



OFFICE OF THE AUDITOR GENERAL

The Navajo Nation

**Follow-up Internal Audit
of the Business Industrial
Development Fund
Corrective Action Plan
Implementation**

Report No. 16-25

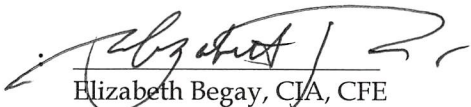
June 2016

**Performed by:
REDW LLC**



M-E-M-O-R-A-N-D-U-M

TO : Crystal Deschinny, Division Director
: Ray Nopah, Chief Financial Officer
DIVISION OF ECONOMIC DEVELOPMENT

FROM : 
Elizabeth Begay, CIA, CFE
Auditor General
OFFICE OF THE AUDITOR GENERAL

DATE : June 30, 2016

SUBJECT : Follow-up Internal Audit of the Business and Industrial Development Fund

The Office of the Auditor General herewith transmits Audit Report no. 16-25, A Follow-Up Internal Audit of the Business and Industrial Development Fund. The follow-up was conducted to determine the status of the corrective action plan, which was developed by the Division of Economic Development director in response to the 2009 audit of the Business and Industrial Development Fund. The Chief Financial Officer of the Division of Economic Development is the administrator of the business and industrial development fund. The 2009 audit report and the corrective action plan were approved by the Budget and Finance Committee on June 15, 2010 per resolution BFJN-20-10.

Follow-up Results

The corrective action plan listed 16 corrective measures to address the audit findings. Of the 16 corrective measures, the Division of Economic Development implemented only 4 (or 25%) corrective measures, leaving 12 (or 75%) not implemented. The follow-up results were summarized in the executive summary of the audit report.

Conclusion

The Division of Economic Development did not implement the corrective action plan. Consequently, the issues in the Division of Economic Development's management of the business and industrial development fund that was reported in the 2009 audit remain unresolved. Accordingly, we recommend sanctions be imposed for failure to implement the corrective action plan. Pursuant 12 N.N.C., Section 9, the recommended sanctions are: section 9 (b), withhold 10% of the Division of Economic Development operating budget and section 9 (c) withhold 20% of the salary of the division director and chief financial officer who failed to implement the corrective action plan. Once the Division of Economic Development fully implemented their corrective action plan, all withheld funds under section 9(b) and (c) will be released to the Division of Economic Development.

Attachment(s)

xc: Arbin Mitchell, Chief of Staff
OFFICE OF THE PRESIDENT/VICE PRESIDENT
Pete K. Atcitty, Chief of Staff
OFFICE OF THE SPEAKER
Chrono

The Office of the Auditor General - Navajo Nation Follow-up Internal Audit of the Business Industrial Development Fund Corrective Action Plan Implementation

Executive Summary

Elizabeth Begay, Navajo Nation Auditor General
Office of the Auditor General – Navajo Nation

The Navajo Nation Office of the Auditor General conducted a Special Review in December 2009 of the Business and Industrial Development Fund (BIDF) administered by the Division of Economic Development (DED). The Special Review was to determine whether the DED maintained sound loan administration and collection procedures and effective investment practices. The audit resulted in three significant findings with related recommendations.

REDW performed a follow-up internal audit to determine the current status of the Corrective Action Plan (CAP), which was developed by DED management in response to the 2009 Special Review. To gain an understanding of the processes and controls in place, we interviewed selected personnel, read applicable portions of the Navajo Nation Code (N.N.C.) and read the commercial, industrial, and tourism development (CITD) guidelines, as well as the policies and procedures (P&Ps) for the small business and micro-enterprise loans. In addition, we selected samples of investment and loan files and assessed whether all required documentation was on file. We analyzed whether financial reconciliations were being performed for BIDF loans and evaluated segregation of duties in key areas.

SUMMARY OF THE INTERNAL AUDIT RESULTS

Throughout the course of the follow-up internal audit, we identified areas where improvements had been made. Specifically, the following **significant CAP components had been implemented** since the 2009 Special Review:

- An investment policy was created for the CITD.

- There was a process put into place for maintaining documentation for the commercial, small business, and micro-enterprise loans. As such, it appeared that the one-on-one trainings on specific loans, which the DED implemented to help improve overall loan documentation, were effective.
- There was a process in place to ensure that borrowers had the required Ethics and Procurement Clearances prior to issuing a loan.
- There was a new process implemented to handle potential conflict of interests.

There were significant areas where the CAP had not been implemented and therefore issues were not resolved. Specifically, the following **significant CAP components had not been implemented:**

- Required loan reconciliations were either not occurring or were not done accurately; therefore, it was unclear which records and balances were correct.
- The P&Ps related to equity and commercial investments indicate that specific documentation must be maintained and reviewed by DED personnel. For investment transactions analyzed, not all documentation was maintained and provided.
- DED personnel were not monitoring the internal rate of return on the commercial investments tested.
- The P&Ps related to small business and micro-enterprise transactions were still in draft form and had not been approved, finalized and implemented.
- Duties related to the receipt of cash were assigned to a separate department; however, the DED Collection Officer still had full access to the Loan Ledger system and was responsible for all loan payment posting and adjustments. There were no mitigating controls, such as reviews performed by the Administrative Service Officer, to identify errors or inappropriate activity.

A summary of the current status of all 2009 CAP components is presented below.

Prior Overall Finding	Number of CAP Components <u>IMPLEMENTED</u>	Number of CAP Components <u>NOT IMPLEMENTED</u>	Audit Issue Adequately Resolved?
Poor Controls Have Weakened BIDF Investments	0	3	No
Non-compliance with Established Lending Policies and Procedures	1	3	No
BIDF Loans are Poorly Administered	3	6	No
Total	4 Implemented	12 Not Implemented	

CONCLUSION

Title 12, N.N.C. Section 8 imposes upon the DED the duty to implement the CAP according to the terms of the plan. The DED did not implement the CAP. Consequently, the issues reported in the 2009 Special Review remain unresolved. Accordingly, we recommend sanctions be imposed on the DED and officials in accordance with 12 N.N.C. Section 9(b) and 9(c) for failure to implement the CAP. Details on all CAP components that were implemented and that were not implemented are included in the attached report.

REDW LLC

Albuquerque, New Mexico
June 29, 2016

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The Office of the Auditor General - Navajo Nation Follow-up Internal Audit of the Business Industrial Development Fund Corrective Action Plan Implementation

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The Office of the Auditor General - Navajo Nation Follow-up Internal Audit of the Business Industrial Development Fund Corrective Action Plan Implementation

Elizabeth Begay, Navajo Nation Auditor General
Office of the Auditor General – Navajo Nation

INTRODUCTION AND BACKGROUND

The Navajo Nation Office of the Auditor General (OAG) conducted a Special Review in December 2009 of the Business and Industrial Development Fund (BIDF) administered by the Division of Economic Development (DED). The review was to determine whether the DED maintained sound loan administration and collection procedures, and effective investment practices. The audit resulted in three significant findings with related recommendations.

REDW performed a follow-up internal audit to determine the current status of the Corrective Action Plan (CAP), which was developed by DED management in response to the 2009 Special Review. To gain an understanding of the processes and controls in place, we interviewed selected personnel, read applicable portions of the Navajo Nation Code (N.N.C.) and read the commercial, industrial, and tourism development (CITD) guidelines, as well as the policies and procedures (P&Ps) for the small business and micro-enterprise loans. We selected samples of investment and loan files and assessed whether all required documentation was on file. We analyzed whether financial reconciliations were being performed for BIDF loans and evaluated segregation of duties and responsibilities in the Loan Ledger system.

FUND ESTABLISHMENT AND PURPOSE

In 1987, the Navajo Nation Council, per resolution CAU-45-87 established under Title 12 N.N.C. Chapter 17, § 1701 et seq. the Business and Industrial Development Fund by appropriating \$30 million (\$25 million for large Tourism, Commercial and Industrial Development projects and \$5 million for financing Small Business Development at the chapter level) from revenues received from the renegotiated Peabody Coal lease. In 1988, the initial appropriation was reduced to \$15 million by the Navajo Nation Council with Resolution No. CMY-27-88. Thereafter, subsequent appropriations were made to BIDF resulting in a total Navajo Nation contributed capital of \$21,022,302.

According to the September 30, 2014, audited financial statements, BIDF had approximately \$10.6 million of cash and cash equivalents and \$6.9 million of investments (net of impairment) resulting in a total of \$17.5 million available for loans or investments. According to the unaudited financial statements as of September 30, 2015, total investments were \$9.98 million, with a total impairment of \$4.45 million, resulting in an ending investment (net of impairment) balance of \$5.5 million.

The BIDF was established to provide financing for Navajo-owned business and industrial development. The fund is intended to facilitate tribal participation in large tourism, commercial and industrial development projects, as well as small business development projects. The fund is to be used for various forms of financing including but not limited to, direct tribal investment, direct loans, loan guarantees, or other forms of debt security instruments and as leverage with other sources of funding for project development.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this follow-up internal audit was to determine the current status of the CAP and to assess whether adequate progress had been made to consider the CAP “implemented”.

The scope of this follow-up internal audit was limited to those policies, reports, processes and controls that related to the BIDF CAP for the time period of October 1, 2012 to April 2016. We focused on evaluating the progress made subsequent to the 2009 Special Review towards implementing all components of the CAP.

To gain an understanding of the processes and controls in place, we interviewed selected personnel and performed the following follow-up procedures:

- Read selected guidelines and P&Ps to assess whether they had been updated based on the Special Review and the related CAP.
- Selected a sample of five commercial investment transactions to determine if the related documentation was in compliance with P&Ps. The investment listing provided by the DED did not tie to the listing provided by the external auditors, and we identified errors in this listing; therefore, we were unable to quantify what the total number of investment transactions were in the audit period.
- Analyzed selected reconciliations between the 1) Loan Ledger system (subsidiary ledger, maintained by the DED’s Collection Officer, to document all loan balances and loan activity, 2) the subledger (an Excel document prepared by DED personnel that is used to reconcile BIDF accounts), and 3) the FMIS (general ledger for the Navajo Nation). We assessed each reconciliation selected to determine if all sources reconciled and whether required DED reconciliations had occurred.
- Assessed the escrow statements and certificate of deposits to determine if the Navajo Nation Controller had been given authority designation.

- Selected all five new small business and micro-enterprise loans that were initiated during the audit period. For each new loan, we tested to determine if all required documentation was on file including monitoring documentation, all originating documentation, such as the related business plan, investment plan, and documentation that minimum requirements were met, and a properly approved investment agreement.
- Assessed selected DED job descriptions to determine if they were updated based on the CAP and assessed the current responsibilities for adequate segregation of duties related to the Loan Ledger system.
- Inquired of DED personnel to determine if required back-ups of the Loan Ledger system were occurring.
- Analyzed the performance measurement criteria for the seven regional business development offices (RBDs) to determine if they included updated performance criteria that was measurable and reasonable. Selected two quarters in 2015 to assess whether the required performance reporting occurred for each of the RBDs and whether they tied to supporting documentation.

PRIOR FINDINGS, CORRECTIVE ACTIONS AND CURRENT STATUS

Prior Finding I: Poor Controls Have Weakened BIDF Investments

Prior Finding Summary: “There was no apparent return on the \$5 million BDF equity investments. In addition, \$1.2 million BDF equity investments have been deemed impaired. Furthermore, DED could not provide information on the internal rate of return of \$12 million BDF monies invested in commercial development projects. All indications show DED did not perform an analysis prior to investing BDF. Also, DED is misstating its financial records. DED is not reconciling its records to the Navajo Nation accounting system to reflect accurate financial information on BDF investments. Finally, investment files are poorly organized. DED’s accounting of BDF investments is hampered with poor controls and inefficiencies.”

Corrective Actions	Current Status of Corrective Actions
<p>A “Revise the Commercial, Industrial and Tourism Development (CITD) Guidelines, applications, and agreements that enhance internal control, decision making, return on investments, and financial analyses including:</p> <ol style="list-style-type: none"> 1. Development of an Investment Policy Section 2. Development of BIDF database that captures all financial transactions 3. Improvement of the monitoring and recording of dividends, rents, profits, Internal Rate of Return and creation of jobs on a quarterly and annual basis, and 4. Organization and improved management of the investment accounting, reconciliation, recordkeeping and Navajo Nation Controller authority designation on pertinent BIDF transactions.” 	<p>Not Implemented:</p> <ol style="list-style-type: none"> 1. A separate investment policy was created that could have helped to enhance internal controls, decision making, return on investments, and financial analyses had it been fully implemented. However, the policy was not fully implemented as described below. 2. During our testing of selected investments, we identified several discrepancies and inconsistencies; therefore, we were unable to conclude that a database that captures all financial transactions was developed. 3. For three of the five investment files tested, there was a lack of documentation related to monitoring and recording. In addition, the DED had not implemented a process to track the Internal Rate of Return on investments. 4. All investment files tested were missing required documentation. In addition reconciliations were not adequate, not consistently documented and did not reconcile. The Navajo Nation Controller was not given access to any BIDF transactions.
<p>B “Develop and implement a comprehensive In-House Training Program and orientation of revised CITD Guidelines for division personnel that include:</p> <ol style="list-style-type: none"> 1. Application Requirements 2. Record Management 3. Financial Analyses 4. Uniform Commercial Code (UCC) Requirements 5. Corporate Structure and Responsibilities 6. Ethics in Navajo Government.” 	<p>Not Implemented: Items one and six from the CAP were added to the CITD guidelines; however, two thru five were not. The DED did not implement a formalized in-house training program or orientation; however, they did conduct one-on-one trainings on a case-by-case when a training need arose during the file review process. However, investment files tested were missing several required documents including those related to the application process, record management, financial analysis and other. As a result, it appeared the investment training performed was not adequate and/or not effective.</p>

Corrective Actions	<i>Current Status of Corrective Actions</i>
<p>C “Develop and improve coordination between DED and Office of Controller to efficiently manage the accounting, reconciliation, recordkeeping, annual auditing and reporting of the BIDE Investment accounts.</p> <ol style="list-style-type: none"> 1. Develop a co-DED/OOC team to address issues 2. Work Group to meet on a quarterly basis.” 	<p>Not Implemented: Management indicated in the CAP confirmation that this was not implemented.</p>

Prior Finding II: Non-compliance with Established Lending Policies and Procedures

Prior Finding Summary: “DED approved BIDE loans despite the lack of pertinent supporting documents. In addition, the collection of past due accounts is poorly managed. This contributed to the approximately 60% delinquency rate of BIDE loans. Of the 130 open BIDE loan accounts with outstanding balance of \$14.3 million, 76 loan accounts with outstanding balance of \$8.5 million are delinquent for more than 90 days. Of the 76 delinquent loans, 23 loans with outstanding balance of \$1.4 million have been in default for more than 5 years and 24 loans with outstanding balance of \$6.1 million have been in default for more than 10 years. Moreover, the Commercial loans account for 76% (\$6.5 million) of the 90 days past due. Additionally, despite the high delinquency rate on Commercial loans, no collection efforts were made. DED did not pursue legal action in the collection of delinquent accounts.”

Corrective Actions	<i>Current Status of Corrective Actions</i>
<p>A “DED will ensure compliance with the BIDE Policies and Procedures by:”</p>	
<p>A.1 “Developing a uniform DED loan process for all BIDE loans.”</p>	<p>Not Implemented: Although loan file documentation had improved, loan collection efforts and the process for reconciling to the FMIS had not changed since the Special Review.</p> <p>In addition, based on the information exported from the Loan Ledger system, collections had not improved since the prior audit. Of the \$8.4 million of outstanding loans as of September 30, 2015, \$5.4 million (64%) were over 90 days past due. However, based on the lack of support for collection efforts, it could not be determined if these totals were complete/accurate.</p>

Corrective Actions	Current Status of Corrective Actions
<p>A.2 “Revising the Small Business, Micro-Enterprise and Commercial, Industrial Loan program of the BIDF Policies and Procedures to improve the:</p> <ol style="list-style-type: none"> 1. Loan Approval Process 2. Collections Process 3. Legal Proceedings 4. Credit Reporting 5. Write Off Process 6. Accounting Procedures 7. Monitor of Loan Activities 8. Periodic Reporting to the Oversight Committee.” 	<p>Not Implemented: The DED had updated P&Ps related to CITD; however, the P&Ps related to small business and micro-enterprise loans were still in draft form at the time of the follow-up internal audit.</p>
<p>B “Develop and implement a comprehensive In-house Training Program and orientation of revised BIDF Policies and Procedures for division personnel.</p> <p>a. Implement on a quarterly basis”</p>	<p>Implemented: While the DED did not develop and implement a formal training program and orientation for loans; they provided one-on-one training on a case-by-case basis. Based on our analysis of several new loan files, it appeared that the one-on-one training efforts were effective as there was significant improvement in documentation. The DED should begin documenting the one-on-one trainings that are occurring as they have not been documented to date.</p>
<p>C “Develop and improve coordination between DED and Office of Controller to efficiently manage the accounting, reconciliation, recordkeeping and reporting of the BIDF loan accounts and collections.</p> <ol style="list-style-type: none"> 1. Develop a co-division/OOC team to address issues and concerns 2. Meet with Department of Justice as applicable” 	<p>Not Implemented: See corrective action status at 1.C above.</p>

Prior Finding III: BIDF Loans are Poorly Administered

Prior Finding Summary: “DED did not ensure adequate segregation of duties in the accounting of BIDF loan payments. The collection officer was given sole authority to collect, post, and reconcile the DED loan ledger system. We also found DED is maintaining inaccurate information on the loan ledger system. As a result, we could not rely on DED’s records. There is a risk manipulation of account information is occurring without detection. In addition, DED is not adequately safeguarding loan files. In the absence of the loan files, DED will have difficulty collecting in the event that the borrowers defaulted on their loans. Furthermore, DED misrepresented performance data for completed loan packages. Consequently, DED performance reports could not be relied upon to provide accurate information on tis accomplishments.”

Corrective Actions	Current Status of Corrective Actions
<p>A “Maintain accuracy of BIDE Loan Ledger System.”</p>	
<p>A.1 “Reconcile BIDE loan ledger with Credit Service’s loan ledger as of July 31, 2008.”</p>	<p>Implemented: The DED Collection Officer was reconciling the Loan Ledger system’s (Credit Service’s loan ledger) monthly activity to the activity in the subledger (BIDE loan ledger) for the time period selected for testing.</p>
<p>A.2 “Ensure that monthly BIDE-to-FMIS loan ledgers have established internal management control.”</p>	<p>Not Implemented: It could not be determined if the FMIS or the subledger (BIDE loan ledger) were correct. The reconciliations that were performed were not accurate, as they were performed on a cumulative basis (i.e. since origination versus at a point in time). In addition, the balances could not be tied between the two sources.</p>
<p>B “Develop a BIDE Recordkeeping Management Policy that:</p> <ol style="list-style-type: none"> 1. Defines duties and responsibilities of record keepers 2. Creates uniform recordkeeping management system 3. Creates an electronic backup system.” 	<p>Not Implemented: While the DED revised their uniform recordkeeping policies for loans under CITD, the P&Ps related to small business and micro-enterprise loans were in draft form and had not been approved, finalized and implemented.</p> <ol style="list-style-type: none"> 1. The duties and responsibilities of record keepers were not included in the P&Ps or the job descriptions. 2. Based on the prior P&Ps in place for small business and micro-enterprise loans, the five new loans had all required documentation on file. Given the revised/new P&Ps were not finalized and implemented; we were not able to test for compliance. 3. The DED was not backing up the Loan Ledger system on a regular basis to ensure that data is retained.

Corrective Actions	Current Status of Corrective Actions
<p>C “Comply with a revised Credit Reporting Policy that include:</p> <ol style="list-style-type: none"> 1. Reporting of all loan activities to a credit bureau <ol style="list-style-type: none"> a. Incorporate into all Loan Agreements 2. Identifies segregation of duties and responsibilities with management of loan ledger system.” 	<p>Not Implemented:</p> <ol style="list-style-type: none"> 1. The DED was not reporting the loan activities to a credit bureau. <ol style="list-style-type: none"> 1a. Management indicated in the CAP confirmation that the loan agreements had not been updated. 2. The cash collection duties were outsourced to the Navajo Nation Controller’s Office; however, all duties and responsibilities related to managing the Loan Ledger system still resided with the DED’s Collections Officer. There were no mitigating controls, such as a review by the Administrative Services Officer, in place to identify potential errors or inappropriate activity. Additionally, access to the Loan Ledger system had both the Collection Officer and the Administrative Services Officer at the highest level of authority giving them full access to the system.
<p>D “Develop and implement a comprehensive In-House Training Program and orientation of BIDF Recordkeeping Management System Policy to division personnel.”</p>	<p>Implemented: See corrective action status at 2.B above.</p>
<p>E “Re-evaluate the Performance Measure Criteria applicable to BIDF loans that:</p> <ol style="list-style-type: none"> 1. Clarify measurement factors 2. Develop and implement achievable performance measures.” 	<p>Not Implemented: While the DED modified the performance measures and clarified measurement factors, there was no documentation available to support the amounts reported in several of the RBDO quarterly performance reports tested. For instance, there was no documentation on file to support reported metrics around the number of workshops and/or trainings provided per quarter, number of clients assisted with business plans, number of lease transactions/land withdrawals, number of business certifications/applications completed, and number of jobs created. Based on the lack of documentation provided, we could not conclude if the metrics reported were accurate as they could have been inflated.</p>

Corrective Actions	<i>Current Status of Corrective Actions</i>
F “Strictly ensure no preferential treatment of awarding BIDS loans”	
F.1 “DED Executive Director will submit directive to remind all DED personnel to comply with applicable BIDS Policy.”	Not implemented: The Executive Director did not send a directive to all DED personnel reminding them to comply with applicable BIDS policies. There was no documentation that any other form of formal communication occurred.
F.2 “DED will ensure Ethics and Procurement Clearances are completed for all BIDS loan applications.”	Implemented: During our testing of selected loan files, we found that the DED incorporated a process to assess Ethics and Procurement Clearances during the application process.
F.3 “Revise the BIDS Policy to delegate DED Chief Financial Officer to have the final signatory authority regarding applications deemed potentially as conflict of interest.”	Not implemented: As the draft policies for the small business and micro-enterprise loans were not approved, finalized and implemented, we could not conclude that this was implemented. Based solely on reading the CITA policy, the policy was updated regarding the CFO having final signatory authority regarding conflict of interest loans. However, there were no new commercial loan files to test to assess whether the new policy was effective. We determined that DED personnel were reviewing the Navajo Nation payroll records to ensure that the borrower was not an employee of the Nation.

* * * * *

We received excellent cooperation and assistance from the DED personnel during the course of our internal audit. We very much appreciate the courtesy and cooperation extended to our personnel. We would be pleased to meet with you to discuss our findings and answer any questions.

REDW LLC

Albuquerque, New Mexico
June 29, 2016