

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL - Third Year, 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE AND BUDGET AND
FINANCE COMMITTEE; REVIEWING BFS-141-03, IMPOSING SANCTIONS
UPON THE CAPITAL IMPROVEMENT OFFICE, THE CAPITAL IMPROVEMENT
OFFICE PROGRAM DIRECTOR, AND THE DIVISION OF COMMUNITY
DEVELOPMENT EXECUTIVE DIRECTOR; RELEASING ALL PAYMENTS
WITHHELD PURSUANT TO BFS-141-03; AFFIRMING THE CONTINUATION OF
BFS-97-01, THE CORRECTIVE ACTION PLAN FOR THE CAPITAL
IMPROVEMENT OFFICE

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Capital Improvement Office is now a component of the Capital Projects Management Department, which is a department within the Navajo Nation Division of Community Development. The Resources and Development Committee is the oversight committee for the Division of Community Development. 2 N.N.C. §§ 500(C)(2) and 501(C).
- B. The Budget and Finance Committee is charged with receiving and approving chapter audit reports from the Auditor General. 12 N.N.C. § 6(A) and 12 N.N.C. § 7(D). The Budget and Finance Committee also, "determines what action should be taken" after the follow-up review conducted by the Auditor General and based on any recommendations by the oversight committee. 12 N.N.C. § 7(I).

SECTION TWO. FINDINGS

- A. The Capital Projects Management Department is the successor to the Capital Improvement Office. The name Capital Improvement Office is used in this legislation to refer to the actions taken before the name change occurred.

- B. The Budget and Finance Committee approved the Capital Improvement Office's Corrective Action Plan pursuant to Budget and Finance Committee resolution BFS-97-01 on September 4, 2001. The audit identified the need to strengthen project selection and appropriation procedures as well as ensuring the availability of matching funds for projects. Additional details are included in Resolution BFS-97-01, "Accepting the Post Audit Follow-Up Report to the Special Review of the Navajo Nation Capital Improvement Office Submitted by the Office of the Auditor General and Approving the Corrective Action Plan Submitted by the Capital Improvement Office," attached as **Exhibit 1**.
- C. The Budget and Finance Committee approved sanctions upon the Capital Improvement Office on September 09, 2003 through Resolution BFS-141-03, "Accepting the Twelve-Month Follow-Up Report and Approving the Recommendation by the Office of the Auditor General to Impose Sanctions Against the Capital Improvement Office, the Capital Improvement Office Program Director and the Division of Community Development Executive Director." This resolution is attached as **Exhibit 2**.
- D. The Office of the Auditor General conducted five follow-up reviews to date as follows: the first follow-up in 2003, the second in 2005, the third in 2008, the fourth in 2014, and the fifth in 2016. See Report No. 14-14, "Fourth Follow-Up Review of the Capital Improvement Office Corrective Action Plan" and Report No. 17-10, "Fifth Follow-Up Review of the Capital Improvement Office/Division of Community Development Corrective Action Plan Implementation," attached as **Exhibit 3 and 4**, respectively.
- E. The Fourth Follow-Up Review of the Capital Improvement Office focused on the method the Capital Improvement Office used in selecting the projects to be included on the Capital Improvement Plan contained in Navajo Nation Council Resolution CAP-18-14. The review found the Capital Improvement Office did not follow the established Capital Improvement Project process in developing the plan. The Audit Report found flaws in the selection process including failure to provide chapters and programs with the project selection policies and procedures and notices of proposal deadlines. The Audit Report concluded that, "[a]lthough the Navajo Nation

approved a Capital Improvement Plan [through Resolution CAP-18-14] of approximately \$300 million for 132 projects that plan is potentially comprised of ill-planned projects and poorly ranked projects because CIO [the Capital Improvement Office] and Navajo Nation Council did not consistently follow the CIP process defined within the Navajo Nation Appropriations Act." See **Exhibit 3**, Report No. 14-14, page 4.

- F. The Fifth Follow-Up Review of the Capital Improvement Office noted, "[m]ost corrective actions in the corrective action plan approved by the Budget and Finance Committee in 2001 have not been implemented, thus the audit issues remain unresolved. See **Exhibit 4**, Report No. 17-10, page 6.
- G. The Office of the Auditor General's Plan of Operation provides, "[o]nce proof of implementation of the corrective action plan is demonstrated, the Auditor General shall immediately report this compliance to the Controller and, where applicable, the chapter government, who shall then release the withheld salary to the director of the program, division, enterprise or entity or to the chapter official." 12 N.N.C. § 9(C).
- H. The Capital Improvement Office has been unable to successfully implement the corrective plan, so the Auditor General is not able to report its compliance to the Controller.
- I. Resolution CAP-23-17, which was approved on April 20, 2017, rescinded Resolution CAP-18-14 with a directive to the Capital Improvement Office's successor to "begin the Title 12 Capital Improvement process anew" and "to include the Navajo Nation Chapters in the capital improvement process as stated by 12 N.N.C. § 860(D)(1)." See Resolution CAP-23-17, attached as **Exhibit 5**.
- J. The Capital Projects Management Department has asserted that based on the directive in CAP-23-17 to develop a new project list, the Department's ability to implement the corrective action plan is impaired and has requested the sanctions be removed.

SECTION THREE. RESCINDING BFS-141-03, ACCEPTING THE TWELVE-MONTH FOLLOW-UP REPORT AND APPROVING THE RECOMMENDATION BY THE OFFICE OF THE AUDITOR GENERAL TO IMPOSE SANCTIONS AGAINST THE

CAPITAL IMPROVEMENT OFFICE, THE CAPITAL IMPROVEMENT OFFICE PROGRAM DIRECTOR AND THE DIVISION OF COMMUNITY DEVELOPMENT EXECUTIVE DIRECTOR.

The Navajo Nation hereby rescinds BFS-141-03, which placed the former Capital Improvement Office, the Department Manager, and the Director for the Division of Community Development under sanction.

SECTION FOUR. AFFIRMING RESOLUTION BFS-97-01, ACCEPTING THE POST AUDIT FOLLOW-UP REPORT TO THE SPECIAL REVIEW OF THE NAVAJO NATION CAPITAL IMPROVEMENT OFFICE SUBMITTED BY THE OFFICE OF THE AUDITOR GENERAL AND APPROVING THE CORRECTIVE ACTION PLAN SUBMITTED BY THE CAPITAL IMPROVEMENT OFFICE

The Navajo Nation affirms the continuation of the Corrective Action Plan approved for the Capital Improvement Office in Resolution BFS-97-01. The Capital Projects Management Department has assumed the duties and responsibilities previously held by the Capital Improvement Office, therefore, the Capital Projects Management Department is responsible for implementing the corrective action plan approved for the Capital Improvement Office.

SECTION FIVE. DIRECTIVE TO THE OFFICE OF THE AUDITOR GENERAL TO CONDUCT A FOLLOW-UP REVIEW

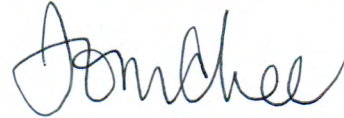
The Navajo Nation hereby directs the Office of the Auditor General to conduct a follow-up review upon the Capital Projects Management Department within one year from the date this resolution and to make recommendations to the oversight committee and to the Budget and Finance Committee.

SECTION SIX. DIRECTIVE TO THE OFFICE OF THE CONTROLLER TO RETURN PAYMENTS HELD PURSUANT TO BFS-141-03

The Office of the Controller is directed to release all payments held pursuant to BFS-141-03 to all individuals to give the Office of the Controller time to release funding after the approval of this legislation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting held at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 3 in favor and 2 opposed, this 5th day of September, 2017.

A handwritten signature in blue ink, appearing to read "Tom Chee", with a stylized, cursive script.

Tom T. Chee, Pro Tempore Chairperson
Budget and Finance Committee

Motion: Honorable Lee Jack, Sr.
Second: Honorable Tom T. Chee

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

Accepting the Post Audit Follow-Up Report to the Special Review of the Navajo Nation Capital Improvement Office Submitted by the Office of the Auditor General and Approving the Corrective Action Plan Submitted by the Capital Improvement Office

WHEREAS:

1. Pursuant to 12 N.N.C. §7(D), the Budget and Finance Committee of the Navajo Nation Council is authorized to approve audit reports and corrective action plans; and

2. Pursuant to 12 N.N.C. §2(A)(2), the Office of the Auditor General conducts performance audits and reviews of Navajo Nation government programs, departments and divisions in accordance with government auditing standards; and

3. 12 N.N.C. §4(E) and §6(B) direct the Office of the Auditor General to prepare and present audit reports and post audit follow-up reports to the Budget and Finance Committee of the Navajo Nation Council; and

4. The Office of the Auditor General conducted a Special Review of the Navajo Nation Capital Improvement Office and issued Report No. 97-06 on May 02, 1997, attached hereto as Exhibit "A"; and

5. The Office of the Auditor General conducted a post audit follow-up review to the Special Review of the Navajo Nation Capital Improvement Office and issued Report No. 00-29, on September 29, 2000, attached hereto as Exhibit "B"; and

6. The Capital Improvement Office has submitted a corrective action plan, attached hereto as Exhibit "C", as required by 12 N.N.C. §7(C), identifying the corrective actions that Capital Improvement Office will undertake to address the unresolved findings presented in Follow-up Review Report 00-29; and

7. The Office of the Auditor General has reviewed the Capital Improvement Office corrective action plan as required by 12 N.N.C. §7(D) and determined that the plan reasonably addresses the unresolved findings presented in Follow-up Review Report 00-29.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Budget and Finance Committee of the Navajo Nation Council hereby accepts Report No. 00-29 and approves the Capital Improvement Office corrective action plan, attached hereto as Exhibits "B" and "C", respectively.

2. The Budget and Finance Committee of the Navajo Nation Council hereby directs that a copy of Report No. 00-29 and the Capital Improvement Office corrective action plan be forwarded to the Transportation and Community Development Committee, which has oversight responsibility for the Capital Improvement Office of the Division of Community Development.

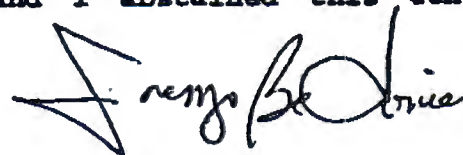
3. The Budget and Finance Committee of the Navajo Nation Council hereby directs the Capital Improvement Office to submit a written report six months after the date of this resolution to the Office of the Auditor General on the status of the corrective actions.

4. The Budget and Finance Committee of the Navajo Nation Council hereby directs the Office of the Auditor General to review the status report submitted by the Capital Improvement Office pursuant to Resolved Clause 3 (above) and report to the Budget and Finance Committee on the status of the corrective action plan.

5. The Budget and Finance Committee of the Navajo Nation Council hereby directs the Office of the Auditor General to conduct a follow-up review twelve months after the date of this resolution to verify action taken by the Capital Improvement Office to implement the corrective action plan and issue a report on the progress and make recommendations to the Budget and Finance Committee and the Transportation and Community Development Committee.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed and 1 abstained this 4th day of September, 2001.



Lorenzo Bedonie
Chairperson

Motion: Bennie Shelly
Second: Albert E. Ross, Jr.

A

**Report to
Budget and Finance Committee
of the Navajo Nation Council**

**A Management Study on
Allegations in the
Capital Improvement Projects Department
and the Self-Help Assistance Program**

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REPORT NUMBER 97-06

Date: March 21, 1997

**Management Study Performed by
David M. Eck, CPA, MBA, Auditor III**

Summary

This report presents the results of an Auditor General review of allegations about the Capital Improvement Projects (CIP) Department and the Self-Help Assistance Program. This review addresses concerns raised by the Budget and Finance Committee of the Navajo Nation Council (B&F Committee) in a March 6, 1997 request to the Office of the Auditor General.

Our objectives in performing this review were to address six specific issues raised by the B&F Committee. These issues include: 1) project selection and appropriation procedures, 2) project matching fund issues, 3) plumbing and bathroom addition project funding procedures, 4) allegations of abuse in the Self-Help Assistance Program, 5) an allegation of nepotism in the CIP Department and 6) allegations made by CIP personnel.

The CIP Department Needs to Strengthen Project Selection and Appropriation Procedures as Recommended in the 1995 Audit.

Our audit work indicates that the department still lacks policies and procedures to effectively differentiate and establish priorities among projects. As recommended in our previous audit, procedures for selecting and evaluating capital improvement projects will reduce the likelihood that projects will be funded before they are fully planned and costed out.

The B&F Committee also expressed concerns about Transportation and Community Development Committee (TCDC) members favoring their own chapters in funding CIP projects. However, our review does not support this allegation. Chapters represented by TCDC members are selected in the same proportion as other chapters.

The CIP Department Needs to Ensure that Matching Funds Are Available for Projects as Scheduled.

A TCDC FY 1995 resolution incorrectly represented three projects as having commitments for IHS matching funds totaling \$768,000 although IHS had not approved these projects for matching money. Thus, \$746,000 in Navajo Nation funds were appropriated for projects that cannot be completed as scheduled. Chapter contributions for CIP projects are also questionable since chapters have pledged funds without identifying how the pledges will be funded. The procedures recommended in the previous section should include steps to verify the availability of matching funds and chapter contributions.

The CIP Department Needs to Strengthen Controls Over Plumbing and Bathroom Addition Funding.

CIP submitted a plumbing request totaling \$2.0 million in FY 1995 to TCDC even though the Department knew that the funding could not be utilized immediately since the bathroom additions to be plumbed had not been constructed. In the past, CIP staff have allegedly informed chapters that plumbing money could be used to construct bathroom additions. A \$1.2 million plumbing appropriation was diverted to bathroom additions in June 1996. CIP needs to ensure that requests for bathroom and plumbing additions are correctly presented.

Stronger Controls Are Needed for the Self Help Assistance Program.

The Self-Help Assistance Program lacks policies and procedures for evaluating and awarding grants. Our review of requests for Self-Help Assistance found that, in the absence of eligibility and evaluation criteria, little is done to assess applicants' need for assistance. We did verify the allegation that committee members had awarded assistance to their relatives and friends: we found no documentation or justification supporting the awards in question. Although assistance to individuals related to committee members is not necessarily improper, the lack of procedures for assessing and documenting need creates a situation where allegations of impropriety are easily raised.

The Acting CIP Director Did Not Violate Navajo Nation Personnel Rules on Supervising Relatives.

Although the Acting CIP Director is supervising a relative, no violation of personnel rules occurred. According to the Department of Personnel Management Director, personnel rules do not apply to an acting director. However, if the Acting Director is appointed as CIP Director, then the question of directly supervising a relative will need to be addressed.

Many Personnel Issues Raised by CIP Staff Have Been Addressed in Previous Audits.

Our review of 36 complaints presented to the B&F Committee by CIP staff found that 12 complaints are true and have been documented in the previous audit and six month follow up review. These 12 complaints focused on the lack of policies and procedures governing projects and inconsistencies in project administration. Another 16 complaints are true but appear to be largely the result of the employees' disagreement with the Acting Director's decisions about how best to manage the department. One complaint—about the lack of staff—is true but the department's ability to address the issue is limited by budget constraints. We could find no proof to support seven of the complaints.

Introduction and Scope

This report presents the results of an Auditor General review of allegations about the Capital Improvement Projects (CIP) Department and the Self-Help Assistance Program. This review addresses concerns raised by the Budget and Finance Committee of the Navajo Nation Council (B&F Committee) in a March 6, 1997 request to the Office of the Auditor General.

Our objectives in performing this review were to address six specific issues raised by the B&F Committee. These issues were:

- o Capital Improvement Project selection and appropriation procedures,
- o Project matching fund issues,
- o Plumbing and bathroom addition project funding procedures,
- o Allegations of abuse in the Self-Help Assistance Program,
- o An allegation of nepotism in the CIP Department and
- o Allegations made by CIP personnel.

Our procedures for this review consisted primarily of interviews, documentation review, limited test work of CIP documentation and schedules and review of the prior audit of the CIP Department conducted in FY 1995.

Results of Our Examination

Although many of the concerns identified in our previous work remain to be addressed, we noted during our audit work for this review that the Acting Director has implemented steps to address some of those concerns. Specifically, he has begun to review project requests and information more critically and has returned project requests that are incomplete or do not adequately identify funding sources. Management review of this nature is an important element of managing the capital improvements program. Additional action as presented in this and prior reports are necessary to establish more effective program management.

A. The CIP Department Needs to Strengthen Project Selection and Appropriation Procedures as Recommended in the 1995 Audit.

The B&F Committee raised a number of questions about CIP selection. These questions ranged from broad concerns about the overall selection process to specific allegations that Transportation and Community Development Committee of the Navajo Nation Council (TCDC) members favored their own chapters in funding projects. B&F Committee concerns also included questions about the wide variation in project unit costs and an allegation that unapproved projects were substituted for approved projects.

Currently, CIP utilizes a point system to evaluate projects. This point system is based upon identifying whether various required documents are in the project file. This system is designed for all projects to potentially achieve a maximum point score of 300. We agree

it is necessary for each project to complete each step required in the CIP process. However, this system does not actually prioritize projects. The intent of current procedures is not to differentiate projects, but to give each project an equal chance of funding. The TCDC without any established criteria, then, determines which projects actually receive funding.

Findings

1. CIP Department has not established effective procedures to evaluate and select projects. This situation is largely unchanged since our last audit. As we noted at that time, the procedures that do exist do not differentiate among projects.

TCDC decides which projects to move forward without reference to any effective priority ranking system. Therefore, less deserving projects may be funded at the expense of more important and critical projects.

Chapters occasionally bypass the CIP Department and go directly to TCDC or the Navajo Nation Council to obtain project funding. Thus, poorly conceived projects may receive funding. As a result, many projects will require additional funding to ensure completion due to project delays and rising costs.

Evaluating project merit and establishing priority rankings for capital projects is a well established process. Many other governmental entities have established procedures that can serve as models for project capital improvement project evaluation and selection within the Navajo Nation.

2. TCDC members do not appear to favor their own chapters in selecting projects. One concern about CIP selection was that TCDC members favored their own chapters in selecting projects. However, our review does not support this allegation. Chapters represented by TCDC members are selected for projects in the same proportion as chapters that lack representation on the committee.

However, the lack of established procedures to evaluate and rank proposed CIP projects and the key role played by TCDC in deciding which projects to fund creates the potential for abuse and contributes to the perception of abuse.

3. Although B&F Committee members were concerned about the wide variation in unit costs among CIP projects, these concerns cannot be addressed under the existing system. The CIP Department cannot compare proposed projects in a meaningful way because it has not established any basis for determining the economic merits of the individual projects.

However, the committee members' concerns are warranted in some instances. Many projects are not directly comparable since their scope differs dramatically (for example, one project may construct water lines serving an entire community while another adds a bathroom and plumbing for individual homes). However, when we analyzed unit costs for bathroom additions, we found that they varied by up to \$4,400 per unit. Although the particular circumstances may account for the differences, the CIP selection process provides no basis for understanding those differences which raise questions about the benefit of the projects.

Incorporating economic analysis into the project selection process would provide a sound basis for comparing project impacts and estimating the potential benefits of each project. Such analysis will enable project managers and oversight agencies to evaluate the reasonableness of unit costs and to compare project impacts.

4. We found no evidence to support the allegation that new projects have been substituted for projects already approved.

Recommendations

1. The CIP Department should develop and implement procedures for selecting and evaluating proposed projects as recommended in our FY 1995 audit. The procedures should:
 - a. provide criteria and a framework for assessing project need based on economic analysis and other analytical methods; and
 - b. establish priority rankings and funding requirements for individual projects during specific funding periods.
2. The CIP Department should solicit input on its procedures for evaluating and ranking from TCDC members, chapters and other affected parties to ensure that the procedures are well understood and accepted as fair.

B. The CIP Department Needs to Ensure that Matching Funds Are Available for Projects as Scheduled.

B&F Committee members questioned whether project matching funds were available as represented to the committee by the CIP Department. Committee members were concerned that Navajo Nation funds were being appropriated to projects that could not be completed due to the lack of matching funds that had incorrectly been shown as available during the funding period.

Indian Health Services (IHS) has formulated procedures for identifying projects the agency will match. These projects are listed on a prioritized project listing schedule. Most of IHS matching money is utilized in this manner (\$14 million in FY 1996). Another procedure for obtaining IHS matching funds is community sponsored projects. This procedure involves the local chapter identifying a project and funding a portion of it from either local or Navajo Nation funds prior to being formally approved by IHS to receive matching funds. IHS matched approximately \$8 million in project funding in FY 1996 by this procedure. IHS staff believe that the Navajo Nation can ultimately obtain more federal funding by encouraging community sponsored projects.

Findings

1. TCDC resolutions to the B&F Committee frequently state that funds are available to match CIP project funds when such funds have not been approved by the matching agency. Thus, Navajo Nation funds have been appropriated to projects that cannot be initiated until matching funds are approved, resulting in delays and rising costs.

A TCDC FY 1995 resolution incorrectly represented three projects as IHS matching funds totaling \$768,000 although IHS had not approved these projects for matching money. The Navajo Nation portion was \$746,000. Navajo Nation general funds are being appropriated for projects that cannot be completed as scheduled since they have not received IHS approval. However, these projects may ultimately receive matching IHS funding approval.

2. Chapter contributions for CIP projects are also questionable. CIP staff in the past have been unwilling to investigate the source of funds pledged by chapters to verify that those funds are actually available. Now CIP management is beginning to question chapter contributions to assure that contributions will be available as pledged.

A current situation involves a chapter passing two resolutions pledging \$50,797 and \$13,462, respectively, for construction project funding. A recent meeting with the chapter officials indicated that the chapter had not identified the source of this funding. The chapter was requesting an additional \$61,341 in CIP funding for this project. If this project was allowed to proceed, it potentially would be another incomplete and shortfall project requiring additional Navajo Nation attention and funding.

Recommendations:

1. The project evaluation and selection procedures developed in response to Section A should include steps to verify availability of matching funds.
2. Chapters pledging funds to match CIP projects should be required to identify the source and availability of those funds. CIP staff should then verify chapter pledges.

C. The CIP Department Needs to Strengthen Controls Over Plumbing and Bathroom Addition Funding.

The B&F Committee questioned whether project funds were utilized as appropriated. Concerns in this area centered on questionable transfers of funds among project categories.

CIP projects typically consist of providing sanitation facilities to community housing. IHS will provide the waterline. The Navajo Nation will construct bathroom additions on existing structures. The Nation will then pay the IHS to install the plumbing fixtures. This procedure has been in operation for the last several years. However, there have been other funding arrangement procedures in prior years. The specific procedures are negotiated between IHS and CIP representing the Navajo Nation.

Findings

1. CIP submitted a plumbing request in FY 1995 totaling \$2.0 million to TCDC even though the Department knew that the funding could not be utilized immediately since the bathroom additions to be plumbed had not been constructed.
2. In the past, CIP staff have allegedly informed chapters that plumbing money could be used to construct bathroom additions. A \$1.2 million plumbing appropriation was diverted to bathroom additions in June 1996. Diverting funds in this manner means that the Navajo Nation may not be able to implement projects when matching funds become available. For example, IHS has identified six projects requiring an \$206,000 for completing the plumbing portion. Although these projects were previously funded for plumbing, the funds are no longer available because they have been used for bathroom additions instead.

Recommendations:

The CIP Department should correctly represent funding requests for bathroom and plumbing addition projects.

D. Stronger Controls Are Needed for the Self-Help Assistance Program.

B&F Committee members questioned the adequacy of controls over the Self-Help Assistance Program. Concerns centered on whether program procedures were adequate to ensure that assistance grants were properly awarded without favoritism.

The purpose of this program was to provide financial assistance (maximum \$5,000 per request) to working individuals with housing related financial needs. This program was initially administered within the CIP Department. Then it was transferred to the Division of Community Development Director. Later a committee consisting of Community

Development staff administered the financial assistance requests. Currently, Housing Services is administering this program. Generally, policies and procedures governing the administration of this program are weak or non-existent. Approximately \$396,000 was expended during FY 1992 - 1993.

Findings

1. The Self-Help Assistance Program lacks policies and procedures for evaluating and awarding grants. Our review of requests for Self-Help Assistance found that, in the absence of eligibility and evaluation criteria, little is done to assess applicants' need for assistance. We found no personal financial statements or any other evidence in the files we reviewed to suggest that applicants' financial need had been assessed.
2. We investigated three allegations of misuse of Self Help Assistance by members of the committee that awards assistance. We did verify the allegation that committee members had awarded assistance to their relatives and friends. We found no documentation or justification supporting the awards in question. However, we also investigated three other Self Help Assistance Program grants and found a similar lack of documentation and justification.
3. Although assistance to individuals related to committee members is not necessarily improper, the lack of procedures for assessing and documenting need creates a situation where allegations of impropriety are easily raised.

Recommendation:

Housing Services should establish criteria for determining eligibility for Self Help Assistance Grants and develop procedures to evaluating and documenting requests for assistance.

E. The Acting CIP Director Did Not Violate Navajo Nation Personnel Policies and Procedures on Supervising Relatives.

The B&F Committee received an allegation that the Acting CIP Department Director is in violation of the Navajo Nation Personnel Policies and Procedures on supervising relatives (nepotism).

Findings

1. Although the Acting CIP Director is supervising a relative, no violation of personnel rules occurred. According to the Department of Personnel Management Director, personnel rules do not apply to an acting director.

2. If the Acting Director is appointed as CIP Director, then the question of directly supervising a relative will need to be addressed.

Recommendation:

If the Acting Director is named permanent director, he must address the situation which places him in direct supervision of a relative.

F. Many Personnel Issues Raised by CIP Staff Have Been Addressed in Previous Audits.

Two CIP Department staff presented a list of 36 complaints to the B&F Committee. The broad nature of the allegations contained in the complaints contributed to the committee's request that this office conduct a special review of the program. We reviewed the complaints by meeting with the employees and examining the documentation they provided. We also compared the allegations to the findings in our previous audit and the six month follow up report.

Findings

1. Our review of the staff complaints found that 12 complaints are true and have been documented in the previous audit and six month follow up review. These 12 complaints focused on the lack of policies and procedures governing projects and inconsistencies in project administration. Another 16 complaints are true but appear to be largely the result of the employees' disagreement with the Acting Director's decisions about how best to manage the department. One complaint—about the lack of staff—is true but the department's ability to address the issue is limited by budget constraints. We could find no proof to support seven of the complaints which ranged in nature from allegations that the Acting Director was hiring friends and relatives to failure to recognize staff productivity.
2. The Community Development Director is conducting an internal investigation on the allegation that a CIP staff member received kickbacks and violated procurement policies. Because this investigation has not been completed, we will not comment on this allegation.

Recommendation

We make no specific recommendations based on our review of the complaints presented to the B&F Committee. Recommendations made elsewhere in this report and in our previous audit will address issues raised by department staff.

Conclusions

The CIP Department lacks the strong leadership needed for meaningful program direction. The department has had an Acting Director for the past six months. This has lead to a destabilizing effect for the department. It is difficult for the current Acting Director to make the necessary changes required and to gain the support of the staff in implementing changes. Either the current acting director should be made director, or another individual should receive this appointment.

Neither the TCDC nor prior Community Development Division Directors have provided effective oversight over CIP operations. CIP staff has a poor performance record in the administering of construction projects and following established CIP and Navajo Nation policy. TCDC and the Community Development Director need to insure that staff adhere to professional standards and only retain staff members exercising a high degree of integrity.

B

**Report to the
Transportation and Community Development Committee**

**A Follow Up Review
to the Special Review of the
Navajo Nation Capital Improvement Office**

:

Audit Report No. 00-29

8/21/00

**Report to the
Transportation and Community Development Committee**

**A Follow Up Review
to the Special Review of the
Navajo Nation Capital Improvement Office**

Audit Report No. 00-29

5/27/00

SUMMARY

The Office of the Auditor General has conducted a post audit follow-up to the special review of the Navajo Nation Capital Improvement Office (CIO) audit report 97-06. The objective of this follow up review was to determine whether the findings reported in the audit report 97-06 have been resolved by implementing the recommendations presented in that audit. Our previous audit identified four findings. This follow-up review shows that the CIO did not take corrective actions to implement the audit recommendations, therefore, the audit findings remain unresolved. Presented below is a summary of the status of the previous audit recommendations presented in the audit report 97-06.

- CIO has yet to strengthen project selection and appropriation procedures. Although the Transportation and Community Development Committee (TCDC) approved an evaluation criteria that CIO is required to use in ranking project proposals, CIO could not provide evidence that the evaluation criteria were used in selecting the 21 projects recommended for funding during fiscal year 2001.
- CIO has yet to verify the availability of match funds pledged for capital improvement projects. CIO continues to select projects that require match funds without obtaining assurance that the match funds are indeed available.
- CIO has not strengthened controls over plumbing and bathroom addition funding. Bathroom addition project funds are depleted before the projects are completed. Subsequently, instead of seeking supplemental funding to complete the bathroom addition construction projects, CIO obtains budget transfers from existing plumbing project funds. Consequently, plumbing project funds are also reduced or depleted resulting in incomplete plumbing projects due to lack of funds.
- The audit recommendation to establish criteria for determining eligibility for a self-help assistance grant is no longer applicable because the Navajo Nation Council has not funded the self-help program since the previous audit in fiscal year 1997.

Overall, the CIO needs to implement the audit recommendations to resolve the audit findings and provide reasonable assurance that it can carry out its purpose and objectives effectively and efficiently. To address the implementation of the audit recommendations, the CIO needs to develop a corrective action plan specifying the process that CIO will undertake to implement each audit recommendation and address the barriers that have prevented the program to implement the recommendations.

In addition to following up on recommendations made in report 97-06, we reviewed the status of previous capital improvement appropriations. The Navajo Nation's audited financial statements for the year ended September 30, 1999 disclosed \$23.5 million carryover balance for non-lapsing general funds appropriated for capital improvements. The large carryover balance demonstrates CIO's ineffectiveness in administering the capital improvement plan. Three factors contributed to the large carryover balance. First, most projects show no activity because construction has not started. Second, projects show little activity because they could not be completed due to budget shortfalls. Third, completed projects still show fund balances and have not been closed out. Given the tremendous needs for infrastructure development within the Navajo reservation, CIO needs to submit a corrective action plan specifying the process that CIO will undertake to address the effective use of carryover balance for capital improvement project funds.

INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a post audit follow-up to the special review of the Navajo Nation Capital Improvement Office (CIO) audit report 97-06, which was issued on May 02, 1997. This follow-up review was conducted pursuant to the plan of operation of the Office of the Auditor General established at 12 Navajo Nation Code §1 et seq.

The CIO is responsible for developing, administering and coordinating the Navajo Nation's capital improvement plan. The CIO is within the Division of Community Development. The Transportation and Community Development Committee (TCDC) of the Navajo Nation Council is the oversight committee to the Division of Community Development. The CIO develops and submits to the TCDC proposed capital improvement projects for funding from the Navajo Nation general funds. TCDC then reviews and approves the capital improvement projects and recommends ^{them} to the Navajo Nation Council for funding.

Objective, Scope and Methodology

The objective of this follow-up review was to determine whether the findings reported in the audit report 97-06 have been resolved by implementing the recommendations presented in that audit. In meeting this objective, we interviewed CIO staff and reviewed program records and files. This follow-up review was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States.

The Auditor General thanks the staff of the CIO for their cooperation and assistance throughout this review.

RESULTS OF OUR EXAMINATION

Our previous audit of the CIO identified four findings. This follow-up review shows that the CIO did not undertake corrective actions to address the audit findings. Our audit recommendations were not implemented resulting in three unresolved audit findings. The other finding pertaining to the deficiencies in CIO's administration of the self-help program is no longer applicable because the Navajo Nation Council has not funded this program since the previous audit.³ Overall, this follow-up review shows no improvement in CIO's operation.

A. Previous Audit Findings Remain Unresolved.

A short summary of the previous audit findings and recommendations is presented below followed by the results of our follow-up review.

1. The CIO needs to strengthen project selection and appropriation procedures.

The CIO is not evaluating proposals. Instead the CIO uses a check off list to rank project proposals. The check off list that the CIO uses to rank project proposals does not evaluate the proposals because it does not determine whether a proposal is more important or needed than other proposals. The check off list simply determines whether the proposals have all the required documentation. By using the check off list to rank the proposals, CIO is selecting projects based on submission of all documentation. This is not an effective process in ranking projects. To resolve this deficiency, we recommended that the CIO develop and implement procedures for selecting and evaluating proposed projects.

Not Implemented. The CIO continues not to evaluate proposals. Although TCDC resolution number TCDCJY-77-99 approved on July 27, 1999 adopted an evaluation criteria that CIO is required to use in reviewing and ranking project proposals, CIO is not using the evaluation criteria. There is no evidence that CIO evaluated the 21 capital improvement projects it proposes to fund from the Navajo Nation general funds for fiscal year 2001. Therefore, we reiterate our previous audit recommendation that the CIO implement procedures for evaluating, ranking and selecting proposed projects.

2. The CIO needs to ensure that matching funds are available for projects as scheduled.

The CIO approved projects that require match funds without first ensuring that the match funds are indeed available. The TCDC resolutions to the Budget and Finance Committee frequently state funds are available to match CIP projects when the matching agency has not approved such funds. Consequently, Navajo Nation funds were appropriated to projects that could not be completed due to the lack of matching funds that were incorrectly shown as available during the funding period. To resolve this, CIO should require project proposals pledging funds to identify the source and availability of those funds and CIO staff should then verify the pledges.

Not Implemented. The CIO continues to recommend to TCDC projects that require match funds without obtaining assurance or verifying that the match funds are indeed available. Review of the 21 capital improvement projects CIO is proposing to fund from the Navajo Nation general funds for fiscal year 2001 shows project sponsors pledge match funds. However, there is no evidence that CIO verified that the pledged funds are indeed available. The lack of assurance that matching fund is available could result in a substantial risk that Navajo Nation funds will be appropriated to projects that could not be completed due to lack of matching funds. Therefore, we reaffirm our previous audit recommendation that the CIO verify the availability of match funds before approving projects.

3. The CIO needs to strengthen controls over plumbing and bathroom addition funding.

Controls over plumbing and bathroom addition funding are weak. Plumbing funds were used to construct bathroom addition projects resulting in plumbing projects not being completed due to lack of funds. To resolve this, we recommended that CIO correctly represent funding requests for plumbing and bathroom addition projects.

Not implemented. Controls remain weak in the plumbing and bathroom addition projects funding. The CIO Acting Director acknowledged that bathroom addition projects continue to run out of funds before completion. Underestimating the construction cost of bathroom addition projects contributed to the projects running out of funds. Rather than seeking supplemental funding to cover the underestimated construction cost of bathroom addition projects, CIO obtains budget transfers from plumbing project budgets to fund bathroom addition projects. Consequently, the budget transfers result in underfunded plumbing projects. We reiterate our previous audit recommendation for CIO to represent funding requests for bathroom addition projects correctly. CIO should ensure that a realistic budget is developed for bathroom addition projects and refrain from transferring funds from other projects to fund budget shortfalls.

4. Stronger controls are needed for the self-help assistance program.

The self-help assistance program lacks policies and procedures for evaluating and awarding grants. As a result, concerns were raised whether the assistance grants were properly awarded without favoritism. To resolve this, we recommended establishing criteria for determining eligibility for self-help assistance grants and developing procedures in evaluating and documenting requests for assistance.

No longer applicable due to the abolishment of the self-help program. The Navajo Nation Council has not funded the self-help program since fiscal year 1997.

Large Carryover Balance Demonstrates Ineffective Use of Capital Improvement Funds.

In addition to following up on recommendations made in report 97-06, we also reviewed the status of previous capital improvement appropriations. The Navajo Nation has substantial funds appropriated to capital improvement projects that are not being used effectively. The Nation's audited financial statements for fiscal year 1999 showed a capital improvement project carryover balance of \$23.5 million. Unaudited estimates indicate that the carryover balance will be approximately \$20 million for fiscal year 2000. The carryover balance represents funds that are not being used to meet the infrastructure needs of the Navajo Nation in a timely manner.

To ascertain the status of the projects that make up the carryover balance, we reviewed the project listing in the fiscal 1999 audited financial statements with the CIO staff. However, CIO lacks readily accessible information on project status. CIO staff offered three reasons that contribute to the capital improvement balance:

- Projects are not ready for construction.
- Projects are not fully funded.
- Completed projects are not closed out.

Although CIO staff offered reasons for the capital improvement large carryover balance, they were unable to provide any further detail why the Nation has such a large balance of unused capital improvement funds. Our review of a judgmental sample of project balances, some dating back to 1991, shows that 69 percent of the projects have incurred no expenditures whatsoever. Another 24 percent have expended less than 50 percent of their appropriations. The CIO's inability to provide any information as to why no activity or so little activity has occurred shows the program's ineffectiveness in administering the capital improvement plan. Given the tremendous need for infrastructure development within the Navajo Nation, such information is critical for using the \$20 million now available for capital improvement projects.

Accurate, reliable project status information is essential if the Navajo Nation is to begin using its capital improvement funds effectively. CIO staff represented that they are currently reviewing projects to determine their status, including a determination of construction readiness, adequacy of project funding, and close out status for completed projects.

CONCLUSION

Our follow up review shows that the CIO did not make any progress in resolving the findings reported in our previous audit. The CIO needs to implement the audit recommendations to resolve the audit findings and provide reasonable assurance that it can carry out its purpose and objectives effectively and efficiently. Therefore, the CIO needs to develop a corrective action plan that will address the implementation of the audit recommendations and the barriers that have prevented CIO from implementing the recommendations. In addition, the CIO needs to develop a corrective action plan that will address the effective use of the \$20 million carryover balance in non-lapsing general funds appropriated for capital improvements.

RECOMMENDATION

1. The CIO should implement all audit recommendations. To address the implementation of the audit recommendations, CIO needs to develop a corrective action plan specifying the process that CIO will undertake.

2. The CIO should develop a corrective action plan specifying the process that CIO will undertake to manage the \$20 million carryover balance for capital improvement projects effectively. –

- A. Projects not ready for construction

CIO should specify the process that it will undertake to address the effective use of capital projects funds appropriated to projects that are not ready for construction. The CIO should seek legal advice in addressing the reallocation of general funds appropriated to capital improvement projects that are not ready for construction.

- B. Projects not fully funded

CIO should specify the process that it will undertake to complete projects that are not fully funded. Generally, governmental units seek additional grants or other financing sources to complete the construction of underfunded capital improvement projects. Therefore, CIO should seek supplemental funding to finance the completion of incomplete projects.

- C. Completed projects not closed out

CIO should specify the process that it will undertake to close out all completed capital improvement projects. Generally, governmental units close out the capital projects fund when the project is completed and any fund balance remaining is returned to the source of the capital projects fund. Therefore, CIO must submit the certificate of project completion for all the completed capital improvement projects to close the capital project account.



KELSEY A. BEGAYE
PRESIDENT

TAYLOR MCKENZIE, M.D.
VICE PRESIDENT

DCDA-M01198

THE NAVAJO NATION


DIVISION OF COMMUNITY DEVELOPMENT

POST OFFICE BOX 1896 WINDOW ROCK, AZ 86515
TEL: (928) 871-6810/6442 FAX: (928) 871-7090

STANLEY YAZZIE
ACTING DIVISION DIRECTOR

MEMORANDUM

TO : Elsie Benally, Auditor General
Office of the Auditor General

FROM : 
Stanley Yazzie, Acting Division Director
Division of Community Development

DATE : June 27, 2001

SUBJECT : **Corrective Actions to Audit Findings – Capital Improvement Office**

Transmitted herewith for your review and acceptance is the Corrective Actions to the Capital Improvement Office audit findings.

Should you have any questions, please contact my office.

C.



A) PREVIOUS AUDIT FINDINGS REMAIN UNRESOLVED:

1. The Capital Improvement Office Needs to Strengthen Project Selections and Appropriation Procedures

<u>STEPS:</u>	<u>RESPONSIBLE PERSON(S):</u>	<u>TIMELINE</u>
a. Provide CIO Policies & Procedures to Chapters/Programs for documenting Need Assessment from the Chapters and Tribal Programs.	Compliance Ofcr.	On-going
b. Tracking and confirming receipt of policies and notices to recipients.	Compliance Ofcr.	On-going
c. Sending Advance Notice of Annual CIO Proposal Submission Deadline - Quarterly Notice	Dept. Director	March 30, 2001 June 30 Sept. 30 Dec. 30
d. Submission proposal based on March 31, 2001 deadline for FY 2002. March 01st of each year thereafter.	Chapters/Programs	March 30
e. Log-in all CIP Proposals submitted to CIO	Secretary II	On-going
f. Use Check-off list to insure that proposals have complete documentation	Compliance Ofcr.	On-going
g. Send back Proposals with incomplete documentation and deadline to resubmit	..	
h. Send notice to Multi - Disciplinary Committee by mid March of each year.	Compliance Ofcr.	March 15
i. Notice to Applicants that met deadline or not	Dept. Director	April 06
j. Convene Multi Disciplinary Committee by first Monday in April 2001.	Dept. Director	April 02

k.	Conduct Orientations with Multi-Disciplinary Committee utilizing TCDC Approved Policies & Procedures	Compliance Ofcr.	April 02
l.	Conduct CIP Proposal Review/Ranking using the established evaluation criteria approval by TCDC.	Ad-Hoc Committee	April 02-06, 2001
m.	Summarize Results of CIP Proposal Evaluation	Compliance Ofcr	April 13, 2001
n.	Develop Navajo Nation FY2002 CIP Plan and Capital Budget ordered list of scores from highest to lowest ranking.	Dept. Director	April 13, 2001
o.	Present Navajo Nation FY2002 CIP Plan and Capital Budget to TCDC	Dept. Director	April 20, 2001

2. The CIO Needs to Ensure that Matching Funds are Available for Projects as Scheduled

<u>STEPS:</u>	<u>RESPONSIBLE PERSON(S)</u>	<u>TIMELINE</u>
a. Review Project Proposals and Identify Match Funds Pledged Or Cited by Applicant(s). Include in preliminary check off list	Compliance Ofcr.	On-going
b. Request for Documented Evidence of Match Funds Pledged or cited by Applicant(s)	Dept. Director/ Compliance Ofcr.	On-going
c. Attach Documented Evidence of Match Funds Pledged or Committed by Funding Agency(s) during the Ranking Process	Compliance Ofcr.	April 02-06, 2001 thereafter the 3 rd week of March of each year.
d. Confirm Match Funds Pledged or Committed by Funding Agency(s) for Projects recommended in the Fiscal Year Capital Budget.	Compliance Ofcr.	Before TCDC Presentation

3). The CIO Needs to Strengthen Controls over Plumbing and Bathroom Addition Funding:

<u>STEPS:</u>	<u>RESPONSIBLE PERSON(S)</u>	<u>TIMELINE</u>
a. Develop Project Plan and Construction Schedule forms and specifications at the at the on-set of projects.	Project Manager(s) Compliance Officer	10 days after the Budget and or Contract is approved

b.	Conduct Pre-Construction meeting(s) to identify scope of work and responsibilities of CIO & Project Sponsors. Emphasize, illustrate Project Implementation and Tracking Process at time of Pre-Const. meeting.	Project Managers/ Const. Supvr. IIs	30 days after contract is approved
c.	Provide monthly updates on construction schedules to Project Sponsor(s)	Project Manager	Monthly
d.	Provide monthly expenditure and Financial Status report to Project Sponsor(s) To ensure plumbing funds are not use for Bathroom Addition project.	Admin. Assistant Dept. Director	Monthly
e.	Develop transition plan to decentralize project management functions to the Agency level.	Dept. Director	On-going.
f.	Develop a Project Reference guide Manual for all Chapters.	Project Manager(s) Construction Supvr. II(s)	End of FY2001

B). LARGE CARRYOVER BALANCE DEMONSTRATES INEFFECTIVE USE OF CAPITAL IMPROVEMENT FUNDS.

In Response To Concerns By All Affected Parties, the Capital Improvement Office will Implement the Following Actions to Address the Carryover of CIP Funds, Incomplete or Underfunded Projects, and Performing Efficient Project Management.

STEPS:		RESPONSIBLE PERSON(S):	TIME LINE:
1.	Analyze all Out Standing Projects (FY2000 \$ 20 Million Carryover)	Div. Accountant/AA	April 30, 2001
2.	Develop a Monthly Expenditure Report identifying Percentage of expenditures against budget to date.	Div. Accountant/AA	Monthly
3.	Based on the expenditure and performance reports, then, plan and prioritize existing projects for completion based on as follows:	Project Manager(s)/ Const. Supvr. II(s) Const. Supvr. II(s)	April 03, 2001 " "
a.	Completed Projects Not Closed Out.		
	<u>Procedures to Close Out Completed Projects</u>		
i.	Issue Final Report from CIO or Contractor to Project Sponsor	Project Manager(s)/	On-going
ii.	List the Clients served, Construction timeframe and funds utilized for each project	Const. Supvr. II (s)/	

iii. Issue Certificate of Substantial Completion	“	Projects will Close
iv. Document Final Inspection(s)	“	Out 30 Days After
v. Record Final Payment (if required)	“	Completion
vi. Provide Expenditure Summary Report	Admin. Asst.	
vii. Provide Payroll Summary Report	Admin. Asst.	
viii. Closeout Letter to Project Sponsor and Financial Services	Dept. Director	
ix. File Certificate of Occupancy (for public facilities)	PM/CSII/Contractor	
x. Record Property Insurance Coverage	Project Sponsor	
b. Projects Not Fully Funded		
i. Identify and Analyze the % of completion	Dept. Director	By End of FY2001
ii. Determine Cost to Complete Project	Project Sponsor	By End of FY2001
iii. Apply for Supplemental funding (external and internal)	Dept. Director	On-going
c. Projects Not Ready for Construction		
i. Develop a standard form letter for non-activity notice	Admin. Asst.	March 30, 2001
ii. Send a 60-day First Notice of Compliance Deadline and set up a meeting with Project Sponsors through the Local Governance Support Centers. Distribute Notice to include the following:	Dept. Director	May 2001
a) letter to inform Project Sponsors		
b) account will be closed and funds will revert to Tribal General Fund		
c) status of project and funding balance(s)		
d) plan of implementation		
e) reassessment (if needed)		
f) corrective action plan(s)		
g) contact person(s)	..	
iii. Send a 60-day Second Notice to remind Project Sponsor of Non-Compliance for Deadline	Dept. Director	June 2001
iv. Send a 30-day Notice with a deadline date when the Account will close	Dept. Director	July 2001
v. Seek Legal Advice on Close Out Process	Dept. Director	April 2001

- | | | | |
|----|---|---|------------------|
| 4. | Set up files for each project/account. Documents to be included | Admin. Assistant/
Secretary II | April 30, 2001 |
| | <ul style="list-style-type: none"> a. FRS Reports b. Copies of Budget Transfer(s) c. Authorized Expenditure Signature Form d. Spreadsheets of Project/Account History e. Approving Resolution f. Contracts/MOAs/JPA's/SAS Documents g. Chrono file documents to include: <ul style="list-style-type: none"> i. Request for Direct Payments ii. Purchase Requisitions iii. Purchase Orders iv. Personnel Action Forms v. Time Sheets vi. Receiving Records vii. Project Status/Monitoring Reports viii. Project Schedule(s) ix. Correspondence x. Request for Budget Transfers | | |
| 5. | Provide Notice to Project Sponsors, Vendors, Contractors and Other Appropriate Parties that Accounts Have Been Outstanding for More than Two Years | Dept. Director/
Admin. Asst. | May 2001 |
| 6. | Develop a Standardized and Automated Project Tracking System | Dept. Director
Project Manager/
Const. Supervisor II/
Compliance Officer | By End of FY2001 |
| 7. | The Navajo Nation Capital Improvement Office to plan for reorganizing the current operating procedures for managing current and future Capital Infrastructure Projects. | ••
Dept. Director | By End of FY2001 |

**RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL**

**Accepting the Twelve-Month Follow Up Report and Approving the
Recommendation by the Office of the Auditor General to Impose
Sanctions Against the Capital Improvement Office, the Capital
Improvement Office Program Director and the Division of Community
Development Executive Director**

WHEREAS:

1. Pursuant to 12 N.N.C. §7(H), the Budget and Finance Committee of the Navajo Nation Council is authorized to accept reports submitted by the Office of the Auditor General on the corrective action plan implementation progress of audited Navajo Nation programs or chapters; and
2. The Budget and Finance Committee of the Navajo Nation Council passed resolution BFS-97-01, accepting and approving the post audit follow up review report of the Capital Improvement Office submitted by the Office of the Auditor General and the corrective action plan submitted by the Capital Improvement Office on September 04, 2001, attached hereto and incorporated herein as Exhibit "A"; and
3. 12 N.N.C. §8 imposes upon the Capital Improvement Office a duty to implement the corrective action plan according to the terms of the plan; and
4. 12 N.N.C. §7(F) directs the Capital Improvement Office to submit a written report on the status of all audit recommendations six months after the submission of the corrective action plan; and
5. The Capital Improvement Office did not submit a status report to the Office of Auditor General; and
6. 12 N.N.C. §7(G) and Budget and Finance Committee Resolution BFS-97-01 direct the Office of the Auditor General to conduct a twelve-month follow up review on the status of the Capital Improvement Office corrective action plan; and
7. The Office of the Auditor General conducted a twelve-month follow up review of the Capital Improvement Office in implementing its corrective action plan and issued a report and recommended actions to be taken by the Budget and Finance Committee on June 23, 2003, attached hereto and incorporated herein as Exhibit "B"; and

8. 12 N.N.C. §7(G) and Budget and Finance Committee Resolution BFS-97-01 further direct the Office of the Auditor General to present the report and recommended actions to the Transportation and Community Development Committee; and

9. The Office of the Auditor General presented the report and recommended action to the Transportation and Community Development Committee on July 01, 2003; and

10. The Transportation and Community Development Committee received the report of the Auditor General and made a recommendation to the Budget and Finance Committee, attached hereto and incorporated herein as Exhibit "C"; and

11. 12 N.N.C. §9 provides sanctions for failure by the Capital Improvement Office to implement the corrective action plan; and

12. 12 N.N.C. §9(B) provides that as a sanction for failure to implement the corrective action plan, the Controller shall cause 10% of monies payable from any Governmental Fund of the Navajo Nation as defined at 12.N.N.C. section 810(R) to be withheld after the recommended sanction is approved by the Budget and Finance Committee and issued to the program until such time as the program demonstrates to the Auditor General that the corrective action plan has been implemented. Once proof of implementation of the corrective action plan has been demonstrated, the Auditor General shall immediately report this compliance to the Controller who shall then release all withheld funds to the program; and

13. 12 N.N.C. §9(C) provides that in addition, the director of any program, divisions, or entity of the Navajo Nation which fails to implement the corrective action plan, as reported by the Auditor General, shall have 20% of their salary withheld by the Controller after the recommended sanction is approved by the Budget and Finance Committee until such time as the program which is subject to his or her direction demonstrates to the Auditor General that the corrective action plan has been implemented. Once proof of implementation of the corrective action plan has been demonstrated, the Auditor General shall immediately report this compliance to the Controller who shall then release the withheld salary to the director of the program; and

14. 12 N.N.C. §9(D) provides that any director whose salary or other payments are withheld pursuant to section 9(C) shall have the right to have the withholding reviewed by the Navajo Nation Office of the Hearings and Appeals. Review shall be limited to a determination of whether the audit recommendation or corrective action plan bears a rational relationship to the audit report, was approved by the Budget and Finance Committee, whether the corrective action plan was

implemented within established time tables and whether the time tables for implementation were reasonable. The withholding of salary shall be upheld if there is a preponderance of evidence in support of these factors. The decision of the Office of Hearings and Appeals shall be final and no appeal shall lie to the courts of the Navajo Nation; and

15. The Office of the Auditor General recommends that sanctions be imposed against the Capital Improvement Office and the Capital Improvement Office Director pursuant to 12 N.N.C. §9(B) and 9(C) for non-implementation of the program's corrective action plan; and

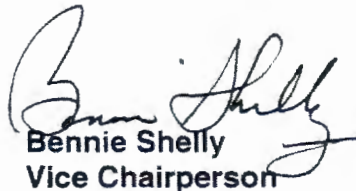
16. The Budget and Finance Committee believes that it is necessary not only to sanction the Capital Improvement Office and the Capital Improvement Office Director, to also sanction the Executive Director of the Division of Community Development.

NOW THEREFORE BE IT RESOLVED THAT:

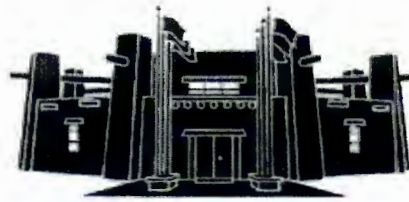
The Budget and Finance Committee of the Navajo Nation Council hereby accepts and approves the recommendation by the Office of the Auditor General to impose sanctions against the Capital Improvement Office, the Capital Improvement Office Program Director and the Executive Director for the Division of Community Development pursuant to 12 N.N.C. §9 (B), (C) and (D), Sanctions for Failure to Implement Plan.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 7 in favor, 0 opposed and 0 abstained this 09th day of September, 2003.


Bennie Shelly
Vice Chairperson

Motion : Richard T. Begaye
Second: Danny Simpson



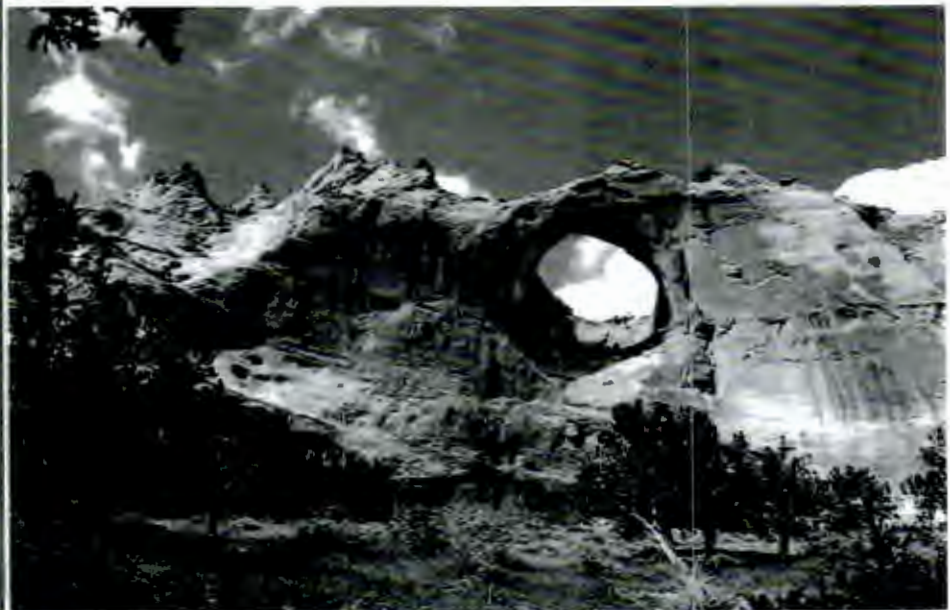
OFFICE OF THE AUDITOR GENERAL

The Navajo Nation

**A 4th Follow-Up Review
of the
Capital Improvement Office
Corrective Action Plan Implementation**

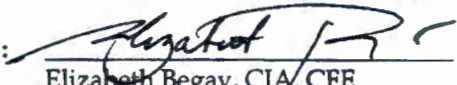
**Report No. 14-14
June 2014**

Performed by:
Alfreda Lee, Senior Auditor
Stacy Manuelito, Associate
Auditor



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

TO : Casey Begay, Department Manager
CAPITAL IMPROVEMENT OFFICE

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

DATE : June 30, 2014

SUBJECT : 4th Follow-up Review of the Capital Improvement Office Corrective Action Plan Implementation

The Office of the Auditor General herewith transmits Audit Report No. 14-14, a 4th Follow-up review of the Capital Improvement Office Corrective Action Plan (CAP) Implementation. Our office conducted this review to determine whether the Capital Improvement Office implemented its CAP to address prior audit findings.

Review Results

Finding	Status of CAP
The Capital Improvement Office needs to strengthen project selections and appropriation procedures.	Not Implemented
The Capital Improvement Office needs to ensure that matching funds are available for projects as scheduled.	Not Implemented
Large carryover balance demonstrates ineffective use of capital improvement funds.	Not Implemented

If you have any questions about this report, please contact our office at (928) 871-6303.

xc: Leonard Chee, Division Director
DIVISION OF COMMUNITY DEVELOPMENT
Katherine Benally, Chairperson
RESOURCES AND DEVELOPMENT COMMITTEE
Chrono

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INTRODUCTION AND BACKGROUND

The Navajo Nation Council approved a Condition of Appropriation for the Capital Improvement Office (CIO) on September 10, 2013 per resolution number CS-47-13 to request a corrective action plan (CAP) follow-up review. CIO affirmed the corrective actions were implemented, therefore the Office of the Auditor General (OAG) conducted a 4th follow-up review of the CAP implementation status.

The corrective action plan was approved by the Budget and Finance Committee on September 04, 2001 per resolution number BFS-97-01. In accordance with 12 N.N.C. Section 7(G), OAG conducted a twelve month follow-up review and presented the results of this review on June 23, 2003. The follow-up review concluded that CIO did not fully implement its CAP. Consequently, the audit findings remain unresolved. In the absence of significant improvement, OAG made a recommendation to sanction CIO in accordance with 12 N.N.C. Sections 9(B) and 9(C). Accordingly, the Budget and Finance Committee approved the Auditor General's recommendation to sanction CIO on September 09, 2003 per resolution number BFS-141-03.

In 2005, CIO requested a supplemental follow up review and OAG issued a report on January 19, 2005. Further, in 2008, CIO requested another supplemental follow up review and OAG issued a report on August 20, 2008. Both supplemental reviews found CIO did not make sufficient improvements in fully implementing its corrective action plan. Consequently, the sanction imposed against the program and its manager was not lifted.

The sanction against the CIO involved the following:

1. *10% withholding of General Funds appropriated to the program*
2. *20% withholding of the CIO manager's annual salary*

The Office of the Controller will withhold these funds until CIO demonstrates to OAG that it has fully implemented its CAP pursuant to Title 12 N.N.C. §9.

Objective, Scope and Methodology

The objective of this 4th follow-up review was to determine whether CIO implemented its CAP. The scope of this review are the activities within the Capital Improvement Plan (CIP) process that resulted in the approval of a CIP in April 2014. In meeting our objective, we interviewed program staff, examined available documentation and tested a sample of proposals for required documentation and compliance with established policies and procedures. The sample was selected using non-statistical, judgmental sampling methods.

The Auditor General and staff express appreciation to the Capital Improvement Office for their cooperation and assistance throughout this review.

Review Results

CIO did not implement its CAP. The 4th follow-up review revealed the following:

AUDIT FINDING:

The Capital Improvement Office needs to strengthen project selections and appropriation procedures.

CORRECTIVE ACTIONS:

- Provide CIO policies and procedures to Chapters/Programs for documenting need assessment. Track and confirm receipt of policies and notices to recipients.
- Send advance notice of annual CIO proposal submission deadline of March 1st of each year.
- Use the check list to ensure that proposals have complete documentation. Return incomplete proposals to applicants and deadline to resubmit.
- Send notice to multi-disciplinary committee and convene committee by first Monday in April of each year.
- Conduct orientation with multi-disciplinary committee utilizing Resources and Development Committee (RDC) approved policies and procedures.
- Conduct capital improvement plan proposal review/ranking using the established evaluation criteria approved by RDC by April of each year.
- Summarize results of capital improvement plan proposal evaluation by April of each year.
- Develop the Navajo Nation capital improvement plan and capital budget with a list of scores from highest to lowest ranking.
- Present the Navajo Nation capital improvement plan and capital budget to RDC.

REVIEW RESULTS:

CIO did not implement the corrective actions. CIO presented a \$296 million Capital Improvement Plan (CIP) to the Navajo Nation Council (NNC) to fund 132 projects which was approved April 22, 2014 via resolution number CAP-18-14. The CIP was approved by the Navajo Nation President on April 30, 2014.

CIO did not implement the corrective actions to ensure projects were selected in accordance with the project selection process. Our review found the following:

- CIO did not provide policies and procedures to Chapters/Programs as well as advance notices for proposal deadline.
- CIO did not consistently use a check list to ensure proposals have complete documentation. Rather, CIO accepted all proposals with a minimum requirement of cover sheet, proposal, and resolution. However, 20 projects included on the CIP for approximately \$85 million did not have proposals and were not reviewed by the multi-disciplinary ad-hoc committee. These projects represent 29% of the \$296 million CIP. The Department Manager stated these projects were included directly by the NNC during the Spring Session approving the CIP.
- Over a five day period, seven multi-disciplinary ad-hoc committee members met, reviewed and ranked at least 112 proposals. We found that one out of seven members did not attend the first day when the orientation is so crucial in how to review and rank the proposals. An interview with one member revealed that the first day's orientation was confusing. On the second day, when the Department Manager did another orientation, the review and ranking of

proposals became clearer. Over the course of five days, only one member was in attendance every day. The other six members were absent at least a third of the time.

- At the end of the ranking period, a summary report was not prepared by the multi-disciplinary ad-hoc committee for the proposals they rated, therefore it is unknown how many proposals the committee actually ranked.
- Although a CIP was approved by the NNC and President, there was no capital budget that was included with the plan. Per CIO, a capital budget will be presented in the 2015 appropriation process based on the CIP. This capital budget will include options on how to fund the CIP.

A CIP was approved for the Navajo Nation, however CIO did not comply with the established CIP process in developing the plan. Despite the NNC's direct action to approve 20 projects contrary to the CIP process, CIO was still responsible for carrying out the CIP process to ensure informed decisions are made about capital projects and resource allocation. Therefore, there still remains the risk the CIP includes ill-planned projects due to lack of pertinent documentation and unclear ranking of proposals. Consequently, such projects will likely encounter funding shortfalls and project delays.

AUDIT FINDING:

CIO Needs to ensure that Matching Funds are Available for Projects as Scheduled.

CORRECTIVE ACTIONS:

- Identify matching funds pledged or cited by applicants in their proposals and include them in the preliminary check off list.
- Request for documented evidence of matching funds pledged or cited by applicants.
- Confirm the matching funds pledged or committed by funding agency.

REVIEW RESULTS:

CIO did not implement the corrective actions. CIO did not verify match funds are available as represented by project sponsors. Our review of 11 proposals that cited matching funds found five proposals did not have evidence of matching. Nevertheless, the proposals were awarded higher points for matching fund but may not be reliable due to lack of documentation. Overall, CIO did not ensure that matching funds had adequate verification documents prior to being ranked. The CIO continues to put the Navajo Nation at risk of approving capital projects with matching funds that may not materialize and end up with funding shortfalls.

AUDIT FINDING:

Large Carryover Balance Demonstrates Ineffective Use of Capital Improvement Funds.

CORRECTIVE ACTIONS:

- Develop a monthly expenditure report identifying percentage of expenditures against budget.
- Based on the expenditure and performance reports, plan and prioritize existing projects for completion as follows:
 1. Construction completed projects not closed out.
 2. Projects not fully funded.
 3. Projects not ready for construction.
 4. Set up files for each project

5. Develop a standardized and automated project tracking system.
6. Provide notice to project sponsors, vendors, contractors and other appropriate parties of construction completed projects that accounts have been outstanding for more than two years.
7. Reorganize CIO's operating procedures for efficient management of capital projects.

REVIEW RESULTS:

CIO did not implement the corrective actions. The unexpended balance as of May 31, 2014 is \$13.1 million. The CIO provided two lists of projects funded from the following: the Navajo Nation General Fund and the State of New Mexico. The financial status for projects on these lists reconcile to the Navajo Nation Financial Management Information System.

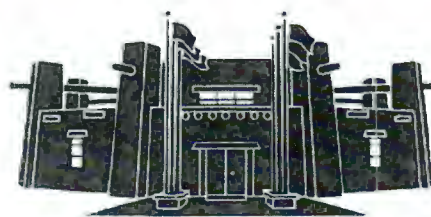
However, CIO project reports do not adequately disclose the project completion status. Project owners, such as Design and Engineering, have completion status reports available. However, CIO does not provide this information on its project reports. CIO currently monitors 184 projects but without completion status on its reports, CIO cannot readily disclose the status of projects and effectively track the capital projects.

CONCLUSION

Although the Navajo Nation approved a Capital Improvement Plan of approximately \$300 million for 132 projects, the plan is potentially comprised of ill-planned projects and poorly ranked projects because CIO and Navajo Nation Council did not consistently follow the CIP process defined within the Navajo Nation Appropriations Act. This plan poses the following risks:

- Funding shortfalls
- Project delays
- Unused capital improvement funds
- Priorities of the Navajo Nation may go unmet

Overall, the corrective action plan approved by the Budget and Finance Committee in September 2001 has not been implemented. Consequently the sanctions currently being imposed against the program and its manager cannot be lifted. In accordance with 12 N.N.C. § 9(B) and (C), program funds and manager salary will continue to be withheld until such time that the CIO has demonstrated that the corrective action plan has been implemented.



OFFICE OF THE AUDITOR GENERAL

The Navajo Nation

A Fifth Follow-up Review
of the
Capital Improvement Office/
Division of Community Development
Corrective Action Plan
Implementation

Report No. 17-10
December 2016

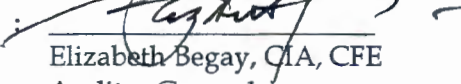
Performed by:
Jeanine Jones, Senior Auditor
Diana DeChilly, Auditor



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

TO : Carl Smith, Division Director
Casey Begay, Department Manager II
DIVISION OF COMMUNITY DEVELOPMENT

: Sherylene Yazzie, Department Manager III
CAPITAL PROJECTS MANAGEMENT DEPARTMENT

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

DATE : December 21, 2016

SUBJECT : Fifth Follow-up Review of the Capital Improvement Office/Division of Community Development Corrective Action Plan Implementation

The Office of the Auditor General herewith transmits Audit Report no. 17-10, a Fifth Follow-Up Review of the Capital Improvement Office/Division of Community Development Corrective Action Plan Implementation. The objective for this fifth follow-up review was to determine whether the Capital Improvement Office/Division of Community Development fully implemented their corrective action plan.

Follow-up Results

Finding	Status of CAP
The Capital Improvement Office needs to strengthen project selections and appropriation procedures.	Not Implemented
The Capital Improvement Office needs to ensure that matching funds are available for projects as scheduled.	Not Implemented
Large carryover balance demonstrates ineffective use of capital improvement funds.	Not Implemented

Conclusion

The Capital Improvement Office/Division of Community Development did not fully implement their corrective action plan. As a result, the audit findings listed above remain unresolved. Accordingly, the current sanction imposed on the Capital Improvement Office and the Department Manager cannot be lifted in accordance with 12 N.N.C., Section 9(c).

xc: Arbin Mitchell, Chief of Staff
OFFICE OF THE PRESIDENT/VICE PRESIDENT
Chrono

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INTRODUCTION AND BACKGROUND

This report summarizes the results of our fifth review to determine whether the Capital Improvement Office has implemented a corrective action plan that was developed in 2001. Audit report no. 00-29 and the resulting corrective action plan developed by the Capital Improvement Office were approved by the Budget and Finance Committee on September 4, 2001.

The first follow-up review report released in June 2003 concluded that the Capital Improvement Office failed to implement their corrective action plan. The following sanctions were imposed at that time:

1. 10% withholding of General Funds appropriated to the program
2. 20% withholding of the Capital Improvement Office manager's annual salary.

In 2005 a second follow-up review was conducted by the Office of the Auditor General. A third follow-up review was conducted in 2008, and a fourth follow-up review was conducted in 2014. Each follow-up review concluded that the Capital Improvement Office failed to fully implement their corrective action plan. Consequently, the sanctions imposed against the program and its manager were not lifted.

The Office of the Controller will withhold these funds until the Capital Improvement Office fully implements its corrective action plan pursuant to Title 12 N.N.C. §9.

Objective, Scope and Methodology

The objective of this fifth follow-up review was to determine whether the Capital Improvement Office has fully implemented their corrective action plan.

To meet the review objective, we performed the following procedures:

- Interviewed the program staff and identified 270 capital improvement projects.
- Reviewed Capital Improvement Office policies, procedures, standard forms, reports and other applicable records relevant to our follow-up review objectives.
- Identified 132 out of 270 projects as capital improvement projects that were approved by the Navajo Nation Council in April 2014 totaling \$296 million. Capital Improvement Plan projects consisted of non-matching and matching funded projects. From the population of 132 projects, we isolated the following project types and pulled and tested a sample of documentation from each as follows:
 - Isolated 89 non-matching funded projects from the 132-project list and selected a sample of 20 projects to verify if proposals have completed documentation and if incomplete proposals were returned to applicants.
 - Isolated 43 matching funded projects from the 132-project list and selected a sample of 20 to verify documented evidence of matching funds pledged or cited by applicants.
- Identified 138 out of 270 projects as on-going projects funded by Navajo Nation General Fund going back to 1995 with a cumulative total of \$39 million. These on-going projects

consisted of construction that was completed, but not closed; projects that were not fully funded; and projects that were not ready for construction. From the population of 138 projects, we isolated the following project types and pulled and tested a sample of documentation from each as follows:

- Isolated 58 completed construction projects which were not closed from the 138-project list and selected a sample of 20 projects to verify that the required documentation confirmed that the projects have been completed based on the expenditure and performance reports.
- Isolated 52 projects which were not fully funded from the 138-project list and selected a sample of 20 projects to verify required documentation and to confirm that the project had been planned and prioritized for completion based on the expenditure and performance reports.
- Isolated 28 projects which were not ready for construction from the 138-project list and selected a sample of 20 projects to verify required documentation and confirm that the project had been planned and prioritized for completion based on the expenditure and performance reports.

Audit samples were selected using non-statistical and judgmental sampling methods.

The Auditor General and staff express appreciation to the Capital Improvement Office for their cooperation and assistance throughout this review.

Review Results

The Capital Improvement Office (CIO) did not implement its Corrective Action Plan. The fifth follow-up review revealed the following outstanding findings:

AUDIT FINDING I: CIO needs to strengthen project selection and appropriation procedures.

CORRECTIVE ACTION	STATUS OF CORRECTIVE ACTION
1. Use the checklist to ensure that proposals have completed documentation. Return incomplete proposals to applicants with a deadline to resubmit.	46 (or 35%) projects examined from the 132-project list had incomplete documentation. Of the 46 projects, CIO directly contacted the 27 Chapters/Programs to submit documentation but they did not cooperate. The high percentage of projects examined that had incomplete documentation indicates that the \$296 million Capital Improvement Plan is potentially comprised of ill-planned projects and poorly ranked projects.
2. Provide CIO policies and procedures to Chapters/Programs for documenting need assessment. Track and confirm receipt of policies and notices to recipients. 3. Send advance notice of annual CIO proposal submission deadline of March 1st each year. 4. Send notice to multi-disciplinary committee and convene committee by 1st Monday in April of each year. 5. Conduct orientation with multi-disciplinary committee utilizing approved policies and procedures. 6. Conduct Capital Improvement Plan proposal review/ranking using the established and approved evaluation criteria by April of each year. 7. Summarize results of Capital Improvement Plan proposal evaluation by April of each year. 8. Develop the Navajo Nation capital improvement plan and capital budget with a list of scores from highest to lowest ranking.	There was no project selection since 2014. Therefore, these corrective actions were not implemented by CIO and excluded from the fifth follow-up review.
Audit issue resolved: No	

AUDIT FINDING II: CIO Needs to ensure that matching funds are available for projects as scheduled.

CORRECTIVE ACTION	STATUS OF CORRECTIVE ACTION
1. Identify matching funds pledged or cited by applicants in their proposals.	43 projects from the 132-project list had matching funds. Of this amount, 15 projects examined under-reported \$2.2 million in matching funds and 5 projects examined over-reported \$873,656 in matching funds. CIO did not accurately report the matching funds. As a result, projects that had matching funds were inaccurately evaluated and prioritized.
2. Request evidence of matching funds pledged or cited by applicants.	Based on 20 projects that we sampled and tested, the matching funds for 5 projects were not supported by documentation. Without documentation, projects are not accurately evaluated.
3. Confirm the matching funds pledged or committed by funding agency.	
Audit issue resolved: No	

AUDIT FINDING III: Large carryover balance demonstrates ineffective use of capital improvement funds.

CORRECTIVE ACTION	STATUS OF CORRECTIVE ACTION
1. Analyze all outstanding projects compromising the large carryover of unexpended capital improvement fund.	IMPLEMENTED
2. Develop a monthly expenditure report identifying percentage of expenditures against budget.	IMPLEMENTED
3. Based on the expenditure and performance reports, plan and prioritize existing projects for completion as follows:	Missing or incomplete documentation shows that CIO is not effectively monitoring the \$39 million on-going capital improvement projects. Without documentation, analyzing projects accurately is impractical and it is impossible to gauge percentage of completion to plan and prioritize existing projects for completion.
a. Construction completed projects, not closed out	19 out of 20 completed construction projects that we sampled and tested have missing or incomplete documentation, thus the projects were not closed. The Navajo Nation accounting system shows \$4 million capital improvement funds have accumulated since 2003 and remain unspent that CIO can reallocate to other capital improvements projects.

b. Projects not fully funded	20 out of 20 projects that we sampled and tested which were not fully funded have missing or incomplete documentation. As a consequence, projects are delayed from completion because CIO did not have complete information on funding shortfall.
c. Projects not ready for construction	20 out of 20 projects that we sampled and tested which were not ready for construction have missing or incomplete documentation. As a consequence, \$5.5 million allocated for these projects remain unspent. Some projects were funded since 1995.
d. Set up files for each project	The filing system was in disarray. Several projects did not have files set up and/or multiple files were set up for the same projects, and there were loose documents in the files. As a result, it is difficult to determine the status of the on-going projects.
e. Develop a standardized and automated project tracking system	The project tracking system is neither standardized nor automated. This results in questionable data on the Ongoing Project Status Report regarding the "percentage of construction" for each project.
f. Provide notice to project sponsors, vendors, contractors and other appropriate parties of construction completed projects, that their accounts have been outstanding for more than two years	Of the 20 on-going projects that we sampled and tested, first or second notices regarding outstanding accounts and non-expenditure of funds on 20 projects were not sent out to the Chapters/Programs. As a result, the Chapters/Programs were not aware that capital improvement funds that were allocated to them remain unspent.
g. Reorganize CIO's operating procedures for efficient management of capital projects.	Although CIO was merged with other departments within the DCD, the efficient management of capital projects could not be determined implemented because the amendments to the DCD plan of operation was recently approved by RDC on Oct. 25, 2016 via RDCO-77-16 and the new manager was just hired on November 21, 2016.
Audit issue resolved: No	

CONCLUSION

The 132 projects listed in the Capital Improvement Plan that was approved by the Navajo Nation Council in 2014 are comprised of ill-planned projects since required documentation was missing or incomplete for project proposals and the matching funds for projects were incorrectly calculated and reported. The Capital Improvement Office should re-evaluate the capital project list and remove from the list those projects with incomplete documentation. The amended list should be presented to the Navajo Nation Council for their consideration.

Most corrective actions in the corrective action plan approved by the Budget and Finance Committee in 2001 have not been implemented, thus the audit issues remain unresolved. Consequently, the sanctions currently being imposed against the Capital Improvement Office and its department manager cannot be lifted in accordance with 12 N.N.C. § 9(B) and (C).

In fiscal year 2017, the Division of Community Development was reorganized resulting in the Capital Improvement Office being merged with other departments and the creation of the Capital Projects Management Department with a newly hired Department Manager. For that reason, Office of the Auditor General will schedule a revisit in 12 months after the issuance of this report to determine whether the Capital Projects Management Department and the Department Manager implemented the Corrective Action Plan.

RESOLUTION OF THE
NAVAJO NATION COUNCIL23RD NAVAJO NATION COUNCIL --- THIRD YEAR, 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE, BUDGET AND FINANCE COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE, AND NAVAJO NATION COUNCIL; RESCINDING CAP-18-14; AUTHORIZING THE NAVAJO NATION CHAPTERS TO SUBMIT PROPOSALS FOR THE CAPITAL IMPROVEMENT PLAN TO THE CAPITAL IMPROVEMENT OFFICE, OR ITS SUCCESSOR; DIRECTING THE CAPITAL IMPROVEMENT OFFICE, OR ITS SUCCESSOR, TO DEVELOP THE CAPITAL IMPROVEMENT PRIORITY LIST IN FULL COMPLIANCE WITH THE NAVAJO NATION CAPITAL IMPROVEMENT PROCESS AS CODIFIED AT 12 N.N.C. § 860 *ET SEQ.*; DIRECTING THE CAPITAL IMPROVEMENT OFFICE, OR ITS SUCCESSOR, TO PROVIDE A REPORT TO THE NAABIK'ÍYÁTI' COMMITTEE REGARDING THE CAPITAL IMPROVEMENT PRIORITY LIST NO LATER THAN JANUARY 12, 2017

BE IT ENACTED:

Section One. Authority

- A. The Resources and Development Committee is the oversight committee for economic and community development and is oversight committee for the Division of Community Development and the Division of Economic Development. 2 N.N.C. §§ 500(C)(2) and 501(C).
- B. The Budget and Finance Committee is empowered to "review and recommend to the Navajo Nation Council the budgeting, appropriation, investment, and management of all funds." 2 N.N.C. § 301(B)(2).
- C. A proposed resolution that requires final action by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee before it is heard by the Navajo Nation Council. 2 N.N.C. § 164 (A)(9).

Section Two. Findings

- A. The Navajo Nation Council approved the Navajo Nation Capital Improvement Plan through resolution CAP-18-14 on April 25, 2014 and the Navajo Nation President signed the resolution on April 30, 2014. The Navajo Nation Council has not passed a resolution to fund the Capital Improvement Plan approved by CAP-18-14.

- B. The Division of Community Development, Capital Improvement Office has the responsibility to evaluate all capital improvement projects in accordance with objective criteria, the Capital Improvement Projects Guidelines, Policies and Procedures, and to develop the priority ranking system taking into consideration project cost, feasibility, project value and benefit to the community. 12 N.N.C. §§ 860 et seq. The Capital Improvement Office had this responsibility when the Capital Improvement Plan was compiled for the Navajo Nation Council Resolution CAP-18-14.
- C. The Capital Improvement Office has been under audit by the Navajo Nation Auditor General's Office since 2001 when the Budget and Finance Committee approved the Capital Improvement Office's Corrective Action Plan pursuant to Budget and Finance Committee resolution BFS-97-01. Two areas identified in the audit were the need to strengthen project selections and appropriation procedures, and the need to ensure that matching funds were available for projects. Two years after the approval of the Corrective Action Plan, the Auditor General conducted its first review of implementation of the Corrective Action Plan. Because the Corrective Action Plan was not fully implemented, the Budget and Finance Committee, through Resolution BFS-141-03 passed on September 9, 2003, approved sanctions for the Capital Improvement Office. In 2005 and again in 2008, the Capital Improvement Office requested follow-up reviews of its Corrective Action Plan. These second and third reviews found the Capital Improvement Office did not make sufficient improvements and the sanctions were not lifted. Audit Report No. 14-14 of June 2014.
- D. A Fourth Follow-Up Review of the Capital Improvement Office Corrective Action Plan Implementation was conducted by the Office of the Auditor General. Audit Report No. 14-14 of June 2014 (Audit Report) (Exhibit A). This review focused on the method the Capital Improvement Office used in selecting the projects to be included on the Capital Improvement Plan contained in Navajo Nation Council Resolution CAP-18-14. The review found the Capital Improvement Office did not follow the established Capital Improvement Project process in developing the plan. The Audit Report found flaws in the selection process including failure to provide chapters and programs with the project selection policies and procedures and notices of proposal deadlines. The Audit Report concluded that "there still remains the risk the CIP includes ill-planned projects due to lack of pertinent documentation and unclear ranking of proposals." The Audit Report also

found that the Capital Improvement Office "continues to put the Navajo Nation at risk of approving capital projects with matching funds that may not materialize and end up with funding shortfalls." Audit Report No. 14-14 of June 2014.

- E. The Navajo Nation Council passed Resolution CAP-18-14 two years ago and the funding for the Capital Improvement Plan has not been appropriated. Some projects on the list have been completed using funding sources such as supplemental appropriation, capital outlay, or other forms of funding.
- F. The Capital Improvement Plan passed with Navajo Nation Council Resolution CAP-18-14 has not been implemented for the reasons listed above which include: failure of the Capital Improvement Office to properly conform to the Capital Improvement Planning process as stated in 12 N.N.C. §§ 860 et seq.; failure to follow the Capital Improvement Projects Guidelines, Policies and Procedures; and failure to identify matching funds for all the projects; therefore, the listed projects are not ready to be funded through Navajo Nation Council appropriation. Some of the projects included in CAP-18-14 have been completed with supplemental appropriation, capital outlay, or other forms of funding, therefore, the CAP-18-14 listing is no longer up to date.
- G. It is in the best interest of the Navajo Nation that the Navajo Nation Resolution CAP-18-14 be rescinded and that a new capital improvement project process begin with the opportunity for the Navajo Nation Chapters to include their projects on the list of capital improvement proposals to be considered for inclusion in the Title 12 Capital Improvement Plan. Beginning a new capital improvement process with directives to the Capital Improvement Office, or its successor office, to fully follow the Capital Improvement Planning process as provided in 12 N.N.C. §§ 860 et seq. and to report to the Naabik'iyáti' Committee on the Capital Improvement Office's progress in formulating the Capital Improvement Plan will bring the Capital Improvement Plan up to date and call the Capital Improvement Office to do the work for which it was created.

Section Three. Rescinding CAP-18-14

The Navajo Nation hereby rescinds CAP-18-14 which recommended and approved the Navajo Nation Five Year Plan.

Section Four. Directive to the Capital Improvement Office, or its successor, to begin the Title 12 Capital Improvement Process anew with inclusion of the Navajo Nation Chapters in the solicitation of capital improvement proposals

The Navajo Nation hereby directs the Capital Improvement Office, or its successor, to begin the Title 12 Capital Improvement Process anew. The Navajo Nation hereby directs the Capital Improvement Office, or its successor, to include the Navajo Nation Chapters in the capital improvement process as stated by 12 N.N.C. § 860 (D)(1), with preference for region-wide projects.

Section Five. Directive to the Capital Improvement Office, or its successor, to provide a report to the Naabik'iyáti' Committee regarding the Capital Improvement Priority List no later than January 12, 2017

The Navajo Nation hereby directs the Capital Improvement Office, or its successor, to provide a report to the Naabik'iyáti' Committee regarding the Capital Improvement Priority List no later than January 12, 2017.

Section Six. Effective Date

This Chapter is effective upon its approval pursuant to 2 N.N.C. § 221.

Section Seven. Savings Clause

Should any provision of this enactment be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions of the enactment, which are not determined invalid, shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 21 in favor and 0 opposed, this 20th day of April, 2017.



LoRenzo C. Bates, Speaker
Navajo Nation Council

4-19-17

Date

Motion: Honorable Herman M. Daniels
Second: Honorable Dwight Witherspoon