



**U.S. Department of the Interior
Office of Inspector General**

SURVEY REPORT

**COSTS INCURRED UNDER SELECTED
FEDERAL AGREEMENTS WITH THE
CHICKASAW NATION OF OKLAHOMA**

**REPORT NO. 99-I-484
MAY 1999**



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

MAY 21 1993

SURVEY REPORT

Memorandum

To: Assistant Secretary for Indian Affairs

From: Robert J. Williams *Robert J. Williams*
Assistant Inspector General for Audits

Subject: Survey Report on Costs Incurred Under Selected Federal Agreements With the Chickasaw Nation of Oklahoma (No. gg-r-484)

INTRODUCTION

This report presents the results of our survey of costs incurred under selected Federal agreements with the Chickasaw Nation of Oklahoma. The objective of the survey was to determine whether costs incurred under Federal funding agreements, principally those from the Department of the Interior, were eligible for reimbursement. We conducted the survey in response to a request from two members of the Congress.

BACKGROUND

The Indian Self-Determination and Education Assistance Act (Public Law 93-638) directed the Secretaries of the Interior and of Health and Human Services to contract with any tribal organization to plan, conduct, and administer programs or services that otherwise would be administered by the respective departments for the benefit of Indians. The standards for tribal financial management of self-determination contracts are contained in the Code of Federal Regulations (25 CFR 900, Subpart F). The Act also established a tribal self-governance program for Indian tribes. Under a self-governance program, tribes are authorized to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities, including decision making and control over funding provided through compacts with the Department. On June 29, 1993, the Chickasaw Nation signed a self-governance compact with the Secretary of the Interior, and on June 30, 1994, the Nation signed a compact with the Secretary of Health and Human Services. Under the compacts, the Nation agreed to abide by generally accepted accounting principles and

applicable circulars of the **Office** of Management and Budget.’ Also, the Department of the Interior, on February 12, 1998, published draft rules and regulations for tribal self-governance programs that require the tribes to maintain management systems and practices at least comparable to those in existence when the tribe entered the self-governance program. In addition, the Nation has implemented its own policies and procedures for the administration and management of tribal and Federal funds.

In fiscal year 1997, the Chickasaw Nation received approximately \$4.9 million from the Department of the Interior for the following programs: Self-Governance - \$3.2 million, Carter Seminary - \$604,000, Roads Construction and Maintenance - \$1 .0 million, Transportation Improvement - \$26,000, Title Documents Acquisition - \$5,000, and Kullihoma Building Demo - \$18,000. A September 3, 1998, expenditure schedule for fiscal year 1997 prepared by the Nation for its independent public accountants showed that the Nation had expended an estimated \$4.9 million under the Department of the Interior programs cited. The Nation also received approximately \$43.3 million from the Department of Health and Human Services under a self-governance compact for Indian health service programs. A July 21, 1998, working trial balance showed that the Nation had expended an estimated \$41.1 million under the Department of Health and Human Services programs

SCOPE OF SURVEY

Our survey was conducted in accordance with the “Government Auditing Standards,” issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. To accomplish our objective, we obtained and reviewed applicable criteria related to the procurement of services and payment of expenditures for Federal programs, reviewed and discussed financial controls over these functions with Nation officials, and selected and reviewed samples of Federal program expenditures.

The Nation’s general ledger system identified 2,150 Department of the Interior program transactions, totaling \$5 million,* for the period of October 1, 1996, through September 30, 1997. From these transactions, we judgmentally selected a sample of 49 (2.3 percent) transactions, totaling \$88 1,000 (17.7 percent), which represented different object class costs (such as payroll, training, travel, and contracts) and various construction- and assistance-related programs.

‘Office of Management and Budget Circulars A-128. "Audit Requirements for State and Local Governments": A-87. "Cost Principles for State, Local, and Indian Tribal Governments"; and A-102. "Grants and Cooperative Agreements With State and Local Governments." Circular A-102 states that the President directed all affected Federal agencies to issue a grants management common rule to “adopt government-wide terms and conditions for grants to State and local governments [including Indian tribal governments], and they did so.”

‘Expenditures are greater than the amounts awarded in fiscal year 1997 because of the carryover of unspent Federal funds from prior years. Also, the fiscal year 1997 program transactions were unaudited at the time of our review and therefore may be adjusted as a result of an audit by the Nation’s independent public accounting firm.

We also reviewed certain purchases made with Department of Health and Human Services Compact funds. Of 745 transactions, totaling \$692,000, disbursed by the Nation to two Chickasaw Nation business enterprises during the period of October 1, 1996, through July 23, 1998, we judgmentally selected 16 transactions equal to or greater than \$2,000, totaling \$235,000. In addition, we selected 23 Department of Health and Human Services program transactions, totaling \$283,000, that former Nation employees had suggested we review and certain interest costs charged to the Nation's indirect cost account funded by Federal programs from June 15, 1995, through May 21, 1998

Our scope was limited to the review of the Nation's unadjusted accounting records for fiscal year 1997 because, at the time of our review, the Nation's independent accountants had not completed the audit of the Nation's financial statements for fiscal year 1997.

As part of our review, we evaluated the Nation's system of internal controls over the procurement of goods and services and payment of expenditures to the extent we considered necessary to accomplish our objective. The internal control weaknesses identified are discussed in the Results of Survey section of this report. If implemented, the recommendations should improve the internal controls in these areas. Our survey fieldwork included visits to the headquarters of the Chickasaw Nation, in Ada, Oklahoma.

PRIOR AUDIT COVERAGE

During the past 5 years, neither the Office of Inspector General nor the General Accounting Office has performed any audits that specifically addressed the Chickasaw Nation's procurement and payment activities related to Federal programs. However, on July 14, 1997, the Nation's independent accounting firm issued the report entitled "Chickasaw Nation, General Purpose Financial Statements and Other Financial Information for the Year Ended September 30, 1996." The report did not contain any recommendations or questioned costs, and it stated that the independent accounting firm's tests disclosed no instances of noncompliance with regulations or weaknesses in internal control structures related to Federal financial assistance programs.

RESULTS OF SURVEY

Except for the matters discussed in this report that relate to indirect costs and procurement, no significant issues came to our attention concerning the Chickasaw Nation's accounting for costs incurred under Department of the Interior funding agreements during the period of October 1, 1996, through September 30, 1997. Of the costs of \$518,000 we tested under the Department of Health and Human Services Self-Governance Compact, we questioned costs of \$36,800: \$16,900 for Christmas gifts and \$19,900 for salary payments to an employee who had resigned. We also identified interest expenses of \$9,500 resulting from late payments, which were incorrectly charged to the Nation's indirect cost account. In addition, we found that 27 purchase transactions, totaling \$336,100, were made without adequate competition and that 3 of these purchases were not awarded to the lowest bidders. As a result, the Nation

did not have full assurance that goods and services were acquired at an economical and reasonable price, and it incurred costs of about \$10,000 in excess of the low bids offered.

Department of the Interior Programs

Based on our review of 49 transactions, totaling \$881,000, incurred by the Nation under Department of the Interior-funded programs, we did not question any costs for the following programs:

<u>Program</u>	<u>costs Incurred</u>
Self-Governance	\$138,000
Carter Seminary	100
Roads Construction and Maintenance	742,000
Transportation Improvement	900
Title Documents Acquisition	0
Kullihoma Demo	0
Total	<u><u>\$881,000</u></u>

We also found that the system used to account for direct costs was in compliance with applicable financial management standards. The Nation's accounting system provided effective control and accountability over program funds; adequate identification of the source and application of funds; and adequate source documentation such as contracts, purchase orders, payroll detail, canceled checks, and general assistance eligibility forms.

Department of Health and Human Services Programs

Of the 39 transactions reviewed, totaling \$5 18,000, we questioned costs on 2 transactions, totaling \$36,800, charged to Department of Health and Human Services self-governance programs (Agreement No. ISG 950020-01-3) as follows:

- On January 23, 1998, the Nation spent \$16,900 for turkeys that it had distributed to all tribal employees as Christmas gifts. Circular A-87 (Attachment B, Item 18) states that costs of entertainment, including social activities and any related costs such as meals, are unallowable. Also, the Federal Acquisition Regulation (48 CFR 3 1.205.13(b))³ states that using Federal funds for gifts is unallowable.

- From August through November 1997, the Nation spent \$19,900 for regular salary payments to an employee who had resigned effective July 29, 1997. Circular A-87

³In response to our inquiry, the Nation's Administrator of the Division of Support Services stated, in an August 27, 1998, letter, that the Nation's "procurement department does in fact use the Federal Acquisition Regulation (FAR) as a model for our own purchasing procedures. In addition, the FAR is used as a reference tool in the event that our own policies do not address a specific topic and the purchasing officer was unable to determine that pricing was fair and reasonable using his own expertise."

(Attachment B, Item 11) requires that compensation for personal services be for services rendered during the period of performance under Federal awards. At the time of our review, the Nation could not provide documentation to support that the employee had performed any work after the date of resignation.

Indirect Costs

The Nation established an account **funded** by Federal programs to record the Nation's indirect costs. During our review of payment transactions, we identified two transactions, totaling \$9,500, for interest charged to the Nation for late payments on invoices billed by an independent contractor for the planning and implementation services of the Nation's network information system. Specifically, the Nation charged \$4,300 on May 21, 1998, and \$5,200 on June 15, 1995. Circular A-87 (Attachment B, Item 26) provides that costs incurred for interest, however represented, are unallowable.

Procurement

The Chickasaw Nation made purchases without adequate competition and without selecting the lowest bidder, and there was no documentation in the files to justify these actions. Section B ("Basic Policies") of the Nation's Procurement Manual requires that all procurement actions, whether by formal advertising or negotiation, be made on a competitive basis to the maximum extent practicable. Section J ("Procurement Methods") requires price or rate quotations to be obtained from a sufficient number of qualified sources, and Section L ("Procurement Records") requires that procurement records include contractor selection or rejection information, a basis for the cost or price, and a rationale for the method of procurement. The lack of competition occurred principally because the Nation established a program to support purchasing from its enterprises without modifying its procurement procedures to provide for an evaluation of the reasonableness of the costs of enterprise products. Specifically, the Governor of the Nation issued a policy on October 15, 1996, in support of making purchases from the Nation's enterprises as follows:

It is the policy of the Chickasaw Nation Executive Department to fully support all tribal businesses in every way possible. To that end, please be advised that all tribal programs which operate motor vehicles must be utilizing our tribal motor fuel outlets as much as possible. Computer supplies should also be purchased through our computer company. The staff at Chickasaw Enterprises will help you if you have any problems or special concerns.

We reviewed 27 furniture and equipment purchases, totaling \$336,100, of which 24 purchases, totaling \$262,500, were from tribal enterprises. Of the 27 purchases, 19 purchases were made with Department of Health and Human Services funds (\$308,800), and 8 purchases were made with Department of the Interior funds (\$27,300). Based on our review of the procurement files, we found that 20 purchases, totaling \$260,600, were made without any competition or justification for the noncompetitive procurement and that 7 purchases, totaling \$75,500, were made without adequate competition. Of the seven

purchases made without adequate competition, three purchases were also made without the lowest bidder being selected or a justification documenting the selection. Examples of these procurements are presented in the paragraphs that follow.

The following procurements were made with no competition:

- The Nation's Carl Albert Indian Hospital, during the period of March through April 1997, used Department of Health and Human Services self-governance funds (Agreement No. ISG950020-01-3) totaling \$154,000 to purchase furniture from a Nation enterprise.

- The Nation's Carl Albert Indian Hospital, on August 25 and December 19, 1997, used Department of Health and Human Services self-governance funds (Agreement No. ISG950020-01-3) totaling \$41,667 to purchase carpet from an outside vendor.

- The Nation, on November 26, 1997, used Department of Health and Human Services Early Childhood program funds (Agreement No. 90CI1543\19) totaling \$8,679 to purchase three computers and three printers from a Nation enterprise.

The following procurements were made with inadequate competition:

- The Nation, on March 3, 1998, used self-governance funds (Agreement No. ISG950020-01-3) totaling \$4,819 to purchase three computers from the Nation's business enterprise. Based on our review of the procurement file, we found that computers could have been purchased from another vendor for \$2,727. However, the specifications for the computers offered by the competing vendor were different. There was no documentation of the Nation's needs or justification supporting the decision to purchase the more expensive computers. As a result, there was no assurance that the additional costs of \$2,092 charged to the Department of Health and Human Services self-governance program were warranted.

- Three procurement files contained vendor costs that were not current or that were obtained from catalogue listings which were not updated to the current date of purchase.

- Two procurement files indicated that procurement specifications were changed but that the changes were not communicated to both competing vendors.

- One procurement file showed that the procurement officer had provided the cost estimate of another vendor to the Nation's business enterprise and requested that the enterprise meet the price.

The following procurements were made with the lowest bidder not being selected:

- The Nation's Carl Albert Indian Hospital, on July 23, 1997, used self-governance funds (Agreement No. ISG950020-01-3) totaling \$30,984 to purchase carpet from a vendor that had not offered the lowest price. Based on our review of the procurement file, we found that the same type of carpet could have been purchased from another vendor for \$25,200.

As a result, excess costs of at least \$5,784 were charged to the Department of Health and Human Services self-governance program.

- The Nation, on September 30, 1997, used self-governance funds (Agreement No. ISG950020-0 1-3) totaling \$24,156 to purchase 17 computers from the Nation's business enterprise, which had not offered the lowest price. Based on our review of the procurement file, we found that the same types of computers could have been purchased from another vendor for \$20,338. As a result, excess costs of at least \$3,818 were charged to the Department of Health and Human Services self-governance program.

Indian preference in employment, contracting, and subcontracting is authorized by the compacts. However, we believe that the Nation's procurement manual should provide guidance in determining whether the prices of goods offered by the Nation's enterprises are competitive. For example, the Nation's enterprises could submit bids or price quotations on proposed procurement transactions and receive the award if their bid or quote is responsive and within a designated percentage of the lowest bid or quote.

Recommendations

We recommend that the Assistant Secretary for Indian Affairs instruct the Chickasaw Nation to:

1. Adjust the indirect cost account for the questioned interest charges of \$9,500.
2. Comply with Federal and Nation requirements for competitive procurements and for selection of the lowest responsive bid.
3. Develop and implement specific procedures for evaluating and awarding procurements to the Nation enterprises.

Although we did not make any recommendations to the Department of Health and Human Services, we have informed them of the results of this review and will provide them a copy of this report.

Bureau of Indian Affairs Response and Office of Inspector General Reply

In the April 21, 1999, response (Appendix 2) to the **draft** report from the Assistant Secretary for Indian Affairs, the Bureau concurred with the three recommendations. Based on the response, we consider the recommendations resolved and implemented (see Appendix 3).

Additional Comments on Audit Report

In its response, the Bureau included as an attachment the April 8, 1999, response from the Governor of the Chickasaw Nation. The Nation's response provided additional comments on the section of the report related to procurements made with the lowest bidder not being

selected. The Nation said that "[w]e agree that our files were lacking in documentation to justify the purchases mentioned in the survey" report but that "we believe that competitive prices were obtained for the merchandise." The Nation included additional details on two of the examples in the report as follows:

For example, the survey [report] stated that we [the Nation] purchased three computers for \$4,819 and the same types of computers could have been purchased from another vendor for \$2,727. The lower price was obtained from a flyer of a company with which we had not done business and had no knowledge of their reputability. Also, the computers did not have comparable memory or speed. The computers we purchased had **4.3GB** hard drives, **32MB** RAM and pentium 233 processors, whereas the computers listed on the flyer had **1.2GB** hard drives, **16MB** RAM and pentium 166 processors.

Another example was the carpet purchase mentioned in the survey [report]. It stated that we [the Nation] could have purchased the same type of carpet for \$45,784 less than the price we paid. Even though the higher priced carpet was of better quality, our main reason for selecting it was the process in which an antibacterial agent is applied to the carpet. The agent is applied to the more expensive carpet during the manufacturing process, whereas the agent is sprayed on the lower priced carpet after completion. Also, we would like to mention that we purchased the carpet directly from the wholesaler used by the other vendor. We were able to purchase the more expensive carpet at a wholesale price.

The Nation stated that its "failure to maintain supportive documentation for these purchases gave the appearance that competitive prices were not obtained" and that the cited examples "also indicate that we [the Nation] did not seek new bids from the vendors when we changed our procurement specifications."

Regarding the computers, we agree that the procurement document supporting competition from a source other than the Tribal enterprise was for computers that had specifications different from those offered by the Tribal enterprise. However, the vendor is a national computer supply company that has been in business since 1978 and that offers computers with the same specifications as the computers offered by the Tribal enterprise. Since the documented specifications were different, we have changed the classification of the example to a procurement made with inadequate competition.

Regarding the carpet purchase, our report stated that the carpet purchased could have been purchased for \$5,784 less than the price the Nation paid, not the \$45,784 cited in the Nation's response. Also, we disagree that the carpet offered by the vendors was different. According to notes included in the procurement file, a competing vendor said that he can "get carpet at \$10.50/ sq. yd. vs. [versus] the \$12.91/sq. yd. from [vendor name] w/o Frt. [without freight] (add .55/sq. yd.)." The vendor confirmed that his bid, a difference of \$2.96/square yard, was based on specifications that were provided to him by the Nation and that were identical to the specifications provided to the other vendor. In addition, the vendor said that he told the

Nation that he could provide carpet from other manufacturers which met or exceeded the specifications and at prices which were lower than the **\$12.91/square** yard price offered by the vendor being considered by the Nation. We believe that because the Nation did not obtain documentation which clarified the terms **of the** competing offers or seek additional bids when it appeared that a competitive market existed, there was no assurance that procurements were the most economical. Therefore, we did not change the classification of this example.

Since the recommendations are considered resolved and implemented, no **further** response to this report is required (see Appendix 3).

The legislation, as amended, creating the **Office** of Inspector General requires semiannual reporting to the Congress on all audit reports issued, the monetary impact of audit findings (see Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

We appreciate the assistance of Bureau of Indian Affairs and Chickasaw Nation personnel in the conduct of our audit.

CLASSIFICATION OF MONETARY AMOUNTS

<u>Findings</u>	<u>Questioned costs</u>
Department of Health and Human Services Programs	\$36,800
Indirect costs	<u>9.500</u>
Total	<u><u>\$46,300</u></u>



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 21 1999

Memorandum

To: Assistant Inspector General for Audits

From: Assistant Secretary for Indian Affairs

Subject: Draft Audit Report on Costs Incurred Under Selected Federal Agreements With the Chickasaw Nation of Oklahoma (Assignment No. C-IN-BIA-004-98-R)

The subject audit report presents the results of an Office of Inspector General survey of costs incurred by the Chickasaw Nation of Oklahoma under selected Federal agreements. Regarding the Department of the Interior programs, the audit did not question any costs and found that the system used by the Nation to account for direct costs was in compliance with applicable financial management standards. The audit, however, did identify deficiencies related to indirect costs and procurement. The Office of Self-Governance requested and received the attached comments from the Nation regarding the report and its recommendations.

The Office of Self-Governance and the Nation agree with the audit findings and concur with the recommendations. In addition, the Nation has taken actions which we believe implement the audit recommendations.

Recommendation 1. We recommend that the Assistant Secretary for Indian Affairs instruct the Chickasaw Nation to adjust the indirect cost account for the questioned interest charges of \$9,500.

Response. The OSG and the Nation concur. The Nation reimbursed its indirect cost account for the unallowable interest charges. To support the reimbursement, copies of the checks are attached to the Nation's response. In addition, the Nation is requiring its financial office staff and directors and administrators to attend training on Office of Management and Budget Circular No. A-87 and A-1 02 and the Common Rule.

Recommendation 2. We recommend that the Assistant Secretary for Indian Affairs instruct the Chickasaw Nation to comply with Federal and Nation requirements for competitive procurements and for selection of the lowest responsive bid.

Response. The OSG and the Nation concur. The Nation reaffirmed its compliance with Federal requirements for competitive procurements and for selection of the lowest responsive bid. Further, the Nation revised its acquisition policies to reflect the most recent changes in the Federal acquisition regulations concerning the use of competition and the documentation requirements associated with competition. The Nation also established an internal review process to ensure

compliance with Federal and tribal policy. [The Nation offered additional comments on two-of the examples discussed in the draft report.]

Recommendation 3. We recommend that the Assistant Secretary for Indian Affairs instruct the Chickasaw Nation to develop and implement specific procedures for evaluating and awarding procurements to the Nation's enterprises.

Response. The OSG and the Nation concur. The Nation developed and implemented specific procedures for **evaluating** and awarding procurements to the Nation's enterprises. These procedures were promulgated in March **1999**.

Attachment

cc: Governor, Chickasaw Nation of Oklahoma



OFFICE OF THE GOVERNOR
The Chickasaw Nation
Post Office Box 1548 • Ada, Oklahoma 74821
(580) 436-2603 • Fax (580) 436-4287

BILL ANOATUBBY
GOVERNOR

April 8, 1999

Mr. William A. Sinclair, Director
Office of Self-Governance
U.S. Department of the Interior
Office of the Secretary
Washington, DC 20240

Dear Mr. Sinclair:

We appreciate being given the opportunity to respond to the survey performed by the Office of Inspector General. The recommendation provided in the draft survey report and verbally by the Inspector General's audit staff has been valuable to our tribe. We are continually striving to improve our management of federal and tribal funds.

As recommended, we have reimbursed the indirect cost funds for interest charged to the tribe for late payments on invoices billed by an independent contractor for the planning and implementation services of the tribe's network information system. Copies of the checks transferring the funds are provided with this letter in attachment 1. Payment of the interest charges from our indirect cost funds was an oversight on our part. Consequently, we are taking measures to ensure that only allowable costs are charged to our federal funds in the future by educating our staff on federal requirements. We have developed a policy requiring our financial office staff and directors/administrators to attend training on OMB Circulars A-87, A-102 and the Common Rule Administrative Requirements, which will be provided by the tribe through an independent accounting **firm**.

The survey stated purchases were made by the tribe without adequate competition and without seeking the lowest bidder, and there was no documentation on file justifying these actions. Although we agree that our files were lacking in documentation to justify the purchases mentioned in the survey, we do believe that competitive prices were obtained for the merchandise.

For example, the survey stated that we purchased three computers for **\$4,819** and the same types of computers could have been purchased from another vendor for \$2,727. The lower price was obtained from a flyer of a company with which we had not done business and had no knowledge of their **reputa-**

Mr. William A. Sinclair

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bility. Also, the computers did not have comparable memory or speed. The computers we purchased had **4.3GB** hard drives, 32MB RAM and pentium 233 **processors**, whereas the computers listed on the flyer had **1.2GB** hard drives, **16MB RAM** and pentium 166 processors.

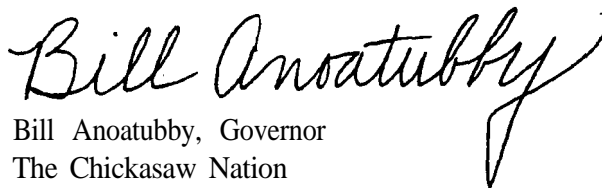
Another example was the carpet purchase mentioned in **the** survey. It stated that we could have purchased the same type of carpet for \$45,784 less than the price we paid. Even though the higher priced carpet was of better quality, our main reason for selecting it was the process in which an anti-bacterial agent is applied **to the carpet**. The agent is applied to the more expensive carpet during the manufacturing process, whereas the agent **is sprayed** on the lower **priced carpet** after completion. Also, we would like to mention that we purchased the *carpet* directly from the wholesaler used by the other vendor. We were able to purchase the more expensive carpet at a wholesale price.

Our failure to maintain supportive documentation for **these** purchases gave the appearance that competitive prices were not obtained. The above examples also indicate that we did not seek new bids from the vendors when we changed our procurement **specifications**. We are addressing these inadequacies in our **reaffirmation** of the tribe's compliance with federal and tribal requirements for competitive procurements and for selection of the lowest responsive bid, contained in attachment 2.

We have also provided, in attachment 3, our policies and procedures for evaluating and awarding procurements from the tribe's enterprises.

The recommendations provided by the **Office** of Inspector General are appreciated. We are confident that the implementation of these recommendations will continue to improve our management of federal and tribal funds.

Sincerely,


Bill Anoatubby, Governor
The Chickasaw Nation

Enclosures (3)

(Enclosures not included by Office of Inspector General)

STATUS OF SURVEY REPORT RECOMMENDATIONS

<u>Finding/Recommendation Reference</u>	<u>Status</u>	<u>Action Required</u>
1, 2, and 3	Implemented.	No further action is required.

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