscal Year (FY) 18 and FY 19 and failed meet the statutory and regulatory requirements for annual submission of Single Audit Reports

The Indian Self-Determination and Education Assistance Act (ISDEAA) contains the following requirement:

For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this subchapter, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency audit report required by chapter 75 of Title 31 [Title 25 U.S.C. 450c (f)].

Pursuant to 2 CFR 200, recipients are required to file their single audit reports with the Federal Audit Clearinghouse within 9-months of the end of the Tribe's Fiscal Year. According to the records of the Federal Audit Clearinghouse and the Division of Internal Evaluation and Assessment (DIEA), your Tribe has not submitted its single audit report for FY 2020, FY 2021, FY 2022 and FY 2023.

This action of placing the Tribe on Level I sanctions is taken pursuant to the authority contained in the Single Audit Act and the implementing guidance issued by the Office of Management and Budget through 2 CFR Part 200.505, which provides:

In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action as provided in 200.339 remedies for noncompliance:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the Non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate Federal awards.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

Because the Tribe has not submitted the appropriate audits, we will make payments of all contract funds, including contract support costs, by way of **monthly advance installments** commencing in FY 2024 until all audits from FY 2020 to FY 2023 have been submitted. Other payment methods will resume once we received notification that the Tribe is current on the submission of the single audit reports. The Bureau reserves the right to impose additional sanctions, including withholding funds, if audits are not submitted in a timely manner.

Moreover, the Bureau reserves the right to impose additional sanctions, including withholding funds, if responses are not submitted within 90 days from the date of this letter.

Responses are to be sent to DIEA and the Awarding Official at the following addresses.

U.S. Department of the Interior Bureau of Indian Affairs Great Plains Regional Office 115 Fourth Avenue, SE, Suite 400 Aberdeen, South Dakota 57401 E-mail: fayetta.goehring@bia.gov Phone: (605) 226-7426	U.S. Department of the Interior Deputy Assistant Secretary – Indian Affairs (Management) Division of Internal Evaluation and Assessment 12220 Sunrise Valley Drive Reston, Virginia 20191 E-mail: oiea@bia.gov Phone: (703) 390-6484 Fax: (703) 390-6504
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If mailing responses, we suggest they be mailed “return receipt requested.”

APPEAL NOTICE

This is a final decision of the Awarding Official. You may appeal this decision to the Interior Board of Contract Appeals, 1800 F St. NW, Washington, DC 20405. The Interior Board of Contract Appeals (IBCA) is the authorized representative of the Secretary of the Interior with jurisdiction to hear and determine appeals relating to contracts made by any Bureau or Office of the Department of the Interior.

If you decide to appeal, you must mail or otherwise furnish a written notice of appeal to the IBCA with 90 days of receipt of this decision and provide a copy to the Awarding Official from whose decision the appeal is taken. The Notice of appeal must indicate that an appeal is intended, reference this decision, and identify the contract number.

If you appeal to the IBCA, you may, solely at your election proceed under the Board's small claims procedures for claims of \$50,000 or less or its accelerated procedure for claims of \$100,000 or less.

Instead of appealing to the IBCA, you may bring an action directly in the U.S. Claims Court or the Federal District Court within 12 months of the date you receive this decision, pursuant to section 110 of the ISDA, Title 25 U.S.C. § 450m-1, and the Contract Disputes Act, Title 41 U.S.C. § 601 *et seq.*

Should you have any questions, please contact Fayette Goehring, Self Determination Specialist, Branch of Self Determination at (605) 226-7426, or by email at fayetta.goehring@bia.gov.

Sincerely,



Regional Director

cc: Division of Internal Evaluation and Assessment, Reston, VA
Financial Analyst, Division of Self Determination, Indian Affairs, Reston, VA
Acting Superintendent, Fort Berthold Agency