June 1, 2022

The Honorable Mark Greenblatt  
Inspector General  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

Dear Inspector General Greenblatt:

We respectfully request that your office investigate whether Darren Cruzan, former director of the Bureau of Indian Affairs’ (BIA) Office of Justice Services, violated post-government employment restrictions and whether inadequacies in the bureau’s procurement processes caused the agency to overlook a significant potential conflict of interest in a contract it awarded Mr. Cruzan’s consulting firm.

Founded in 1981, the Project On Government Oversight is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. We champion reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

In June 2021, BIA solicited offers for a contract to review 16 deaths in custody and related incident investigation procedures. Seven of the deaths occurred while Mr. Cruzan had responsibility over the facilities involved. Despite this apparent conflict of interest, BIA awarded the contract to Mr. Cruzan’s consulting firm, The Cruzan Group LLC. One of Mr. Cruzan’s partners said Mr. Cruzan was directly involved in contract performance, raising a question as to whether he may have violated a post-employment prohibition against certain communications with the government.

Bureau of Indian Affairs’ Contract with Cruzan to Review His Own Work

Mr. Cruzan was director of the Bureau of Indian Affairs’ Office of Justice Services from September 2010 to July 2017.1 In that capacity, he created the agency’s first ever Division of Operations Corrections Handbook, which lays out procedures for preventing, reporting, and investigating deaths in custody.2 The Department of the Interior promoted him to be its director of law enforcement and security in July 2017. In that role, he was the department’s top law enforcement official. Mr. Cruzan left the department to become assistant director of the Federal Law Enforcement Training Center in 2019 and retired from federal service in May 2021.

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Before Mr. Cruzan’s retirement from federal service, he formed The Cruzan Group in December 2020. He is the firm’s president and managing partner. Two of his partners are former Interior officials, with one of them, Robert Knox, having been a former assistant inspector general in your office. Two months after Mr. Cruzan’s retirement, his new consulting firm was a Bureau of Indian Affairs contractor.

On June 10, 2021, NPR published a scathing investigation into the conditions that incarcerated Indigenous individuals face in BIA detention centers — conditions your office called “a national disgrace.” The investigation found that one in five correctional officers had not completed basic training, several detention centers were short staffed and needed structural repairs, and the combination of a lack of officer training and the failure to make regular checks on inmates led to “several inmate deaths that could have been prevented.” NPR found at least 19 deaths had occurred in bureau detention centers since 2016.

Just a few days later, on June 14, 2021, BIA solicited bids on a contract to review 16 deaths between November 2016 and September 2020 and the procedures used to investigate those deaths. NPR recounted that the solicitation came after “months of questions and public records requests by NPR and the Mountain West Bureau” in 2021, culminating in a pledge by the Department of the Interior to seek an “independent, third-party” review. The selection process concluded about one month later, on July 16, 2021.

According to the government award information, BIA received bids from four contractors and selected The Cruzan Group LLC, which offered to do the job for approximately $83,000. This was the firm’s first federal contract. NPR reported that two other offers were submitted by contractors with a history of doing millions of dollars’ worth of federal contracts, in one case spanning over a decade.

Four of the deaths under review by The Cruzan Group occurred while Mr. Cruzan was director

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5 Nate Hegyi, “Interior Department hires former top cop to review jail deaths on his watch,” NPR, February 9, 2022, [https://www.npr.org/2022/02/09/1078887784/interior-department-hires-former-top-cop-to-review-jail-deaths-on-his-watch](https://www.npr.org/2022/02/09/1078887784/interior-department-hires-former-top-cop-to-review-jail-deaths-on-his-watch).


7 Bureau of Indian Affairs Office of Justice Services, Contract with The Cruzan Group LLC (140A1621P0092) for BIA OJS Corrections Study, awarded July 16, 2021, [https://sam.gov/opp/db8a2707906c4478a3e722b125d547a/view](https://sam.gov/opp/db8a2707906c4478a3e722b125d547a/view).

8 Hegyi, “Interior Department hires former top cop to review jail deaths on his watch” [see note 6].

9 BIA Office of Justice Services, Contract with The Cruzan Group LLC (140A1621P0092) [see note 8].

10 BIA Office of Justice Services, Contract with The Cruzan Group LLC (140A1621P0092) [see note 8].

11 BIA Office of Justice Services, Contract with The Cruzan Group LLC (140A1621P0092) [see note 8].

of BIA’s Office of Justice Services. He would have been briefed on serious incidents involving bureau officials or at BIA detention facilities, including these four deaths. At least three of the other 16 deaths The Cruzan Group reviewed under the contract occurred while Mr. Cruzan served as director of law enforcement and security for the Department of the Interior. A February 2022 article by NPR indicates that, in that role, Mr. Cruzan “continued to oversee the corrections programs, including the jails.” The article adds that his office “was responsible for deciding whether any in-custody deaths warranted further scrutiny,” and points out that if further scrutiny was warranted, Mr. Cruzan would be required to chair a “serious incident review group.” The group’s job was to review the investigation of any in-custody death and recommend any policy changes. Interior told NPR reporting partner Mountain West News Bureau in a letter that it could find no evidence that Mr. Cruzan ever followed through on convening the group.

The Cruzan Group completed its review by the end of 2021, but BIA still has not made the report public. NPR, which obtained a copy of the report, revealed that the review addressed process failures under Mr. Cruzan’s official leadership. NPR also indicated that the report revealed “faults in the current law enforcement handbook, which Cruzan established and approved during his tenure at the BIA.”

One of Mr. Cruzan’s partners, Robert Knox, spoke to NPR about Mr. Cruzan’s role in the performance of the contract. According to NPR, Mr. Knox indicated that Mr. Cruzan “played a prominent role in the company’s review of the tribal detention centers” and that Mr. Cruzan’s “extensive knowledge of Indian Country was essential for the study.”

On February 14, 2022, BIA announced that it had finalized the report and would implement nearly two dozen reforms. There was no mention or explanation of Mr. Cruzan’s involvement. POGO has found no public record of any commitment from BIA to undertake reforms before NPR ran a piece on February 9, 2022, that questioned BIA’s selection of Mr. Cruzan’s firm for the review.

Members of Congress from both major parties have expressed concern about the selection process. “Regardless of the assurances of a clean selection process for Mr. Cruzan, the appearance of conflict and favoritism cannot be ignored,” Representative Raúl Grijalva (D-AZ), chairman of the House Natural Resources Committee, said in a statement. “The investigation into deaths that occurred in BIA detention centers demands a fully independent investigation. Tribal citizens’ lives must be protected, and we need answers as to why they weren’t in this

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13 Hegyi and Thompson, “Lawmakers question Interior Dept.’s awarding of contract” [see note 13].
14 BIA Office of Justice Services, Division of Operations Corrections Handbook, 165 [see note 2].
15 Hegyi, “Interior Department Hires Former Top Cop to Review Jail Deaths on His Watch” [see note 6].
16 Hegyi, “Interior Department Hires Former Top Cop to Review Jail Deaths on His Watch” [see note 6].
17 Hegyi and Thompson, “Lawmakers question Interior Dept.’s awarding of contract” [see note 13].
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22 Hegyi and Thompson, “Lawmakers question Interior Dept.’s awarding of contract” [see note 13].
POGO has learned that BIA continues to stand by its decision to award the contract to The Cruzan Group.

Potential Contracting and Personal Ethics Violations

The Bureau of Indian Affairs’ extraordinary award of this contract to Mr. Cruzan’s firm raises questions about both organizational and individual conflicts of interest.

Organizational Conflict-of-Interest Concerns

Federal contracting regulations clearly state that the general rule for government business “is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships.” They bar a contract award if a contractor is unable to provide “impartial assistance” to the government. As POGO’s Scott Amey told NPR, awarding this contract to Mr. Cruzan’s firm “is the perfect example of worst practice when it comes to government contracting,” and it “is the kind of thing that makes people distrust the government and decisions that are being made.”

The selection itself creates an appearance of favoritism. The Cruzan Group was not the only firm to put in an offer. BIA chose The Cruzan Group’s bid over the bids of contractors with significantly more federal contracting experience. It is reasonable for the public to question an award under these circumstances when Mr. Cruzan and two of his partners are former Interior employees.

A more fundamental and potentially destructive problem with the contract award is that BIA hired Mr. Cruzan to review his own work as a former senior official at the bureau and Interior. Nearly half of the in-custody deaths BIA had Mr. Cruzan’s firm review occurred on his watch, four while he led the Office of Justice Services and three while he served as the department’s top law enforcement official. Knox highlighted Mr. Cruzan’s involvement in the contract; according to NPR, he called Mr. Cruzan’s work under the contract prominent and essential to the firm’s contract performance.

It is hard to understand how a contracting officer could ever conclude that Mr. Cruzan’s firm, much less Mr. Cruzan himself, could provide “impartial assistance” to the government in reviewing activities that, at the time, were directly under his official responsibility. BIA promised the world an “independent, third-party”; what it delivered was, effectively, Mr. Cruzan’s opinion of himself.

23 Hegyi and Thompson, “Lawmakers question Interior Dept.’s awarding of contract” [see note 13].
26 Hegyi, “Interior Department hires former top cop to review jail deaths on his watch” [see note 6].
The decision to choose The Cruzan Group for the contract seems to violate organizational conflict-of-interest rules, which prevent awarding a contract to an entity if it cannot provide “impartial assistance” to the government. There is certainly an opportunity for bias when a former official reviews their former department’s policies and procedures, particularly if that official had a hand in creating any of those policies or procedures. Questions the Office of Inspector General should answer are: Did BIA grant The Cruzan Group a waiver from impartiality or conflict-of-interest requirements to facilitate awarding this contract; if the BIA did grant a waiver, what rationale did they provide; and if the BIA did not grant a waiver, have any other awards with similar organizational conflict-of-interest concerns slipped through the processes put in place to prevent them? It is imperative that there be an investigation into whether the federal contracting ethics rules were properly applied, not only to determine whether the BIA properly awarded the contract to The Cruzan Group but also to determine whether the bureau is following organizational conflict-of-interest rules more generally.

The Office of Inspector General has a crucial role to play in evaluating BIA’s contracting process in this matter, and in making recommendations to ensure that nothing like this ever happens again.

**Individual Conflict-of-Interest Concerns**

The primary post-government employment conflict-of-interest law, 18 U.S.C. § 207, requires all former executive branch employees to refrain from making certain communications with, or appearances before, the government. Specifically, section 207(a)(1) bars a former employee from knowingly, with the intent to influence, making any communication to or appearance before an employee of the United States on behalf of any other person in connection with a “particular matter involving a specific party or parties” in which the former employee participated personally and substantially as an executive branch employee. This post-government employment restriction is a lifetime ban. A “particular matter involving specific parties” is a matter that focuses on the interests of “identified parties.”

The BIA Corrections Handbook and NPR’s reporting about the “serious incident review group” procedures both suggest that Mr. Cruzan may have participated personally and substantially in investigations and reviews of deaths occurring during his time as director of the BIA’s Office of Justice Services and subsequently, as the Interior’s director of law enforcement and security. Nearly half the investigations subject to the review BIA contracted The Cruzan Group to conduct happened on his watch, and any failure to comply with procedures would necessarily form a part of The Cruzan Group’s review.

Each of the deaths and the government’s subsequent investigation and review is the very definition of a “particular matter involving specific parties.” The decedents, some of whom

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28 5 C.F.R. § 2641.201(a).
29 5 C.F.R. § 2641.201(c).
30 5 C.F.R. § 2641.201(h)(1).
31 BIA Office of Justice Services, *Division of Operations Corrections Handbook*, 3, 165 [see note 2]; Hegyi, “Interior Department hires former top cop to review jail deaths on his watch” [see note 6].
appear to be victims of neglect and substandard care, are identified parties. The investigations and procedural reviews focused on the circumstances of those parties’ deaths and were particular matters involving specific parties when the deaths occurred. They were also particular matters involving specific parties at the time The Cruzan Group reviewed them.

The public has no way to evaluate whether, and to what extent, Mr. Cruzan actually participated as a government employee in any of the investigations or reviews of deaths in custody that later were the subject of The Cruzan Group’s review. But the Office of Inspector General has the capacity to investigate his participation by reviewing records of the government’s activities that were the subject of the review and to ascertain whether Mr. Cruzan participated.

The public also has no way of knowing whether Mr. Cruzan communicated with the government. Part of the obstacle to public knowledge is that BIA does not appear to have ever released The Cruzan Group’s report. What the public does know, however, is that Mr. Cruzan’s partner, Robert Knox, told a news organization that Mr. Cruzan was involved in the firm’s performance of the contract. Because The Cruzan Group was the contract award recipient, any communication with the government by Mr. Cruzan regarding the contract would be “on behalf of” The Cruzan Group. A communication could take the form of a phone call, an email, or Mr. Cruzan’s name on the firm’s report as a contributor. The Office of Inspector General has the means and responsibility to uncover the facts.

Conclusion

Given the tragic loss of life in each of these cases, your office has a responsibility to investigate whether the person whose firm reviewed these matters participated in them while he was a government official. The government has already failed the nation twice, first by failing to prevent the death of individuals in its custody and then by entrusting the review of the investigations into those deaths to a consulting firm founded by the person responsible for the safety the individuals. The government must also not fail to answer two fundamental questions: Did Mr. Cruzan violate conflict-of-interest law, and did the BIA inadequately assess the organizational conflict of interest this contract presented? We request an investigation into the contract award and into whether any personal or contracting conflicts of interest were flagged or should have prevented the award of the contract to The Cruzan Group.

If you have any questions or need additional information, please contact my colleague Maren Machles at maren.machles@pogo.org.

Sincerely,

Scott Amey
General Counsel and Executive Editorial Director

32 5 C.F.R. § 2641.201(g)(1)(i).