



At a Glance

Why We Did This Review

The U.S. Environmental Protection Agency provided American Recovery and Reinvestment Act of 2009 funds for tribal drinking water infrastructure projects. The EPA provided the funds to the U.S. Department of Health and Human Services-Indian Health Service through a 2009 interagency agreement. In response to a hotline complaint, we sought to determine whether the EPA followed applicable criteria in awarding and monitoring of funds provided to the Fort Belknap Indian Community Drinking Water Treatment Plant in Montana, and whether the EPA met its responsibility under the Safe Drinking Water Act.

This report addresses the following EPA Goals or Cross-Cutting Strategies:

- *Protecting America's waters.*
- *Strengthening state, tribal and international partnerships.*

For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2013/20130702-13-P-0308.pdf

Limitations on the EPA's Authority Under the Safe Drinking Water Act Resulted in Unaddressed Concerns at a Tribal Drinking Water Plant

What We Found

In 2007, prior to providing funding to the FBIC DWTP project, the EPA contracted with Rural and Tribal Environmental Solutions to provide plan and specification reviews for public water system construction in Indian Country. The contractor reviewed the FBIC DWTP and provided numerous comments to Region 8, including concerns about the plant design. Region 8 provided the comments to the FBIC and discussed key concerns with the tribe on two occasions.

Despite the plan and specification review comments, the EPA contributed \$572,700 toward the project. EPA Region 8 staff said that, due to a limitation under the National Primary Drinking Water Regulations, they did not have the authority to require the tribe to address the plan and specification review comments outlining the EPA's concerns. The FBIC's DWTP went operational in March 2010 but continues to not be in compliance with the SDWA, specifically the Disinfection Byproduct Rule.

Although the EPA followed applicable criteria in awarding and monitoring funds provided for the FBIC DWTP, we found that the EPA believed—based on an incorrect interpretation of its authority under the SDWA—that it could not require tribes to address plan and specification review comments prior to awarding funds.

Recommendations and Planned Agency Corrective Actions

We recommended that the Office of Water reexamine its interpretation of the drinking water regulations that purportedly prevented the agency from requiring tribes to address plan and specification review comments. If the determination was still that this limitation exists, we recommended that the Office of Water pursue a regulatory or guidance change to address it. The agency concurred with the recommendation and provided its intended corrective action and estimated completion date. The agency determined that it can require tribes to address plan and specification review comments prior to grant awards and plans to include language to reinforce this in guidelines currently under revision.