

**CONTINUING FAILURE TO ADEQUATELY MANAGE
THE INDIAN TRUST FUND**

HEARINGS
BEFORE THE
ENVIRONMENT, ENERGY, AND
NATURAL RESOURCES SUBCOMMITTEE
OF THE
COMMITTEE ON
GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED FIRST CONGRESS
SECOND SESSION

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CONTINUING FAILURE TO ADEQUATELY MANAGE THE INDIAN TRUST FUND

TUESDAY, APRIL 24, 1990

HOUSE OF REPRESENTATIVES,
ENVIRONMENT, ENERGY,
AND NATURAL RESOURCES SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2203, Rayburn House Office Building, Hon. Mike Synar (chairman of the subcommittee) presiding.

Present: Representatives Mike Synar, Albert G. Bustamante, William F. Clinger, Jr., and Craig Thomas.

Also present: Sandra Z. Harris, staff director; Steve Richardson, professional staff member; Michele Ettinger, clerk; Kirk Esherick, minority professional staff, Committee on Government Operations, and Tony Csicseri, GAO detailee.

OPENING STATEMENT OF CHAIRMAN SYNAR

Mr. SYNAR. The subcommittee will come to order.

Today the Environment, Energy, and Natural Resources Subcommittee will continue its review of the Bureau of Indian Affairs management and supervision of the \$1.7 billion Indian Trust Fund.

We will examine the Bureau's continuing failure to properly account for funds in almost 300,000 individual and tribal accounts in its year long, unsuccessful attempt to contract for certain financial management services for the trust moneys.

The system of trusteeship and Federal management of Indian funds is deeply rooted in U.S. history. The Federal Government is obligated to accurately and fully account for the Indian trust funds, to properly discharge all of its fiduciary responsibilities and to maximize the trust income by prudent investment and management. Yet, year after year, report after report has disclosed an appalling array of management and accountability failures in this program.

No trustee in the private sector could possibly continue such mismanagement and hope to get away with it for long. The parallel that comes to mind is the recent savings and loan fiasco.

Despite BIA's continued unwillingness to reform its management or to even begin to properly oversee and balance these trust accounts, the Bureau wasted more than 1 year and as much as \$1 million of the Federal taxpayers' money in an effort to turn over

many of the Government's financial responsibilities to a third party.

On October 26, 1989, the subcommittee expressed concern that the Bureau was simply passing off a set of unbalanced books to someone else. The past 6 months have vindicated that view.

The same day the subcommittee expressed concern that the Bureau was proceeding with implementation of a financial services contract despite repeated and explicit congressional directives that the Bureau first audit and reconcile all trust accounts. At that time, we described aspects of the contract itself, including the Bureau's procurement procedures and its implementation of the agreement, which raised serious questions about the agency's supervision, management and control of the trust fund. Unfortunately, the past 6 months' performance has been equally dismal.

Today, the subcommittee is fulfilling a promise to return to this subject until BIA's management of the Indian Trust Fund improves. Again today, the subcommittee will explore whether BIA's unsuccessful efforts to contract out many of its trust fund responsibilities has provided the Indian Trust Fund, its beneficiaries or the taxpayer, with any tangible benefit for the \$1 million expended, an effort that was in no way compatible with four successive congressional directives to audit and reconcile all Indian Trust Fund accounts.

It is clear that the contract has not been adequately managed by the BIA. Indeed, BIA's handling of this agreement is so flawed that despite the expenditure of more than \$1 million and the waste of one year's time, BIA has produced no measurable improvement of its overall management of the trust fund. BIA has failed to assist the tribes or the individual account holders to better manage their financial affairs. The only thing that the BIA has demonstrated is that it can waste taxpayer money.

The Bureau's manifest refusal over 4 years to undertake an effective effort to balance its books demonstrates an arrogant disregard for Congress and nothing short of contempt for those whose interests the Bureau is empowered to protect.

If necessary, this subcommittee will convene every 6 months to review this program until we and others in Congress and the Indian community see tangible improvement.

Mr. Clinger.

Mr. CLINGER. Thank you, Mr. Chairman.

Six months ago before this subcommittee, the Bureau of Indian Affairs was in hot pursuit of finalizing a multifaceted financial management contract with Security Pacific National Bank. The sweeping nature of the contract called for the contractor to perform several functions, including case collection, balancing, and servicing of Indian Trust Fund accounts, providing investment advice and the disbursement of funds to tribes and allottees. As we learned in our previous hearing, there are serious flaws not only with the content of that contract, but also with the manner in which the Bureau of Indian Affairs pursued the contract.

We are here today to identify the progress made since our hearing last October. I will be particularly interested in knowing how the BIA is meeting our subcommittee's concerns, as well as the

concerns registered by Chairman Yates, and the Appropriations Subcommittee on Interior.

To date, Federal taxpayers have paid \$970,000 to Security Pacific National Bank and received nothing in return. As most people here are aware, the Security Pacific contract has been put on hold as of March of this year. Amazingly, while most Federal agencies would consider such a cessation of movement a drawback, in the case of the BIA, this actually is considered progress.

I understand that since our hearing in October, the Bureau of Indian Affairs has begun to see the light. Currently, the Bureau is in the process of developing a strategy to reconcile and audit the Indian Trust Fund accounts.

What concerns me, however, is that there has been little, if any, concrete action since October. I look forward to hearing BIA's explanation for this inactivity, although I am more interested in how the Bureau will expeditiously resolve their trust fund account woes. Frankly, our Native Americans deserve better.

In closing, I am hopeful the BIA will have more to show for the next \$1 million spent to bring the Indian trust funds into shape than the last \$1 million.

Thank you, Mr. Chairman.

Mr. SYNAR. Thank you, Mr. Clinger.

Mr. Bustamante.

Mr. BUSTAMANTE. Mr. Chairman, let me just say that I am happy to join you and the ranking member of this subcommittee at this hearing.

I have talked to my good friend, the Secretary of the Interior, Mr. Lujan, and Manny has assured me that they are working on this, they have looked at this area and they are concerned. It is not something that developed overnight. It has taken several decades to get where it is at. He has assured me that they will continue to work on this and Dr. Brown, of course, is representing him this morning. So I look forward to his testimony.

Thank you.

Mr. SYNAR. Our only panel this morning will be Dr. Eddie F. Brown, Assistant Secretary of the Interior for Indian Affairs. This morning, he is accompanied by Mr. Walt Mills, Deputy Assistant Secretary for Indian Affairs—operations—Mr. Fred Kellerup, BIA investment officer; and Mr. Jim Parris, chief, branch of trust fund accounting.

If you gentlemen would come forward—and George Gover is with him this morning.

Gentlemen, do any of you have any objections to being sworn in?
[Witnesses sworn.]

Mr. SYNAR. Thank you.

Dr. Brown, we welcome you this morning. At this time, we welcome your comments from the statement you presented to the committee at 4 p.m. yesterday afternoon.

STATEMENT OF EDDIE F. BROWN, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, U.S DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY WALT MILLS, DEPUTY, OPERATIONS; FRED KELLERUP, BIA INVESTMENT OFFICER; JIM PARRIS, CHIEF, BRANCH OF TRUST FUND ACCOUNTING; AND GEORGE GOVER, IMPLEMENTATION MANAGER, OFFICE OF TRUST FUND MANAGEMENT

Dr. BROWN. Mr. Chairman, members of the committee, I would like to quickly summarize a number of actions that we have taken in the trust fund area in the last 6 months that will lead to better trust fund management.

Before I do, however, I would like to apologize for missing yesterday's deadline in submission of my formal testimony. I am personally embarrassed when such failures occur.

Specific actions that I have overseen in the last 6 months include the following: establishing that the BIA did not violate the Brooks Act in regard to the current GSA delegations of procurement authority; actively working with staff members of your subcommittee, the House Appropriations Subcommittee on Interior and Related Agencies, the House Interior and Insular Affairs, the Senate Appropriations Subcommittee on Interior and Related Agencies, and the Senate Select Committee on Indian Affairs; on our audit and reconciliation plans to comply with the fiscal year 1990 appropriations language, as well as placing the financial trust services contract on hold with no payments of any kind being made pending further discussions with the Secretary, myself and Members of Congress, as well as moving to consolidate the trust fund responsibilities within the Bureau into one division, headed by a Deputy to the Assistant Secretary of Indian Affairs, who will report directly to me.

Also, in reconciliation of the \$17 million imbalance between our investment and accounting systems identified last year by the inspector general, we have currently brought that down to \$3.5 million, understanding that that will vacillate until the completion in May 1990.

While the exact nature of the difference cannot be detailed yet, the auditor has informed us that the errors, the majority of the errors were data-entry errors in two separate systems.

Now, each of these actions represent major investment of BIA personnel and resources and I believe represent some very positive steps that say yes, the Bureau is interested and, yes, the Bureau is listening, and yes, the Bureau does want to improve on its delivery of services.

Now, we know that the job is far from done and I will continue to work with this administration, the Secretary of the Interior, Congress, and tribal government leaders to ensure that we will once again be able to bring the highest quality of trust fund management that the Bureau can provide.

Now, this concludes my brief statement and I, along with my staff, will be pleased to answer any questions that the committee may have.

[The prepared statement of Dr. Brown follows:]

STATEMENT OF EDDIE F. BROWN, ASSISTANT SECRETARY - INDIAN AFFAIRS, BEFORE THE SUBCOMMITTEE ON ENVIRONMENT, ENERGY, AND NATURAL RESOURCES COMMITTEE ON GOVERNMENT OPERATIONS, ON THE BUREAU OF INDIAN AFFAIRS' TRUST FUND MANAGEMENT PROGRAM.

April 24, 1990

Good morning, Mr. Chairman. I am pleased to be here today to present testimony on the Bureau of Indian Affairs' (BIA) trust fund management program and to address certain issues which were raised at the Subcommittee's previous session on October 26, 1989.

Brooks Act

At the October hearing, the General Accounting Office (GAO) presented an opinion which concluded that the BIA's Financial Trust Services contract with Security Pacific National Bank was subject to the Brooks Act, which requires a delegation of procurement authority from the General Services Administration (GSA). While this did not in itself nullify this procurement or contract, GAO recommended that BIA explore with the Administrator of General Services actions needed to cure this problem.

Subsequently, representatives of the BIA and the Division of General Law of the Solicitor's Office consulted with the Interior Department's Office of Information Resources Management. As the lead office within Interior on issues concerning GSA delegations of procurement authority, the Office for ADP and Telecommunications Resources evaluated the contracted services and concluded in a letter to GSA dated December 23, 1989, that the ADP services provided under the bank contract did not exceed the current delegations of procurement authority as prescribed in the Federal Information Resources Management Regulations. By letter dated January 19, 1990, GSA agreed that its current delegation of procurement authority thresholds were not exceeded.

As you know Mr. Chairman, since 1982, 31 separate IG audit reports have identified serious problems, weaknesses and deficiencies in the BIA management, investment and accounting of this trust fund. These problems, of course, did not just happen, but developed over a number of years.

Reconciliation of Fund Imbalances and Identified Losses

We wish to also update the Subcommittee on our actions taken with respect to the \$17 million imbalance identified last year in the September 1989 Inspector General's report. The \$17 million represents differences shown between the BIA's financial system and the investment system, which are not interfaced systems. We have contracted with Arthur Andersen and Co., who is currently conducting reviews to determine what portion of that amount reflects errors in posting and what amount cannot be accounted for. To date, the audit firm has informed us that they have reconciled all but \$3.5 million of the original \$17 million imbalance. For the most part, the problems which caused this imbalance were found to be errors in data entry into the separate systems and no reconciliation between the systems. The audit firm expects to complete this reconciliation effort by May 1990.

In addition, for those seven instances identified in the IG's report where losses were identified due to the insolvency of the financial institutions in which the funds were invested, the Solicitor has recommended that we prepare findings and determinations for each instance so that appropriate actions may be initiated for each individual case. We expect to complete the findings of fact within the next few weeks.

As you are aware, the Appropriations Committees sponsored legislation enacted last year in the Appropriations Bill that prohibited the transfer of account balances to Security Pacific until accounts were reconciled. That has been interpreted by the Committees to mean that all accounts must be

reconciled before any transfer takes place. Since the reconciliation effort is anticipated to be a multi-year effort (and in fact we requested appropriations for that purpose in the 1991 budget), we have a hiatus in progress on the contractual arrangement.

Status of Financial Trust Services Contract

Under Modification No. 3 to the Security Pacific contract, the contract year option for FY 1990 was exercised, and funding for the monthly support services was obligated for \$300,000. As a result of our on-going discussions with the Congressional Committees on the FY 1990 appropriations language, we notified the contractor to not work beyond March 31, 1990.

We have since informed the contractor of our intent to renegotiate the contract to exercise future options for only those services which are not limited by existing Congressional restrictions and are in the best financial interest of the Government. Until such time as any renegotiated agreement is achieved, no further costs will be incurred.

Given the hiatus, Secretary Lujan has begun discussions with the Congress to resolve the problem and develop a consensus approach. This has included conversations with you and with Chairman Yates. I understand that further discussions are planned.

This concludes my prepared statement. I will be happy to respond to any questions the Committee may have.

Mr. SYNAR. Thank you, Dr. Brown.

The Chair recognizes himself for the first segment of questions.

As we discussed at length in our last hearing, Dr. Brown, a provision was included in the fiscal year 1987 Supplemental Appropriations Act prohibiting transfer of funds under a contract to any private institution until the Indian Trust Fund accounts were audited and reconciled.

Then, in the fiscal year 1988 Interior and Related Agencies Appropriations conference report, there was language included that prohibited the BIA from contracting out trust fund services until an accounting of the funds provided to the tribes involved. The proposed contractual agreements had to be submitted to and improved by the Appropriations Committee, after the Bureau had adequately consulted with the affected tribes.

At our subcommittee's hearing on October 26, 1989, Mr. Mills informed this subcommittee that BIA had only complied with congressional directive "to a point," meaning that the BIA had not actually transferred the funds. However, the accounts had not been audited and reconciled as directed by Congress.

Also at that hearing, Dr. Brown, I introduced a letter from Arthur Andersen & Co. which said that the audits and reconciliations could not be done by looking only at 1 year's transactions. Since Arthur Andersen reviewed only 1 year's transactions, that was considered an inadequate sample of auditing and reconciling the accounts and it was not an adequate indicator of the difficulties confronting the BIA in complying with the congressional directive.

Now, going on, in fiscal year 1989, the Interior and Related Agencies Appropriation's conference report included language which states, and let me read it to you: "None of the funds in this act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited or reconciled, and that the tribe or individual had been provided with an accounting of such funds, and the appropriate committees of Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement."

Dr. Brown, does that language seem pretty explicit to you?

Dr. BROWN. Yes, sir.

Mr. SYNAR. Now, since our hearing 6 months ago, what substantive actions has the Bureau of Indian Affairs taken to comply with those directives?

Dr. BROWN. As we had talked and had given testimony in some of the budget hearings as well, as we interpreted that language, we thought that, within it, it allowed for what we would call multiple transfers; that is, we would definitely go in, reconcile the tribal accounts by tribe, get an agreement, give that report to the tribe, review, then, with the tribe and then those accounts would be transferred as audited and as cleared up.

We felt that that was an alternative and proceeded to take a look at that.

Mr. SYNAR. You were wrong, weren't you?

Dr. BROWN. Yes. In further discussions with Congress, it was made clear to us that the expectation was that no accounts would

be transferred until all reconciliations were done. Based on that, looking at a number of factors and based on our task group that we had put together, we then began to put together a number of proposals with which we have since visited and talked with members of the different committees, laying out specifically what we felt, given the best judgment that we had, of what could be done to move this as quickly as possible to reconcile those funds.

Mr. SYNAR. All right, Dr. Brown. I am more interested on these directives. Have you made any attempt to comply with these directives? Yes or no?

Dr. BROWN. Yes, I believe we have.

Mr. SYNAR. Give us an example.

Dr. BROWN. OK.

Mr. SYNAR. I don't want to hear about the task force and talking with staff. I want to know whether you have done anything to comply with these directives.

Dr. BROWN. We have put together a proposed plan which we have prepared and have reviewed with members of the committees in regard to our plan to reconcile those accounts—

Mr. SYNAR. Have you reconciled any of the accounts, Dr. Brown?

Dr. BROWN. None of the accounts have been reconciled to date.

Mr. SYNAR. And why has the Bureau of Indian Affairs not followed that congressional directive, Dr. Brown?

Dr. BROWN. As I indicated, sir, I believe that we have and that we are making an effort to do it, sir.

Mr. SYNAR. You have? You just told me you haven't audited or reconciled the accounts, which was the direct explicit language of the BIA's appropriation. Is that not correct, Dr. Brown?

Dr. BROWN. That is true. We have on hold an RFP to begin the transfer—or excuse me, the reconciliation of tribal accounts. That was held up, given some concern and discussion with the committee, but we have—and I will state again—we have moved forward in putting proposals together—

Mr. SYNAR. But the point is everything is on hold. Is that progress, Dr. Brown?

Dr. BROWN. Yes, sir. Based on conversations with the committees and the congressional committees, we are prepared at this time, given the concern, to sit down and work this out with Congress, given the differences in interpretation and understanding. As we are now clear as to what the direction is, we are prepared to sit down and work with Congress to move this, sir.

Mr. SYNAR. Dr. Brown, let's go into some things. Do you have a Solicitor's opinion, or did you obtain a Solicitor's opinion, saying you don't need to comply with the clear language of the appropriations bill?

Dr. BROWN. No, sir, we did not.

Mr. SYNAR. So you ignored the congressional directive to audit and reconcile the accounts and proceeded with the implementation of the contract; isn't that correct?

Dr. BROWN. No, sir. What we did was indicate our approach to reconcile those accounts, and as we talked about, our strategy was to have multiple transfers to the contractor. As the accounts were audited, they would then be transferred over to the contractor's accounting system.

Mr. SYNAR. Most of this was done on March 12, was it not? After March 12?

Dr. BROWN. No, sir. That was part of our strategy early on in the contract, as well as my testimony to some of the budget committees in the past few months.

Mr. SYNAR. All right. In the response to the subcommittee's letter of July 10, 1989, BIA stated that if the language should again be contained in the appropriations bill, the Bureau would probably have to cancel the Security Pacific contract, have to pay the liquidated damages and then have to undertake a multiyear effort to improve its in-house capabilities.

Now, since that language was, Dr. Brown, contained in the fiscal year 1990 Interior appropriations bill, explain why the contract was not canceled and what influenced your decision to renew the contract in defiance of congressional intent.

Dr. BROWN. Sir, as I indicated earlier, as I reviewed the existing contract, and as you certainly pointed out, dollars had been put forth in that contract to move that situation. I felt at that time that we needed to make every effort to make that contract work. As you indicated, we have currently spent \$934,000 on that contract. We have had a number of deliverables. The fact was that we needed to make this contract work, there was every indication that it could work based on the auditing tribe by tribe. When we realized that that was not possible, we then began to move forward to put a hold on the contract as we understood in our discussions with Congress and feel that at this point in time, that was the best decision—

Mr. SYNAR. You were wrong again, weren't you, Dr. Brown?

Dr. BROWN. I'm not certain that I was wrong. I feel that I've made every effort that I can to try to make the best of a tough situation.

Mr. SYNAR. You were wrong in not following the congressional intent.

Dr. BROWN. As I understand congressional intent now, clearly I was.

Mr. SYNAR. You were wrong.

What assurances do we have that you are not going to be wrong again?

Dr. BROWN. The assurances, sir, that I, as well as Secretary Lujan, have committed ourselves to sit down and to discuss, based on the interpretation, as well as our willingness to put right up front that we want—

Mr. SYNAR. But you didn't do that until after March 12, did you, Dr. Brown? Sit down with the committees and stuff?

Dr. BROWN. No, sir. That is right, sir.

Mr. SYNAR. That is 5 months after our last hearing, isn't it, Dr. Brown?

Dr. BROWN. Yes, sir.

Mr. SYNAR. Going on to fiscal year 1990, the Interior and Related Agencies Appropriations conference report was signed by President Bush just a few days before the subcommittee's last hearing on the management of the Indian Trust Fund. It became Public Law 101-121 governing the BIA's conduct during the current fiscal year and included the language, and let me read it to you, Dr. Brown: "The

managers direct the Bureau to take steps to address the concerns raised over account reconciliation of the trust funds. The Bureau should take all possible steps to reconcile accounts to the maximum extent possible, and an independent party should review the Bureau's reconciliation efforts and certify that no further reconciliation can be achieved before such accounts are transferred under the contract. The managers are also aware of the concerns, with respect to the technical sufficiency of the contract and the operation of the software. It is the managers' expectation that the Bureau will address these concerns and will keep the committees fully informed as to the steps taken to address these concerns."

Dr. Brown, on October 26, 1989, you personally promised this subcommittee, under oath that the BIA would abide by that language and that the BIA would work with the committees to see it was implemented. Now what action has—did the BIA take or initiated, to keep these various committees informed?

Dr. BROWN. It is my understanding, sir, that as we began to take a look at the methods in which we could transfer those funds, that we contacted—

Mr. SYNAR. Is it not true you did not contact the committees until after March 12, 5 months after that last hearing?

Dr. BROWN. In a formal contact, yes, sir.

Mr. SYNAR. That is correct. Isn't it a fact that the meetings with the congressional committees were initiated by the committees and not by the BIA?

Dr. BROWN. That is correct, sir. We met with them.

Mr. SYNAR. Moreover, isn't it true that the committees demanded it in March of this year and that the BIA had done nothing of substance to comply with congressional directive over the first 6 months?

Dr. BROWN. We do not remember the demanding, sir.

Mr. SYNAR. All right.

Mr. Clinger.

Mr. CLINGER. Thank you, Mr. Chairman.

Dr. Brown, in your testimony, you indicate that GSA's "current delegation of procurement authority thresholds were not exceeded" under any previously used methodology. Would your use of automated data processing have exceeded the then-applicable GSA threshold?

Dr. BROWN. Let me have Mr. Mills respond to that.

Mr. MILLS. As to the GSA threshold, as far as a dollar volume on ADP purchases, we did not go over that dollar volume, as far as the GSA was concerned. They did tell us that if we were to do anything like this, have any contract in the future, we should go back and follow the process through Interior and back through GSA.

Mr. CLINGER. Were there different methodologies employed here?

Mr. MILLS. No.

Mr. CLINGER. OK.

Dr. Brown, the inspector general reported that \$17 million could not be accounted for after his most recent audit. In your testimony, you state that the revised figure for unaccountable funds is only \$3.5 million. How do you explain that difference?

Dr. BROWN. A difference currently from—and that difference will vacillate somewhat. It is currently at \$3.5 million, and it could

go higher or a little lower, whatever, but we will know the specifics at the end of May 1990, when the audit will be complete.

Mr. CLINGER. But it wouldn't go as high as \$17 million, which is what the—

Dr. BROWN. At this point in time, we have no indication that it would. As I pointed out, that difference is being identified by the auditor at this point in time as a data entry error, clerical error, et cetera, that there was no finding of criminal wrongdoing in that regard.

Mr. CLINGER. But I am still not sure how—why the discrepancy between what the inspector general is indicating, based on his audit, and what you are showing.

Dr. BROWN. Well, let me have Mr. Walt Mills talk specifically in that regard.

Mr. MILLS. Sir, we have four systems that are separate right now which we encode separately into each one of those systems. That is what caused the imbalance—was the errors that were made in that encoding and you have taken \$17 million out of, you know, \$1.7 billion, and we are going back. We are reconciling all those four systems and we are in the process of developing a system to integrate those systems into one.

So, in approximately 3 to 6 months, we should have that corrected as far as encoding one time into our finance system.

Mr. CLINGER. So are you saying, in effect, that the inspector general's audit figure is wrong?

Mr. MILLS. No. The inspector general's audit figure was right. They just did not dig far enough to find what the problem was that caused the discrepancy.

Mr. CLINGER. Your testimony states that the insolvency of financial institutions accounted for losses of the BIA trust fund moneys. You also indicate that appropriate actions for each individual case may be initiated. How much money are we talking about and what types of action—I take it you have not as yet initiated any actions with regard to this matter—

Dr. BROWN. Yes, let me—

Mr. CLINGER [continuing]. And what kind will you initiate?

Mr. SYNAR. Let me have Mr. Fred Kellerup respond to that, please.

Mr. KELLERUP. I believe you are referring to the seven established cases, five with credit unions and two with savings and loan institutions. My understanding is that the present outstanding balance is \$6.8- \$6.9 million that is now uncollected. Those—those seven cases are being researched in detail presently by myself in Albuquerque, putting together the findings of fact, I think they are referred to, for the Solicitor's Office, for them, then, to take this information and determine how far they can go with it and what the proper recourse is relative to NCUA, FSLIC, or follow-on insurance body.

Mr. CLINGER. So basically you are saying you will provide data to some other agency to pursue this?

Mr. KELLERUP. We have been instructed to provide the data to the Interior Solicitor's Office handling BIA accounts, yes. We presume it is a legal matter that needs to be pursued through legal recourses.

Mr. CLINGER. So that is basically what your—

Mr. KELLERUP. That is correct.

Mr. CLINGER [continuing]. Remedy would be, to initiate or develop the data and turn it over to the Solicitor's Office.

Mr. KELLERUP. Correct, yes. They have given us some 15 questions that they want detailed information on, the dates, times, places, circumstances, et cetera, and we are simply compiling that out of our files and prepared to forward that to—back here to Washington.

Mr. CLINGER. What deliverables were to be provided by Security Pacific National Bank under the original contract?

Dr. BROWN. Let me have Mr. George Gover talk about deliverables here.

Mr. GOVER. The contract was to provide the collection, the accounting, investment and disbursement of trust funds. It was to provide a tribal or a trust fund's management system, an integrated system for how we go about managing those funds.

Mr. CLINGER. When was that work to have been completed, under the original contract?

Mr. GOVER. Under the original contract, within the first 6 months, that system was to have been in place and then the next 6 months, implementation, and then the following year, it was supposed to be up and operational.

Mr. CLINGER. Was any of that accomplished?

Mr. GOVER. No, sir.

Mr. CLINGER. Were there any changes in the contract? I mean, did you negotiate changes in the contract with them?

Mr. GOVER. No, sir. There were modifications. The contract had provisions for there to be options for us to renew on a yearly basis, so that we could implement the contract. There were some provisions originally put into the contract or considerations given that in the case that the Bureau was not prepared to transfer the funds at the given point of time, as stated in the contract, the contractor would still be provided fees so they could keep their systems available for future use.

Mr. CLINGER. What was the original cost of the contract, what was the original contract—

Mr. GOVER. The original cost—the original payment was \$330,000 for the first 6 months.

Mr. CLINGER. All right, but then the overall—the overall cost to this contract was to be what?

Mr. GOVER. The overall contract was—there were different fees to be paid. There were some transaction fees per accounting transaction; there were basis points for the amount of trust funds that were being held in their custodial accounts for investment purposes. There were a number of—there was an array of—there was a fee schedule.

Mr. CLINGER. All right.

Mr. GOVER. If it was totally operational, the contract would have cost the Bureau somewhere a little over \$3 million a year.

Mr. CLINGER. But for the first 6 months, you said the cost was how much, \$300,000.

Mr. GOVER. \$330,000.

Mr. CLINGER. What did we get for that?

Mr. GOVER. The \$330,000 was for developmental cost paid to the contractor for the development of this base system.

Mr. CLINGER. But basically we really didn't get anything for that money, did we?

Mr. GOVER. We did not get anything tangible because this is a service contract. Under a service contract, you don't receive anything tangible. It is like—if I can use the expression, if you buy an airplane ticket from here to Los Angeles, you don't buy the plane, you just buy the ride.

Mr. CLINGER. I think we got taken for a ride, but I am not sure that we—

[Laughter.]

Mr. GOVER. No.

Mr. SYNAR. If the gentleman—your time has expired. We will do another round.

Mr. CLINGER. All right, just one more.

Mr. SYNAR. OK.

Mr. CLINGER. Have any deliverables been provided to BIA?

Mr. GOVER. Yes. There have been—and deliverable, as far as services, we have a list here that was provided during the last hearing.

Mr. CLINGER. OK.

Thank you, Mr. Chairman.

Mr. SYNAR. Thank you, Mr. Clinger.

Mr. Bustamante.

Mr. BUSTAMANTE. Thank you, Mr. Chairman.

One of the things our friend from Pennsylvania had asked you was where the difference lies between reconciling the \$17 million and the \$3.5 million that Arthur Andersen found. Why didn't the IG find this? Or is there a difference in accounting procedures?

Dr. BROWN. Let me have Mr. Jim Parris answer that.

Mr. PARRIS. I am not sure I understand the question. The \$3.5 million difference?

Mr. BUSTAMANTE. There is a \$11.5 million discrepancy between Arthur Andersen's figures and the IG's, but Arthur Andersen said it was a difference in posting, that they had not posted. Why didn't the IG find this?

Mr. PARRIS. The inspector general's research was being done about the same time that Arthur Andersen was doing the audit for fiscal year 1988. The inspector general issued his report effective June 30, 1988, where Arthur Andersen Co. issued their report effective September 30, 1988.

Arthur Andersen actually sent confirmation letters to all banks where certificates of deposit were located and to all savings and loan institutions and tried to confirm every security that was listed on the investment accounting systems that we have, so that we could confirm what was or was not actually posted accurately.

The inspector general's office, frankly, did not extend their audit procedures to the same extent that Arthur Andersen did. Arthur Andersen went further to—

Mr. BUSTAMANTE. So they were not as thorough as Arthur Andersen—

Mr. PARRIS. Correct.

Mr. BUSTAMANTE. This contract with Security Pacific ended March 31?

Mr. GOVER. It was placed on hold.

Mr. PARRIS. Yes, sir.

Mr. BUSTAMANTE. On hold, so they are not working with you anymore.

Mr. PARRIS. No, sir, not at this time, nor are they being paid.

Mr. BUSTAMANTE. One of the areas that I have been concerned with since our last hearing has been the many checks that were written for under a dollar, 30 cents, 50 cents, a dime, you know. Is Arthur Andersen working in this area? Are we working to provide some authority for them to change the methodology of writing checks under a dollar. It costs about \$2 to process a check and a lot of these expenses are coming out of the trust fund, so it is really a mess.

Are we doing anything in that area?

Dr. BROWN. Mr. Chairman, and Congressman Bustamante—

Mr. SYNAR. Let me answer that question for them. They can't do anything until they audit and reconcile the darn books. I mean, until we know what the problem is, you can't do anything. They don't seem hell-bent to doing that first.

Mr. BUSTAMANTE. But they tell us that Arthur Andersen will finish the work by May of this year.

Dr. BROWN. That is the reconciliation between—

Mr. BUSTAMANTE. Reconciliation.

Dr. BROWN [continuing]. \$17 million of our two accounts. The tribal judgment funds, as well as the IIM accounts, no, we have a proposal for both of those in reconciliation. That will take longer, sir.

Mr. BUSTAMANTE. It will take longer.

Mr. Chairman, thank you.

Mr. SYNAR. Thank you.

Mr. Thomas.

Mr. THOMAS. Yes, Mr. Chairman.

In this matter of whether it is \$17 million or \$3 million and so on—will the taxpayers be responsible for replacing some of these bucks?

Dr. BROWN. At this point in time, sir, we—there is an imbalance between the two systems. What we are trying to do is reconcile that imbalance so that we are not talking about, at this point in time, lost funds. What we are trying to do is to reconcile that to see what the difference remains.

At this point in time, we have taken that difference down from \$17 million to \$3.5 million, and we will complete that audit, as I indicated, by the end of May. Now, if there is a difference in response to that, I am not—Walt, how would you handle that?

Mr. MILLS. Our Solicitors have ruled that if there is a shortage of any funds through this process, we could then request appropriations to make up the difference to those individuals who might have lost some funds.

Mr. SYNAR. In essence, the taxpayers are holding the bag, aren't they, Mr. Mills?

Mr. MILLS. That is correct. If there is a shortage.

Mr. THOMAS. When do you feel that you will be comfortable to announce whether there is a shortage, and if so, what the amount of that shortage is?

Mr. MILLS. In the reconciliation of the \$17 million just between the two accounts, that audit will be finished May 30, 1990. However, for the reconciliation, in regards to tribal judgment funds, as well as the individual Indian money accounts, we have laid out a proposed plan and are prepared to discuss with Congress how that will be done and reconciled on a tribe-by-tribe basis, as well as individuals.

Mr. THOMAS. More of a generic question, I guess, the idea of managing the trust is not unique or unusual. You have been there now, Dr. Brown, for some time. What is your analysis of why it is so difficult for BIA to perform this function? Apparently it has not been done satisfactorily. It seems that is the case.

Why not? This is not something that is unheard of.

Dr. BROWN. Mr. Chairman, Congressman Thomas, let me say in the 10 months that I have been there and had a chance to review, what we see, and as has been mentioned here before, it is not a new problem, but has been a problem that has been allowed to continually exist and not be corrected—I think some of the earliest recollections of that problem were back in 1981 and 1982.

As I continue to look at that and begin to see the complexity of the situation, as well as look at the necessary staffing and expertise needed to carry out that function, we, currently, do not have the expertise to do the kind of auditing and encoding and services that need to be done for the purpose of realistically addressing the problem. If the Bureau is to carry out that responsibility in a responsible manner, we need, as requested in the 1991 budget, \$2 million, as well as 20 FTE's to do the job and to do it right.

Mr. THOMAS. And it took 8 years to discover this.

Dr. BROWN. I am not sure exactly. I cannot speak for the past 8 years, but from when we sat down and took a look at it, and realized what it was going to take, then it took us that time to put that in the budget and to make that request.

Mr. THOMAS. What about sometimes when things are too complex and too difficult, it helps to break them up somewhat. What about the notion of giving the tribes more responsibility for managing their own funds?

Dr. BROWN. Mr. Chairman, Congressman Thomas, let me say that that is a viable option. In fact, right now, that is allowed under unrestricted nonjudgment accounts. Tribes can do that.

We are open to consider that and work with Congress further to see the greater flexibility in that effort, and I think those would include further negotiations as we talk and address this.

Mr. THOMAS. I suppose there is not the motive to do that—it is a little like the savings and loans and others. As long as the taxpayers are going to guarantee the bucks—but it would seem to me that the tribes would feel a little uneasy about it and would be interested in moving that way.

Thank you, Mr. Chairman.

Mr. SYNAR. Thank you, Mr. Thomas.

Dr. Brown, at our previous hearing, you said that the BIA would develop a plan for auditing and reconciling the trust fund accounts

and you would get back to me, yet I haven't seen you since the last time you appeared before the subcommittee until this morning at 9 a.m. in my office.

What is the BIA doing to reconcile both the tribal and the IIM accounts?

Dr. BROWN. Let me tell you that after we finished the October hearing, we indicated our wanting to move forward to get those accounts reconciled. We had taken the perspective of multiple transfers. We developed a hold-action plan based on that from discussions as we understood that that was not acceptable. Based on that, we developed two proposals, one for tribal judgment accounts and one for individual Indian money accounts.

Mr. SYNAR. We are going to get into that, but didn't you basically waste 5 months since our last hearing?

Dr. BROWN. Sir, what we did, we spent 5 months looking at a number of issues and addressing that. No, I do not believe that we wasted 5 months. Did we move as fast as we could? We moved as fast as we could, given the situation that we had. I think my staff here has made a strong effort.

I don't believe that that can be written off as a waste of time, sir.

Mr. SYNAR. Isn't it true that BIA intended to wait until about 1992 to even begin auditing the IIM accounts?

Dr. BROWN. In the original proposal, yes, sir.

Mr. SYNAR. But we changed your plan, didn't we?

Dr. BROWN. Yes, sir.

Mr. SYNAR. It was a plan that stunk, didn't it, because of all the people that were going to be jeopardized by BIA not taking care of their accounts?

Dr. BROWN. It was a plan, given what we had and what we were looking at at that time. With further discussions with the committee and Congress, yes, sir, we did change our plans and we are prepared to further move on them.

Mr. SYNAR. What has the BIA told Security Pacific about auditing and reconciling the funds and transferring them to the Security Pacific for management?

Dr. BROWN. OK, let me have Mr. Mills respond.

Mr. MILLS. We have told Security Pacific that, you know, no funds will be transferred to any contract until such time as all accounts are audited and reconciled and, at this time, the contract is on hold.

Mr. SYNAR. OK.

Dr. Brown, we went through this last time, and as you know, Arthur Andersen did not tell the BIA that the reconciliation language was impossible to comply with. However, isn't it a fact that the BIA informed the House and Senate Appropriations Committee and this subcommittee that the appropriations directive prohibiting transfer prior to audit and reconciliation could never be met?

Dr. BROWN. Let me—I am not certain I understand.

Mr. SYNAR. You told this subcommittee that that directive could not be met.

Dr. BROWN. Particularly an individual Indian money account, if, in fact, we were to audit every single account of 300,000 accounts, given the amount of money in those accounts, given the time—

Mr. SYNAR. That is not what Arthur Andersen said, is it?

Dr. BROWN. OK, I am—let me refer to—

Mr. SYNAR. Dr. Brown, isn't that your opinion?

Dr. BROWN. Yes, yes, sir.

Mr. SYNAR. Were you misleading Congress?

Dr. BROWN. No, sir. That was the information that I had received from my staff.

Mr. SYNAR. And you have gone through it at least twice now—it is your new plan to comply with this current directive, given this new task force you are setting up, et cetera?

Dr. BROWN. We are not setting up; we have a task force sir, in place and have submitted a proposal. Again, the issue is going to be the number of accounts, the amount of time that we go back and how do we begin to address that.

So that—that is a critical decision that we are going to have to continue to meet and we are prepared to meet with Congress and come to a conclusion as to how we can do that in the most effective manner.

Mr. SYNAR. But the point is we first heard about this on April 5 of this year. Is that not correct?

Dr. BROWN. On this particular proposal—

Mr. SYNAR. Yes.

Dr. BROWN [continuing]. Yes, sir.

Mr. SYNAR. Six months after we last met. Did BIA consult the tribes before the RFP, the trust fund audit and reconciliation was prepared?

Dr. BROWN. No, sir.

Mr. SYNAR. Have you discussed the scope of the RFP with the Solicitor's Office?

Dr. BROWN. No, sir.

Mr. SYNAR. I would like to ask unanimous consent to enter into the record exhibit No. 1.

[The information follows:]



Comptroller General
of the United States
Washington, D.C. 20548

B-236146.2

March 20, 1990

The Honorable Mike Synar
Chairman, Environment, Energy and
Natural Resources Subcommittee
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This opinion responds to your letter dated March 8, 1990, concerning a contract for auditing and reconciliation services the Bureau of Indian Affairs (BIA) is currently negotiating to comply with a proviso in BIA's appropriation for fiscal year 1990, Pub. L. No. 101-121, 103 Stat. 701, 714 (1989). For the reasons set forth below, we conclude that BIA will not satisfy the conditions in the proviso if it uses the same contractor to perform both the audit and reconciliation of Indian trust funds and the required "independent" certification of the reconciliation.

BACKGROUND

As you know, in September 1988, BIA entered into a contract with Security Pacific National Bank (Security Pacific) for various accounting and financial management services to assist BIA in fulfilling its managerial and fiduciary responsibilities as trustee of Indian trust funds. As a practical matter, the contract cannot be implemented until BIA transfers the monies in the Indian trust fund accounts to Security Pacific. BIA's annual appropriation for fiscal year 1990 prohibits BIA from transferring Indian trust funds to Security Pacific until certain conditions have been satisfied:

"Provided further, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most

complete reconciliation of such funds possible, and the tribe or individual has been provided with an accounting of such funds. . . ." (Emphasis added.)

Pub. L. No. 101-121, 103 Stat. 701, 714 (1987).

Your office has advised us, and BIA has informally confirmed, that BIA intends to award one contract for auditing and reconciliation services that "will satisfy the statutory requirements for the initial audit and reconciliation and the required subsequent certification by an independent party."

ANALYSIS

We conclude that BIA would not satisfy the statutory requirements if the same contractor that audits and reconciles the accounts also certifies the reconciliation to be the most complete reconciliation possible. The statutory language explicitly requires that an "independent party" certify the results of the reconciliation. The very structure of the sentence makes relatively clear that Congress used "independent" to mean a party that is independent of whoever performed the initial audit and reconciliation.

The legislative history of the proviso confirms our conclusion. Specifically, the report of the conference committee contains the following directive to BIA regarding implementation of the provision in question.

"The managers direct that the Bureau take steps to address the concerns raised over account reconciliation of trust funds. The Bureau should take all possible steps to reconcile accounts to the maximum extent possible, and an independent party should review the Bureau's reconciliation efforts and certify that no further reconciliation can be achieved before such accounts are transferred under the contract."

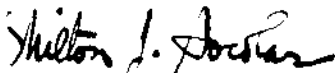
H.R. Rep. No. 264, 101st Cong., 1st Sess. 32 (1989).

The just quoted legislative history clearly contemplates that a second entity, independent of BIA or a BIA contractor, would certify the completeness of the initial audit and reconciliation of the trust fund accounts. To construe "independent" otherwise would, in our opinion, render largely meaningless the purpose of the requirement for a certification by an independent party.

Congress's evident purpose is to obtain, to the greatest extent possible, reliable baseline balances in the various accounts. To achieve this purpose, Congress mandated an independent review of the initial audit and reconciliation and required that the trust beneficiaries be given an opportunity to review the results of the certified audit and reconciliation of their respective accounts. Merging the performance of the audit and reconciliation with the certification would eliminate a significant part of the assurance Congress is seeking with respect to the accuracy and adequacy of the audit and reconciliation of these accounts.

Accordingly, unless and until a party independent of the party performing the initial audit and reconciliation certifies that the reconciliation is as complete as possible, no trust fund monies can be transferred to Security Pacific.

Sincerely yours,



Acting Comptroller General
of the United States

Mr. SYNAR. This is an opinion by the General Accounting Office concerning the congressional directive regarding the audit, reconciliation and certification of the Indian Trust Fund accounts in response to the subcommittee's March 8, 1990, letter asking for an opinion on this matter.

Now, in their March 20, 1990, opinion, the GAO concluded that the BIA would not satisfy the statutory requirements if the same contractor that audits and reconciles the accounts also certifies the reconciliation to be most complete reconciliation possible.

The GAO opinion, Dr. Brown, emphasizes that the statutory language explicitly requires that an independent party certify the results of that reconciliation. The very structure of the sentence makes it clear that Congress used the term "independent" to mean a party that is independent of whoever performed the initial audits and reconciliation.

In this opinion, GAO goes on to say that the legislative history in the most recent congressional directive of House Report No. 264, of the 101st Congress, first session, page 32—1989—concerning the proviso confirms that conclusion.

Now, to construe independent otherwise would, in GAO's opinion, render largely meaningless the purpose of the requirement for the certification by an independent party.

In this document, Dr. Brown, the GAO states that Congress' evident purpose is to obtain, to the greatest extent possible, reliable baseline balances in the various accounts.

Finally, GAO states: "Accordingly, unless and until a party independent of the party performing the initial audit and reconciliation certifies that the reconciliation is as complete as possible, no trust fund moneys can be transferred to Security Pacific."

Dr. Brown, what is your reaction to this GAO opinion? Isn't it in accord with what the BIA was told by the Appropriations Committee staff?

Dr. BROWN. Sir, I have not seen the letter until now, but based on the review that you have given, yes.

Mr. SYNAR. Will this formal opinion result in a change of your draft RFP?

Dr. BROWN. It already has, sir. In our proposal and discussion with members of the committee, we have talked about that. The RFP has been put on hold and we have indicated that it would be amended to allow for a second party and, in fact, we have already had some discussion of how that second party would be selected.

Mr. SYNAR. All right, so you will guarantee to this subcommittee that an independent certification will be performed?

Dr. BROWN. Yes, sir.

Mr. SYNAR. Dr. Brown, isn't it true that if the BIA had made a concerted effort to comply with these congressional directives we have been going over over the past 4 years, that the total audit and reconciliation project would be completed or near completion at this time?

Dr. BROWN. Given my lack of information beyond the past 10 months, I cannot say, but one would conclude that, yes, given what we are talking about, a time frame, that that could possibly be done within 2 to 3 years.

Mr. SYNAR. Dr. Brown, there is no excuses for these failures.

Dr. BROWN. I am not making any excuses.

Mr. SYNAR. You have been on the job long enough—

Dr. BROWN. And I certainly understand that.

Mr. SYNAR. All right.

Mr. Clinger.

Mr. CLINGER. Thank you, Mr. Chairman.

Dr. Brown, you stated in your testimony that BIA may wish to renegotiate the contract and we have talked a little bit about that for only some of the services under the existing contract. You have given us a little background.

What are the services that you would anticipate renegotiating?

Dr. BROWN. There are a number of services and let me hit touch on them lightly. If you need more specifics, I can turn that over to Mr. Gover.

Clearly, in the investment advisory services, as well as possibly training services, et cetera, that those would be possible to continue apportionments and negotiate that which could be used that would not violate the audit and reconciliation.

Mr. CLINGER. Is there some reason why you couldn't offer all of the services for competition?

Dr. BROWN. Mr. Gover.

Mr. GOVER. Yes, sir. The contract was competed based upon those requirements and that was competitive, as you know, put out for competition. If we were to stop the contract or void the contract at this time and come back and re-compete that, that opens us, the Federal Government, up for liable charges, in that we had not negotiated in good faith and we canceled this contract not in good faith.

So we can use those services, if they have been on those services, under this contract and restrict the contract only to those specific administrative types of services and not in the managerial support services which were prohibited by the appropriation language.

Mr. CLINGER. So investment advice would not be subject to—opened up to recompetition?

Mr. GOVER. No, sir.

Mr. SYNAR. But, Mr. Gover, the contract failed, didn't it? There is nonperformance here.

Mr. GOVER. No, sir.

Mr. SYNAR. Mr. Clinger asked you this in his last segment.

The point of the whole matter is, Mr. Gover, is the fact that this contract failed. You didn't—

Mr. GOVER. The contract was not allowed to perform because the conditions under which it was originally let have changed.

Mr. CLINGER. But there has been non—

Mr. SYNAR. That is a direct contradiction to Dr. Brown's testimony.

Dr. BROWN. Mr. Chairman, how is that?

Mr. SYNAR. You said they didn't perform.

Dr. BROWN. No. I did not—I don't recall, for the record, that I indicated that they did not perform, sir.

Mr. SYNAR. We will get into that later.

Dr. BROWN. OK.

Mr. CLINGER. I think the chairman is making the point that if there has been a failure of performance under the contract, then

the contract would be void and, therefore, it would be able to be renegotiated or resubmitted, put out for competition again on all phases, not just in the administrative phases, but you are suggesting that, in fact, there has been performance and, therefore, the contract continues to be valid.

Mr. GOVER. What I have said, sir, is that the—there has not been nonperformance, if I may make that very minute distinction.

Dr. BROWN. Sir, let me respond to that. There has been limited performance.

Mr. SYNAR. Oh, now we are changing it, are we, Dr. Brown—

Dr. BROWN. No, sir.

Mr. SYNAR [continuing]. Limited performance?

Dr. BROWN. No, sir. There has been—and there have been deliverables. We talked about the deliverables. There have been deliverables. We submitted a list of deliverables. The question was, as we begin to renegotiate and modify the contract and take a look at those things, as well as look at the time frame of transferring of dollars and so forth, based on the appropriation language, based on—

Mr. SYNAR. Have you gone to the Solicitor for an opinion on any of this?

Dr. BROWN. Excuse me?

Mr. SYNAR. On this contract, have you gone to the Solicitor?

Dr. BROWN. No, sir.

Mr. SYNAR. Are any of you lawyers?

Dr. BROWN. No, sir.

Mr. CLINGER. We might suggest that you get an opinion from the Solicitor on this because I think there is a real question in some of our minds here as to whether there has been an abrogation of the contract on the part of Security Pacific.

Dr. BROWN. Yes, there has. We have not asked for a formal opinion. There has been a great deal of discussion with the Solicitor's Office on this.

Mr. CLINGER. One of the things—

Mr. SYNAR. Can I just ask one question?

Mr. CLINGER. Yes.

Mr. SYNAR. Has the government received any benefit from this contract?

Dr. BROWN. As a whole, sir, no.

Mr. SYNAR. Then it is nonperformance?

Dr. BROWN. At this point, yes, sir.

Mr. SYNAR. That is different than what you said before. Before you went from limited performance and now you are back to nothing.

Dr. BROWN. No, sir. What we are talking about—let me just take a minute.

As I understand it, we had tied into the contract, deliverables. A variety of those deliverables have been made. The way the system and the contract is, it is like—if I can make the comparison—is that—

Mr. SYNAR. Dr. Brown, you keep saying deliverable. I just asked—let me repeat the question. Have we received any benefit and your answer—if we want to read the record back—was “no.”

Dr. BROWN. I understand.

Mr. SYNAR. So what is a deliverable?

Dr. BROWN. A deliverable is an item——

Mr. SYNAR. And it didn't help us any.

Dr. BROWN. No, it didn't——

Mr. SYNAR. It didn't benefit us any.

Dr. BROWN. In the individual context of that item, it did not. Unless all of it were put together, it would. Sir, I am not here trying to defend what has taken place. I am just trying to describe it, sir.

Mr. SYNAR. OK.

Mr. CLINGER. Could you perhaps provide a list of the deliverables that have been made available for the record?

Dr. BROWN. Yes, sir. I believe we did last time and we will prepare another list and submit it again, sir.

[The information follows:]

Insert for page 44, line 1049

**LIST OF DELIVERABLES RECEIVED UNDER
THE SECURITY PACIFIC NATIONAL BANK
CONTRACT AS OF APRIL 30, 1990**

The Contractor has:

- *Conducted 5 Regional Tribal Orientation sessions in conjunction with the Bureau of Indian Affairs (Fall 1988)
- *Conducted a Tribal Cash Planning conference (April 1989) and Published Related Cash Planning Documentation
- *Published 2 quarterly tribal newsletters (Fall 1989 & Winter 1989)
- *Delivered an Investment and Securities Conversion Plan and requirements for the Portfolio Accounting Plan (as developed in conjunction with the Bureau of Indian Affairs) (June/July 1989)
- *Developed, with Bureau of Indian Affairs assistance, draft investment guidelines and operating procedures for portfolio advisory services (Spring 1989)
- *Installed the Customer Communication System and the Portfolio Management Information System at Bureau of Indian Affairs and trained the Bureau of Indian Affairs investment officer (Account 1989)
- *Developed a draft of the final Trust Fund Management requirements document for the Tribal Accounting Services (March 1990)
- *Delivered a Strategic Plan for Implementation of the Trust Fund System (February 1990)
- *Delivered a draft training manual and a draft "User's Guide" (June/July 1989)
- *Developed a Conceptual Model for a stand alone Trust Fund Management System

Mr. CLINGER. It is the same list——

Dr. BROWN. Yes, sir.

Mr. CLINGER. Have there been additional——

Dr. BROWN. No, it should not.

Mr. CLINGER. So, really——

Dr. BROWN. There will be a couple additional reports, I understand, to that.

Mr. CLINGER. That has happened within the last 5 months——

Dr. BROWN. Yes.

Mr. CLINGER [continuing]. Since the last hearing on this issue?

Dr. BROWN. Yes.

Mr. CLINGER. We talked about the IIM accounts and which are going to be extremely—you have indicated there would be a great deal of difficulty reconciling those and reviewing all of those. Do you have any concept of what the cost might be of reconciling the IIM accounts?

Dr. BROWN. No, sir, not at this point in time. That is part of our proposal as to how to get a handle on that, and we have looked at ways and have discussed ways that that could be looked at, so we could arrive at a number.

Mr. CLINGER. When do you anticipate that that number might be available?

Dr. BROWN. That is going to be based upon the agreement between us and Congress in regards to our proposed plan and our proposal and negotiations of how we are going to do the reconciliation. Once that is agreed upon we need, then, to put that plan in action.

Mr. CLINGER. OK, thank you.

Thank you, Mr. Chairman.

Mr. SYNAR. Mr. Bustamante.

Mr. BUSTAMANTE. Mr. Chairman, Dr. Brown, you know, in 1981 and 1982, I believe this problem surfaced. And I must commend the chairman for bringing this problem to the forefront of this committee's agenda.

We have 300,000 accounts. We have about 350 tribes in the United States. It is really sad that these people have been misrepresented by BIA. The BIA should look after these people. They have no real representation in Congress.

I have a tribe that I represent in my district, but throughout the years, most of these people have been used, abused by many, and you in the BIA, ought to be the ones that really look after them.

If this happened in Social Security, I will tell you, there would be a war. If we can manage Social Security, we ought to be able to manage this. I understand it is going to take time and we want to help you, but you are going to have to take a more aggressive posture in this area.

I don't understand the many accounting systems that you have to deal with. Those that have represented the Bureau and the tribes, you know, what accounting practices they have had. We do know that there is a tremendous problem and we ask you to aggressively pursue this area.

Like I said, I have talked to the Secretary. He is trying to correct the situation so I do hope, Mr. Chairman, that it will be done.

Mr. SYNAR. Thank you, Mr. Bustamante.

The Chair wants to remind everyone, this committee does not have jurisdiction over Security Pacific. We only have jurisdiction over BIA, and I would like to delve into this contract between the BIA and Security Pacific and see if we can see who is at fault here and why this contract seems to have gone awry.

Dr. Brown, during our hearing last October, we reviewed in some detail the Bureau's September 1988, contract with Security Pacific National Bank. For the record, I would like to briefly review that matter again.

What was Security Pacific National Bank or its subcontractor, CDSI, required by contract to accomplish in the first 6 months?

Mr. Gover.

Mr. GOVER. Mr. Chairman, the subcontractor is an ADP service provider. They were to develop an accounting system which would be the basis for the trust fund management system.

Mr. SYNAR. Was that accomplished?

Mr. GOVER. That system is not online at this time.

Mr. SYNAR. Dr. Brown, a key component in the Security Pacific CDSI package would be to be an automated accounting service. Isn't that correct?

Dr. BROWN. Yes.

Mr. SYNAR. Prior to the BIA suspending further work by the contractors, was that automated accounting service able to be implemented?

Dr. BROWN. No, sir.

Mr. SYNAR. During the last hearing, Dr. Brown, BIA witnesses indicated that no demand letters had been sent to the contractor for nonperformance, because the Bureau was working closely with them to try to get the program up and running.

Isn't it true, Dr. Brown, that one reason we haven't sent any demand letters is because 18 months after the contract was awarded, the Bureau still doesn't know what its final requirements are and that, in fact, the BIA was discussing provisions with Security Pacific as recently as late March, just days before you put this whole contract on hold?

Dr. BROWN. That is correct, sir.

Mr. SYNAR. So even if you didn't have the constraints imposed by the appropriations requirement, Dr. Brown, in the first audit—to first audit and reconcile the accounts, you still wouldn't be ready to go, would you?

Dr. BROWN. At this point in time, no, sir.

Mr. SYNAR. Isn't it true also, Dr. Brown, that if you hadn't put the contract on hold because of the auditing requirement, you would have probably had to make even further modifications to the contract?

Dr. BROWN. Yes, sir.

Mr. SYNAR. Mr. Mills, in an April 5 meeting with congressional staff, including staff of this subcommittee, you distributed a paper entitled, "Immediate and Long-Term Actions to be Taken by the Bureau of Indian Affairs." Now, the first item under the immediate actions required—project management says, and let me read it to you: "Contract with MITRE Corporation to develop a short-term and long-range systems integration strategy and serve as a project

manager for the trust funds Management Improvement Initiatives."

Now, in essence, Mr. Mills, you want to hire MITRE Corp. to help you analyze your program and determine specifically what your needs are and how best to proceed and then to have them serve as project manager during the implementation.

Is that correct?

Mr. MILLS. That is one of the proposals that we need. That is something that has been missing in this whole project here, having the expertise to develop our system requirements.

Mr. SYNAR. But isn't it a fact that that is the kind of analysis that you should have done at least 2 years ago—

Mr. MILLS. That is correct.

Mr. SYNAR [continuing]. Before you even put out a request for proposal, signed a contract and now spent \$1 million?

Mr. MILLS. That is correct.

Mr. SYNAR. Four years late, isn't it?

Mr. MILLS. That is right.

Mr. SYNAR. Let's turn to the issue of the contract modifications, Dr. Brown, for a moment. How many modifications have been made to the contract between the time of our hearing in October 1989, and a couple of weeks ago when you put this whole thing on hold?

Mr. Gover.

Mr. GOVER. One.

Mr. SYNAR. One? We have three, plus one that you are working on right now. We have \$300,000 for support services from April to September 1989. \$112,500 for conversion of assets. We have \$4,512 for BIA cash planning conference. We have \$300,000 for support services from October 1989, to March 1990.

Are those accurate?

Mr. GOVER. Mr. Synar, the other modifications; they were provided in the testimony in the previous hearing. There has only been one modification enacted since that—since the last hearing and that was the \$300,000 for support services in fiscal year 1990.

Mr. SYNAR. All right. So it's \$300,000 since then; the other three were prior to the October hearing?

Mr. GOVER. Those were in the testimony of the last hearing.

Mr. SYNAR. And when you include the cost of these modifications, Mr. Gover, what would the total cost of the contract now come to?

Mr. GOVER. The total cost, the obligated cost of the contract, is \$1,047,012.

Mr. SYNAR. What was that figure?

Mr. GOVER. \$1,047,012.

Mr. SYNAR. Now, Dr. Brown, the Bureau has made some relatively significant modifications to the contract which clearly tack on additional costs over and above the originally estimated cost in your A-76 cost benefit study.

Now, in the paper I just quoted from, you're talking about letting yet another contract with the MITRE Corp. which obviously won't be free. Isn't it a fairly safe bet that your estimated cost savings of \$3 million over 5 years either has or soon will evaporate?

Dr. BROWN. Let me have Mr. Mills respond.

Mr. SYNAR. Mr. Mills.

Mr. MILLS. Sir, we don't know that at this point.

Mr. SYNAR. It's pretty safe to say that, now that you're having to do all of this again, those savings aren't going to be there, are they?

Mr. MILLS. Correct. There's that possibility.

Mr. SYNAR. Isn't it true that even if you spend the money to implement the contract, BIA's own inadequate computer system will still be in operation for years to come, and that no personnel reductions will occur as a result of your transfer of these trust fund functions to an outside party?

Mr. MILLS. Our current system will have to remain in operation, unless we find another way of doing that, and there will be an increase in our staff instead of a decrease.

Mr. SYNAR. There will be an increase in staff?

Mr. MILLS. Right.

Mr. SYNAR. Now, you indicated that as a result of the audit and reconciliation issue, you have put the Security Pacific contract "on hold." Why don't you explain for the subcommittee exactly what that means, to put something on hold?

Mr. MILLS. Under the terms of the contract, we did issue an option year, you know, starting October 1, 1989. But we only funded the contract through the end of March. At this point in time, it's in the best interest of the Government to put that contract on hold.

Mr. SYNAR. But what does that mean?

Mr. MILLS. That means that, at this point in time, we are not going to exercise any services under that contract until we've decided in the near future——

Mr. SYNAR. You don't have to continue to pay Security Pacific, do you?

Mr. MILLS. No. There will be no more funds going to Security.

Mr. SYNAR. What is the current status as of today of BIA's efforts to implement the investment management and cash management services?

Mr. GOVER. It is on hold. Under this——

Mr. SYNAR. It's on hold, too?

Mr. GOVER. In terms of this contract, it is on hold. All actions under this contract are on hold at this time.

Mr. SYNAR. Don't you need to do that?

Mr. GOVER. To do?

Mr. SYNAR. The investment management and cash management services.

Mr. GOVER. The Bureau has its own capability and has been exercising that function for years. We're continuing to exercise that function.

Mr. SYNAR. Then why are you thinking about contracting out if you're doing it?

Mr. GOVER. To enhance the services that we currently provide.

Mr. SYNAR. Do you need help? Is that what you're saying? Is that an admission that you can't do it?

Mr. GOVER. No, sir.

Mr. SYNAR. Then why are you contracting it out?

Mr. GOVER. At the time the A-76 study was put together, it was to contract out the total function, to gain economy of scales for contracting the total function. That is why it was put into the contract, just to meet those thresholds.

Mr. SYNAR. You didn't say anything. Start again. Either you can do it in-house and you don't need to contract it out, or you should be contracting it out to get it done. Now, which one is it?

Mr. GOVER. Under the A-76 study, sir, the basis for it is a cost comparison, not a capability comparison.

Mr. SYNAR. A cost comparison. So why aren't you contracting it out if the cost comparison is so great?

Mr. GOVER. At this point in time, sir, the prohibitive language of the appropriation bill says we cannot do that.

Mr. SYNAR. All right.

Dr. BROWN, does putting this contract "on hold" preclude the Bureau from contracting for services separately with any party other than Security Pacific?

Dr. BROWN. Yes, there's a possibility, that we think highly so, yes, in our discussion with the Solicitor's Office.

Mr. SYNAR. Does the Bureau currently anticipate leaving this contract on hold until all the required auditing and reconciliation of accounts is completed, as intended by the appropriations restriction?

Dr. BROWN. Sir, that is still to be determined with some further negotiation and discussion with Congress, which Secretary Lujan has indicated.

Mr. SYNAR. That could take possibly years, couldn't it, Dr. Brown?

Dr. BROWN. I would hope that it would not take that long at all, sir. We are committed to—

Mr. SYNAR. But it might take years?

Dr. BROWN. I would hope not.

Mr. SYNAR. But the auditing and reconciliation might take years?

Dr. BROWN. Yes, sir.

Mr. SYNAR. So it would be on hold until then, wouldn't it?

Dr. BROWN. Pardon?

Mr. SYNAR. It would be on hold until that was done, wouldn't it?

Dr. BROWN. That has not been determined, as to how long it will be on hold and what will be the appropriate action in the near future.

Mr. SYNAR. Dr. Brown, is the Bureau considering "unbundling" the current contract with Security Pacific, so that it could go ahead and make some incremental improvements in the program, or are you now thinking it best to wait and see what MITRE Corp. has to say in reviewing the program?

Dr. BROWN. No, sir. We are considering, and that will be up for negotiation and discussion and as part of our proposal as well.

Mr. SYNAR. If the Bureau terminates the contract, Dr. Brown, what would be the termination costs, if any?

Dr. BROWN. At this point in time, sir, we do not have a specific response to that.

Mr. SYNAR. Will you provide that for the subcommittee?

Dr. BROWN. Yes, sir. We can have a review and have that submitted.

[The information follows:]

The OTFM has taken the position that there would be no cost associated with the termination of the Security Pacific National Bank contract. This decision was reached after a thorough analysis of the contract and all documents relating to the performance of the contractor under the terms of the contract. This analysis was conducted by the C.O. and C.O.R.

However, the contractor has the right to submit claims for costs incurred by the termination of the contract. Should a claim be submitted, the C.O. would make a determination as to the acceptance of the claim. As the Bureau has taken no formal action to terminate the contract at this time, SPNB has no cause to submit a claim. It would be inappropriate for the Bureau to speculate on SPNB course of action at this time.

Mr. SYNAR. Mr. Gover, on March 7, 1990, the vice president of Security Pacific National Bank wrote you a letter in which he made the following statement: "We also learned that suspense account overdrafts exceeding one million dollars resulting from overpayments caused by MMS reversal 1081's were resident at one area office and had not been resolved." Later in the same paragraph he notes that, "According to our records, the 1081 reconciliation project appeared as a line item with a target date for completion in April, 1989."

Now, one BIA paper distributed to our staff during the April 5 meeting with the BIA, titled immediate actions required, includes an item called "1081 Reconciliation Project." According to this paper, the 1081 reconciliation project is slated for implementation in July 1990.

Mr. Gover, does this project address the same reconciliation issue which Security Pacific's letter noted was due to be completed by April 1989, and if so, why has it not been undertaken?

Mr. GOVER. Mr. Chairman, Mr. Parris here is our accounting expert.

Mr. SYNAR. Mr. Parris.

Mr. PARRIS. Yes. The 1081 reconciliation project was slated, as you said, to be implemented by April 1989. There were a series of problems that we ran into in development of the 1081 reconciliation system. They had to do primarily with systems analysts who were assigned to the project that for various reasons—one retired, one quit, one—

Mr. SYNAR. The point is, you're behind schedule again, aren't you?

Mr. PARRIS. It was just receiving an inadequate dedication of resources. We are now in the stages of testing the output of the test programs that have been developed. We are anticipating to be able to bring up the 1081 reconciliation project on schedule to some degree.

We are still not convinced that the reconciliation program is able to be brought to completion as originally designed to match up every distribution line received from the minerals management service that they're telling us to pay out with the corresponding money that was moved to us by 1081 several weeks before. In other words, there's a batch of money moved to us and then we get thousands of lines of data 4 weeks later—

Mr. SYNAR. What's your prognosis?

Mr. PARRIS. Well, we are looking at a situation where we cannot match up every line; therefore, we're going to have to have some modification of the original—

Mr. SYNAR. Give me a timeframe.

Mr. PARRIS. We're looking at—July, I think, is still realistic for implementation of the project.

Mr. SYNAR. July of this year?

Mr. PARRIS. Yes, sir. But we're looking at only distribution of interest but not total reconciliation as we originally—

Mr. SYNAR. Who's going to lose if you can't totally reconcile?

Mr. PARRIS. Well, obviously, the Bureau is not going to be able to properly match up the items and the account owners could lose funds.

Mr. SYNAR. And who are they?

Mr. PARRIS. The individuals and tribes.

Mr. SYNAR. How many?

Mr. PARRIS. Well, we're looking in excess of a little over 20,000 individuals who would be impacted.

Mr. SYNAR. Who's going to pay the rent for these people, Mr. Parris? Who's going to take care of their financial needs, Mr. Parris? Who's going to feed their kids, Mr. Parris?

Mr. PARRIS. All we can do is the best we can with what we have.

Mr. SYNAR. Now, the March 7 letter from Security Pacific to you, Mr. Gover, further states that "There are also several years of undistributed interest payments for IIM accounts that need to be distributed." On down he states a line item entitled "Cleanup of IIM Accounts" with a target completion date of May 1989, was also furnished to Security Pacific.

Mr. Gover, doesn't that undistributed interest represent money that is collecting in a pool but hasn't gone to any account because you don't know where it belongs?

Mr. GOVER. Mr. Parris will answer that question.

Mr. SYNAR. Mr. Parris.

Mr. PARRIS. That's the interest related to oil and gas, or are you—

Mr. SYNAR. That's the interest on the cleanup of IIM account.

Mr. PARRIS. And the dollar amount?

Mr. SYNAR. Well, that's what we're about to ask you. How much is that? It could be millions of dollars?

Mr. PARRIS. Are you talking in relation to oil and gas, sir, or are you—

Mr. SYNAR. Unallocated balances. That may include that; I'm not sure. It's in Mr. Gover's letter, right here.

Mr. Parris, do you know what the total amount of undistributed interest is?

Mr. PARRIS. On individual Indian moneys—that I know of—we're looking at undistributed interest that is in the neighborhood of \$600,000 undistributed interest directly related to oil and gas, distributions made since November—

Mr. SYNAR. That's only oil and gas. But unallocated balances net out to about \$35 million, don't they, according to the Arthur Andersen audit?

Mr. PARRIS. \$35 million.

Mr. SYNAR. That's \$11 million for the tribe and \$24 million for the individual accounts.

Mr. GOVER. Mr. Chairman, this letter was written by the contractor based upon some meetings that he had with the oil and gas steering committee. Those were open discussions and is his interpretation of what he may have heard. We need to go back and thoroughly—

Mr. SYNAR. Would you provide that for the record?

Mr. GOVER. Yes, sir. That would be more appropriate.

[The information follows.]

Insert for page 62, line 1469

Subject: Unallocated Balances Referred to in the Arthur Andersen & Company Audit of Tribal and Individual Indian Monies Financial Statements As of September 30, 1988

On page 12 of the above referenced audit report (see Attachment), the auditors disclosed a total "unallocated balances, net" amount for Tribal (\$11,104,875) and Individual Indian Monies (\$24,725,598) totalling \$35,830,573. During the Synar hearing on April 24, 1990, I mistook these amounts as representing "unallotted" balances, or those amounts placed in the Treasury "overnighter" investments. In fact, these funds are explained on page 13 of the Arthur Andersen & Company audit report under the heading "Unallocated Balances, Net". As stated in the footnotes to the Financial Statements, over \$19 million of the \$35.8 million total was allocated (or distributed) to individual Indian accounts in October 1988.

There is a large amount of the total that pertains to other undistributed interest amounts not yet allocated to either Tribal or Individual Indian Monies (IIM) accounts for a number of reasons. Various offices have not yet distributed interest for prior periods that relate to Special Deposit amounts held in Escrow. Those amounts could date back for several years.

- Also mentioned in the footnotes is the interest related to undistributed interest pertaining to oil and gas royalties held and located by the Bureau prior to the distribution reports being received from Minerals Management Service (MMS). Those funds are still unallocated. The Bureau is about to initiate the (OS) Reconciliation process that will allow us to associate the funds moved to us from MMS with the amounts that they instruct us to distribute to individual allottees several weeks later. Once this process is underway, the Bureau will then take action to address the "unallocated balances" related to the \$500,000 amount indicated in the audit report.

The above items are all included in the "Unallocated Balances, Net" figures discussed in the hearing. It should be mentioned that we are working to eliminate these balances, and they will be much less in the audit report for the fiscal year ended September 30, 1989.

TRIBAL AND INDIVIDUAL INDIAN MONIES TRUST FUNDS

Managed by the

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

FINANCIAL STATEMENTS AS OF SEPTEMBER 30, 1988

Together with Report of

INDEPENDENT PUBLIC ACCOUNTANTS

**NOTE 6
INVESTMENTS
AT FAILED
FINANCIAL
INSTITUTIONS:**

The Bureau invested IIM resources in excess of the insured limits of the National Credit Union Administration at the following credit unions.

	<u>Date Failed</u>	<u>Amount</u>
Oak Park Community Credit Union	March 1984	\$1,497,752
Zionist Federal Credit Union	June 1984	3,228,059
Center Place Savings Credit Union	July 1985	677,226
Financial Services Credit Union	October 1984	21,732
		<u>\$ 5,424,769</u>

The Bureau's investment policies are designed to ensure the recovery of all amounts invested in financial institutions that fail, either from the applicable Federal deposit insurance fund or from liquidation of pledged collateral. Certain investments in certificates of deposit were not recovered due to a misinterpretation of insurance coverage provided by the National Credit Union Administration. The Bureau continues to reflect these amounts in investments because the obligation remains to the Indian tribes or individuals for which the investments were made and because appropriated funds have not been authorized to cover these losses (see Note 10).

**NOTE 7
TRUST FUND
BALANCES:**

A summary of amounts included in the balances held in trust for Indian tribes, organizations and individuals, including unallocated balances follows.

	<u>Tribal Trust</u>	<u>Individual Indian Monies</u>
Balances identified to specific accounts, including accounts for which the ultimate beneficiary is undetermined	\$1,170,147.64*	\$429,214,300
Accrued interest	27,548,025	12,270,165
Unallocated balances, net	<u>11,104,875</u>	<u>24,725,698</u>
Balances held in trust for Indian tribes, organizations and individuals, including unallocated balances	<u>\$1,208,800.54*</u>	<u>\$466,210,163</u>

Disputed Balances and Beneficiaries Unable to Confirm Balances and Similar Matters

A portion of the Indian tribes, organizations and individuals for whom the Bureau holds assets in trust do not receive adequate information to determine whether their account balances reflected in the Bureau's records are proper. In addition, certain account holders do not agree with the balances reflected in their accounts.

A significant number of IIM accounts, which represent a significant portion of the IIM balances, are held for the benefit of minors and other individuals who have been determined to be legally incompetent to manage their own affairs. The Bureau typically does not give minors and incompetent individuals complete access to their account balances or activity and, accordingly, such account holders would not be able to determine if their account balances are proper.

As discussed in Note 3, the ultimate account holders of a portion of the monies held in trust in the IIM Trust Fund by the Bureau have not been determined and, accordingly, such monies have not been distributed. Also, included in the Tribal Trust Funds are certain balances not identified to specific tribes because certain judgement awards were granted to several Indian tribes in a particular geographic area for settlement of claims related to certain lands.

Unallocated Balances, Net

The Tribal and IIM Trust Fund financial statements include certain unallocated balances as of September 30, 1988, a portion of which represents interest receipts not allocated to specific accounts. Overnight investment interest on the Tribal Trust Funds cash balances invested overnight has not been distributed since June 1986. As of March 23, 1989, the Bureau was in the process of calculating a partial distribution of overnight interest receipts for the period from January 1, 1987, through February 28, 1989. The amount of interest receipts (*included in unallocated balances, net*) for the six-month period ended September 30, 1988, which was distributed to IIM account holders subsequent to September 30, 1988, was \$19,574,857. The Bureau estimates that unallocated interest related to distributions of royalties by the U.S. Department of the Interior Minerals Management Service is approximately \$500,000 for the period from November 1, 1985, through September 30, 1988.

A portion of the unallocated balances may represent earnings from overinvestments (*see Note 4*), in which case, such amounts would be payable to the U.S. Department of Treasury. In addition, the total amount allocable to account holders may ultimately exceed the balances reflected in the accompanying financial statements due to misallocated interest and other receipts (*see Note 10*), such difference could give rise to potential claims receivable from the U.S. Government from future funding.

**NOTE 8
RECEIPTS:**

Receipts are not segregated by source for the IIM Fund. Oil and gas royalties and bonuses included in other receipts in the Tribal Trust Fund totaled \$168,883,892 for the year ended September 30, 1988.

**NOTE 9
SIGNIFICANT
TRANSACTIONS
WITH OTHER
U.S. GOVERNMENT
ORGANIZATIONS:****Debt Arrangements**

The Bureau is a party to various notes payable agreements. These agreements are primarily between the Indian tribes and the U.S. Department of Agriculture Farmers Home Administration ("*FmHA*") or the U.S. Department of Commerce Economic Development Administration ("*EDA*"). The proceeds of the FmHA loans are used by Indian tribes to repurchase fractional ownership interests in allotted lands from individual Indians.

The receipts from the acquired ownership interests are deposited into "Special Deposit" accounts in the IIM Trust Fund, and the principal and interest payments are made from these accounts. EDA loans are utilized for construction of tribal facilities (*governmental/administrative buildings and facilities for enterprise activities such as manufacturing, hotel/motel facilities, etc.*). The Bureau is not directly liable for the payments on these loans and, accordingly, such loans are not recorded in the accompanying financial statements.

Minerals Management Service

The Bureau receives cash from the U.S. Department of the Interior Minerals Management Service ("*MMS*") for royalties collected on behalf of various Indian tribes and Indian individuals, except for the Osage Tribe which receives payments directly from private companies into the Bureau's Indian Trust Funds. The Bureau then distributes the royalties to trust account holders. MMS and the U.S. Department of the Interior Bureau of Land Management both perform certain auditing and other monitoring procedures of oil and gas and other mineral royalties collected.

In addition, the Bureau's Branch of Trust Fund Accounting has recently used an outside contractor to perform certain audit procedures to verify the distribution of royalties.

In certain situations, overpayments are made by private companies to MMS that are then paid to the Bureau on behalf of Indian tribes and Indian individuals, which are then disbursed by the Bureau to beneficiaries. These overpayments result from payments being made based on estimated mineral production. Such overpayments are recovered by the private companies by reducing future payments (*until the overpayment is recouped*) by up to 50% for Indian individuals and up to 100% for Indian tribes. The amount of such overpayments, at September 30, 1988, has not been quantified.

Other

As discussed in Note 4, the U.S. Department of Treasury functions as the "bank" and as a disbursing agent for the Bureau. As discussed in Note 10, the U.S. Department of the Interior Office of the Solicitor serves as legal counsel for the Bureau.

Mr. SYNAR. Mr. Mills, as you know, the inspector general's office addressed this matter in a report 4 years ago, and in a September 1989, followup report, the IG indicated that nothing had been done to resolve it.

Now, in your response to the recent report, you told the inspector general that "a comprehensive report" designed to address this problem would be on your desk by April 1, 1990.

Mr. Mills, did you receive that comprehensive report on or before April 1?

Mr. MILLS. Sir, I didn't get the first part. What report are we talking about? I didn't—

Mr. SYNAR. I'm talking about the report from the inspector general's office, this one. Did you get that before April 1?

Mr. MILLS. Is that the report on the audited trust funds?

Mr. SYNAR. Yes.

Mr. MILLS. I can't remember the exact date we got the report in, but we did get a report into the inspector general.

Mr. SYNAR. Mr. Mills, in March 1989 a financial statement for the trust fund, prepared by Arthur Andersen & Co.—you have that before you again—lists under note 7, trust fund balances, a total of over \$35 million in unallocated balances. Do you have that, Mr. Parris?

Mr. PARRIS. Yes.

Mr. SYNAR. Now do you see it?

Mr. PARRIS. Yes.

Mr. SYNAR. Does this \$35 million figure include the undistributed interest noted?

Mr. PARRIS. Well, the reason I didn't recognize it immediately is that it's unallotted balances. These are balances that are not otherwise invested in securities that we have, like certificates of deposit and so on. These particular balances, \$11,104,000 for tribes, and then almost \$25 million for the individual Indian moneys, is actually unallotted, what we call cash balances that are in Treasury, in the Treasury overnighter. They are not—

Mr. SYNAR. So you're saying Arthur Andersen made a mistake?

Mr. PARRIS. No. It's just not labeled in the way that—

Mr. SYNAR. It's mislabeled. All right.

Mr. PARRIS. It's lost, but it's really not.

Mr. SYNAR. Now, Dr. Brown, on March 27, 1990, you responded to my letter of March 5 seeking information on the status of several issues. In response to my question regarding Bureau actions to recover trust fund losses incurred at failed S&Ls, you stated—and I quote—"In the seven known instances where losses have occurred due to failure of the financial institutions in which the funds were invested, the Solicitor has recommended that we prepare findings and determinations for each of these instances to ascertain the appropriate action in each individual case. BIA is currently preparing such findings with a target completion date of April 1990."

Now, Dr. Brown, could you tell me if these findings and determinations will, in fact, be completed and provided to the Solicitor by the end of this month?

Dr. BROWN. Sir, let me have Mr. Kellerup, who is working on that, respond.

Mr. SYNAR. Mr. Kellerup.

Mr. KELLERUP. Completed by what date, sir?

Mr. SYNAR. The end of this month, April 1990.

Mr. KELLERUP. I certainly hope so. As soon as I get back to Albuquerque, I will resume the work. We have done—

Mr. SYNAR. But the letter from Dr. Brown, as you know, promised me that.

Mr. KELLERUP. My understanding was that the latest statement was within the next few weeks. By the end of this month, if you want it, you've got it.

Mr. SYNAR. And how do you intend to remedy those losses, Mr. Kellerup or Dr. Brown?

Mr. KELLERUP. I don't plan on remedying the losses. We have attempted—the Credit Union Administration, to give you a little background on it, simply came in and made a unilateral decision, or their decision was that individual Indian moneys, unlike FDIC and FSLIC, are not insurable based on a multiparticipation basis. In other words, we can conservatively place historically in an FDIC or FSLIC-insured institution up to \$5 million of individual Indian money because of the large ownership base. It is all insured. NCUA came to town and said, when they closed the first credit union, and said "Whoops, time out. We don't interpret it that way."

At that point we had money in probably half-a-dozen credit unions around the country. They systematically, subsequent to that, found it convenient to close an institution 1 week to 10 days prior to the maturity of the large individual Indian money CD which we would have there. Consequently, five out of the seven institutions that we have had core losses, if you want to write them off as losses, five hard core situations where funds are encumbered, are in credit unions.

The other two situations are with S&Ls. Those dollars revolve around the FSLIC interpretation, after 3 years of long and diligent study, that power systems money and irrigation systems money has a common beneficial owner, that is, the U.S. Government, that they are not separately identifiable as we felt they were. In other words, power systems should be insurable, irrigation systems should be insurable. They have decided that, no, the U.S. Government owns that fund and, therefore, there's only one insured—

Mr. SYNAR. So you're saying they're going to bootstrap that theory into this?

Mr. KELLERUP. Pardon?

Mr. SYNAR. They're going to bootstrap that theory into this?

Mr. KELLERUP. I don't follow that.

Mr. SYNAR. I don't quite understand. You said that you had \$5 million—

Mr. KELLERUP. Oh, no. That was on the NCUA situation.

Mr. SYNAR. I understand that. But what was the purpose of the second part of that answer?

Mr. KELLERUP. Oh, the S&Ls. We have seven institutions, five are credit unions and two are S&Ls.

Mr. SYNAR. OK.

Mr. KELLERUP. The situation with the S&Ls is—

Mr. SYNAR. Did any funds get invested in excess of the insured balances?

Mr. KELLERUP. Not in our opinion, but in the opinion of—subsequently, yes. There are no tribal funds encumbered anywhere. These are all individual Indian moneys that you're talking about.

Mr. SYNAR. Mr. Thomas, did you have some questions?

Mr. THOMAS. I don't believe so. Thank you, Mr. Chairman.

Mr. SYNAR. Dr. Brown, at the subcommittee's October 26, 1989, hearing on the BIA's management of the Indian Trust Fund, I asked you how many claims were currently pending against the BIA regarding tribal or individual Indian moneys accounts. You promised me an answer, but as of today, none has arrived. Moreover, your staff renewed the pledge to provide the subcommittee with this information as recently as April 5. However, no information has been forthcoming. Maybe I can get it out of you today.

Dr. Brown, let me ask you again. How many claims are currently pending against the BIA related to Indian Trust Fund accounts?

Dr. BROWN. Let me have Mr. Gover answer that. We do have that here, sir, and we will make that available immediately to you.

Mr. SYNAR. Mr. Gover, how many?

Mr. GOVER. Let me—I'll read them and then you can—

Mr. SYNAR. Do you have a copy for us up here?

Mr. GOVER. No, sir, I do not. I just have the one copy.

What we did was, we polled our area offices and asked for any claims that had been made against the Federal Government, or any questions asked, in regard to was there any potential losses as such, any losses that they know that may have become a claim, even though no formal claim had been submitted by the tribe or by an individual.

For the Portland area, Umatilla, they did file a claim. There's a letter from the tribe. The amount is undetermined and the status is open at this time.

Grand Ronde, no claim was filed. It surfaced internally, the amount is undetermined, and it's regarded as uninvested funds.

Wapato irrigation, yes. How, filed by phone. The amount was undetermined. It's uninvested funds.

It goes on, 22 tribes, claimed file, no. It was surfaced internally. The amount, \$41,850 as loss of interest. It is still open.

Mr. SYNAR. What's the total, Mr. Gover.

Mr. GOVER. I do not have any—the amount here I have is about \$11 million, which includes these other seven losses that you just got through talking about.

Mr. SYNAR. Will you provide all that for the record?

Mr. GOVER. Yes, sir, I will.

[The information follows:]

Insert for page 69, line 1639

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LOSSES AND POTENTIAL LOSSES

AREA	AGENCY	CLAIM FILED	HOW FILED	AMOUNT	DESCRIPTION	STATUS
TLAND	UMATILLA	YES	LETTER FROM TRIBE	UNDETERMINED	D/W INTEREST LOSSES	OPEN
	GRAND RONDE	NO	SURFACED INTERNALLY	UNDETERMINED	UNINVESTED FUNDS	OPEN
	NAPATO IRR.	YES	PHONE	UNDETERMINED	UNINVESTED FUNDS	OPEN
	22 TRIBES	NO	SURFACED INTERNALLY	\$41,850	LOSS OF INTEREST	OPEN
ENIX	HOPI PAPAGO	YES	LETTER FROM TRIBE	\$13,797	UNINVESTED FUNDS	OPEN
		YES	LETTER FROM INDIVIDUAL	\$97	NONPAYMENT (PROBATE)	OPEN
RDEEN	TURTLE MTN.	YES	LETTER FROM TRIBE	\$1,600,000	LOST INTEREST POTENTIAL	OPEN
AJO	AREA	YES	TRIBAL LAWSUIT	UNSPECIFIED	IMPL	SETTLED
UQUERQUE	UTE MTN	YES	LETTER FROM TRIBE	UNDETERMINED	LOSS OF INTEREST	OPEN
LINGS	BLACKFEET	NO	TRIBAL PHONE INQUIRY	\$90,000	NOT FOLLOWING DIRECTIONS	OPEN
HEAPOLIS	NONE					
ERN	NONE					
OSCE	NONE					
IRKO	NONE					
W	NONE					
UMENTO	NONE					
TRAL OFFICE		NO	FAILED INSTITUTIONS	\$6,920,196	UNINSURED P & I	OPEN
		NO	IG AUDIT SURFACED	\$2,400,000	UNINVESTED	CLOSED
				\$11,055,830	IDENTIFIED, PLUS LOST INTEREST POTENTIAL	

NOTE: CENTRAL OFFICE FIGURES DOCUMENTED AS LOSSES, WITH THE \$2400000 IN OVERNIGHT INTEREST ALREADY REIMBURSED TO TRIBES. OTHER CASES AT FIELD LEVEL REQUIRE ADDITIONAL RESEARCH FOR DETERMINATION OF LIABILITY AND CALCULATION OF AMOUNTS DUE. IN ADDITION, WHERE LIABILITY CAN BE SHOWN, THEN LOSS OF INTEREST MUST ALSO BE CALCULATED.

Mr. SYNAR. Mr. Gover, why has it taken you all so long to provide that to us?

Mr. GOVER. Sir, we were trying to do a very thorough job. We went out and each one of the areas had to solicit the agencies. The agencies went out and solicited those tribes. We wanted to make sure that the information we provided was correct.

Mr. SYNAR. It took 6 months to do it? It took you 6 months to do that?

Mr. GOVER. Sir, my effort in this has not been any 6 months.

Mr. SYNAR. Dr. Brown, I might point out that you're the head of this thing—

Dr. BROWN. Yes, sir.

Mr. SYNAR. And if I was the head of it, I would like to know how many claims I had outstanding.

Dr. BROWN. Definitely.

Mr. SYNAR. To think it took us 6 months of constant pressure to get you to get information that is valuable to you is amazing.

Now, at our October 26 hearing, the subcommittee was assured by the BIA witness, Dr. Brown, indicating that he thought a check had been sent to the Red Lake Band of Chippewa Indians to correct underpayment of its accounts by BIA dating back to January 1981. You were going to do that.

Dr. BROWN. Yes, sir.

Mr. SYNAR. The next day, according to the history that we have put together, you met with representatives of the Red Lake Band and assured them that you would look into the matter immediately. Thereafter, on October 30, 1989, BIA called the Red Lake Band to say that a letter acknowledging the error and a check should arrive any day. However, according to the history we have put together, nothing was received.

Now, Dr. Brown, when will the Red Lake Band of Chippewa Indians receive their money?

Dr. BROWN. Sir, they have received that, and most recently. There were a number of reasons why the delay, and given some legal situations that we did have a delay, and we have been working on that, and we did have the money, and as I understand, the money has been delivered to them.

Mr. SYNAR. How much money?

Dr. BROWN. Mr. Parris, what's the account?

Mr. PARRIS. A little over \$360,000 with interest.

Mr. SYNAR. Now, that's what you told the subcommittee the last time, Dr. Brown. However, it is much more complicated than you just stated. Let me walk you through this.

The Red Lake Band won in court, but the BIA has consistently denied them relief for BIA's own mistake. Red Lake has received nothing in writing as of last night at 6 p.m. eastern standard time. The Red Lake Band understands that all they have been promised is a check, as Mr. Parris points out, of a little bit more than \$350,000, around \$352,000.

Dr. Brown, as you know, however, that amount will not correct the Red Lake Band's account. It only brings it back to where they were in November 1988, which was zero. This gesture still ignores the audit report dated March 1984, which found that the Red Lake Band was entitled to an additional payment of \$811,000, plus inter-

est. So as of today, Dr. Brown, the BIA owes the Red Lake Band approximately \$1.5 million more than they have been recently promised.

Dr. Brown, how much longer does the Red Lake Band of Chippewa have to wait for the BIA to correct its account?

Dr. BROWN. Sir, I have a letter here from Mr. Barlo, area director, that indicates the proceeds on April 23, 1990, that \$352,589 will be transferred to the Red Lake trust accounts on April 24, 1990.

Mr. SYNAR. Dr. Brown, I just told you, as of 6 o'clock last night, they didn't have a cent. And even if they got that check of \$352,000, that is \$811,000 short, plus interest.

When are you going to resolve this?

Dr. BROWN. OK, sir. I'll have to look into that portion of—

Mr. SYNAR. That's what you told me last time.

Dr. Brown, the plight of the Red Lake Band and the plight of the Congress appear to be very similar. The BIA will promise us anything to get out of a jam, but then never follow through. What I want to know is when is all this going to stop. When will the BIA start taking this stuff as legitimate criticism and seriously do something? It seems like you're unconcerned about judgments from the courts; you ignore congressional directives; and you treat those people to whom you owe a special fiduciary responsibility, very frankly, with contempt.

Now, you might remember that I mentioned that the Indian trust funds had been administered directly by the President of the United States at one time. The unfortunate fact is that Andrew Jackson was the last person to balance the books of the Indian Trust Fund. Dr. Brown, five generations of incompetence is enough. You need to resolve this immediately, not only with us but with this tribe.

Before you leave, I want to get some assurances that BIA's management of the trust fund will improve in the near future. Accordingly, the subcommittee has devised a set of promises for you to keep. Now, let me give you the correct answer for each one of these questions.

Dr. BROWN. OK.

Mr. SYNAR. The correct answer is, "We promise to do so." I urge you in the strongest possible terms to answer each one of these questions in the affirmative. So let's start.

Dr. Brown, does the BIA promise to fully, expeditiously and in good faith comply with the congressional directive contained in Public Law 101-120?

Dr. BROWN. Excuse me. Give me the definition of that, sir. I'm not sure exactly what I'm promising.

Mr. SYNAR. That's the audit reconciliation.

Dr. BROWN. Yes, sir. But let me say this. We are—we will, in good faith, and we promise that we will come up and we will sit down with Congress, as has already been promised, and—

Mr. SYNAR. But you didn't do that last time, Dr. Brown. You promised us that last time.

Dr. BROWN. No. What we did was take a look at—

Mr. SYNAR. I can read you the record, Dr. Brown.

Dr. BROWN [continuing]. A number of options, and we're prepared now to take a look at these other options in doing it. Yes, I promise that we will sit down and meet and work this out.

Mr. SYNAR. So you're not going to promise me today that you will comply with the congressional directive contained in Public Law 101-120?

Dr. BROWN. As interpreted by Congress, we will work on that, and we promise we will deliver that.

Mr. SYNAR. Let me read you the October 26, 1989, hearing record, Dr. Brown. This is your quote from page 187.

"My promise to you today is that we will abide by the language that's in the appropriation."

Dr. BROWN. That's true, sir. And that---

Mr. SYNAR. You didn't do it, did you, Dr. Brown?

Dr. BROWN. Sir, what we did was take a look at the options of that language and we---

Mr. SYNAR. You didn't do it, did you, Dr. Brown?

Dr. BROWN. What we did was take a look at the idea of multiple transfers; that was not acceptable. We are now to the other, and we are prepared—yes, we will come to Congress and we will work that according to the language.

Mr. SYNAR. You have not yet complied with that promise, have you?

Dr. BROWN. I will comply with that promise.

Mr. SYNAR. But you have not, up to this point?

Dr. BROWN. I feel that we have made every effort to, sir, yes, I feel we have.

Mr. SYNAR. Next question. Will you submit a full written account of your plan and schedule for compliance to the Appropriations Committee and to this subcommittee by no later than May 1, 1990?

Dr. BROWN. Sir, we have a proposed plan which we will submit. We want to also understand that that is a proposal and that we're prepared to sit down and discuss with Congress whether or not that meets their interpretation and whether or not that meets their concern. So yes, we have a plan and we're prepared to submit it by May 1 for further discussion.

[See app. 1.]

Mr. SYNAR. Will you promise to do so?

Dr. BROWN. We promise to do so.

Mr. SYNAR. Will you submit to the Appropriations Committee and to this subcommittee a full written plan describing the reprogramming money from the Security Pacific contract to audit, reconciliation and certification functions by no later than May 15, 1990?

Dr. BROWN. Sir, on the cost determinations, specifically based on our proposals that we would be prepared to submit in the plan, we would not be able to submit the total costs at that time but a process by which that cost can be determined. It would be irresponsible for us to put out a cost figure when we don't know the extent---

Mr. SYNAR. I didn't say budget. I said written plan.

Dr. BROWN. A written plan, yes, definitely. We will have a written plan.

Mr. SYNAR. Do you promise to do so?

Dr. BROWN. We promise to do so.

Mr. SYNAR. Thank you.

Will you consult with the relevant committees of Congress on a regular and timely basis for the remainder of your tenure at BIA?

Dr. BROWN. Definitely, sir. We promise to do so.

Mr. SYNAR. Mr. Thomas.

Mr. THOMAS. No questions.

Mr. SYNAR. Dr. Brown, I think you can tell from the tone, which started at 9 o'clock in my office, I am not a happy Congressman. I think you also know I represent the largest American Indian congressional district in the United States. I also have taken on the task to try to serve not only the Indians and Native Americans in my district, but throughout this country.

It is very clear from the last subcommittee hearing that you didn't take me seriously. I'm going to promise you something. I'm going to promise you that I'm going to be back here in 6 months, and we're going to come right back to these same questions. We're going to have an objective, overall view of whether or not there has been progress.

The last time we met with you all, we heard from down at the BIA that you thought that was going to be a one-shot, headline-grabbing type of hearing—

Dr. BROWN. That didn't come from me, sir.

Mr. SYNAR. I don't know who it came from. But let me just assure you, if I do nothing else in my tenure as a U.S. Congressman, I'm going to solve this problem. Because I am outraged, I am furious, with the contempt you have shown to the Native Americans of this country, the taxpayers and beneficiaries of this trust fund. I am outraged that you have made no progress in 6 months, after we outlined clearly for you what needed to be done. I am outraged at the arrogance of you and your administration for ignoring directives of Congress, the courts, and everyone else who has been involved in this.

I'm telling you, I'm going to have you up here every 6 months until this problem is solved. If it takes every bit of staff work I have, and every day of the remaining part of my tenure in this Congress, we're going to solve this problem. Don't leave here, any of you, thinking we're not going to do this, because I owe it to the Native Americans of Oklahoma and throughout this country, I owe it to the taxpayers, I owe it to my colleagues, but more importantly, we owe it to this country.

Dr. BROWN. Mr. Chairman, let me also state that I have taken an oath as well to advocate on behalf of American Indians, and I am not pleased. You have my commitment that we will work together and that we will be back here, and that you will not have to force or prod us in any way to correct the situation. We will move expeditiously to do so, and you have my word on that. We will do everything that we can in my power to do that. We welcome the chance in 6 months to come back, having worked with you, and to present where we are.

Mr. SYNAR. The time for change is now, Dr. Brown.

This hearing is concluded.

[Whereupon, at 11:30 a.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

CONTINUING FAILURE TO ADEQUATELY MANAGE THE INDIAN TRUST FUND

TUESDAY, SEPTEMBER 25, 1990

HOUSE OF REPRESENTATIVES,
ENVIRONMENT, ENERGY,
AND NATURAL RESOURCES SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2247, Rayburn House Office Building, Hon. Mike Synar (chairman of the subcommittee) presiding.

Present: Representatives Mike Synar, William F. Clinger, Jr., and Craig Thomas.

Also present: Sandra Z. Harris, staff director; Steve Richardson, professional staff member; Michele Ettinger, clerk; and Kirk Esherrick, minority professional staff, Committee on Government Operations.

Mr. SYNAR. The subcommittee will come to order.

Today the Environment, Energy, and Natural Resources Subcommittee will continue its review of the Bureau of Indian Affairs management and supervision of the Indian Trust Fund.

The Bureau of Indian Affairs is responsible for managing over \$2 billion held in trust for about 300,000 individual Native Americans and several hundred tribes. Scores of reports over the years by the Interior Department's inspector general, the U.S. General Accounting Office, and others have documented significant problems in BIA's ability to accurately and fully account for the trust fund's money, to properly discharge its fiduciary responsibilities and to prudently manage the trust funds.

During our last hearing on April 24 of this year, the subcommittee members expressed both disappointment and concern over the Bureau's intolerable slowness in resolving the chronic management deficiencies that have plagued this trust fund program. In fact, I promised at that time that this subcommittee would hold a hearing on this issue every 6 months, if necessary, in order to underscore the seriousness with which we view these failures.

I regret that our continuing review suggests that so little progress has been made by the Department since our last hearing that a lot remains to be done.

The subcommittee has been particularly troubled by BIA's efforts aimed at contracting out the trust fund management to a private party. This is especially true in light of the fact that it was a

move the Bureau had undertaken without ever correcting all its significant, underlying accounting problems.

Indeed, until forced to back down by increasingly restrictive appropriations language and repeated congressional oversight, the Bureau simply ignored repeated congressional directives designed to provide a full accounting of the individual and tribal account funds. Even now, progress on this effort has moved at a snail's pace.

The subcommittee intends to look at the status today of the Bureau's various management improvement efforts and to explore why more substantive progress has not been made.

Sadly, as yet we have no assurance that serious, longstanding problems will ever be fully corrected by the Bureau. However, as we will see today, there are solutions to all chronic deficiencies in the operation and management of the Indian Trust Fund. The question is really whether the Bureau and the Department are willing to provide the leadership and accountability necessary to find those solutions.

At this time I'll call on our ranking minority member, Mr. Clinger.

Mr. CLINGER. Thank you, Mr. Chairman. I appreciate your calling today's hearing to examine the Bureau of Indian Affairs' most recent efforts to improve management of Indian Trust Fund accounts.

Our previous hearings have identified problems with BIA's efforts to contract out trust fund management to Security Pacific National Bank. Questions raised during those hearings included: Whether BIA should have received proper delegation of procurement authority to go forward with the third party contract; was the contract with Security Pacific economically justified; had BIA adhered to congressional directives to reconcile and audit accounts before trust fund moneys were transferred to Security Pacific; and is BIA's trust fund management sophisticated enough to pursue a trust fund services contract.

Many of the questions that have been raised in our previous hearings are still valid questions today. Yet, some things have changed at BIA.

After having wasted approximately \$1 million of U.S. taxpayers' money, we have now learned that BIA will be canceling its contract with Security Pacific National Bank.

While I am outraged by the waste of money, I am encouraged to see that BIA is beginning to take a more forward-looking approach to resolving trust fund account management problems. Currently, BIA is pursuing development of both short-term and long-term strategies for systems integration with outside experts.

I am equally pleased to see that BIA has begun to pursue a plan to reconcile and audit trust fund accounts. Last week, in fact, BIA employees were in Albuquerque beginning the consultation process with a number of tribes and individual Indians as part of the initial steps toward developing reconciliation and auditing request for proposals.

While I am optimistic about these recent developments, I find it interesting that every time we announce a hearing, there seems to be a rash of activity at the BIA with respect to the Indian trust

funds. Hopefully, during one of these hearings, the Bureau will be able to say that accounts have been reconciled and audited.

I am pleased to see that the Assistant Secretary for Policy, Management and Budget, Mr. Lou Gallegos, is with us today. I believe that today's hearing will drive the point home how important it is to this committee and this Congress to improve the management of these trust fund accounts. We owe it to our Native Americans and we owe it to the American taxpayer.

I want to welcome today's witnesses. I look forward to hearing your testimony and your response to the subcommittee's questions.

Thank you, Mr. Chairman.

[See appendix for followup questions from Mr. Clinger.]

Mr. SYNAR. Thank you. I want to take this opportunity to thank you and Kirk both for the excellent team work we've had during our review. This has been a bipartisan effort since day 1 and I think it's that kind of bipartisan effort that sends the strongest possible message to the BIA. And I know, Bill, you've got many meetings to go to, given the circumstances of your position on Public Works, and we know that you will be in and out during the day.

Mr. CLINGER. Thank you, Mr. Chairman.

Mr. SYNAR. Our first panel this morning will be Dr. Eddie Brown, Assistant Secretary for Interior for Indian Affairs, U.S. Department of the Interior. Today he will be accompanied by Lou Gallegos, the Assistant Secretary of Interior for Policy, Management and Budget; Mr. Walt Mills, Deputy to the Assistant Secretary for Indian Affairs, and Mr. George Gover, Project Manager, Division of Trust Fund Management. If they would come forward.

Dr. Brown, where's Mr. Gover and Mr. Gallegos?

Dr. BROWN. Mr. Chairman, we were caught in traffic out there; the others are on their way. We apologize for the delay but the traffic we cannot control.

Mr. SYNAR. Why don't I have you sworn in and when they come in, we'll swear them in also.

Raise your right hand. Do you have any objections to being sworn in?

Mr. MILLS. No, sir.

Dr. BROWN. No.

Mr. SYNAR. OK.

[Dr. Brown and Mr. Mills sworn.]

Mr. SYNAR. Thank you very much.

Welcome, Dr. Brown. Let me, first of all, thank you for your statement and the candor within your statement. We look forward to hearing you at this time.

STATEMENT OF EDDIE F. BROWN, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY WALT MILLS, DEPUTY, OPERATIONS; LOU GALLEGOS, ASSISTANT SECRETARY FOR POLICY, MANAGEMENT AND BUDGET; GEORGE GOVER, ACTING DIRECTOR, AND JIM PARRIS, ACTING PROGRAM ANALYST, OFFICE OF TRUST FUND MANAGEMENT

Mr. BROWN. Thank you, Mr. Chairman and members of the committee. Accompanying me, as indicated, is Mr. Walt Mills, who is currently seated to my left here; Mr. Lou Gallegos and Mr. George Gover will be arriving shortly.

The Bureau has made progress in this period in carrying out our responsibilities in addressing many of the concerns of Congress with respect to the conduct of trust fund management.

I want to just briefly review some of the key areas which we have been addressing and were addressed during our last hearing.

First, let me address the \$17 million fund imbalance, which is one of the first actions taken with respect to the imbalance identified last year in September 1989 inspector general's report. Those differences have been reconciled from \$17 million to within \$1,239. The remaining balance will be addressed in the audit work to be conducted by Arthur Andersen & Co. during the course of the current fiscal year 1990 audit of the trust funds. In this reconciliation we have found no cases of fraud, embezzlement, or theft.

The separate data entry into the two systems that created the differences highlighted in the inspector general's report is being addressed by developing an automated interface to automatically update the investment and accounting systems simultaneously. The integration of the data entry is scheduled to be implemented by October 1, 1990, and is currently being tested in Albuquerque. This enhancement will prevent such an imbalance from occurring in the future.

Second, regarding the audit and reconciliation, at the April hearing, the subcommittee questioned us on our actions related to compliance with the congressional directive to audit and reconcile the accounts. The Bureau has developed two draft requests for proposal and one for reconciliation, and a second for the audit work to be performed.

We have requested that the Office of the inspector general perform the required independent verification that the work performed meets the intent of the congressional directive.

A meeting was held on September 20 in Albuquerque, NM, to discuss our drafts of the two RFPS with representatives invited from the 37 tribes included in phase I of the reconciliation and audit project. We also invited the tribes representing the individual Indian money account owners at the three BIA agency offices selected for participation in phase I.

It should be pointed out that at this meeting the major concerns expressed by tribes were that they be given a complete and understandable accounting of the funds. Our approach to this is that we will give each account holder a complete accounting of their funds. We shall notify each account holder of any loss or accounting error identified in the reconciliation. And please be assured that when a

loss in the collection of trust funds has been identified, the Bureau shall make the account whole. We are currently working on a policy as to the procedure to be followed to make these accounts whole.

As an interim measure, we believe that this approach is fully consistent with the requirement of the House Appropriations Subcommittee on Interior and Related Agencies to consult with the affected tribes until an Indian Tribal Advisory Committee has been established.

The advisory committee charter, the Federal Register notice and other supporting documentation have been completed and are in the final departmental review process.

We are planning to meet with the appropriate congressional committees within the next 2 weeks as part of the process to finalize the language in the RFPS.

Third, let me address the status of our financial services contract. The Bureau has given written notification to Security Pacific National Bank that it will not exercise its option to continue the contract for fiscal year 1991. The contract is no longer needed and will expire on its own terms on September 30.

In regard to the Red Lake Band of Chippewas, in the April hearing the subcommittee referred to a payment due to the tribe that had not been received. The Bureau had accomplished an internal transfer of those dollars on April 20 from restricted escrow accounts to tribal accounts as requested by the tribe.

In regard to unallocated balances, a total of \$35.8 million in the fiscal year 1988 Arthur Andersen & Co. of tribal and IIM funds that was referenced in the April meeting has been partially identified with the help of the auditors. The amount identified as "unallocated" based on the fiscal year 1989 audit is \$17.1 million.

Now, researching the reasons for these unallocated differences has been included in the scope of work for Arthur Andersen & Co. for the fiscal year 1990 audit. So it's our intention to focus on this as similar to as we've done the imbalance of the \$17 million and have that corrected.

In regard to investment losses, the Bureau has submitted five findings of fact out of the seven losses identified by the inspector general to the Solicitor for a determination. The Solicitor issued an opinion on May 2 as to the liability of the government related to investment losses of principal and interest of trust funds.

The Bureau is currently studying the Solicitor's opinion and will be working with other agencies to determine how it will apply to the identified losses. And as indicated earlier, a policy decision as to the procedure of how the accounts will be made whole will be forthcoming from the Bureau.

In regard to the 1081 Reconciliation Project, the computer programs have been developed to address problems with this process. It will allow us to distribute interest earned on oil and gas royalties in a timely manner, and it is currently being tested in a number of areas. The target date for implementation at all areas is scheduled for November 1990.

The last is the Office of Trust Fund Management organization. The resources for the Office of Trust Fund Management were the subject of a reprogramming proposal presented to the House and

Senate Subcommittees on Appropriations. The House and Senate review was completed on August 3 after we responded to numerous questions.

The Office of Trust Fund Management was given authority to begin filling positions on September 10. In addition, I've been exploring other options that may be available for the enhancement of the management of the trust funds within the Department.

Furthermore, recently a review was conducted by a team of accounting, ADP, and contract management personnel from the minerals management service. They concluded that, generally, actions under way were necessary and headed in the right direction. However, they concluded that truly major work lies ahead to bring trust fund management to an appropriate level of performance.

These findings reinforce many of the shortcomings identified in other projects. We are examining currently the best means of addressing them.

This concludes my prepared statement, Mr. Chairman. I will be happy to respond to any questions that you might have.

[The prepared statement of Dr. Brown follows:]

STATEMENT OF EDDIE F. BROWN, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON ENVIRONMENT, ENERGY, AND NATURAL RESOURCES COMMITTEE ON GOVERNMENT OPERATIONS, ON THE BUREAU OF INDIAN AFFAIRS' TRUST FUND MANAGEMENT PROGRAM

September 25, 1990

Good morning Mr. Chairman and members of the Committee. I am pleased to be here today to present testimony on the Bureau of Indian Affairs' (BIA) trust fund management program and to address certain issues which were raised at the Subcommittee's previous session on April 24, 1990. Accompanying me are Walt Mills, Deputy Assistant Secretary for Indian Affairs, Lou Gallegos, Assistant Secretary for Policy, Management & Budget, and George Gover, Acting Director, Office of Trust Funds Management. The Bureau has made progress in this period in carrying out our responsibilities in addressing some of the concerns of Congress with respect to the conduct of trust fund management. Additional steps need to be taken, however, in the future.

\$17 Million Fund Imbalance

We wish to update the Subcommittee on our actions taken with respect to the \$17 million imbalance identified last year in the September 1989 Inspector General's report. In the April hearing you were informed that the Bureau was working with the assistance of Arthur Andersen & Company to reconcile the differences identified between the Bureau's financial accounting system and the investment portfolio reporting balances. Those differences have been reconciled to within \$1239. The remaining balance will be addressed in the audit work to be conducted by Arthur Andersen & Company during the course of current FY year 1990 audit of the

trust funds. We have found no cases of fraud, embezzlement or theft.

The separate data entry into the two systems that created the differences highlighted in the Inspector General's report is being addressed by developing an automated interface to automatically update the investment and accounting systems simultaneously. The integration of the data entry is scheduled to be implemented by October 1, 1990, and is currently being tested in Albuquerque. This enhancement will prevent such an imbalance from occurring in the future.

Audit and Reconciliation (P.L. 101-120)

At the April hearing, the Subcommittee questioned us on our actions related to compliance with the Congressional directive to audit and reconcile the accounts. The Bureau has developed two draft Requests for Proposal (RFP); one for the reconciliation and a second for the audit work to be performed. We have requested that the Office of the Inspector General perform the required independent verification that the work performed meets the intent of the Congressional directive.

A meeting was held on September 20 in Albuquerque, New Mexico, to discuss our drafts of the two RFPs with representatives from all 37 tribes included in Phase I of the reconciliation and audit project. We also invited the tribes representing the Individual Indian Monies (IIM) account owners at the three BIA agency offices selected for participation in Phase I. We believe this approach is fully consistent with the requirement of the House Appropriations Subcommittee on Interior and Related Agencies to

consult with affected tribes until an Indian/Tribal Advisory Committee has been established. The Advisory Committee charter, Federal Register notice and other supporting documentation have been completed and are in the final Departmental review process.

We are planning to meet with the appropriate Congressional Committees within the next two weeks as part of the process to finalize the language in the RFPs. The RFPs are to be advertised in the Commerce Business Daily by October 15, with the contract award by January 15, 1991.

Status of Financial Services Contract

The Bureau has given written notification to Security Pacific National Bank that it will not exercise its option to continue the contract for FY 1991. The contract is no longer needed and will expire on its own terms on September 30. This action was taken in response to the acceptance of the Bureau's reconciliation and audit plan by the House and Senate Appropriations Subcommittee on Interior and Related Agencies.

Red Lake Band of Chippewas

In the April hearing, the Subcommittee referred to a payment due to the tribe that had not been received. The Bureau had accomplished an internal transfer of \$362,020.70 on April 20, from restricted escrow accounts to tribal accounts as requested by the tribe.

Unallocated Balances

The "unallocated balances" total of \$35.8 million in the FY 1988 Arthur Andersen & Company audit of tribal and IIM funds that was referenced in the April hearing has been partially identified with the help of the auditors. The amount identified as "unallocated" based on the FY 1989 audit is \$17.1 million. The primary source of this amount (\$11.8 million for FY 1989) appears to be the difference between the Bureau's Finance System balances for IIM and the Integrated Records Management System (IRMS) subsidiary accounting system in the field offices. Researching the reasons for this "unallocated" difference has been included in the scope of work for Arthur Andersen & Company for the FY 1990 audit. Other lesser amounts that have been identified related to this "unallocated" amount have been traced to: (1) undistributed interest; (2) overearnings on some investment transactions; and (3) other miscellaneous amounts. The Bureau will address the Finance and IRMS-IIM system variance through the Reconciliation and Audit Project described above. The other items will be addressed through the course of the FY 1990 audit by Arthur Andersen.

Investment Losses

The Bureau has submitted the five findings of facts regarding the seven losses identified by the Inspector General to the Solicitor for a determination. The Solicitor issued an opinion on May 2, as to the liability of the Government related to investment losses of principal and interest of trust funds. The Bureau is currently studying the Solicitor's opinion and will be working with other agencies to determine how it will apply to the identified losses. A policy decision will be forthcoming from the Bureau.

The 1081 Reconciliation Project

The computer programs have been developed to address problems with this process. Test data from the Anadarko Area Office is currently being reviewed by the Office of Trust Fund Management in Albuquerque. There are discrepancies noted between data lines received from the Minerals Management Service (MMS) and those being processed and distributed from the 1081 Reconciliation programs to the B-1900/A-10 minicomputers. The BIA Office of Data Systems in Albuquerque is working with the Office of Trust Fund Management to identify and resolve this problem on a timely basis. The target date for implementation of the 1081 Reconciliation System at Anadarko Area is set for the end of September. The testing of the process for the Billings, Navajo, Muskogee, Phoenix, and Aberdeen Areas will be initiated in early October. It is anticipated that the testing for these Areas will proceed much easier after overcoming the data problems with the basic programs at the Anadarko Area. The target date for implementation at all Areas is scheduled for November 1990.

Office of Trust Fund Management Organization

The resources for the Office of Trust Fund Management were the subject of a reprogramming proposal presented to the House and Senate Subcommittees on Appropriations. The House and Senate review was completed on August 3 after we responded to numerous questions. The Office of Trust Fund Management was given authority to begin filling positions on September 10. In addition, I have been exploring other options that may be available for the enhancement of the management of the trust funds within the Department.

Furthermore, recently, a review was conducted by a team of accounting, ADP, and contract management personnel from the Minerals Management Service. They concluded that, generally, actions underway were necessary. However, they concluded that truly major work lies ahead to bring trust fund management to an appropriate level of performance. They cited a lack of an overall coordinated plan; weak internal controls; a lack of policies; data, process, and input redundancies; a need for a new trust fund management system; and a variety of other shortcomings. There is also a concern that the Office of Trust Fund Management may not have the suite of technical specialists necessary for successful management of such a large undertaking. These findings reinforce many of the shortcomings identified in other reports. We are examining the best means of addressing many of them.

This concludes my prepared statement. I will be happy to respond to any questions the Committee may have.

Mr. SYNAR. Thank you very much, Dr. Brown.

Let me, first of all, say to the panel and the visitors here today, we're obviously in a tight situation with respect to the budget. I have just been informed I've got to meet with the majority leader at 10:15. This meeting may, unless we're able to find a second member to ask questions, delay this hearing for 45 minutes from 10:15 to 11. I apologize but those things happen.

Second, we do have a tremendous number of questions for Mr. Gallegos, but we will forego those at this point. If he does not get here within a short period of time I will ask those questions to Dr. Brown. Then we will come back and ask Mr. Gallegos.

Mr. Gover, welcome this morning. We will wait until there's the appropriate time for you to answer questions to swear you in, or when Mr. Gallegos comes. We've already sworn Dr. Brown and Mr. Mills in, so we'll wait until that point.

Let me begin. First I'd like to ask unanimous consent to enter into the record exhibit 1.

[The information follows:]



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245



IN REPLY REFER TO:

Mr. Mike Barrett
Vice President
Security Pacific National Bank
1830 N. Street, NW, Suite 1070
Washington, D.C. 20036

SEP 17 1990

Dear Mr. Barrett:

The Bureau of Indian Affairs (BIA) hereby confirms that the third year option for Contract #K51C14201266 will not be exercised. Accordingly, the contract expires on September 30, 1990, per section I.2.0 of the contract.

As you may know, Congress introduced language in the FY-90 appropriation act that requires the BIA to reconcile and audit all tribal and individual accounts back to the earliest data possible by an independent party. This reconciliation must occur prior to the trust funds being transferred to a third party for management. This same specific language has been included in the pending appropriation bill for FY-91.

The BIA submitted a reconciliation and audit strategy to Sidney N. Yates, Chairman, Subcommittee on Interior and Related Agencies on June 13, 1990, as requested in the FY-91 appropriation hearing. The strategy shall require a period of five years for the reconciliation and audit to be performed (copy enclosed). On July 23, 1990, the Subcommittee gave approval to the strategy (copy enclosed). Consequently, the BIA could not benefit from Security Pacific National Bank's (SPNB) management service during this five year reconciliation and audit period.

Please express the BIA's appreciation to the following for their professional efforts on the contract and the courtesy they have extended to our staff:

1. Jim Kheruy, Senior Vice President, Government and Financial Services Division, Los Angeles, CA.
2. Jerry Gray, First Vice President, Government and Financial Services Division, Los Angeles, CA.
3. Mike Barrett, First Vice President, Government Services Division, Washington, D.C.

Mr. SYNAR. This is a September 17, 1990, letter from Peter S. Markey, who is the Chief of the Bureau of Indian Affairs Branch of Contracting Grant Operations, to Mr. Michael Barrett, who is the vice president of government services for the division of Security Pacific National Bank.

Dr. BROWN, this letter states that the Bureau of Indian Affairs will not exercise its fiscal year 1991 option under the September 14, 1988, Security Pacific National Bank contract for financial services. Is that correct?

Dr. BROWN. Yes, sir.

Mr. SYNAR. Does this action terminate the Bureau of Indian Affairs contractual relationship with Security Pacific?

Dr. BROWN. Yes.

Mr. SYNAR. Is it the Department's position that this letter concludes the supplemental agreement between the Bureau and Security Pacific that was last amended on February 21, 1990, and put on hold on or around April 5?

Dr. BROWN. Yes.

Mr. SYNAR. Now from the beginning to the end, exactly how much did the Department pay Security Pacific?

Dr. BROWN. Judging from the total amount paid, as discussed, it was \$934,512.

Mr. SYNAR. So that the subcommittee has a better understanding of the Security Pacific National Bank contract I want to discuss the functions and the accounting services for which BIA contracted.

What was Security Pacific National Bank required by the contract to accomplish during this contract?

Dr. BROWN. Let me have Mr. Gover respond to that.

Mr. SYNAR. Mr. Gover, let me have you sworn in.

First, do you have any objection to being sworn in.

Mr. GOVER. No, sir.

[Witness sworn.]

Mr. SYNAR. Let me ask you, Mr. Gover, what was the Security Pacific National Bank required by this contract to do?

Mr. GOVER. There were four or five provisions in this contract. One was for the cash collection and concentration; two for investment services; three for disbursement services, four for custodial services, and five for reports, which the cost was included in the custodial services.

Mr. SYNAR. Were they required to deliver automated data processing?

Mr. GOVER. Yes. As stated in your April hearing—I was a party to that bid for processing services.

Mr. SYNAR. What was actually accomplished, Mr. Gover?

Mr. GOVER. In the contract?

Mr. SYNAR. Yes.

Mr. GOVER. Security Pacific was designing a trust funds management system for the Bureau.

Mr. SYNAR. What was accomplished, though? I know what they were trying to do. What did they actually accomplish?

Mr. GOVER. They did design a trust funds accounting system.

Mr. SYNAR. Was that accomplished? Does it work?

Mr. GOVER. It was not implemented, sir.

Mr. SYNAR. It doesn't work, then?

Mr. GOVER. It was never brought on line and was never operational.

Mr. SYNAR. Was anything accomplished in this contract, Mr. Gover?

Mr. GOVER. Yes, there was some requirements definitions that were accomplished under this contract.

Mr. SYNAR. There was some what?

Mr. GOVER. Requirements definitions.

Mr. SYNAR. Did the BIA get what it paid for in the \$934,512, Mr. Gover?

Mr. GOVER. According to the terms of the contract, yes.

Mr. SYNAR. Excuse me?

Mr. GOVER. According to the terms of the contract, we did get what we paid for?

Mr. SYNAR. Did the Security Pacific implement and then operate the collection?

Mr. GOVER. No, sir.

Mr. SYNAR. Accounting?

Mr. GOVER. No, sir.

Mr. SYNAR. Investment, and disbursement services for the trust fund, or the tribal, or trust fund management system?

Mr. GOVER. No, sir.

Mr. SYNAR. So what precisely did the taxpayers get, Mr. Gover?

Mr. GOVER. In the first options as exercised under the contract, \$331,900 was for the development and implementation of the system. After that time, we were exercising the \$300,000, I think a quarter option, for support services from Security Pacific Bank and the development of the accounting system.

Mr. SYNAR. Mr. Gover, let me ask you, are you familiar with your answer to Mr. Clinger on April 24 of this year? At that time Mr. Gover, what was accomplished? Did we get anything tangible because of this service contract?

Mr. GOVER. In regard to tangible, we were trying to have a system developed. However, that system was never fully developed, was never implemented, and on line.

And in regards to "Was an operational system in place?" No, sir.

Mr. SYNAR. And you remember what Mr. Clinger told you on April 19, 1990—of this year—did you not? He said based upon that, he thought we were being taken for a ride, didn't he?

Mr. GOVER. Yes, sir.

Mr. SYNAR. Isn't it true that the Bureau's A-76 report, which was prepared in compliance with the Office of Management and Budget Contracting Procedures, before the Security Pacific contract was executed, claimed that the Bureau would actually save money—more than like \$3 million—through this contract?

Mr. GOVER. Yes, sir.

Mr. SYNAR. Has the Bureau reduced staff as a result of the contract, Mr. Gover?

Mr. GOVER. No, sir.

Mr. SYNAR. Would the Bureau ever have been able to reduce the staff as a result of this contract?

Mr. GOVER. No, sir.

Mr. SYNAR. Has the contract saved the Bureau anything, Mr. Gover?

Mr. GOVER. Savings? No, sir.

Mr. SYNAR. Didn't the Bureau really admit that it had gotten nothing from its bargain with Security Pacific when it published a notice in the Commerce Business Daily on August 21, 1990, announcing a 3-year contract with MITRE Corp. with a 4-year option to establish the Bureau's requirements for financial accounting and other services?

Mr. GOVER. Would you repeat the question, sir?

Mr. SYNAR. Didn't the Bureau admit that it had gotten nothing from the bargain with Security Pacific when it published a notice in the Commerce Business Daily on August 21, 1990?

Mr. GOVER. No, sir. As you recall, we were prohibited from continuing with the contract due to the---

Mr. SYNAR. Didn't the MITRE contract go back to square one?

Mr. GOVER. It was to build upon what had already been done with the Security Pacific---

Mr. SYNAR. But you just told me nothing's been done.

Mr. GOVER. Well, as I stated earlier, work had been done in the requirements definition arena, and we were building upon that work.

Mr. SYNAR. But you did--your testimony on April of this year said nothing tangible had been done.

Are you taking that testimony back?

Mr. GOVER. I believe in that testimony I also stated at that time that the systems requirements definition had been done, but there had been no operation systems put into place.

Mr. SYNAR. The subcommittee was advised in the previous hearing on this matter that no demand letter was ever sent to Security Pacific for nonperformance of any aspect of the contract.

I will have to come back to that question. But I'll ask Dr. Brown this question.

Dr. Brown, do you know why no demand letter was ever sent to Security Pacific?

Dr. BROWN. No, sir, I do not.

Mr. SYNAR. All right, we'll ask Mr. Gallegos that same question.

Dr. Brown, on October 26, 1989, in the hearing that we had then, Ms. Arlene Brown was identified as the project manager of that contract.

When was she replaced as the project manager?

Dr. BROWN. Let me refer to Mr. Mills' response to that.

Mr. MILLS. Mr. Synar, I believe that was in January of this year when Mr. Gover came on board to be the interim project manager.

Mr. SYNAR. Mr. Gover, was that January 22?

Mr. GOVER. I believe, sir, it's in that week.

Mr. SYNAR. I'd like to ask unanimous consent exhibit 2 be entered into the record.

[The information follows:]



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20243



TO APPLY FORMS FOR
Accounting Management
Mail Stop 4070-MLB

MAY 25 1989

Memorandum

To: Chairman, Indian Incentive Awards Committee

From: Chief, Division of Accounting Management

Subject: Ariana Brown Reimbursement

The additional information you requested in your memorandum of April 25, 1989, in regard to the recommendation for a monetary award for Ariana Brown is provided, as follows:

Ms. Brown was not hired specifically to act as the Project Coordinator. Her initial temporary appointment was as a Legislative Specialist for the Deputy to the Assistant Secretary - Indian Affairs (Operations), effective March 22, 1987. The outstanding temporary appointment was to the position of Management Analyst in the Division of Management Research and Evaluation. I made a mistake in my original justification in stating she was on one year appointment. There were actually two appointments, each for short terms. These temporary appointments were extended beyond the initial term, in both cases, and resulted in her being in temporary status for more than a year. She was "drafted" to manage the project by the former Director of Administration without benefit of any documentation. Copies of the actions and associated position descriptions are attached for your review. The Financial Trust Services Contract Initiative Project Management was not in her position description and was, indeed, a special act outside of the duties of her position in both the initial appointment and the successor appointment.

The award is recommended for the work Ms. Brown performed in managing the project to contract award within the time frame established by the Assistant Secretary - Indian Affairs. This was no small feat, and is certainly deserving of the monetary recognition requested.

All the other staff, including the author of this memorandum, who worked on specific tasks associated with the award of the contract were performing duties directly related to their position descriptions. We are now in the process of implementing the contract and once the contracted services are in full operation, a Department Unit Award for Excellence of Service will definitely be considered for the more than 50 Bureau employees and tribal consultants who have been instrumental in making this initiative a success.

The committee's early action on this recommendation for Monetary Award will be appreciated. If there are any other questions or additional information you need, please call me at 343-4807.

Betty L. Wilkinson

Attachments

RECOMMENDATION FOR SPECIAL ACHIEVEMENT AWARD

ARLENE BROWN

This award is recommended for Ms. Brown's outstanding performance as the Project Coordinator for the Financial Trust Services Contract Initiative, from August, 1987 through September, 1988. Ms. Brown was employed by the Bureau of Indian Affairs, in August of 1987 in a temporary position for a term of one year, which appointment was extended for an additional 120 days. During this period, no performance standards were established, nor was a performance rating given.

This project had high visibility not only as a major privatization effort, but also from the standpoint of tribal concerns and the associated Congressional oversight committees. Her management techniques in establishing the framework for tribal consultation, Bureau field level involvement, and Congressional awareness resulted in committed support for the Bureau's success in its effort to improve the management of the funds held in trust. She directed a massive public information and education effort to alleviate sometimes hostile and negative concerns regarding the project. She gained the support of the previously most vocal opposition to the contract effort, who in turn expanded that support to an advocacy for the contract with the Bureau constituency. Although this was a lengthy process, Ms. Brown's special efforts enabled the Bureau to meet the target date for contract award without potential adverse actions from tribes or Congressional committees. She guided the work of task groups and coordinated with the contracting staff, from initial requests for comments, in nationwide consultation meetings, through an A-76 review, to requests for proposals and award.

As a result of Ms. Brown's performance on this project, the benefit to the Bureau will be the opportunity to improve its trusteeship. Also, had the contract effort not been successful, the cost to the Bureau to make the improvements necessary to duplicate the services obtained under the contract would be almost \$3 billion.

UNITED STATES DEPARTMENT OF THE INTERIOR

Form 01-11
(Revised 1-70)

RECOMMENDATION FOR MONETARY AWARD

BUREAU OR OFFICE BUREAU OF INDIAN AFFAIRS
OFFICE NUMBER IND-650-89-42

NAME OF EMPLOYEE ARIJDE BROWN SSN 583-56-3548	ORGANIZATION UNIT Division of Accounting Management Office of Administration IN06KK600 K702000 Cost Acct: K00-51/9/3400/4361
POSITION FOR WHICH THIS AWARD IS BEING RECOMMENDED Management Analyst, GS-343-13 \$40,818	POSITION TITLE, GRADE AND SALARY OR HOURLY RATE DURING PERIOD OF RECOMMENDATION IF OTHER THAN PRESENT POSITION
SUPERVISORY <input type="checkbox"/> NON-SUPERVISORY <input checked="" type="checkbox"/>	SUPERVISORY <input type="checkbox"/> NON-SUPERVISORY <input type="checkbox"/>
PERIOD OF SERVICE ON WHICH RECOMMENDATION IS MADE August 1987 - September, 1988	CURRENT PERFORMANCE RATING _____ DATE None
DATE AND AMOUNT OF AWARD RECOMMENDED (AMOUNTS EXCEED A QUALITY INCREASE OR LONG SERVICE AWARD WITHIN ANY 23 MONTHS) None	DATE NEXT REGULAR WITH-PAYABLE INCREASE DUE _____

TYPE OF AWARD RECOMMENDED

SPECIAL ACHIEVEMENT	QUALITY INCREASE	TANGIBLE BENEFIT
<input type="checkbox"/> Sustained	<input type="checkbox"/> Quality Increase	<input type="checkbox"/> Tangible Benefit
<input checked="" type="checkbox"/> Non-sustained	5,000.00	<input type="checkbox"/> Incentive

SUPPORTING JUSTIFICATION

List task or phase of work wherein employee has exceeded the normal requirements of his position. For each task listed describe the manner in which employee's performance exceeded the normal requirements. Be brief, but specific—do not generalize—in space below. Indicate the benefits to operations resulting from employee's performance. Where monetary savings resulted, give below a computation of such savings. For quality in service, see list of questions on reverse side before beginning justification; justification must include reasons why performance is truly exceptional at current level.

Supporting justification attached

(ATTACH SEPARATE SHEET IF NECESSARY)

RECOMMENDING OFFICE <i>Betty L. Thirion</i>	DATE <i>11/18/88</i>	REGIONAL OR AREA DIRECTOR	DATE
REVIEWING OFFICE <i>Lee S. Sumner</i>	DATE	CHIEF, BUREAU OF OFFICE COM. <i>Betty L. Thirion</i>	DATE <i>8-21-89</i>
CHIEF, BUREAU OF OFFICE COM.	DATE	Indian Incentive Awards Committee HEAD, BUREAU OF OFFICE (or Approving Official) <i>Walter R. Mill</i>	DATE <i>10-6-89</i>
CHIEF, INTERIOR INCENTIVE AWARDS COMMITTEE		ASST. SECRETARY - Indian Affairs	

Mr. SYNAR. Now, these are documents relating to a recommendation for a special achievement award for Arlene Brown for her work in relation to the award of the Security Pacific National Bank contract.

Dr. Brown, please turn to page 2 of that exhibit, if you would.

The last sentence of the first paragraph reads as follows:

"During this period, no performance standards were established, nor was a performance rating given."

I can only say that it's a good thing performance standards were not set, Dr. Brown. This subcommittee's previous hearings have explored the Bureau's contract, as you know, with the Security Pacific in great detail. We explored all the reasons why the Bureau received nothing meaningful out of it, and that is the taxpayers have been now informed that they spent millions of dollars.

As I noted before, the primary reasons for the Security Pacific contract's failure is because the Bureau itself could never determine exactly what its needs were; and as a result, repeatedly had to change the requirements package.

Now in view of the demonstrated mismanagement of that contract, Dr. Brown, does it strike you as remarkable that a person in charge of the contract was actually given a \$5,000 cash bonus for work that resulted in the Bureau getting absolutely nothing for the \$1 million?

Dr. BROWN. Let me back up just for a second to clarify one thing. Regarding the idea of the dollars spent and the products received, products were received from our contract with Security Pacific. The only best way I can explain that, is like you're trying to build a car and you have to have the headlights, you have to have the fenders, you have to have the bumper, and all of that. None of that is useful, however, until it comes together to be put together as a whole system as if you would an automobile.

What we did receive from Security Pacific were some of those parts. Those parts were never put together; were never able to be put together to produce a whole system. Now, that's one.

The second one—in regard to Arlene Brown—it is my understanding—and if you will look at that process that her evaluation was done under the prior administration in regard to the direction that they were going at that time working with Security Pacific—that evaluation was done and a recommendation made based on that evaluation, and processed through the Department for, as I understand it, a bonus, or a special bonus for work done.

Mr. SYNAR. Dr. Brown, why don't you look at page 3?

Dr. BROWN. Yes, sir.

Mr. SYNAR. Mr. Mills, look at page 3.

There's a signature at the bottom of the page. What's the date next to that signature?

Dr. BROWN. That's October 6, 1989, sir.

Mr. SYNAR. That's during your watch, isn't it, Dr. Brown?

Dr. BROWN. Yes, sir.

Mr. SYNAR. That's not during the previous administration's watch when that evaluation was done, how can you say that then?

Dr. BROWN. The evaluation was done and the recommendation was made under the previous administration.

Mr. SYNAR. But you could have canceled it, could you not, Dr. Brown? You could have canceled it given the fact that there was a poor performance on the contract?

Dr. BROWN. Let me have Mr. Mills respond to that.

Mr. SYNAR. Mr. Mills.

Mr. MILLS. Yes, sir, we could have.

Mr. SYNAR. Why didn't you?

Mr. MILLS. For the time period that the award was given, we had no basis to cancel this particular award.

Mr. SYNAR. You had no basis? Are you satisfied that the contract was performed successfully?

Mr. MILLS. There was nothing we found wrong with the contract. The terms of the contract, the way it was written, we had a problem with that; and that was no fault of the employee the way the contract was written. And the award was for the period of time from August 1987 to September 1988. It just happened to be—

Mr. SYNAR. Let's refer back to Mr. Markey's letter in exhibit 1, if you would, gentlemen, the letter to Security Pacific National Bank.

As you will note, in paragraph 2, Mr. Markey informed Security Pacific that the fiscal year 1991 option of their contract was not being exercised because audit and reconciliation of all trust fund accounts must occur before any trust funds could be transferred to Security Pacific.

Now looking back, Mr. Mills and Dr. Brown, to Ms. Brown's achievement award, do you find it ironic that an employee was awarded a \$5,000 cash payment for negotiating a contract, the principal feature of which—transferring of assets to a third party was specifically prohibited by law at the time the contract was agreed to?

And, moreover, do you find it a little bit ironic, or are you troubled, by the fact during this effort the BIA spent \$1 million and more than 2 years of constant frustration and then awarded the employee in charge a citation?

Mr. MILLS. The only way I can respond to that, sir, is that the award was given to her based on a direction that she had by a former Assistant Secretary.

Mr. SYNAR. You are familiar with the fiscal year 1987 Supplemental Appropriations Act, are you not, Mr. Mills?

Mr. MILLS. Yes, sir.

Mr. SYNAR. Are you, Dr. Brown?

Dr. BROWN. Not at this point I cannot recall it specifically, sir.

Mr. SYNAR. Well, let me read it to me. It is a proviso which was included in the supplemental appropriation prohibiting of the transfer of funds under a contract to any private institution until Indian Trust Fund accounts were audited and reconciled.

How many Indian Trust Fund accounts were audited and reconciled during fiscal year 1987?

Dr. BROWN. None.

Mr. SYNAR. So, therefore, it was prohibited by law, was it not?

Dr. BROWN. Yes.

Mr. SYNAR. And, therefore, she negotiated a contract that was not possible to perform. In other words, the principal features of the contract were not possible to perform, were they?

Dr. BROWN. Yes, based on that.

Mr. SYNAR. Do you see any parallel, Dr. Brown, between the Bureau's award to Ms. Brown and its failure to demand performance by Security Pacific?

Dr. BROWN. Sir, I see a lot of failures in the way that we have handled a lot of situations. Our attempt, and my attempt, is to address that based on our conversations with you and your committee as well as your staff, on how we address that situation. We are literally doing our best to address those concerns and issues that have been into place and put up a system that can work.

Mr. SYNAR. Dr. Brown, that's a nice answer, and I do appreciate the sympathy that you're showing the committee but, let's review the facts for everyone here.

Dr. BROWN. OK.

Mr. SYNAR. On one hand you have an agency which allows a contractor to be paid \$1 million and yet fails to receive anything meaningful for that \$1 million.

On the other hand, the Bureau awards an employee in charge of that contract \$5,000 in an achievement award for nonperformance.

What am I supposed to tell the people of this country about something like that? How do I justify that to the people of this country?

What are the magic words that I use to tell somebody about this?

Dr. BROWN. The response is, sir, that an attempt was made, as I understand it, at that particular time based on the best judgment of what was to be done, and how to accomplish that. That proved to be wrong. The Federal Government is not infallible as anyone else, and that we will take our shots as we can and be held accountable as we are now being held.

Mr. SYNAR. I think this indicates that some of the fundamental management failures that we've experienced at the Bureau and in the management of the department. And, I have some support for that statement, Dr. Brown. For example, on October 26, 1989, Mr. James Richards, who you know as the inspector general of the Department of the Interior, told this subcommittee the following in relation to this chronic mismanagement of the Bureau's trust funds responsibilities. Let me read to you again from his testimony, quote:

"These are not new problems. We have identified over the past 10 years problems have been identified in trust fund administrations by CPA firms, by the GAO, by our own reports. What is most disturbing about this, and the most disturbing problem is that there has been virtually no oversight of the trust fund administration from the BIA Headquarters."

Dr. Brown, what are you and Secretary Lujan going to do to establish a system of oversight of the Bureau's management of the Indian Trust Fund to assure the Congress that the Bureau's headquarters is going to exercise some adequate command, control, and communications with trust fund managers?

Dr. BROWN. Let me begin by saying one is, in our 1991 budget that we have dollars in to increase the number of staff just to handle it. One of the major criticisms that we have is the depth and the breadth of staff that we have in regard to operating that.

The situation did not occur overnight. The situation occurred—and if any administrator were to come into the Bureau and do a

review of the kind of horsepower, manpower, that we have to move the kind of trust responsibilities, they will see that we are severely underlacking the kind of experience and personnel that are needed to run the type of programs and carry out the trust at the level to which it is expected to be carried out.

We have asked for 20 positions in that situation. We are now looking at a reorganization and restructuring of the Bureau of Indian Affairs to provide a stronger oversight and evaluation of all of our programs as to how they're operated. And we're also moving to organize the Bureau into some better manageable units such as we have moved and are addressing there in Albuquerque. If one just looks at the Bureau, one would have to agree that we have followed much of what I call a bootleg system in trying to carry out the administrative functions on a day-to-day basis of the Bureau of Indian Affairs.

We are prepared, as I've said, in not only addressing that through the budget forthcoming, but also in the reorganization and restructuring of the Bureau.

Mr. SYNAR. Dr. Brown, you would agree that leadership and accounting are probably the two buzz words that ought to lead this fight?

Dr. BROWN. I agree with that. And I believe that's been and will continue to be shown, particularly given our tribal leadership's meeting next week in Albuquerque with all of the tribal leaders laying out specifically the plans that we have of reforming the Bureau of Indian Affairs.

Mr. SYNAR. Dr. Brown, if you get good people—and you do have some good people—didn't the inspector general say that one of the major failures is the lack of training of those people?

Dr. BROWN. Definitely, sir.

Mr. SYNAR. Let me ask you this, Dr. Brown, is the Department, or is the Bureau considering a reorganization of this trust fund using the mineral management service?

Dr. BROWN. Let me start it like this: One of the things that we have pushed within this administration is that the trust fund, or the trust responsibility of Indian people, does not just rest with the Bureau of Indian Affairs, but it rests with the entire Department as well as with the Federal Government.

We have made an effort within the Department to try to draw upon the expertise of the total Department in addressing some of the key needs of the Bureau of Indian Affairs. As a result, you will see—and as I mentioned in my testimony—we did have MMS come in because they have gone through some of the reorganization and some of the situations that we are currently facing. They have gone through a similar reorganization and resetting up of their system over the past few years.

We have called upon that expertise to review the plan that we had put in place to see how realistic it was. To ensure that whatever we're doing to increase that percentage of success, we will continue to call upon and use MMS experience or expertise in the best ways that we can to support the kind of efforts that we're putting together.

As indicated before, one of the things that has been identified is not only the lack of training, but the lack of our ability to attract

people at the level and experience to operate and to not only identify what the problem is, but to put together a systematic plan that is achievable within certain time frames to ensure that we're making the progress that we need.

So we will continue to draw upon MMS or whatever resources within the Department to ensure and get the expertise that we need to move this system.

Mr. SYNAR. Dr. Brown, let me first say, the consultation is fine, but that's not reorganization. I want that to be very clear.

The other thing is, as I told the Secretary personally, the chronic management problems at the Bureau cannot be remedied, and this subcommittee will not look on it with favor, if there's a transfer to MMS. I want to call your attention to the recent inspector general's report on MMS. This report was critical of the financial accounting and data processing activities at MMS.

Now, giving the Indian Trust Fund to MMS would be like giving a patient pneumonia in order to try to cure the flu. It might work if it doesn't kill them first. Now, the problem cannot be solved—and I want this to be very clear—cannot be solved by throwing the Indian Trust Fund over into the MMS.

The Security Pacific area effort failed, in part, because Congress would not allow the Bureau to pass off a set of unbalanced books to somebody else. The same applies here. I will also note that any move to MMS would require legislation from this committee—and I can guarantee you that it will be much easier to convince us that the Bureau's making slow, but steady improvements in leadership and accountability, than to buy a shift over to MMS.

Are you familiar with the inspector general's report of June 19, 1990, on MMS?

Dr. BROWN. No, I'm not, sir.

Mr. SYNAR. That is it in front of you.

Dr. BROWN. Yes, sir.

Mr. SYNAR. Isn't it true that the inspector general found that MMS spent \$400,000 developing and implementing an interagency database verification system to automatically extract and compare common mineral lease data from three information services maintained by MMS and the Bureau of Land Management without analyzing alternative systems and without performing a cost benefit analysis on every alternative?

Dr. BROWN. If it states that there, I would have to believe that it's true, sir.

Mr. SYNAR. Isn't it true that adding responsibility of managing the Indian Trust Fund would only complicate the MMS difficulties, which were identified by the inspector general?

Dr. BROWN. Yes, if we moved into a wholesale transfer or whatever. Yet, we know that there is expertise of individuals how have gone and who are performing currently and who have some experience and knowledge. And I think to not involve that expertise, that's right next door to us, would be foolish as well.

Let me assure you that no decisions have been made in regard to the transfer of the trust fund to MMS. We will be looking at ways to carry out the plan that we submitted to Congress. And we understand, and I think everybody understands, that that's a dynamic plan. And as we progress and take a look at it, we will be coming

back to Congress on a consultation basis with both you and your staff to address any of the concerns as we identify any new problems, or new directions, or better ways of doing things.

But I want to assure you again that no decision has been made in regard to transferring MMS outside of the Bureau or away from our control at this point in time.

Mr. SYNAR. Dr. Brown, suffice to say, this subcommittee views the MMS problem as having its hands full trying to coordinate with BLM. We will spent about \$240 million over the next decade developing new systems and trying to update antiquated systems. And I've got to tell you, I don't think they have the capabilities to solve your problems. And I don't think combining the two solves anything and I want that to clearly show that in the record.

Regrettably, we're going to have to recess here for a moment. Hopefully, Mr. Bustamante or one of the members will be here to continue. If not, I will be out for about 30 minutes, and we will be back.

We will stand in recess and I will keep the record open for all members for questions. So we stand in recess.

Dr. BROWN. Thank you.

[Recess taken.]

Mr. SYNAR. Mr. Gallegos, do you have any objection to being sworn in? The other three panelists have already been sworn in.

Mr. GALLEGOS. Not at all, sir.

Mr. SYNAR. Then raise your right hand.

[Witness sworn.]

Mr. SYNAR. Thank you. Welcome.

We have already had one round of questions with Dr. Brown, Mr. Mills, and Mr. Gover, but we do have some other questions we'd like to ask you. I'm sure you're familiar with the testimony that Dr. Brown gave us this morning. So let's begin.

On October 26, 1989, Mr. James Richards, who is the inspector general of the Department of the Interior, appeared before this subcommittee to report his findings concerning the deficiencies in the Indian Trust Fund management.

A month before that appearance, Mr. Richards' office had issued its 32d audit report in 7 years detailing serious management failures in the Bureau of Indian Affairs exercise of its fiduciary responsibilities.

Now among those findings, gentlemen, reported at that time, were a series of investment losses of Indian trust funds that had not been reimbursed to the account holders. These included: \$2.6 million attributed to fraudulent acts; \$7 million in failed financial institutions; and \$2.3 million in other investment losses, including Farmers Home Administration loans and nonpayment of interest in the credit unions.

Mr. Gallegos, Indian trust funds, and principally the individual Indian money funds—had been lost, and the appropriate account holders were not reimbursed for their losses plus related interest income.

Isn't it true, as the inspector general says in that report that you have before you that "this loss is inconsistent with the fiduciary and trust responsibility" of the Bureau?

Mr. GALLEGOS. Mr. Chairman, I think that the Department, with respect to this report, has agreed with the inspector general that the findings are as he stated them.

Mr. SYNAR. Mr. Gallegos, the inspector general told this subcommittee also that the primary reason why the Indian account holders were not reimbursed for the losses that they sustained as a result of BIA mismanagement is—let me quote him again—“because the Bureau does not have a formal policy to reimburse account holders for losses.”

Has the Bureau yet established a formal procedure to reimburse Indian Trust Fund losses on these investments, Mr. Gallegos?

Mr. GALLEGOS. Mr. Chairman, I am advised that the Bureau has made a commitment to establish a process by which individual account holders—

Mr. SYNAR. That was not the question, Mr. Gallegos. Have they established the formal procedures?

Mr. GALLEGOS. Not at this point, Mr. Chairman.

Mr. SYNAR. Mr. Gallegos, what steps has the Department of the Interior taken to direct the Bureau to comply with the inspector general's recommendation?

Mr. GALLEGOS. Mr. Chairman, the Department has taken numerous steps across a broad range of initiatives that have to do with the overall improvement of the Bureau's performance.

Mr. SYNAR. Could you tell us one, Mr. Gallegos?

Mr. GALLEGOS. Yes, sir. The Department in fact has been very interactive with the Bureau of Indian Affairs in the analysis of this particular trust fund management problem for several months, trying to find the best methodology to address the larger question to remedy for the longer term the question of how to manage the trust; how to account for the trust; and how to inform the account holders as to what the status is?

Mr. SYNAR. But there has been no notice to the account holders, has there, Mr. Gallegos?

Mr. GALLEGOS. Not that I am aware of, Mr. Chairman.

Mr. SYNAR. Mr. Gallegos, the inspector general has stated that the Bureau and the Department's response to this problem has been inadequate. And based upon the evidence before this subcommittee, I've got to tell you, I agree with that. Moreover, I am certain that the courts would agree, too. Now remember that the standard set by the courts is that the government must—and let me quote them—“affirmatively establish that it has properly discharged its trust.”

Has the Department, Mr. Gallegos, consulted with the Solicitor to determine whether the Bureau should seek specific authorization and appropriations to reimburse account holders for losses attributable to BIA's mismanagement?

Mr. GALLEGOS. Mr. Chairman, I am not personally aware—I do not have direct personal knowledge that has been done; but I am advised that it has been done.

Mr. SYNAR. Let me just tell you something, Mr. Gallegos, I think this is really the whole problem, that no one is accountable; that you can't tell me definitively that it's been done.

And I remind you, sir, that the most fundamental fiduciary responsibility of a government is its duty to make a full accounting

of the property and funds held in trust to 300,000 beneficiaries in the Indian trust funds.

Now, this day-to-day activity, Mr. Gallegos, may have been delegated to the Bureau of Indian Affairs, but ultimately the Secretary of the Interior is accountable for the trust funds and to the taxpayers.

Is that not correct?

Mr. GALLEGOS. Mr. Chairman, we agree wholeheartedly with that.

Mr. SYNAR. Why has the Department continued, Mr. Gallegos, to refuse to implement a policy to reimburse the victims of fraud and mismanagement by the Bureau?

Mr. GALLEGOS. Mr. Chairman, I believe that I could only answer that question in the context of we are attempting to develop a process to, in fact, do that for every account holder. It is a complex issue, as you have indicated yourself. There are over 300,000 account holders.

Mr. SYNAR. But you have not implemented a policy, have you not, Mr. Gallegos?

Mr. GALLEGOS. We are currently developing a policy to do that, sir.

Mr. SYNAR. Why hasn't the Department, Mr. Gallegos, sought legislation to reimburse the victims of these losses?

Mr. GALLEGOS. Mr. Chairman, I am not sure that the Department at this point in time would be in a good position to submit legislation because we, in fact, do not know the exact loss. We have to develop a reconciliation and a proper accounting and, therefore, advise such account holders that this is—

Mr. SYNAR. We're going to get to that in a minute because I think that's been the congressional directive enacted through any number of appropriations.

Mr. Gallegos, are you aware of the previous inspector general report in 1989 that stated that the Bureau's policy was not to notify account holders of losses?

Mr. GALLEGOS. Mr. Chairman, I've been briefed a number of times. On that IG report I don't recall that it was stated that the Bureau of Indian Affairs' policy was not to reimburse account holders. It simply did not have the capability to do so.

Mr. SYNAR. You are familiar with Richards' testimony of October 26, 1989, are you not?

Mr. GALLEGOS. Mr. Chairman, I am not familiar with Mr. Richards' testimony of that date.

Mr. SYNAR. At the subcommittee's hearing on October 26, 1989, and again on April 24, 1990, I asked Dr. Brown, who is seated to your left, whether the Bureau had established a policy to notify account holders of their losses.

His answer at both those hearings was "no."

Mr. Gallegos, as of today, has the Bureau established a policy of notifying account holders of the trust fund losses?

Mr. GALLEGOS. Mr. Chairman, not to my knowledge.

Mr. SYNAR. Mr. Gallegos, if an auditor of the accounts reveals, once its done, that money was owed by the account holder to the trust fund, isn't it safe to assume that the Department would

notify the account holder and attempt to recover that money fairly quickly?

Mr. GALLEGOS. Mr. Chairman, that is something that definitely should result. I'm not prepared to state that it does, however.

Mr. SYNAR. Isn't that precisely what happened with the Red Lake Band of Chippewa Indians? Didn't the BIA find a mistake in the Red Lake Indian Mill trust operating account, which the BIA decided was an error in favor of the Federal Government and, therefore, the BIA unilaterally acted to remove the money from the Red Lake's Indian Mill trust operating account?

Recently, after this subcommittee's two oversight hearings on Indian Trust Fund management during which Dr. Brown, who is to your immediate left, was questioned on the specifics of the Red Lake Band's case against the BIA, that \$362,000 was transferred to the Red Lake Band.

And while this payment, Mr. Gallegos, does not settle the Red Lake's claim against the BIA, it does return the principal sum at issue, which the BIA had taken away from Red Lake's control?

Mr. GALLEGOS. Mr. Chairman, I am just now informed that that is correct.

Mr. SYNAR. Can you give this subcommittee, Mr. Gallegos, any legitimate why the same standards should not apply in the reverse situation; and why it would be the Department of the Interior's position not to notify the account holders when you find that the BIA owes them money?

Mr. GALLEGOS. Mr. Chairman, I would not attempt to find a reason why the Department should not be held to that same standard.

Mr. SYNAR. Mr. Gallegos, on what basis do you believe the BIA and the Department of the Interior, acting as trustees, are justified in sitting back and hoping that account holders will not discover losses on their accounts?

Mr. GALLEGOS. Mr. Chairman, the Department of the Interior and the BIA are not justified in sitting back and awaiting for the individual account holders to discover that.

We believe that the Department and the BIA are proceeding in a proactive way to establish factually what an account holder may be due, and make the payments accordingly.

Mr. SYNAR. Mr. Gallegos, are you alarmed at what the inspector general keeps saying about you and your work down there?

Mr. GALLEGOS. Mr. Chairman, I trust that the inspector general is talking about the historical process in the Department of the Interior and not me personally.

Mr. SYNAR. Let's look at the IG specifically. Has the BIA notified any of the account holders identified in the inspector general's September 1989 audit report of their losses?

Mr. GALLEGOS. No.

Mr. SYNAR. I gather, then, the Bureau has not made any attempt to reimburse any of the account holders for their losses either, then?

Mr. GALLEGOS. No.

Mr. SYNAR. Dr. Brown, how many claims are currently pending against the Department for trust fund losses attributed to errone-

ous accounting, lost investment interest, fraud, or failed financial institutions?

Dr. BROWN. Excuse me, sir, we're having a little trouble identifying the question. Could you repeat that?

Mr. SYNAR. Let me repeat it.

How many claims are currently pending against the Department for trust fund losses attributed to erroneous accounting, lost investment interest, fraud, or failed financial institutions?

Dr. BROWN. We have seven in regard to failed financial institutions.

Mr. SYNAR. And the rest of them?

Didn't Arthur Andersen's report audit say they were too numerous to count?

Dr. BROWN. On the individual Indian money account?

Mr. SYNAR. Yes.

Mr. GOVER. Mr. Chairman, there's constant accounting of the funds at the agency in the area locations. And there's constantly being corrections made on the accounting of those funds. So that's a dynamic environment where corrections are being made on a day-by-day basis.

Mr. SYNAR. Let me get into that, Mr. Gover. The BIA has provided this subcommittee with two conflicting lists about standing claims pending against your own Department. Let me go through these.

There are 24 pending claims on one of these lists; but it does not itemize the losses of the failed financial institutions, because the BIA apparently has failed to notify any of the account holders. Not surprisingly, this list also omits the Red Lake Band of Chippewa Indians; instead the Minneapolis area office is listed as having no outstanding claims.

However, the other list, which includes two claims by the Red Lake Band, contains other inconsistencies with regard to Fort Peck Reservation, among others.

The simple fact is, Mr. Gover, Mr. Mills, Dr. Brown, Mr. Gallegos, that after nearly a year the BIA has yet to supply this subcommittee with a full accounting of the current number and description of pending claims against this trust fund—a year.

Now is there no procedure for notifying and reimbursing account holders? If there is none, then it has got to be the policy of the Department—these individual tribes must identify their losses themselves and file the claim and sue the Federal Government. That's basically what you're saying, isn't it?

Dr. BROWN. Mr. Chairman, as I indicated earlier, on September 20 in Albuquerque, NM, we met with a number of tribes. And at this meeting, one of the major concerns that the tribes had was exactly what you were saying, that the complete and understandable accounting of funds needed to be provided for them. We then indicated that our approach will be to give each account holder a complete accounting of their funds, and we shall notify each account holder of any loss or accounting error identified in the reconciliation. And that's what we're in the process of putting together, and will be prepared to do.

We also indicated that we assured that when a loss in the collection of trust funds has been identified, the Bureau shall make that account whole.

Mr. SYNAR. Does that include interest losses, too?

Dr. BROWN. At this point in time, this is principally on the principal. We are still in discussion with the Solicitor in regard to interest.

Mr. SYNAR. Under oath will you give me a commitment that you will notify on interest losses?

Dr. BROWN. Yes.

Mr. SYNAR. Mr. Gallegos, does the Secretary intend to correct these deficiencies?

Mr. GALLEGOS. Yes, sir, he does.

Mr. SYNAR. When?

Mr. GALLEGOS. Mr. Chairman, if you asked me for a finite date, I cannot provide that. However, the Secretary has directed that this is a singular trust responsibility—literally \$2.2 billion in—and it must rise to the fore, the highest attention at the Department.

Mr. SYNAR. Well, it had better get higher attention than it's getting right now because, Mr. Gallegos, it is incomprehensible to me that the Department can allow this gross mismanagement to continue. It's this type of dereliction of duty that if it occurred in any other Federal program, Mr. Gallegos, that would have resulted in civil and criminal action being filed long ago.

Now you're aware, Mr. Gallegos, this is our third hearing to impress upon the Department the seriousness of this subcommittee's view on this matter.

I want a commitment out of you, under oath, right now, that this notification and reimbursement issue is going to be resolved soon. Do I have that commitment?

Mr. GALLEGOS. Yes, sir, you do.

Mr. SYNAR. Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman; I'm sorry I'm late. I don't have any detailed questions.

Dr. BROWN. I'm interested in this, of course, because of Wyoming. I have been here for a couple of hearings. How long have you been with the Department?

Dr. BROWN. Approximately 15 months, sir.

Mr. THOMAS. Are you able to get a feel for when you will be on top of this problem? When will you have it resolved?

When will you come here and say, here's what had to be done; here's what we've done, and we're on top of it?

Dr. BROWN. Sir, one of the things that I learn each day that I'm on this job is that we're dealing with some very complex situations—the trust fund is no different.

As we've looked at that, we've put together some very specific short action plans and long range plans which we have put before the committee here. They have been approved. We are moving forward on some short range plans of the reconciliation and audit of the tribal funds as well as the individual Indian money accounts. We have laid out a time frame which we will be looking at and continuing to move forward.

The reconciliation itself, however, particularly for the IIM moneys, is not going to be short range. What we've done is set up

to take a sample to see just how we can reconcile the total 300,000 accounts. We then put together the longer range plan which is where we're going to have to put together a new system.

Our trust funds total over \$2 billion, the transaction of such. And when you look at the number of staff that we have and the number of people, the training, and the needs there, you can begin to get a good comprehension that this is not an overnight fix. This is something that we're going to have to work on and focus in on and continue to push.

We have that commitment and we have put together a beginning on that in a short- and long-range plan. That's a dynamic plan. As we move forth, and we uncover new things, identify new ways of approaching problems, we will be back consulting with this committee and Members of Congress on how we will do that. But we are prepared and have put forth an effort, and will continue to according to those plans.

Mr. SYNAR. Dr. Brown, tell Mr. Thomas when the earliest reconciliation of these accounts could be done under your plan so that he will know.

Dr. BROWN. For the tribal money accounts, as proposed in the plan, we would do the first half for the tribal accounts in the first year, and then possibly the second to third year we can have reconciled the tribal accounts. For the individual Indian money accounts, we do not know how long. Depending on a number of factors and on a sampling that will be done among tribes, we will get a feel for what the real extent of the problem is so that we can move forward.

Mr. SYNAR. Isn't it true, Dr. Brown, that by your own submission to the Secretary—Mr. Thomas, since you did not get a complete answer to your question—BIA has said that reconciliation for the 300,000 accounts would not be complete until 1997?

Dr. BROWN. Yes; even then, we're not sure.

Mr. SYNAR. That's not even a sure date, is it?

Dr. BROWN. No, not when you take a look at the records and the number of years these accounts have been held and the records that were done by hand many years ago as opposed to what is on automation now. That is the reason for the sampling to be done, to determine the extent of the effort.

Those funds have never been reconciled ever in the history.

Mr. THOMAS. That's a pretty discouraging report, isn't it?

Dr. BROWN. Yes, sir.

Mr. THOMAS. What would an individual tribal member—individual account—can he ask to withdraw funds?

Dr. BROWN. Let me refer to Mr. Mills and Mr. Gover on that.

Mr. MILLS. Yes, an individual tribal member can ask to withdraw their funds. Right now we have very few voluntary accounts. The individual IIM money we keep are those of minors and non compos mentis individuals.

Mr. THOMAS. All 300,000 are minors?

Mr. MILLS. No.

Mr. THOMAS. How would a person withdraw their account? How would you know how much you have in their account?

Mr. MILLS. We do have ledgers for each individual. Each individual can make the request to withdraw their funds. And that par-

ticular ledger shows a dollar amount where that money came from, how much interest they earned on that.

Mr. THOMAS. If you know that, why can't you reconcile the total account?

Mr. MILLS. That's part of our problem.

Mr. THOMAS. We've talked before, maybe the better thing to do is try and get the totals and to get some other system of doing it. Maybe the tribes ought to do it themselves. Maybe the BIA isn't the necessary agency. I think I read about that a short while ago.

Would you agree that that might be a possibility?

Dr. BROWN. I certainly agree that over the long range in putting together a system, that there are other alternatives that we need to analyze and to see just what the Bureau is best capable of doing; what expertise we have inside the Department and within the Federal Government as well as what expertise lies within tribal governments or within private industry.

Mr. THOMAS. Thank you very much, Mr. Chairman.

Mr. SYNAR. Let me follow up on Mr. Thomas; I think he'd be interested in this answer, too.

Tell us the procedure that an individual Indian goes through to get approval to withdraw their money from their account.

Mr. MILLS. An individual Indian—if we're keeping their funds, what they make is a written request to us to withdraw their money. Then, of course, a check is issued to them to withdraw the money.

Mr. SYNAR. How does that work? How does BIA figure out how much you owe them, and how do you pay them? Tell us the process.

Mr. MILLS. That's on their current ledger cards that we have for them. Right now, as far as we know, I don't know of a case where one individual Indian was shorted any funds unless there was a—

Mr. SYNAR. But it's the approval to withdraw the funds; that is important how do they get that?

Mr. MILLS. The approval comes from the Agency superintendent.

Mr. SYNAR. And if he makes a mistake, what happens?

Mr. MILLS. If there's a mistake made—

Mr. SYNAR. And we owe them money?

Mr. MILLS. If we owe them money, right now on individual IM accounts there is a Comptroller General decision that says that if there is a shortage or mistake made we can use appropriated funds to make that individual whole.

If they were paid by mistake, then we also have to collect from that individual.

Mr. SYNAR. If it's a small sum you can do that, right?

Mr. MILLS. Small sum.

Mr. SYNAR. How do you define small sum?

Mr. MILLS. I guess that would depend on the amount of money we have as far as appropriated funds to make something whole, whether we're talking—

Mr. SYNAR. How do you determine how much appropriated funds to ask for?

Mr. MILLS. That we don't know yet. We've never asked for funds to make an account holder whole.

Mr. SYNAR. Why?

Mr. MILLS. At this point—

Mr. SYNAR. Mr. Gallegos, why? Why haven't you ever asked for funds to reconcile these accounts that may have a mistake?

Mr. GALLEGOS. Mr. Chairman, I don't have an answer for that.

Mr. SYNAR. How many have been withdrawn, Mr. Gallegos, Mr. Mills, Dr. Brown? How many individual accounts have been withdrawn? Mr. Gover.

Mr. GOVER. Mr. Chairman, the majority of the 300,000 accounts that you referred to are really passthrough accounts. We do not keep the money. The money is collected by the Bureau and then the money is disbursed into the—

Mr. SYNAR. But the account owner can withdraw that money, correct?

Mr. GOVER. It's automatic.

Mr. SYNAR. How many have asked to do that?

Mr. GOVER. About 105,000, what we call A-11 accounts, which are—

Mr. SYNAR. How many of them have been allowed to do it, have been approved?

Mr. GOVER. Those are all approved.

Mr. SYNAR. So everybody who has ever asked has gotten approved?

Mr. GOVER. The question is not to be—you don't asked to be approved to be competent; you have to prove someone to be incompetent. It's the reverse.

Mr. SYNAR. Well, don't push that test.

Mr. THOMAS. Mr. Chairman.

Mr. SYNAR. Sure, Mr. Thomas.

Mr. THOMAS. I guess I'm curious, then—if it's a passthrough account for these individuals, it seems to me that the problem you lay out always is that there are so many accounts that you have to keep track of. If indeed they're passthrough accounts, I don't understand the difficulty in the bookkeeping. You must have to make the bookkeeping before you can disburse the money.

Mr. GOVER. Yes, sir.

Mr. THOMAS. If you're correct then, why is there this ongoing trauma about being able to account for the money?

Mr. GOVER. There's always disagreements from the account holder as to how much money that was disbursed. So they could disagree and say that we feel that additional money should have been disbursed.

Mr. THOMAS. How long can you go back and review? Do you go back to the beginning of time and you can dispute this?

Mr. SYNAR. Andrew Jackson's administration.

Mr. THOMAS. I see.

Mr. GOVER. The Congress has requested that we go back and reconcile, and audit, and then certify it to the furthest extent possible the Bureau's records in regard to accounting for these funds. So we, at this point, are required by Congress to go back, if we have records back to Andrew Jackson, and rebuild those accounts to that time.

Mr. THOMAS. So the investment money are the tribal funds, by and large?

Mr. GOVER. There's also investment funds because you have individuals who are either minors, or considered to be incompetent.

Mr. THOMAS. So they are not all passthrough accounts?

Mr. GOVER. It's not all passthrough accounts, no, sir. But as far as saying what kind of approval you need to be a passthrough account, it is recognized that a person would be competent and then restrictions apply secondary. It's not that you have to come to me to request to be a passthrough. You are given that right to begin with.

Mr. THOMAS. Thank you.

Mr. SYNAR. Mr. Gallegos, as the subcommittee has discussed with the BIA before in our last two oversight hearings, there's a proviso which was included in the fiscal year 1987 Supplemental Appropriations Act which prohibited the transfer of funds under a contract to any private institution until the Indian trust accounts were audited and reconciled?

Are you aware of that provision?

Mr. GALLEGOS. Yes, sir.

Mr. SYNAR. Mr. Gallegos, how many Indian Trust Fund accounts were audited and reconciled during fiscal year 1987?

Mr. GALLEGOS. Mr. Chairman, to my knowledge, none.

Mr. SYNAR. Then, Mr. Gallegos, in fiscal year 1988 the Interior and Related Agencies Appropriations conference report included language that prohibited BIA from transferring the trust fund accounts to third parties until an accounting of the funds had been provided to the tribes involved, that the proposed contractual agreements had been submitted to and approved by the Appropriations Committees, and the Bureau had adequately consulted with the affected tribes.

Is that not correct?

Mr. GALLEGOS. Mr. Chairman, that's what I understand to be correct.

Mr. SYNAR. Now, Mr. Gallegos, at the subcommittee's October 26, 1989, hearing—which is about 1 year ago—Mr. Mills, who is sitting one down from you, informed this subcommittee that the BIA had only complied with this congressional directive “to a point”—meaning only that the BIA had not actually transferred the trust fund assets to the Security Pacific National Bank.

However, it is important to remember that transferring the assets was an essential goal under that contract, and that the contract was entered into despite the fact that the congressional prohibition was in place.

Is that not correct?

Mr. GALLEGOS. Mr. Chairman, I believe that to be correct.

Mr. SYNAR. Mr. Gallegos, how many accounts were audited and reconciled during fiscal year 1988?

Mr. GALLEGOS. Mr. Chairman, none.

Mr. SYNAR. Now going on to fiscal year 1989 in the Interior and Related Agencies Appropriations conference report again included language, and let me read it to you, Mr. Gallegos, quote:

“None of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual had been

audited and reconciled, and the tribe or individual have been provided with an accounting of such funds, and the appropriate committees of Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement."

Is that not correct, Mr. Gallegos?

Mr. GALLEGOS. Mr. Chairman, that's correct.

Mr. SYNAR. Mr. Gallegos, pursuant to the congressional directive, how many accounts were audited and reconciled during fiscal year 1989?

Mr. GALLEGOS. None.

Mr. SYNAR. Then, Mr. Gallegos, in fiscal year 1990, the Interior and Related Agencies Appropriations conference report was signed by President Bush just a few days before this subcommittee's October 26, 1989, hearing on BIA management of this trust fund.

That House—Senate conference report included the following statements by the Conference managers, and again, let me read them to you:

"The managers direct the Bureau to take steps to address the concerns raised over account reconciliation of trust funds. The Bureau should take all possible steps to reconcile accounts to the maximum extent possible, and an independent party should review the Bureau's reconciliation efforts and to certify that no further reconciliation can be achieved before such accounts are transferred under the contract.

"The managers are also aware of concerns . . . with respect to the technical sufficiency of the contract and the operation of the software. It is the managers' expectation that the Bureau will address these concerns and will keep the committees fully informed as to the steps taken to address these concerns."

Now, Mr. Gallegos, on October 26, 1989, Dr. Brown—who is seated to your immediate left—personally promised this subcommittee that the BIA would abide by that language and that the BIA would work with the committees to see that the managers' intent was implemented.

Now, nearly 1 year later and at the close of the fiscal year, would you tell this subcommittee, under oath, how many of the almost 300,000 individual Indian and 294 tribal accounts within the Indian Trust Fund have been audited, reconciled, or certified?

Mr. GALLEGOS. Mr. Chairman, to my knowledge, none.

Mr. SYNAR. Since our hearing on April 24, 1990, Mr. Gallegos, what substantive actions, if any, has the Department of the Interior taken to cause the Bureau of Indian Affairs to comply with these directives?

Mr. GALLEGOS. Mr. Chairman, there have been innumerable activities between the Department and the Bureau of Indian Affairs specifically to try to ascertain the nature and extent, scope, of the problem here. I think it is safe to say, in my opinion, that the problem and the challenge for making the corrections as you suggest is a monumental task. And that only in the very recent past has there been a realization of the true magnitude of what has to be done here.

First of all, it's just in sheer numbers and; second, just in the complexity of it, and the lack of infrastructure, either an accounting system, or the critical mass of staff or expertise that is really

essential to managing this trust process in fact is just barely minimal at the Bureau of Indian Affairs in terms of what it needs to take.

Any other organization that is managing a dollar asset of this sort has considerable more resources than the Bureau of Indian Affairs has ever had to deal with this.

Mr. SYNAR. Now, you are aware that one of the biggest concerns that the IG has said is your lack of training with even the personnel that you do have, are you not?

Mr. GALLEGOS. Yes.

Mr. SYNAR. You are aware also that the fiscal year 1991 language that will be in the conference reports will continue the congressional directives of the past?

Mr. GALLEGOS. Yes, sir.

Mr. SYNAR. Mr. Gallegos, I'm troubled, obviously, by that. This has been a sorry litany of failures at the Department and the Bureau concerning the compliance with these congressional directives.

For example, at our last hearing on April 24, 1990, Dr. Brown was asked what progress the Bureau had made between our first oversight session on October 26, 1989, and to that date.

He replied, and let me quote you: "We have put together a proposed plan to reconcile these accounts."

However, the Bureau did not submit that plan to the Appropriations Committee until June 13, 1990—49 days later.

Now, Mr. Gallegos, on June 13, 1990, that was the 265th day of the fiscal year 1990. It has now been more than 1,000 days since Congress authorized and directed the Department of the Interior and the Bureau of Indian Affairs to audit and reconcile these 300,000 accounts on the Indian Trust Fund.

When, Mr. Gallegos, will they be audited, reconciled, and certified?

Mr. GALLEGOS. Mr. Chairman, it would be my desire to give you a specific date. I do not have a confidence level at this time that I would be straightforward with you if I gave you a specific date. What we're engaged in here is developing a process and a system to get at that.

I have also suggested it is amongst the highest priorities of the Secretary of the Interior to pursue this course of action, and we will.

Mr. SYNAR. Let me ask you if you think current priorities are reasonable. Do you think it's reasonable to ask the beneficiaries of this trust fund, or the Congress, or the taxpayers, to wait 7 years for the BIA to complete this reconciliation process?

Mr. GALLEGOS. Mr. Chairman, it is my personal belief that none of what has occurred here over a long period of time—and certainly not just in the last thousand days—but over a long period of time is totally unreasonable.

Mr. SYNAR. Where do these efforts, Mr. Gallegos, rank in terms of the Department's priorities?

Mr. GALLEGOS. Mr. Chairman, I can state unequivocally that these particular issues rank at the highest priority of the Department at this time.

Mr. SYNAR. Well, that doesn't say much for the other priorities, does it—if this one's failing and it's one of the highest?

Mr. GALLEGOS. Mr. Chairman, it hasn't always been the highest.

Mr. SYNAR. When did it get to be the highest?

Mr. GALLEGOS. It has gotten to be the highest, I believe, within the last 2 or 3 months when we came to a realization—

Mr. SYNAR. Is it like Mr. Clinger said in his opening statement that there's always a flurry of activity and high priority-setting every time this subcommittee schedules a hearing?

Mr. GALLEGOS. Mr. Chairman, no doubt that that is true in the normal course of things, but I think beyond that we share with you the realization that it is totally unsatisfactory that these account holders, be they tribal or individuals, should wait much longer for a true accounting of what their real assets in this trust are.

Mr. SYNAR. Have you all been studying a move of the Bureau's Indian trust funds to the mineral management service, Mr. Gallegos?

Mr. GALLEGOS. Mr. Chairman, we have had extensive dialogue about the feasibility of doing that. The Secretary's direction is that he wants to bring to bear whatever reasonable assets are available within the Department of the Interior to address this problem.

As you have suggested or alluded to, perhaps, the Secretary is of a mind that getting at the bottom of this problem and correcting it is a total Department effort, not just the effort of the Bureau of Indian Affairs.

Mr. SYNAR. I know, but study, consultation, meetings, don't feed the bulldog, Mr. Gallegos; this is a crisis. This is a crisis in the Indian Trust Fund. And to solve this problem, somebody's got to be accountable; somebody's got to step forward with some leadership to help these individual Indians, to help these tribes, and to get the Congress and taxpayers the assurance that it's being done.

Mr. Gallegos, who do we turn to? Who do I have to bring in here?

Mr. GALLEGOS. Mr. Chairman, I think that the Secretary has expressed personally his desire that this move forward. He has accepted the responsibility and the challenge.

Mr. SYNAR. Should I bring him in here?

Mr. GALLEGOS. Mr. Chairman, I believe that it is not necessary. The Secretary certainly understands his responsibility very clearly. He is moving forward with that. To the extent that I represent the Department, I will be delighted to appear before you at any time, in any way that you choose, to pursue this matter on the progress.

Mr. SYNAR. We'll be back here in 6 months. If you haven't gotten the message, we're going to be back.

Mr. GALLEGOS. Mr. Chairman, I'd be delighted even sooner than that because we think that this is in fact a significant effort that has to be undertaken by the Department of the Interior.

Mr. SYNAR. That may be the biggest understatement of this hearing.

Dr. Brown, let's review what has happened to implement the Bureau's strategy for trust fund reconciliation.

Has the Bureau appointed an audit manager?

Dr. BROWN. No.

Mr. SYNAR. Has the Bureau appointed an audit coordinator?

Dr. BROWN. Yes, we have.

Mr. SYNAR. And his name?

Dr. BROWN. Bart Wright.

Mr. SYNAR. Has the Bureau authorized the temporary positions necessary for records gathering, sorting and indexing?

Dr. BROWN. Yes.

Mr. SYNAR. Has each of the Bureau's area directors named a reconciliation manager for the area?

Dr. BROWN. Yes.

Mr. SYNAR. Has the Bureau taken inventory of the accounts of each area/agency location for the 37 largest tribes and the Fort Peck, Uintah, Ouray, Olympic Peninsula agencies?

Dr. BROWN. It's under way currently.

Mr. SYNAR. What is the status of the task for each one of these 40 reconciliation groups?

Dr. BROWN. Let me refer to Mr. Gover on that.

Mr. GOVER. Mr. Chairman, I need to refer back to my notes.

Mr. Chairman, we'll furnish that for the record.

Mr. SYNAR. OK.

[The Bureau of Indian Affairs summarized its progress toward improving the management of the Indian Trust Fund in a newly devised Quarterly Report to Congress, and is in app. 3, p. 182.]

Mr. SYNAR. Dr. Brown, under the reconciliation plan, this task was to have been completed by the end of fiscal year 1990. Since the fiscal year ends this Sunday, can you tell us what the new date of completion for this important step is projected to be?

Dr. BROWN. Quickly, we're looking at our time frame there. As you know, we had changed our time frames based on approval from Congress as to our audit and evaluation plan, which we received, I believe, August 3.

Mr. SYNAR. You realize they got their approval back in 40 days; and you got that in August and yet you haven't done it in 2 months. Don't blame us.

Dr. BROWN. No, I'm saying that it's under way, it's moving.

Mr. SYNAR. Will it take 4 months or more?

Mr. GOVER. Mr. Chairman, a revised date—that would be in the first quarter of fiscal year 1991 that would be completed.

Mr. SYNAR. That's 6 months, then, right? Outside—6 months.

Mr. GOVER. Outside of 6—we're talking the first quarter, yes, about February.

Mr. SYNAR. About 6 months.

Mr. GOVER. Yes. By the time that the contract has been awarded, those records ought to be audited.

Mr. SYNAR. Dr. Brown, has space been designated to store the records that will be accumulated for each location?

Dr. BROWN. Yes, I understand that we do.

Mr. SYNAR. Have the three agency offices selected for early action dedicated the funds necessary for travel to any GSA centers to search for records stored in those locations?

Dr. BROWN. Yes.

Mr. SYNAR. When will all the prereconciliation and audit tasks be accomplished at the three selected agencies and the 37 tribes?

Mr. GOVER. Mr. Chairman, at the first quarter in 1991 that will be accomplished.

Mr. SYNAR. All right.

When will the request for proposals for a contractor to complete the reconciliation of accounts be issued?

Mr. GOVER. Our time schedule calls for October 15.

Mr. SYNAR. And that includes interest, identifying interest. He just gave me a commitment under oath that will include interest.

Mr. GOVER. No, I'm sorry, I misinterpreted. I understood you to say when the RFP will be issued?

Mr. SYNAR. Yes.

Mr. GOVER. It would be the 15th.

Mr. SYNAR. When will the report from the contractor on the soundness of the reconciliation procedures be submitted?

Mr. GOVER. I don't understand the question, Mr. Chairman.

Mr. SYNAR. Didn't you ask for a report from the contractor on the soundness of the reconciliation procedure?

Mr. GOVER. Mr. Parris is the acting audit manager at this time.

Mr. SYNAR. If you look at page 2 of your third entry, it says here: "Report on feasibility, soundness of reconciliation procedures and recommendation for continued process is"—we've got it February 1991. Is that correct?

Mr. Parris, would you like to stand up and be sworn in before I let you speak? Do you have any objection?

Mr. PARRIS. No.

[Witness sworn.]

Mr. SYNAR. Now when that report from the contractor on the soundness of the reconciliation procedures be submitted?

Mr. PARRIS. We're asking that the contractor submit the reports by July 31, 1991.

Mr. SYNAR. When should the first individual Indian moneys account holders expect to receive a report of the status of their pre-reconciliation?

Mr. PARRIS. The reconciliations, we expect, with the timeframes that we have right now, will begin in late January 1991. I don't think they will begin to see the results of those for individuals coming out for at least 90 days to 120 days after that.

Mr. SYNAR. So May 1991, right?

Mr. PARRIS. Around in that schedule.

Mr. SYNAR. When will BIA decide on an action plan for reconciliation of the remainder of the IIM and tribal accounts?

Mr. PARRIS. Within 60 days after the contractor gives the report.

Mr. SYNAR. Will that be part of the fiscal year 1992 budget request?

Mr. PARRIS. It would have to be.

Mr. SYNAR. When will the contractor actually begin to audit the IIM and tribal accounts from the three selected agencies and 37 tribes?

Mr. PARRIS. We're expecting the audits to begin as soon as accounts are reconciled at each agency location for the IIM accounts. In other words, as the reconciliation teams get out and complete their work at a particular agency location for the IIM, the auditors would move in. But for tribal accounts, they would begin after the tribes' accounts have been reconciled.

Mr. SYNAR. Fiscal year 1992?

Mr. PARRIS. I would expect the agencies to begin and some of the tribal accounts to be ready by mid calendar year 1991 to where the audit teams could begin.

Mr. SYNAR. What about when the contractor begins to certify these accounts?

Mr. PARRIS. We've arranged for the inspector general's office to do the certification after the audit work has been completed.

Mr. SYNAR. Give us a date. Is fiscal year 1993 a good date?

Mr. PARRIS. I anticipated it as the audits would be completed at each agency location for the IIM that the certification could begin at that time. In other words, you look at certification beginning as early as, I would think, the fall of 1991.

Mr. SYNAR. 1991? All right.

You know we're going to hold you to all this?

Mr. PARRIS. We're going to do our best to meet the time frames we're talking about. I don't think it's unreasonable, as the audit teams are completed, to expect the IG—if resources are available at the inspector general's office—to begin the certification at that time.

Mr. SYNAR. Now, according to your current plan, Mr. Parris, when will the Bureau complete all actions on reconciling, auditing, certifying the almost 300,000 accounts in the Indian Trust Fund?

Mr. PARRIS. It's scheduled on a time line for fiscal year 1986.

Mr. SYNAR. That's fiscal year 1997—in 1987 is my—

Mr. PARRIS. 1996, I mean—1997.

Mr. SYNAR. Mr. Gallegos, one final question. You've heard all this.

Tell me, are you satisfied that this timetable represents the best effort Congress can expect from your Department in reconciling and auditing these accounts?

Mr. GALLEGOS. No, sir, I'm not at all satisfied that that represents the best effort.

Mr. SYNAR. Neither am I. And what I said in the beginning, which you regrettably didn't get to hear, is that some progress has been made. Mr. Clinger said it; I did, too. But as you also said, this is a monumental task. There are two buzz words that you have got to take back to the Secretary and to everyone who is involved in this program, from top to bottom, from the area agencies all the way to here, and those words are: Leadership and accountability.

Now I promised every 6 months we were going to bring this subcommittee together and review the status of this until this problem was solved.

I have asked for a lot of commitments today from you and from your people. Let me make a commitment to you: that we will be back here in 6 months. And I want to be able in 6 months to look at you and the people that work there and see better progress than we're making, because, very frankly, this timetable is unacceptable. It's unacceptable to Congress, it's unacceptable to the taxpayers, it's unacceptable to the individual tribes, and most importantly, it's very unacceptable to the 300,000 individual Indian accounts.

As we said in October, as we repeated in April, they deserve better. And I've got to tell you that the patience of this subcommittee is running out. And the reason we asked you to be here today is

that, very frankly, we don't think that it is getting the attention, the leadership, and the accountability that it deserves.

We're going to jack the attention of this thing up to the highest quarters. And I suspect the next time that we may have to ask the Secretary himself to come in and answer the same questions and go through the history as we have today, and explain to this committee, and to the taxpayers of this country, and to the beneficiaries of these trust funds on why we are not making progress that is satisfactory.

On that, gentlemen, this hearing is adjourned.

[Whereupon, at 11:45 a.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIXES

APPENDIX 1.—MATERIAL SUBMITTED FOR THE APRIL 24, 1990, HEARING RECORD



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 2 1990

Honorable Mike Synar
Chairman, Subcommittee on
Environment, Energy, and Natural Resources
Committee on Government Operations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

At the Subcommittee's April 24 hearing on the Bureau of Indian Affairs' management of the Indian Trust fund, you requested, among other things, that we submit to your subcommittee "a full written account of your plan and schedule for compliance to the Appropriations Committees and this Subcommittee by no later than May 1, 1990."

I sincerely regret that we were not able to meet the May 1 deadline but a few additional days are needed to obtain the necessary Departmental and OMB clearances. We will provide you with the full written plan by May 4. For your information, the response you will be receiving was prepared for an earlier but similar request we received from Chairman Yates and Mr. Regula.

Finally, I also want you to know that we have requested a follow up session with the House Appropriations Committee so that the proposed plans for reconciling and auditing, and certifying the Indian trust accounts may be finalized. We will keep you apprised as to when this meeting is scheduled.

Sincerely,


Assistant Secretary - Indian Affairs



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 03 1990

Honorable Mike Synar
Chairman, Subcommittee on Environment,
Energy, and Natural Resources
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On March 2, 1990, Congressman Sidney Yates wrote the Secretary about the Department's proposal to centralize responsibility for the Indian trust fund management activities of the Bureau of Indian Affairs in a separate directorate. Before agreeing to this proposal, Mr. Yates requested answers to certain questions on our trust fund management plans. A copy of the March 2 letter and our response to his questions are enclosed for your information.

Should you have any questions concerning our response, please contact me.

Sincerely,

Assistant Secretary - Indian Affairs

Enclosure

MAJORITY MEMBERS

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Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515

March 2, 1990

26216
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TELEPHONE
 (202) 328-3771


Honorable Manuel Lujan, Jr.,
 Secretary
 U.S. Department of the Interior
 Washington, D. C. 20240

Dear Mr. Secretary:

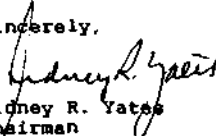
A letter dated January 10, 1990, signed by Assistant Secretary Lou Gallegos requested approval of a proposal to centralize responsibility for Indian trust fund management activities in a separate directorate. This is a change from the reprogramming proposal of last June, which was approved, to transfer the Division of Trust Funds Management to the supervision of the Assistant Director for Financial Management. This change is being proposed in order to place this function at the same organizational level as the other offices within the Bureau.

We agree with the need for the Bureau and the Department to place more emphasis on trust fund management. However, we are concerned about the current plans of the Bureau, as we understand them, with regard to meeting the requirements Congress has imposed on the Bureau. Therefore, before agreeing to this proposal we request that you provide answers to the enclosed questions, at your earliest convenience.

Your cooperation is appreciated.


 Ralph Regula
 Ranking Minority Member
 Subcommittee on Interior
 and Related Agencies

Sincerely,


 Sidney R. Yates
 Chairman
 Subcommittee on Interior
 and Related Agencies

Enclosure

With regard to the Security Pacific National Bank contract, it has been suggested that it would be more appropriate to have separate contracts for the functions included under this one contract, i.e., cash management, accounting, and investment advisory services, particularly for trust funds totaling \$1.7 billion as in this case. GAO has stated that it saw no rationale for not procuring at least the investment advisory services separately, and that competition could have been enhanced had the different services been broken out and competed separately.

--Do you agree with this position?

--Is the possibility of separating out some or all of the functions included under the Security Pacific National Bank for separate contracting being considered? Why wouldn't this be more appropriate?

The contract with Security Pacific National Bank, and its subcontractor, Computer Data Systems, Inc. (CDSI) (support for the trust fund accounting and data processing services) was signed in September, 1988. At that time, an implementation plan was released which showed that system design would be made final within one month of the contract award, to include final project objectives and final deliverable schedules. A status update provided to the Subcommittee in August, 1989, indicated that BIA was in the acceptance testing period, which was scheduled for completion in October; and that as of July 31, 1989, \$1,337,296

had been obligated under the contract, with additional commitments for the year of about \$385,000.

--When was the system design made final? Did this include specific project objectives and deliverable schedules? If so, provide a breakdown of these to the Subcommittee.

--What were the results of the acceptance testing, and was it completed by October?

--What have been the specific accomplishments realized under the contract since September, 1988?

--Is the project on schedule (leaving aside the question of account reconciliation)?

--What are the total obligations under the contract to date, and what specifically has the Bureau received in return for payments made?

--How much do you plan to spend under the contract in FY 1990, and what will be accomplished with those funds?

Due to concerns about the trust fund management contract, many of which were raised by the tribes themselves, the Subcommittee has included language in the bill for the last several years requiring that tribes be consulted and that accounts be reconciled before funds are transferred under the contract for management. The language in the 1990 Act reads as follows:

None of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the tribe or individual has been provided with an accounting of such funds.

--How do you intend to carry out this language?

--Are you interpreting this language to allow you to transfer funds under the contract as they are reconciled, rather than waiting until the reconciliation of all accounts has been completed? On what basis?

--What is the status of the Request for Proposals for the audit and reconciliation of the accounts?

--Is it true that you plan to audit only the 37 largest tribal accounts this year? Under this plan, when would the balance of the tribal accounts be audited?

--Is it true that you do not plan to audit and reconcile the Individual Indian Money accounts? If so, and these funds are not transferred under the contract

(in light of the Committee's prohibition of such a transfer), how will these funds be managed?

--What impact would not transferring these funds have on the A-76 study which was done and which found that contracting out these functions would be more efficient than performing these functions in house? Will the study be redone due to these significantly changed circumstances?

The Subcommittee has been informed that BIA intends to have same firm that performs the audit and reconciliation of the units provide the "independent" certification that such audit reconciliation have been performed to the earliest date able.

--Is this information correct?

--If so, how would this comply with the Congress' requirement for an "independent" certification of the audit and reconciliation?

It has been recommended to the Bureau that an Oversight ttee be formed, as was recommended in the 1983 Price house report, and that such a committee be formed before the or the audit is released.

--Have you considered this recommendation? With what results?

QUESTIONS AND RESPONSES
for
HOUSE APPROPRIATIONS SUBCOMMITTEE ON INTERIOR
AND RELATED AGENCIES

1. With regard to the Security Pacific National Bank contract, it has been suggested that it would be more appropriate to have separate contracts for the functions included under this one contract, i.e., cash management, accounting, and investment advisory services, particularly for trust funds totaling \$1.7 billion as in this case. GAO has stated that it saw no rationale for not procuring at least the investment advisory services separately, and that competition could have been enhanced had the different services been broken out and competed separately.

A. Question: Do you agree with this position?

Response: Subsequent to the Price Waterhouse report issued in 1984, BIA and Treasury staff considered the option to separately contract for the investment and accounting-related service functions. They concluded that to do so would result in additional costs related to multiple procurements and that the method of operations for investment would need drastic changes to address the integration and interfaces of two separate contracted systems. They also identified benefits of including the investment services under the same contract, i.e., the obvious efficiencies to be gained by decreasing the number of data bases required and minimizing data integration problems.

Prior studies and audit reports found that BIA's multiple systems have caused numerous accountability problems and the need for multiple reconciliations between the BIA's internal accounting and investment systems. Based on these findings, the BIA determined at that time that an effort to incorporate all these functions under a comprehensive procurement would enable the BIA to fully integrate these functions on a cost-effective basis.

B. Question: Is the possibility of separating out some or all of the functions included under the Security Pacific National Bank for separate contracting being considered? Why wouldn't this be more appropriate?

Response: We are currently reviewing immediate and long range approaches for our trust fund management program. Exercising contract options with Security Pacific National Bank (Bank) to implement only certain servicing functions is being considered as a possibility in this effort. We are also seeking a legal opinion from the Solicitor on this contracting issue.

2. The contract with Security Pacific National Bank, and its subcontractor, Computer Data Systems, Inc. (CDSI) (support for the trust fund accounting and data processing services) was signed in September 1988. At that time, an implementation plan was released which showed that system design would be made final within one month of the contract award, to include final project objectives and final deliverable schedules. A status update provided to the Subcommittee in August 1989, indicated that BIA was in the acceptance testing period, which was scheduled for completion in October; and that as of July 31, 1989, \$1,337,296 had been obligated under the contract, with additional commitments for the year of about \$385,000.

A. Question: When was the system design made final? Did this include specific project objectives and deliverable schedules? If so, provide a breakdown of these to the Subcommittee.

Response: The system design was never made final. The technical specifications to meet the Bureau's systems requirements for the tribal and IIM accounting services were drafted and revised, but they were not finalized because they did not incorporate the data communications and various interfaces required to be compatible with other Bureau systems (e.g., IRMS, investments, and MMS). There were specific project objectives and deliverable schedules defined in an implementation schedule separate from the requirements documents. A copy of the latest version of that schedule is attached (Attachment 1).

B. Question: What were the results of the acceptance testing, and was it completed by October?

Response: The acceptance testing initiated in July 1989 was cancelled by mutual agreement between the BIA and the contractor because the acceptance testing was premature. Only a partial test of the system was possible in July 1989. Further requirements for both BIA and Bank systems needed to be defined in order to adequately test the system. The requirements for the tribal component were submitted by Security Pacific in March 1990. Development of the remaining IIM requirements and an acceptance testing plan are currently on hold pending resolution of the accounting issues.

C. Question: What have been the specific accomplishments realized under the contract since September, 1988?

Response: The scope of work of the contract calls for certain services to be provided the Bureau in the areas of cash collection and concentration, investment, disbursement, accounting, and custodial services for trust fund monies. What has been accomplished under the contract relates to pre-service and development activities specified of the contractor. For example the contractor delivered a Strategic Plan for Implementation of the Trust Fund System. The following is a listing of those activities and the contractor accomplishments for each:

- Training and Tribal Orientation

- Conducted 5 regional tribal orientation sessions;
 - Conducted tribal cash planning conference and published related tribal cash planning documents;
 - Published tribal quarterly newsletters;
 - Delivered a draft training manual and a draft "User's Guide".
- However, since the contractor was advised to not proceed with work after March 31, drafts have not been finalized.

- Investment Services

-- Delivered an investment and securities conversion plan and requirements for the portfolio accounting plan;

-- Developed, with BIA, draft investment guidelines and operating procedures for portfolio advisory services;

-- Installed the Customer Communication System and the Portfolio Management Information System at BIA and trained the BIA investment officer;

- Accounting Services

-- Delivered the trust fund management requirement document for the tribal accounting services.

D. Question: Is the project on schedule (leaving aside the questions of account reconciliation)?

Response: The project schedule was not met because we underestimated the amount of time required for the Bureau to develop the technical specifications for the accounting service component of the contract. The Bureau plans to engage the services of a third party to assist in the development of the technical specifications for the accounting services required.

E. Question: What are the total obligations under the contract to date, and what specifically has the Bureau received in return for payments made?

Response: Of the \$1,047,012 obligated to date, \$634,512 has been disbursed with \$300,000 to be invoiced by the contractor. The difference between obligations and commitments represents the \$112,500 to be deobligated because we are precluded from transferring assets to the contractor's custody.

The \$1,047,012 obligated to date covers:

- FY 1988
 - \$ 300,000 Development and presentation of the plan for investment, custodial, and accounting services
 - \$ 30,000 Provision of 5 Tribal Orientation Sessions
- FY 1989
 - \$ 300,000 Monthly Support Services @ \$50,000/month
 - \$ 4,512 Materials used for 1989 Tribal Cash Planning Conference
 - \$ 112,500 Additional costs for custody conversion of 4,500 certificates of deposit (only 2,500 CD's were anticipated at time of contract award).
- FY 1990
 - \$ 300,000 Monthly Support Services @ \$50,000/month

F. Question: How much do you plan to spend under the contract in FY 1990, and what will be accomplished with those funds?

Response: Of the \$1,047,012 obligated, \$300,000 for monthly support services under the contract represents the FY 1990 obligations. We have attached Contract Modification No. 3 outlining the scope of work for this \$300,000 (Attachment 2).

3. Due to concerns about the trust fund management contract, many of which were raised by the tribes themselves, the Subcommittee has included language in the bill for the last several years requiring that tribes be consulted and that accounts be reconciled before funds are transferred under the contract for management. The language in the 1990 Act reads as follows:

"None of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the tribe or individual has been provided with an accounting of such funds."

A. Question: How do you intend to carry out this language?

Response: We intend to carry out this language, after agreement with the Congress, through a phased plan for the reconciliation, audit, and certification of the tribal and Individual Indian Monies (IIM) trust accounts. The current strategy proposes the reconciliation work to be conducted in one contract.

If this plan is approved, the reconciliation of tribal accounts would be completed in two phases. The first phase would cover the 36 tribes having the largest balances in trust funds representing \$1.1 billion or 87% coverage of the total tribal balances as of September 30, 1989. In Phase II we plan to reconcile the remainder of the tribal accounts with this work to be completed by September 30, 1992.

Concurrently, the contractor would initiate reconciliation work at three agencies with IIM accounts totalling \$67 million. Based on the results of this reconciliation effort the contractor would propose a plan for the reconciliation of all other IIM accounts during Phase II of the effort. The reconciliation of IIM accounts would be completed by September 1993.

After each phase of reconciliation, an independent audit and certification of the reconciliation work would be conducted. Account holders would receive information concerning their accounts throughout the reconciliation, audit, and certification phases and would be provided with an accounting of their funds at the conclusion of this process.

B. Question: Are you interpreting this language to allow you to transfer funds under the contract as they are reconciled, rather than waiting until the reconciliation of all accounts has been completed? On what basis?

Response: Previously, we had interpreted this language to allow transfer of funds under the contract as they were reconciled, audited, and certified so that funds could move immediately into the contracted servicing environment to prevent the opportunity for further discrepancies after balance confirmation.

In our on-going discussions with Congressional Committee staff, however, we have been advised that multiple transfers of accounts to the contractor would not meet Congressional intent.

C. Question: What is the status of the Request for Proposals for the audit and reconciliation of the accounts?

Response: The pre-bid conference related to the RFP recently issued for the tribal accounting work is currently scheduled for May 16, 1990. Further discussions are planned with Congressional Committees to ensure that our approach for account reconciliation, audit, and certification complies with the Congressional directive.

D. Question: Is it true that you plan to audit only the 37 largest tribal accounts this year? Under this plan, when would the balance of the tribal accounts be audited?

Response: Phase I of the Bureau's proposed plan calls for reconciling the accounts of the 36 largest Tribes before proceeding with the reconciliation of the remaining tribal accounts. The scheduled completion date for the entire reconciliation of tribal accounts is September 1992. Audit and certification will be completed by an independent party after each account has been reconciled.

E. Question: Is it true that you do not plan to audit and reconcile the Individual Indian Money accounts? If so, and these funds are not transferred under the contract (in light of the Committee's prohibition of such a transfer), how will these funds be managed?

Response: The Bureau's proposed plan calls for the reconciliation of IIM accounts concurrently with the reconciliation of tribal accounts under a phased plan.

F. Question: What impact would not transferring these funds have on the A-76 study which was done and which found that contracting out these functions would be more efficient than performing these functions in house? Will the study be redone due to these significantly changed circumstances?

Response: An A-76 study considers, among other things, the conditions that exist at the time the study is conducted. If the circumstances are significantly changed, then a new A-76 study may be required prior to any re-contracting for the services. Final determination, in this instance, cannot be accurately made until the course of contract action is resolved and assessed.

4. The Subcommittee has been informed that BIA intends to have the same firm that performs the audit and reconciliation of the accounts provide the "independent" certification that such audit and reconciliation have been performed to the earliest date possible.

A. Question: Is this information correct?

Response: At the time the RFP was developed for the tribal accounts, both the accounting work and the certification was envisioned to be conducted by the same independent audit firm.

The Bureau is now proposing, however, to separate the reconciliation of accounts from the audit and certification of that reconciliation.

B. Question: If so, how would this comply with the Congress' requirement for an "independent" certification of the audit and reconciliation?

Response: The Bureau's plan proposes that a separate procurement be issued for an audit firm to conduct the independent audit and certification of the reconciliation of the tribal and IIM accounts. In on-going discussions with staff of the House Subcommittee on Interior and Related Agencies of the Committee on Appropriations, the Bureau has requested that the General Accounting Office participate in the certification work.

5. It has been recommended to the Bureau that an Oversight Committee be formed, as was recommended in the 1983 Price Waterhouse report, and that such a committee be formed before the RFP for the audit is released.

A. Question: Have you considered this recommendation? With what results?

Response: The Price Waterhouse report recommended that an investment oversight committee be established with representation from the public and private sectors to provide an independent evaluation of trust fund performance on a periodic basis. Such a committee would also make recommendations regarding portfolio strategies and the management of the trust funds. Several tribes have also made this recommendation and expressed a desire to include tribal representative(s) on such a committee.

This recommendation is under consideration as part of the Bureau's overall plan for improving the trust fund management program.

BUREAU OF INDIAN AFFAIRS
SECURITY PACIFIC NATIONAL BANK
STRATEGIC PLAN FOR IMPLEMENTATION OF THE
TRUST FUND MANAGEMENT SYSTEM

I. STRATEGIC GOALS

1. By July 1, 1990, have all elements of the Trust Fund Management System developed, documented and tested to support Tribal accounts.
2. Concurrently with Strategic Goal #1 scope and document requirements, and design complete Trust Fund Management System including Individual Indian Monies accounts which will operate in a "stand-alone" environment.
3. Begin full-scale pilot for a Tribe on July 2, 1990.
4. Transfer Tribal accounts as they are audited and reconciled.
5. By October 1, 1990 have all elements of completed "stand-alone" Trust Fund Management System developed, documented and tested to accept all remaining accounts into the system.

II. ACTION PLAN TO ACHIEVE GOALS

1. **GOAL #1: BY JULY 1, 1990, HAVE ALL ELEMENTS OF THE TRUST FUND MANAGEMENT SYSTEM DEVELOPED, DOCUMENTED AND TESTED TO SUPPORT TRIBAL ACCOUNTS.**
 - A. BIA/SPNB Project Team formed to work on-site at Albuquerque to achieve Strategic Goal.
(3/20/90)
 - B. BIA/SPNB Project Team make final decisions with respect to Tribal components of TFMS, and document changes, if any, to currently developed system.
(2/26 - 3/2/90)

- C. Document requirements, submit revised design and specifications for Steering Committee approval. (3/5 - 3/16/90)
 - D. Steering Committee meets and approves design and specifications. (3/19/90)
 - E. Programming to complete system. (3/20 - 5/18/90)
 - F. Steering Committee meets to review status of project, and discuss work pursuant to Goal #2. (4/16 - 4/17/90)
 - G. Steering Committee meets to approve release of TFMS Tribal system for acceptance testing, and review overall project status. (5/21/90)
 - H. Acceptance testing, and acceptance of TFMS by BIA relative to Tribal system. (5/22 - 6/22/90)
 - I. Steering Committee meets to review acceptance of system, status of work on Goal #2, confirm pilot Tribe and transfer of accounts. (6/25 - 6/26/90)
 - J. Begin live processing for Tribal pilot location. (7/2/90)
2. GOAL #2: CONCURRENTLY WITH STRATEGIC GOAL #1 SCOPE AND DOCUMENT REQUIREMENTS, AND DESIGN COMPLETE TRUST FUND MANAGEMENT SYSTEM INCLUDING INDIVIDUAL INDIAN MONIES ACCOUNTS WHICH WILL OPERATE IN A "STAND-ALONE" ENVIRONMENT.
- A. BIA/SPNB Project Team makes final decisions on conceptual design of complete stand-alone system, and documents changes and additional requirements to currently designed TFMS. (3/20 - 3/30/90).
 - B. Revised design and specifications for TFMS documented for Steering Committee approval. (4/2 - 4/13/90).
 - C. Steering Committee meets and approves design and specifications document. (4/16/90)
 - D. Project Team reviews design and specifications with BIA user management, documents any agreed changes. (4/20 - 4/27/90).

- E. Final TFMS design and specifications document prepared for approval of Steering Committee. (4/30 - 5/18/90).
 - F. Steering committee approves Final TFMS specifications. (5/21/90)
3. **GOAL #3: BEGIN FULL-SCALE PILOT FOR A TRIBE ON JULY 2, 1990**
- A. Identify Tribe for pilot, and receive approval from Tribe for participation in pilot. (3/19 - 4/16/90)
 - B. Audit team to audit and reconcile pilot Tribe accounts. (?)
 - C. BIA maintains audited and reconciled pilot Tribe accounts in reconciled position.
 - D. Tribes accounts transferred and pilot begins (7/2/90)
 - E. Pilot completed, and Tribal accounts begin being transferred as audited and reconciled. (7/30/90)
4. **GOAL #4: TRANSFER TRIBAL ACCOUNTS AS AUDITED AND RECONCILED**
- A. BIA/SPNB Project Team develops separate action plan for account transfers in multiple phases in coordination with timing of audit and reconciliation plan to minimize impact of conversion on investment assets and BIA dual operational environment. (4/2 - 4/13/90)
 - B. Steering Committee approves conversion action plan. (4/17/90)
 - C. SPNB converts pilot Tribe assets. (6/18 - 6/30/90)
 - D. Transfer of accounts and conversion of assets continues as accounts are audited and reconciled. (7/30/90 - ?)

5. GOAL #5: BY OCTOBER 1, 1990, HAVE ALL ELEMENTS OF THE COMPLETED "STAND-ALONE" TRUST FUND MANAGEMENT SYSTEM DEVELOPED, DOCUMENTED AND TESTED TO ACCEPT ALL REMAINING ACCOUNTS INTO THE SYSTEM.
 - A. BIA office of Trust Funds organizational structure or restructuring plan to support new system. (5/28 6/15/90)
 - B. Programming to complete new system. (5/22 - 7/30/90)
 - C. BIA hardware, telecommunications acquisitions, if any.
 - D. Steering Committee meets to review status. (7/24/90)
 - E. Acceptance testing. (8/1 - 8/31/90)
 - F. Project Team review new system with BIA user management. (9/3 - 9/7/90)
 - G. User training. (9/10 - 9/28/90)
 - I. TFMS live. (10/1/90)

III. PROJECT ORGANIZATION AND RESOURCES

1. PROJECT TEAM

- A. Comprised of BIA/SPNB/CDSI project personnel located on-site in Albuquerque. The addition of automated accounting system expertise from a "Big 8" accounting firm to support the BIA Branch of Trust Fund Accounting staff assigned to the project team is necessary. The personnel from the accounting firm will work with BIA accounting staff to assist in ascertaining needs, system requirements documentation, quality assurance and supervision of acceptance testing. This addition can be accomplished via modification to either the existing Arthur Anderson or SPNB contracts.

2. PROJECT STEERING COMMITTEE

- A. Comprised of senior management and project managers from BIA/SPNB/CDSI. Responsible for reviewing and approving work of Project Team, providing overall policy direction to Project Team, and ensuring that the project stays on track to realize strategic goals. It is recommended that BIA's auditor Arthur Anderson & Co. be a member of the Project Steering Committee.

AMENDMENT OF SOLICITATION / MODIFICATION OF CONTRACT		CONTRACT NUMBER	FORM OF ORDER
AMENDMENT/MODIFICATION NO. Modification Three (3)		EFFECTIVE DATE	REGISTRATION/PURCHASE NO. AND PROPERTY NO. BY CONTRACT
ISSUED BY Department of the Interior Bureau of Indian Affairs Branch of Contract and Grant Operations 1931 Constitution Avenue, N.W. Washington, D.C. 20245 MB-314A-SIB		ADMINISTERED BY (Other than Item 8)	CODE
NAME AND ADDRESS OF CONTRACTOR (See also items 13(a) and 13(b) Code)		AMENDMENT OF SOLICITATION NO.	
Security Pacific National Bank Government Services Division 901 15th Street, N.W. - Suite 320 Washington, D.C. 20005		DATE DATED (SEE ITEM 11)	
CODE		FACILITY CODE	
		DATE DATED (SEE ITEM 11)	
		DATE DATED (SEE ITEM 11)	

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of offers is amended, is not amended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:
 (a) By completing items 8 and 18, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By airmail letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (if required)
 \$300,000.00 ----- EOI-51/0/3400/4361

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

<input checked="" type="checkbox"/>	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify as (a) or (b)) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 14A.
<input type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF P.A.S. 43.102(b).
<input checked="" type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: Mutual Consent
<input type="checkbox"/>	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor is not, is required to sign this document and return original _____ to the issuing office.
 14. DESCRIPTION OF AMENDMENT/MODIFICATION (Governed by UOY section headings, including solicitation/contract number and other items 14(a)-(c).)

The Fiscal Year 1990 option provision is hereby exercised as follows:
 The contractor shall provide support services in Fiscal Year 1990 as provided for under Addendum number seven (7) of the contract. A monthly report of services rendered shall be provided with each invoice. The contract is increased by \$300,000.00
 The Contractor shall perform in accordance with the attached statement of work dated February 5, 1990.

Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remain unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print) Michael J. Barrett Vice President	15B. DATE SIGNED 2/21/90	15A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Peter S. Markay Chief, Branch of Contract and Grant Operations	15B. DATE SIGNED 2-21-90
15C. CONTRACT OFFICER (Signature) <i>[Signature]</i>	BY <i>[Signature]</i>	15C. UNITED STATES OF AMERICA Department of Contracting Officer	

00126090

The Contractor shall begin and conclude these support services at the request and under the direction of the Contracting Officer's Representative (COR).

The Contractor shall be liable for any support services which are not funded in the contract and which are not performed at the specific direction of the COR.

All invoices are to be submitted to the COR for verification and approval of the services. The COR will process the invoices to the Branch of Disbursements and furnish a copy to the Contracting Officer.

Background

The contractor has been paid \$300,000 under FY 1988 for development and implementation and for the conduct of 5 regional tribal orientation sessions. In addition, the contractor has been paid \$300,000 at the rate of \$50,000 per month for the last six months in FY 1989.

The new Congressional appropriations language for Fiscal year 1990 requires additional third party audit and reconciliation certifications prior to any transfer of assets to the contractor. The revised schedule now anticipates implementation of the contracted processing services on a phased basis with services for the largest 25-30 tribal accounts to begin after third party certification for these accounts. The BIA is now in the process of issuing an RFP for the audit and certification work. After selection of the contractor and upon completion of their scope of work, the BIA would begin to transfer those audited and certified assets to the contractor.

Because of the new phased approach for transfer of assets and trust accounts, the requisite implementation schedules, planning and development, conversion activities and contract processing services will need to be revised. The Fiscal Year 1990 option for support services is exercised to provide the services needed for the revised approach.

02/03/90

Statement of Work

I. Project Management:

Manage all contractor staff team leaders assigned to the project, and subcontractor staff to assure performance and deliverables.

Maintain direct relationship with BIA Office of Assistant Secretary, Trust Funds Director and Project Manager.

Represent contractor to all external parties impacting contract.

Work with BIA to complete technical modifications to the contract.

Assist BIA and participate in internal meetings, presentations and any tribal sessions conducted related to the contract.

Develop and publish quarterly tribal newsletters.

II. Investments:

Advise and assist BIA in revising investment guidelines and operating procedures for technical modification to contract.

Advise and assist BIA in revising action plan, investment strategies and any interfaces required for multiple transfers of assets under a phased approach.

Install Shaw Portfolio Management system and train BIA staff.

Install additional Customer Communication System and train BIA staff.

Continue service development for three tribal portfolios, but revise interim services for one "Balanced Portfolio" for tribes.

Assist BIA with optimum approach for in-house investment of those assets retained by BIA pending transfer.

Develop plan for interface with FED New York to support optional use of Treasury overnighter.

02/05/90

Accounting and Reporting:

Advise and assist BIA in revising and finalizing the TFMS requirement document.

Develop action plan for phased approach and determine operational impacts of new volume levels and BIA sites to be phased for service.

Revise and split tribal and IIM services from integration so that tribal services may be prepared for testing, acceptance and conversion.

Continue to revise BIA training user manual and training materials consistent with final TFMS requirement document.

Assist BIA in developing revised acceptance testing plan, training plan and conversion/implementation plan.

Train acceptance test team and any other oversight team/committee.

The revised TFMS requirement document is scheduled to be available March 19, 1990.

APPENDIX 2.—MATERIAL SUBMITTED FOR THE SEPTEMBER 25, 1990,
HEARING RECORD

WILLIAM F. CLINGER, JR.
230 O-Street, PENNSYLVANIA

ASSISTANT REGIONAL WHIP

WASHINGTON OFFICE
2180 RAYBURN BUILDING
(202) 225-6121

DISTRICT OFFICES
Suite 218
315 S. ALLEN STREET
STATE COLLEGE, PA. 16801
(814) 238-1728

805 PINE BEAM BUILDING
WARRER, PA. 16300
(814) 728-3810

Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEES
PUBLIC WORKS AND
TRANSPORTATION
SUBCOMMITTEE ON AVIATION
RANKING REPUBLICAN
SUBCOMMITTEE ON INVESTIGATIONS
AND OVERSIGHT
SUBCOMMITTEE ON SURFACE TRANSPORTATION
GOVERNMENT OPERATIONS
SUBCOMMITTEE ON ENVIRONMENT, ENERGY
AND NATURAL RESOURCES
RANKING REPUBLICAN
SELECT COMMITTEE ON AGING

September 26, 1990

Dr. Eddie Brown
Assistant Secretary - Indian Affairs
Department of the Interior
1800 C Street, N.W.
Washington, D.C. 20240

Dear Dr. Brown:

As Chairman Synar stated during yesterday's Subcommittee hearing, it is often the Subcommittee's practice to keep the record open for five days following a hearing for those Members of Congress who were unable to have questions or issues of concern addressed during the hearing. There are several questions and concerns that I and other Minority members of the Subcommittee on Environment, Energy and Natural Resources would like to have addressed. For the record, I would appreciate your responding to the attached questions.

Please keep in mind that in responding to these questions, you are still under oath. In addition, your answers should reflect conditions to the best of your knowledge at the time of the hearing.

Please send your answers to the Subcommittee at the following address:

The Honorable William F. Clinger
Ranking Minority Member
Subcommittee on Environment, Energy
and Natural Resources
Committee on Government Operations
B-371 B & C Rayburn House Office Building
Washington, D.C. 20515

Your written response to these questions should be received no later than October 2, 1990.

Sincerely,

William F. Clinger
Ranking Minority Member
Subcommittee on Environment, Energy
and Natural Resources

WFC:ke



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 05 1990

The Honorable William F. Clinger
Ranking Minority Member
Subcommittee on Environment, Energy
and Natural Resources
Committee on Government Operations
B-371 B & C Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Clinger:

Enclosed are my responses to the questions you attached to your September 26, 1990 letter. As you requested, my responses are reflective of conditions at the time of the hearing.

Thank you for the opportunity to provide additional testimony for the record.

Sincerely,


Assistant Secretary - Indian Affairs

Enclosure

RESPONSES OF THE
 ASSISTANT SECRETARY - INDIAN AFFAIRS
 TO QUESTIONS OF
 THE RANKING MINORITY MEMBER
 SUBCOMMITTEE ON ENVIRONMENT, ENERGY AND NATURAL RESOURCES
 COMMITTEE ON GOVERNMENT OPERATIONS

QUESTION 1: The Subcommittee has highlighted past problems by BIA in incorporating account holder input. In proceeding with your work, how will BIA work with tribes and account holders to ensure that they are in agreement with the account balances?

RESPONSE: As is discussed in our Strategy for Reconciliation. Audit and Certification of Trust Fund Accounts, we are planning to provide statements to each account owner after each phase of the reconciliation project. Account owners will be asked to provide the Bureau with any documents or other information that may be available to them to complete the record or which reflects information other than that in the statement. By showing each account owner the debits and credits associated with the account and by requesting that they notify us of any discrepancy, we will obtain as much assurance as is possible that the owner agrees with the reconciliation. This procedure will be repeated after the account reconciliation effort is audited. At the end of the certification phase, the account owner will again receive a statement showing activity in the account.

QUESTION 2: At each hearing to date, you have been asked about the possibility of turning trust funds over to the tribes and individual Indians. The response has been that this is a "viable option." Some Members of the Subcommittee would like to see the option more seriously considered. Will you assure the Subcommittee that when you affect the reconciliation and auditing of the accounts that you will investigate means by which trust funds can be turned over, identifying if laws need to be changed?

And will you discuss this "viable option" with Native Americans as part of the consultation process?

RESPONSE: I can give the Subcommittee full assurance that we will investigate means by which trust funds may be turned over to the Tribal or individual Indian owners. We intend to include tribal government and individual Indian participation from the beginning as we address this issue. I will notify the Subcommittee if the Department's Office of the Solicitor determines legislation is required to accomplish this.

We will discuss turning over trust funds to account owners during our consultation with Tribes and individual Indian account owners as their views will be most important in making any decisions about this option.

QUESTION 3: Who is liable for shortages in accounts, namely lost funds?

How about lost interest due to poor investments?

Is the U.S. taxpayer ultimately responsible if it is found that the BIA has mismanaged the Trust Fund accounts?

RESPONSE: I have not discussed liability for shortages or lost interest with the Department's Solicitor, but my personal belief is that the U.S. taxpayer may be responsible for shortages in the principal of any account. Where the loss is not due to any mismanagement on the part of the BIA, the Solicitor will have to evaluate the causes and recommend a legal course of action.

QUESTION 4: In the Subcommittee's first BIA Trust Fund hearing, we had heard from the Inspector General that there was \$17 million "unaccounted for." How much is unaccounted for today?

Why the difference?

RESPONSE: As of today, only \$1,219 is unaccounted for. The resolution of the difference between the current \$1,219 and the \$17 million reported by the Inspector General is due to auditing efforts of the Arthur Andersen Company. Their auditors traced the unaccounted funds to differences in accounting data maintained by the separate automated data entry systems used by the Bureau. These differences are accounted for on the basis of different dates of data entry, different procedures for adding recent data entries to previous totals, and the lack of proper interfaces among the various systems. Once the problem was identified, the Bureau engaged an outside ADP firm (COMSIS) to develop the interfaces needed and to install the software and hardware necessary to correct the data entry problem.

QUESTION 5: In its May 1990 "Report on Compliance and Report on Internal Controls," Arthur Andersen & Company makes a number of recommendations to improve the Trust Fund accounting system. Will BIA be implementing these recommendations?

(If so) When will implementation be complete?

RESPONSE: The recommendations referred to in the May 1990 Report issued by Arthur Andersen & Company related to system enhancements are as follows: (1) IRMS not completely operational at some locations, (2) duplications between systems, and (3) streamline work-flow.

The Integrated Records Management System (IRMS) is an automated system with integrated data bases in land, lease, ownership and people. The IRMS has an Individual Indian Monies (IIM) Indian income distribution and accounting module as output from the system. The system is not operational at all locations due to a lack of valid data being loaded into the land, lease, and ownership data bases. We currently are working to ensure that all area offices are using the system and entering valid data.

The duplication between systems is being addressed through a series of short-term projects that we expect to be fully operational by November 1990. We have been working on the enhancements to eliminate the duplicate system data entry involved with our investment and Individual Indian Monies systems. Both system enhancements are currently being tested in Albuquerque.

The need for a more streamlined work flow will be one of the primary objectives of the long-term goal of developing the requirements for a new Trust Funds Management System. That project is due to be initiated within the next few weeks. It is currently being delayed pending a decision to negotiate with MITRE Corporation.

QUESTION 6: There is great concern among Subcommittee members about Individual Indian Money account holders. It seems that it is these individuals, due to the sheer number of entries associated with their accounts, who will be stuck with the lion's share of account shortages. How will the agency go about notifying these individuals that their accounts are out of balance?

Please explain how the BIA's practice of "pooling" the IIM accounts for investment purposes limits the exposure of individual account holders.

Where will the BIA come up with the funds to make all accounts whole? Will the funds come from Congress?

Do you see difficulties in getting funds back from account holders who were overpaid in the past? How will the BIA address this problem?

RESPONSE: Our reconciliation, audit and certification plan provides for notifying each account owner of the condition of the account at each phase of the process. If an account is out of balance, the account owner will be alerted to this at the time statements are provided.

Pooling investments enables the Bureau to obtain a higher rate of interest on investments under normal market conditions than if each account were invested separately. Most financial institutions that bid on funds the Bureau has available for investment require substantial sums of money; only by pooling accounts can the Bureau meet these requirements.

We currently plan to seek funds through the regular appropriations process to make accounts whole when shortages are identified. Based on the time frames set forth in our reconciliation, audit, and certification plan, we do not anticipate any requests will be possible before the FY 1990 budget submission. The Congress must act on these requests for appropriated funds.

We believe there would be great difficulty in getting funds back from account owners who have been overpaid in the past. Aside from the legal questions such as statute of limitations and making an individual pay for administrative errors of a government agency, the funds will not be available to most account owners for repayment. We will address this issue on a case by case basis, but my current inclination is to be lenient in writing off most of the repayments that will be required due to overpayments.

QUESTION 7: Dr. Brown, on page 2 of your testimony, you state that BIA has "found no cases of fraud, embezzlement or theft." Yet, the Inspector General in his September 1989 Audit Report attributed \$2.6 million to "fraudulent acts." Can you explain the difference between your statement and the I.G. report?

RESPONSE: The Inspector General's report discussed fraudulent acts of employees of a financial institution. My statement reflected the Arthur Andersen and Company audit of the \$17 million that was unaccounted for at the time of the I.G. audit. Arthur Andersen and Company concluded that no fraud, embezzlement or theft caused the funds to be unaccounted for.

QUESTION 8: How much money was spent on the Security Pacific National Bank contract?

Will there be any additional contract termination charges?

In past hearings BIA expressed concern that termination of the contract would leave the U.S. Government exposed for having broken the contract. How can you be sure that Security Pacific will not sue the BIA now?

RESPONSE: \$934,512 has been paid to the Security Pacific National Bank under the terms of our contract with the Bank. We anticipate no contract termination charges. Our past concern was premised on the fact that we had no legitimate basis for termination of the contract. Once the Congress approved our plan for reconciling, auditing and certifying the trust fund accounts, it was clear that the contract with the Security Pacific National Bank would have expired under its own terms prior to our having all accounts reconciled, audited, and certified. We, therefore, notified the Bank that our option to renew for FY 1991 would not be exercised.

QUESTION 9: What tangible deliverables has BIA received from Security Pacific that we will be able to use in the future?

RESPONSE: The contractor didn't provide any tangible deliverables which the Bureau could use in the future. However, by implementing a extensive system definitions and requirements analysis, the following tangible and long lasting benefits were produced:

(1) The operational definitions of requirements that must be involved in any future trust funds management system.

(2) Legal clarification through issuance of solicitor or GAO opinions regarding operational requirements that impacted on the judiciary trust responsibilities of the Bureau for money held in trust.

These tangible deliverables should provide significant savings in time and staff effort in the design, development, and implementation of a trust funds management system.

QUESTION 10: It is the Subcommittee's understanding that there has been some discussion about turning over some of the control of the trust funds data management to Minerals Management Service. How easily adaptable is the MMS system to take on these Trust Fund accounts?

Do the computer experts in the Bureau of Indian Affairs believe that this change will present few difficulties?

RESPONSE: The Minerals Management Service (MMS) has substantial experience in financial management systems design, operations, and contracting and a number of people with financial, auditing, and ADP backgrounds to address the critical problems facing trust fund management. It also has substantial current experience in managing large systems design and operations contracts and in operating large, complex accounting systems. It has taken financial systems that performed poorly and designed and implemented new systems that are a great improvement. Use of this MMS expertise should not be dismissed lightly as the

development and implementation of a new trust funds management system will take a cadre of professional ADP staff resources currently not available within the Bureau. The difficulties to be encountered will take the combined efforts of available ADP resources within the Bureau and Department along with specialized contracted resources.

QUESTION 11. Please describe the circumstances under which Ms. Arlene Brown received her \$5,000 monetary award?

RESPONSE: Ms. Brown was brought into the Bureau under a temporary appointment. That appointment was extended and she was reappointed to another position within the Bureau at a later date. As a temporary employee, she would have been ineligible for the normal Personnel Recognition System award for outstanding performance. I understand the basis for the cash award was her work which was judged to be outstanding on the preliminary stages of the Security Pacific National Bank contract. As a temporary employee, she had no need for, nor did she have, performance standards. They would have been required had she been a permanent employee and eligible for other recognition under Office of Personnel Management incentive awards procedures.

QUESTION 12: There is a long history associated with Congressional Appropriations language and whether or not that language in those Appropriations laws completely restricted the BIA from transferring all accounts to a third party. Can you explain how the Bureau initially interpreted the Appropriations language back in 1987?

Has the Appropriations language evolved over time and changed from year to year?

The language has become more restrictive with time. Do you believe that that is a result of the confusion surrounding the initial language?

If there was confusion, did BIA approach the Congressional authors of the language to seek clarification? If not, why not? If so, what was the result of those conversations?

Has the language in the Appropriations law combined with this Subcommittee's oversight hearings on the matter and with discussions with the Appropriations Committee staff made it clear about the transfer of funds?

RESPONSE: The Bureau initially interpreted the language in the FY 1988 Appropriations Act to require each account to be reconciled before it was turned over to a third party.

The language in the FY 1988 and FY 1989 Appropriation Acts was identical except for the insertion of the article "a" before the word "tribal." In the FY 1990 Appropriations Act some language was added, some was dropped. The article "a" which was added in FY 1989 is shown in quotation marks, words underscored in the following text show what was added in FY 1990, and the words in brackets show what was dropped in FY 1990.

Provided further, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of

tribal or individual Indian trust funds until the funds held in trust for such "a" tribe or individual have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the tribe or individual has been provided with an accounting of such funds[, and the appropriate Committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement];

We do not believe the differences in language are the result of confusion. The word "all" is absent in the Appropriations Acts for the three years. Our interpretation of the language to permit accounts to be turned over to a third party did not change as the language changed between FY 1988 and FY 1990.

QUESTION 13: What has the BIA accomplished since our last hearing towards meeting the concerns of this committee and the Appropriations committee?

RESPONSE: Attached is a copy of the quarterly report as requested in the July 23, 1990 letter from Mr. Yates and Mr. Regula approving the reprogramming request to establish the Office of Trust Funds Management.

QUESTION 14: Are you maintaining a dialogue with the Appropriations Committee to ensure that there are no misunderstandings in the future?

RESPONSE: My staff has met with Appropriations Committee staff on a regular basis to keep them informed on the progress and problems we are encountering during the implementation of the approved plan. The General Accounting Office has assigned a Program Analyst to work with the Office of Trust Funds Management on this project.

QUESTION 15: What is the process by which BIA will be reconciling and auditing the accounts?

When will you go out with Requests for Proposals for the reconciling and auditing efforts and when will those efforts begin in earnest?

Have you enlisted the support of third parties to ensure that the reconciliation and auditing efforts are properly designed and implemented?

RESPONSE: First, we intend to reconcile and audit the accounts to the "earliest possible date" as we have been required to do by the Appropriations Act since FY 1987. We will accomplish this in two stages:

During Phase I we will take the top 37 Tribal trust funds accounts (includes 87% of the total Tribal funds) and the Individual Indian Monies accounts at three selected Agency locations (covers 15% of the IIM funds) and complete both the reconciliation and audit work for the accounts selected. At the completion of the work, the firms that accomplished the tasks will be required to prepare a report, based upon their experience gained during the reconciliation and audit of the accounts in Phase I, that will project what resources (i.e., time, funds, equipment, etc.) will be required to accomplish the work for the rest of the Tribal and IIM accounts. The Bureau will then decide upon the approach to

be taken, based upon the input from the firms, the availability of the records, and the inventory of when the accounts were created that must be addressed in Phase II. Phase I is expected to be completed by September 30, 1991.

Our Phase II will address the reconciliation and audit of the Tribal and IIM accounts not covered in Phase I and will be based upon the plan approved by the Bureau after consultation with Tribal representatives, the GAO, the Appropriations Committees, the OMB, and the Department of the Interior. These same groups have been involved with the development of this plan of action for Phase I, and they will be briefed on the progress of the Bureau in accomplishing these tasks. We plan to meet with the Appropriations Committees sometime during October to discuss the final versions of the Requests for Proposals for both the reconciliation and the audit projects. After these meetings, if the plans are satisfactory, we intend to advertise the RFPs within the following two week period. We hope to award the contracts by mid-January 1991 which will allow field work to begin as early as late January.

QUESTION 16: When can we hope to have all accounts reconciled and audited?

RESPONSE: This depends on the Report and final decision of the Bureau, again after consultation with representatives of the affected Tribes, the Congress, the OMB, the GAO, the Interior Department's Inspector General, and Departmental and Bureau managers to decide the best course of action. At the present time, we are estimating that all the accounts will be reconciled and audited by late FY 1996. We believe this is a reasonable estimate based upon the large number of accounts (300,000 IIM and 2,000 Tribal accounts), the uncertainty about the gathering of records back to the "earliest possible date," and the age of the current accounts (i.e., how many accounts were opened how many years ago -- some of the Tribal accounts date back to the 1800s, and many IIM accounts date to the early 1920s or earlier). These factors are all going to influence the outcome of our plan for Phase II.

(letterhead)

Honorable Sidney R. Yates
Chairman, Subcommittee on Interior
and Related Agencies
House of Representatives
Committee on Appropriations
Washington, D.C. 20515

Dear Mr. Chairman:

As you requested in your July 23, 1990 letter to this office, we are providing you with the first quarterly update on the status of all efforts connected with the management of the trust funds. We are very pleased with the cooperation we have had from your office in allowing us to proceed with the action items below and the organization for the Office of Trust Fund Management. We are sorely in need of the trust fund management staff required to meet the target dates indicated on the attached briefing paper.

We are pleased with our progress to date, given the circumstances under which we have been operating, and we look forward to even greater success in the future. If we can maintain the funding levels necessary to accomplish these objectives, we feel confident that we can meet our goal of establishing a trust fund management system that will provide our staff the ability to deliver to the tribes and individual Indians a superior level of service and capabilities.

If you have any questions concerning any part of the attached status report, please contact Mr. George Gover, Acting Director, Office of Trust Fund Management, P.O. Box 1067, Albuquerque, New Mexico 87103, or phone him at (505) 766-3496.

ATTACHMENTS

INDEX LIST

1. TRUST FUND MANAGEMENT QUARTERLY STATUS REPORT
2. ESTABLISHING THE NEW OFFICE OF TRUST FUNDS MANAGEMENT
3. FY 1990 FINANCIAL TRUST SERVICES
4. STATUS OF CONTRACTS
5. ORGANIZATIONAL CHARTS AND FUNCTIONAL STATEMENTS
6. LIST OF ATTENDEES ON RECONCILIATION & AUDIT REVIEW
7. RECORD OF MEETING
8. TECHNICAL PROVISIONS FOR RECONCILIATION SERVICES
9. TECHNICAL PROVISIONS FOR AUDITING SERVICES

September 24, 1990

TRUST FUND MANAGEMENT QUARTERLY STATUS REPORT

The Office of Trust Fund Management has developed a strategy of short-term and long-term objectives meant to address the outstanding weaknesses in the Bureau's trust fund management program. A copy of those objectives were forwarded to you in a letter from this office dated June 13, 1990. The following summarizes the current status of those goals. All short-term items are to be completed by July 1, 1991. The target dates for the long-term objectives range from 2-5 years.

SHORT TERM:1. Investment Systems Interface

The Office of Trust Fund Management has completed the technical review necessary to effect an electronic interface between the MONEymax, INFO, Finance, Investornet and EZTrieve systems currently being used. Separate data entry of similar data will be eliminated, and the enhancements will require enforcement of verification and reconciliation of the transactions entered. The Bureau has acquired the services of a contract systems analyst/programming group, COMSIS, to assist us in accomplishing this and other enhancements to our current systems. The investment interface is to be on-line by October 1, 1990. The system is currently undergoing testing at the COMSIS offices in Denver. The on-site testing in Albuquerque will begin on Monday, September 24. Appears to be in line with target dates established.

2. Separation of Duties-Custodial Services

The custody function will be separated from the investment operations group, and the necessary personnel actions implemented. The funding and FTE required are available due to the recent establishment of the Office of Trust Fund Management. This is currently expected to be completed by December 31, 1990. The positions descriptions have been re-written and are presently being classified. The positions are expected to be advertised in late October and the selections made by late December as projected.

3. Tribal Access to Wismer (MONEymax)

This enhancement would allow a Tribe to access the MONEymax data, prepared by Wismer & Associates in California, via computer to the extent that the Tribe is willing to pay for the communications and access costs, which could run as high

as \$1500 per month for daily access. Wismer has confirmed that they are prepared to allow the Tribe access to the Tribe's data on Wismer's system. The Warm Springs Tribe has made the arrangements with Wismer & Associates to access the system, and they are currently testing the data at their offices in Oregon.

4. Tribal Trust Inquiry System

This system allows the Tribes access to the financial data on the Bureau's automated finance system in Albuquerque, New Mexico. It has been tested and is in place for the Warm Springs Tribe. A memorandum was forwarded to all Area Directors in June 1990 informing them of this system access and requesting them to contact the Office of Trust Fund Management for more information for their Tribes to obtain access. It is currently being updated on a daily basis. Only the Warm Springs Tribe currently has requested access and is using the system. We have had a request for the authorization forms from the Osage Tribe and we are currently in the process of setting up their passwords for access. We will be aggressively promoting this system during this next quarter through notices to Area, Agency and Tribal offices.

5. Improve Deposit Reporting for Field Office Collections

The Office of Trust Fund Management is currently exploring the possibility of expanding the number of Treasury approved local depositories near Agency offices Bureau-wide. A deposit reporting service is not yet in place. Alternative approaches are still being evaluated. In lieu of a formal deposit reporting service, the Agency and Area Offices will be required, effective October 1, 1990, to telefax copies of the confirmed deposit tickets to the Division of Trust Fund Accounting in Albuquerque on a daily basis for investment purposes. The memorandum has been sent to the field offices for implementation of this procedure.

6. Automation of Daily Interest Computation Method

The daily interest computation method is currently being used for both the Tribal and IIM systems, with the exception of any closing or partial distributions made for the Special Deposit group of accounts in IIM during a month. The programs have been written and the testing is just getting underway. We expect an implementation date of April 1, 1991.

7. Issuance of Monthly IIM Statements

This has been initiated effective in July 1990 for those IIM account owners who have been receiving IIM account statements on a semi-annual basis (approximately 100,000 account owners). The Office of Trust Fund Management is presently attempting to work with Area Offices in issuing the statements for the balance of the accounts. We are in the process of gathering input from the Areas concerning the number of accounts without addresses, supervised individuals, etc. to determine the ability of the Bureau to distribute the statements related to

those accounts.

8. The 1981 Reconciliation Project

The programs for this new system are currently being tested prior to implementation at the Area Offices distributing oil and gas royalties received from Minerals Management Service. It is projected that the system will be implemented at all affected Areas no later than November 1, 1990. The testing of the programs is currently being conducted at Anadarko Area and is expected to be implemented at that location by October 1, 1990. We have been assisted in the development of the test plan documentation by COMSIS. They will continue to work with us on the project into Phase II, which will address additional reporting and the prior year undistributed interest related to royalties since November 1985. In order to succeed with this Project, it is required that the Bureau's Office of Data Systems be prepared to dedicate the resources necessary to complete the programming and the testing phases in a timely manner.

9. Complete Reconciliation and Audit of Initial Tribal & IIM Accounts

The Tribes with the highest dollars on deposit held in Trust by the Bureau (37 Tribes, 87% of Tribal Trust dollars), and all IIM accounts (approximately 17,600 accounts representing \$67 million, which is 15% coverage of the dollars held in the IIM Trust accounts) at three Agencies, Fort Peck, Uintah & Ouray, and Olympic Peninsula, will be reconciled and audited to the earliest date possible by September 30, 1991. The records are currently being accumulated for this effort. There was a meeting held in Albuquerque on September 20, 1990 with representatives from 37 Tribes and Tribes associated with the 3 Agencies to be included in Phase I of this project. We are scheduling a meeting with the appropriations committees to go over the reaction to the draft RFP's by the Tribes. We are planning to advertise the RFP's in the Commerce Business Daily no later than October 15, 1990. This would allow field work to begin by late January 1991.

10. Initiate an Indian/Tribal Advisory Committee

The Advisory Committee charter Federal Register notice and other supporting documentation as required under the Federal Advisory Committee Act has been submitted to the Department for final review and approval. Once the package has been approved by the Department of the Interior, it will be transmitted to GSA for approval by the Executive Branch of the Government. The package will then be transmitted to Congress for review and approval. The total process could take up to six months to complete. The projected target date is March 31, 1991.

11. Contract for Investment Advisory Service

The Office of Trust Fund Management is currently evaluating

the options available for investment advisory services for the Division of Trust Fund Investments. This is expected to be implemented in early FY-1991, but no later than December 31, 1990. At this time, it appears that we will obtain Bloomberg Investment Service to meet our needs in the short term.

12. Reconciliation of the \$17 million Variance Identified by the Office of the Inspector General

The Office of Trust Fund Management, with the help of auditors from Arthur Andersen & Company, reconciled the MONEYMAX and Finance System variance of \$17 million recorded by the OIG last September to a balance of \$1239. That variance has been traced to various accounting entries that were unrecorded in the Finance System. The auditors found no evidence of fraud or embezzlement. We will have Arthur Andersen's auditors address the \$1239 amount during the course of their scope of work in the FY-1990 audit.

13. Establish Office of Trust Fund Management

On July 23, 1990, Congressman Yates' House Subcommittee on Interior appropriations gave approval to the Bureau's request for the reorganization of the Office of Trust Fund Management and the reconciliation and audit strategy for trust funds. This approval was based on progress that has been made to date addressing the concern of the subcommittee on appropriations and the Subcommittee on Government Operations chaired by Congressman Synar. Since the approval has been given, the Office of Trust Fund Management is in the process of finalizing all position descriptions, getting them classified and advertised. It is expected that the organization will be fully staffed by sometime in February 1991.

14. Contract with Federal Home Loan Bank-Dallas

The Bureau has developed a memorandum of agreement with the Federal Home Loan Bank (FHLB)-Dallas to provide disbursement and explanation of payment (EOP) services for oil and gas payments to IIM account owners as required by FOGDMA legislation.

The agreement has been sent to the Office of the Solicitor-Division of General Law for review. A question has been raised as to the eligibility of a quasi-governmental entity (FHLB) to enter into an interagency agreement under the Economy Act in the expenditure of appropriated funds. Consultation is currently underway with GAO on this question. The Bureau is prepared to procure explanation of payment services on the open market matched with internal disbursement services should the agreement with FHLB not be validated.

15. Reconciliation Training for Field Offices

We have initiated a training program to show the Area Offices Bureau-wide how to utilize an automated Dbase IV program to reconcile the source documentation entered by the Area/Agency Offices with the Finance and IRMS-IIM documents on a monthly

basis. This training is being coordinated by the Office of Trust Fund Management, and is expected to be completed by the end of November 1990. This will be an invaluable tool to identify timing differences and encoding errors between the two systems.

16. The IIM Interface Project

COMSIS has been working on a set of programs required to allow the documents entered into the IRMS-IIM system to be entered into the Bureau's automated Finance System automatically instead of the Area Office staff having to re-enter the data into the Finance System. This will save literally thousands of man-hours in keying and will eliminate the need to reconcile the data entry twice, since there will be an automated interface into the Finance System. This is expected to be in place by October 1, 1990. Testing is currently being conducted in Albuquerque.

17. Automated Clearing House Project

Effective in October 1990, the Bureau expects to have a new ACH procedure in place to be used to transfer funds to Tribes. The ACH procedure is going to allow the Bureau to transfer funds to Tribes using methods similar to wire transfer procedures, but at a greatly reduced cost to the Bureau. The Tribes will need to submit their Bank's ID number (ABA #), address, account number, etc. to the Bureau, who will retain the information for future reference any time that the Tribe wants to draw down funds for their use. The transfer occurs overnight instead of within hours when using the EFT method. This will also be helpful in preventing the transfer data from being distorted, since present procedures require the data to be re-entered each time to the Treasury, which increases the probability for an error to occur. The ACH procedure, however, will be more efficient. The EFT procedure will still be in place for emergency transfers, but the ACH will be the method used for all scheduled payments once the programs are set in place in October. The Bureau is exploring the use of this type of transfer procedure for individual Indian transfers from their IIM accounts or to individuals from Tribal accounts for per capita type distributions.

LONG TERM:

1. Development of System Requirements and Organizational Analysis

The Bureau is negotiating with MITRE Corporation for program management support services in the development of: TASK 1- A management plan (long term strategy) for the development of a fully integrated trust fund management system. The plan shall identify the major initiatives which must be undertaken to effect a long-range solution to the problems of trust fund management systems. For each major system initiative, MITRE shall describe the program, approach, products, related projects, and milestones. TASK 2-Systems Engineering and Inte-

gration- MITRE shall take a total systems approach in the development of a systems architecture for trust funds management which shall take into account the requirements (human, technical, and organizational) needed to manage the income from the trust assets of Tribes and Alaska Natives. Based on the systems architecture, MITRE shall build a detailed plan for the development and implementation of the system. The actual development of the SDP (systems design and programming) shall be accomplished through a third party. (See Attachment C-MITRE work statement). The advertisement of the proposed arrangement with MITRE appeared in the Commerce Business Daily on August 21, 1990. At the end of the 30-day mandatory waiting period, the Bureau will be authorized to formalize a negotiated contract with MITRE.

2. Reconciliation, Audit and Certification Projects

As the short term reconciliation and audit projects are completed prior to September 30, 1991, the long term plans to address the balance of the trust accounts will be developed by the contractors performing the reconciliation and audit efforts and submitted to the Bureau for approval. Those projects are expected to continue through FY 1996. As accounts are reconciled and audited, the Office of the Inspector General will be requested to certify that the work complies with the intent of the Appropriations Bill language included by the Congressional Committees for FY 1991 and beyond, as applicable.

4. Update Regulations and Policy & Procedural Manuals

The Bureau will be required, as a benefit of the requirements definition prepared by MITRE, to update the regulations and trust fund related policy and procedural manuals. This will be addressed as a part of the action plans developed upon completion of the MITRE requirements definition. The on-going maintenance of these manuals and regulations will be assigned to the Office of Trust Fund Management.

5. Establish On-Going Training Program for Trust Fund Management

The Bureau will also prepare a training program that will be an on-going effort for the Bureau to maintain a current set of training requirements for trust fund management related topics, such as collections, disbursements, investments, reconciliation, general ledger and subsidiary accounting, etc. Specific action plans to address this requirement will be developed after the completion of the MITRE report summarizing the system requirements.

6. Establish Internal Audit Capability for Trust Funds

Effective October 1, 1990, funding will be available to establish an internal audit office. The specific configuration of this Office has not yet been finalized. The Deputy to the Assistant Secretary - Indian Affairs (Operations) will be coordinating the establishment of this office. The formulation of this office will not be acted upon until after the passage

of the FY-1991 Interior Appropriations Bill.

The Bureau, as you can see, has initiated action that will result in significant improvements over the next few months, and even more productivity in the long term. The plan is meant to fine tune the systems in the short term while developing the long term capabilities that we know need to be established. The hard work of the staff in the Office of Trust Fund Management is going to be more evident in the successful implementation of the system and Bureau-wide organizational enhancements and to accomplish the objectives listed above.

Your July 23, 1990 letter requested specific items be included in our quarterly reports. The narrative describing our short-and-long range objectives address these items, but we have attached tables for certain items to provide more concise information.

Any questions concerning the above items should be directed to Mr. George Gover at P.O. Box 1067, Albuquerque, New Mexico 87103 or by phone at FTS 474-3496 or (505) 766-3496.

Attachments:

- #1 Status of Contracts
- #2 Total Obligations for Previous Quarter
- #3 List of Attendees and Minutes of Tribal/IIM Meeting in Albuquerque on September 20, 1990
- #4 Draft of RFP on Reconciliation of Tribal/IIM Funds (as revised after Tribal/IIM meeting on September 20, 1990)

The Office of Trust Funds Management has currently completed many of the tasks for reorganizing and physically establishing the new office. The following listing will outline the accomplishments which have occurred to the present date.

- The office is finally getting close to identifying space in which it will occupy. This task becomes very lengthy because of the fact we have very little control over the process. General Services Administration has the responsibility for the space floor plan and the procurement/negotiation for the space. The process has been under way for about five months and the current estimates, from GSA, for occupying space appears to be early January, 1991.
- In anticipation of occupying 8500 square feet of floor space. Systems furniture has been procured for all 45 work stations.
- Conference room/Director fixtures and furnishings have been provided.
- Duplicating capabilities to accommodate an office of this size has been procured.
- Office typewriters and other office equipment has been purchased (adding machines, shredding machine & etc.
- Mobile storage units have been purchased.
- A postage machine to accommodate mail services for the office has been procured.
- Computers have been procured to accommodate current office staff, for office and field work. There will be additional need for computers as the new personal are recruited and selected.
- All position descriptions have been written for the Office of Trust Funds Management. Some have already been recruited and selection made. Some are at the Area level for classification and recruitment action. And some are at the Office Division level for review and evaluation.
- The office has established a need for manuals publications, codes and other informational magazines /articles which are needed for conducting the function for which the office was established. Many of which have been ordered.
- Costs were incurred for salaries and travel of temporary and detailed personnel in order to carry out the business of the office and for accomplishing some of the tasks.
- Contacts and preliminary estimates have been made for the telephone purchase and installation.

FY 1990 FINANCIAL TRUST SERVICES
 SPARE 7-18-90 (incl. pay accrual to 9/30)

LOCATION		ALLOTMENT	OBLIGATED	UNOBLIGATED
ABERDEEN		\$429,415	\$339,773	\$89,642
ANADARKO		\$453,204	\$425,719	\$27,485
BILLINGS		\$499,312	\$472,480	\$26,832
DUNBAR		\$27,390	\$49,934	(\$22,544)
KANSAS CITY		\$170,150	\$327,762	(\$157,612)
MUSKOGEE		\$393,845	\$393,133	\$712
PHOENIX		\$517,680	\$522,209	(\$4,529)
SACRAMENTO		\$111,659	\$101,592	\$10,067
ALBUQUERQUE		\$127,795	\$45,921	\$81,874
NAVAJO		\$194,321	\$174,170	\$20,151
PORTLAND		\$576,251	\$554,673	\$21,578
EASTERN		\$55,877	\$47,542	\$8,335
	SUBTOTAL	\$4,029,000	\$3,769,618	\$259,382
100-40	CENTRAL OFFICE	\$47,000	\$49,276	(\$2,276)
100-51	PROJECT MGR	\$125,000	\$143,480	(\$18,480)
100-51	AREA OFFICE	\$0	\$64,507	(\$64,507)
101-40	TRUST FUND INVESTMENT	\$724,000	\$496,025	\$227,975
101-51	TRUST FUND ACCOUNTING	\$725,000	\$660,636	\$64,364
		\$0	\$71,521	(\$71,521)
101-53	ACCT. CONTRACT	\$1,440,000	\$1,327,591	\$112,409
		\$3,101,000	\$3,012,100	\$88,900
	SUB TOTAL APPROP.	\$7,150,000	\$6,767,913	\$382,087
RESERVE		\$1,839,000	\$839,000	\$1,000,000
	INITIAL APPROP.	\$8,989,000	\$7,606,913	\$1,382,087

*THESE OBLIGATIONS ARE APPEARING IN ELEMENT 42 AND SHOULD BE 43. CORRECTION WILL BE MADE.

STATUS OF CONTRACTS 9/19/90

CMM00003490001	\$ 585,020	ARTHUR ANDERSON
AGOK0000036002	200,000	BUREAU OF MINES (IIM)
CMK00127790001	242,571	COMSIS
CMK00126690001	<u>300,000</u>	SECURITY PACIFIC
	\$1,327,591	

REPORT FOR TRUST FUND MANAGEMENT

A. UNOBLIGATED TRUST FUND BALANCES

AREA OFFICES	\$ 259,182
CENTRAL OFFICE	82,900
RESERVE (UNDISTRIBUTED)	<u>1,000,000</u>
	\$1,342,082

B. ADDITIONAL OBLIGATIONS IN PROCESS:

COMSIS CONTRACT TASK ORDERS	\$ 149,609
PURCHASE OF COPIER MACHINE	45,959
SYSTEMS FURNITURE	125,000
CONVENTIONAL FURNITURE	50,000
TRIBAL ADVISORY CONF.	45,000
PERSONAL COMPUTERS/SOFTWARE	60,512
TRAVEL/SALARY OF SUPPORT STAFF ON DETAILS, ETC.	<u>35,000</u>
	\$ 511,080

DIVISION OF PERSONNEL MANAGEMENT
 MAIL STOP 320 SIB
 BUREAU OF INDIAN AFFAIRS
 1951 CONSTITUTION AVENUE, N.W.
 WASHINGTON, D.C. 20245

DATE September 13, 1990

NUMBER OF PAGES (INCLUDING COVER SHEET): 12

TO: Lee Miller, Personnel Officer, Albuquerque Area Office

MACHINE NUMBER: FTS 474-1964

LOCATION: Albuquerque, New Mexico

FROM: Sam Adams

TELEPHONE NUMBER: FTS 268-2695

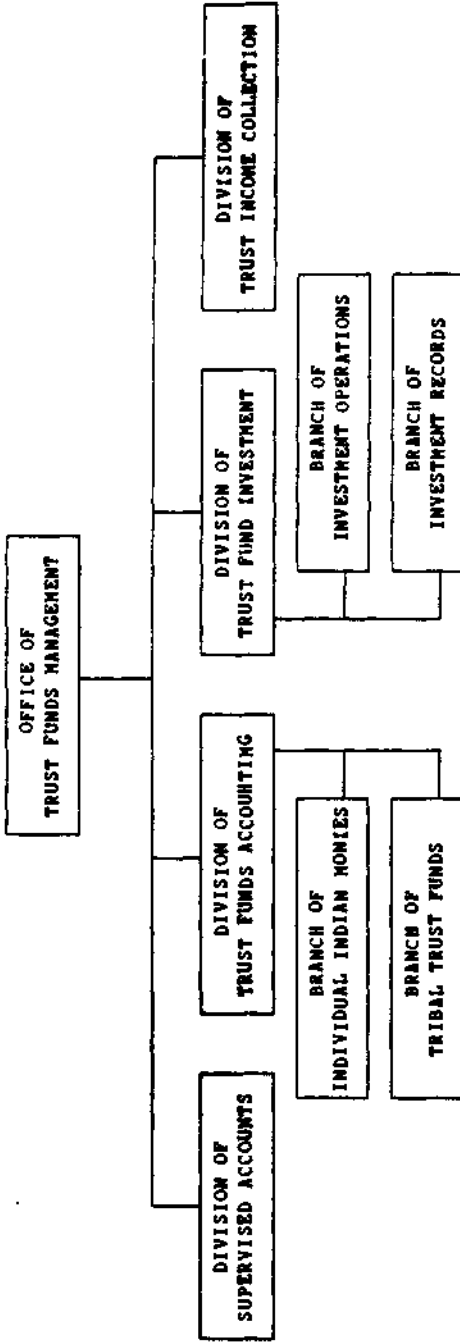
REMARKS: Attached are organizational charts and functional statements for the Office of Trust Funds Management. Action to fill vacant positions, or to make changes affecting encumbered positions should be taken based on these charts. Approval to fill, in accordance with the August 27, 1990 44 BIAN Bulletin, through reassignments, reinstatements, transfers, new appointments, or promotions is granted. You do not need to submit the information required by the Bulletin for each individual action; you may take the actions required to staff the Office of Trust Funds Management based on this approval.

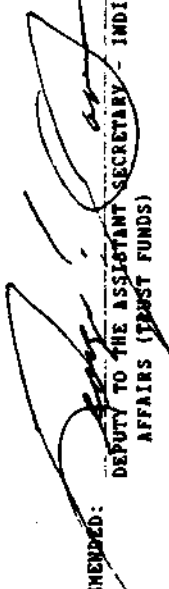
Sam Adams

REPLY REQUIRED (CIRCLE ONE): YES NO

REPLY REQUIRED BY: _____

ORGANIZATIONAL STRUCTURE
OFFICE OF TRUST FUNDS MANAGEMENT



RECOMMENDED:  DEPUTY TO THE ASSISTANT SECRETARY - INDIAN AFFAIRS (TRUST FUNDS)

7/23/90
DATE

APPROVED:  DEPUTY TO THE ASSISTANT SECRETARY - INDIAN AFFAIRS (OPERATIONS)

8-14-90
DATE

ORGANIZATIONAL STRUCTURE

OFFICE OF THE
DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (TRUST FUNDS)

OFFICE OF TRUST FUNDS MANAGEMENT

OFFICE OF TRUST FUNDS MANAGEMENT		
D43.4300	DEPUTY TO THE AS-IA (TRUST FUNDS)	ES-301-00
D43.4301	DEPUTY DEPUTY TO THE AS-IA (TRUST FUNDS)	ES-301-00
D43.4302	ASSOCIATE DEPUTY TO THE AS-IA (TRUST FUNDS)*	GM-301-15
D43.4310	SYSTEMS ACCOUNTANT	GM-510-15
D43.4303	PROGRAM ANALYST	GM-345-14
D43.4311	SYSTEMS ACCOUNTANT	GS-510-14
D43.4312	SYSTEMS ANALYST	GS-334-13
D43.4313	PROGRAM ANALYST	GS-345-13
D43.4314	STAFF ACCOUNTANT	GS-510-12
D43.4315	STAFF ACCOUNTANT	GS-510-12
D43.4304	SECRETARY	GS-318-09
D43.4316	SECRETARY (TYPING)	GS-318-06

RECOMMENDED:


DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (TRUST FUNDS)

7/23/90
DATE

APPROVED:


DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (OPERATIONS)

8-14-90
DATE

POSITION TITLES, GRADES, AND SERIES SUBJECT TO FINAL CLASSIFICATION ACTION.

* Two-year term position

ORGANIZATIONAL STRUCTURE

DIVISION OF SUPERVISED ACCOUNTS
OFFICE OF TRUST FUNDS MANAGEMENT

DIVISION OF SUPERVISED ACCOUNTS		
D43.4320	CASH MANAGEMENT OFFICER	GM-0501-15
D43.4321	FINANCIAL ANALYST	GS-1160-14
D43.4322	FINANCIAL ANALYST	GS-1160-13
D43.4323	FINANCIAL ANALYST	GS-1160-13
D43.4324	SECRETARY	GS-0318-06


RECOMMENDED:



 DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
 AFFAIRS (TRUST FUNDS)

 7/22/90
 DATE

APPROVED:



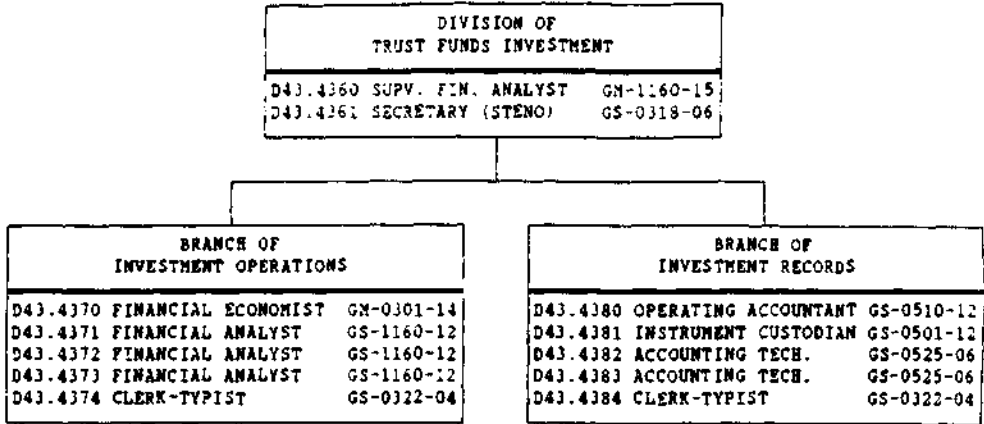
 DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
 AFFAIRS (OPERATIONS)

 8-14-90
 DATE

POSITION TITLES, GRADES, AND SERIES SUBJECT TO FINAL CLASSIFICATION ACTION.

ORGANIZATIONAL STRUCTURE

DIVISION OF TRUST FUNDS INVESTMENT
OFFICE OF TRUST FUNDS MANAGEMENT



RECOMMENDED: *[Signature]*
 DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
 AFFAIRS (TRUST FUNDS)

7/23/90
 DATE

APPROVED: *[Signature]*
 DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
 AFFAIRS (OPERATIONS)

8-14-90
 DATE

POSITION TITLES, GRADES, AND SERIES SUBJECT TO FINAL CLASSIFICATION ACTION.

ORGANIZATIONAL STRUCTURE
DIVISION OF TRUST INCOME COLLECTION
OFFICE OF TRUST FUNDS MANAGEMENT

DIVISION OF TRUST INCOME COLLECTION	
D43.4390	CASH COLLECTION OFFICER GH-0501-15
D43.4391	FINANCIAL ANALYST GH-1160-14
D43.4392	DEBT COLLECTION SPEC. GS-0501-13
D43.4393	ACCOUNTANT GS-0510-12
D43.4394	ACCOUNTING TECHNICIAN GS-0525-06
D43.4395	ACCOUNTING TECHNICIAN GS-0525-06
D43.4396	SECRETARY (TYPING) GS-0318-06

RECOMMENDED:


 DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
 AFFAIRS (TRUST FUNDS)

DATE

7/27/60

APPROVED:


 DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
 AFFAIRS (OPERATIONS)

DATE

8-14-90

POSITION TITLES, GRADES, AND SERIES SUBJECT TO FINAL CLASSIFICATION ACTION.


FUNCTIONAL STATEMENT

OFFICE OF THE
DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (TRUST FUNDS)

OFFICE OF TRUST FUNDS MANAGEMENT


The Office of the Deputy to the Assistant Secretary - Indian Affairs (Trust Funds), located in Albuquerque, New Mexico, is responsible for professional, technical, and management leadership of the Bureau's activities, programs, and functions related to and affecting funds held in trust for individual Indians and Indian tribes. The Office executes the management functions of planning, organizing, staffing, coordinating, controlling, and directing for all assigned activities and programs. It manages the development and implementation of systems, policies, standards, and procedures governing the collection of funds held in trust, accounting for trust funds, investment of trust funds, disbursement of trust funds, reporting of trust fund activity and amounts held in trust, and operation of trust fund related activities at the field level. The Office is responsible for the coordination, development, and evaluation of policies and procedures to ensure all aspects of the trust fund management program are properly covered without duplication or unnecessary overlap. The Office is responsible for the analysis and review of proposed policies and procedures, for ensuring that proposed and existing policies and procedures establish and maintain sufficient internal control systems to properly manage the trust funds management program, and for ensuring the integrity of system design and operation of systems approved for implementation. It conducts reviews of both headquarters and field organizations, examines accounts maintained by those organizations, and prepares reports and recommendations for the attention of the Director to ensure continuing adherence to policies, procedures, and systems approved for implementation.

RECOMMENDED:


DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (TRUST FUNDS)

7/22/90
DATE

APPROVED:


DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (OPERATIONS)

8-14-90
DATE

FUNCTIONAL STATEMENT

DIVISION OF SUPERVISED ACCOUNTS
OFFICE OF TRUST FUNDS MANAGEMENT

The Division of Supervised Accounts is responsible for planning, developing, and recommending policies and procedures governing the management of controlled trust fund accounts. These accounts include those belonging to minors, those of adult Indians in situations where competent authority has determined that the accounts must be supervised, accounts of tribal funds made available through judgement awards, Alaska native escrow accounts, contributed funds, and funds deposited to other controlled accounts. The division is responsible for developing standards for preparation of long range financial plans under which disbursements from supervised accounts may be made, for approving plans for disbursing funds from restricted accounts, and for reviewing justifications for deviations from or changes to approved plans and approving or disapproving requested deviations or modifications. The division provides technical advice and assistance to Indian tribes in the development of financial plans requiring access to tribal trust funds and provides direction to the Division of Trust Fund Investment in the development of investment strategies for tribal and individual Indian trust funds.

RECOMMENDED:



DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (TRUST FUNDS)

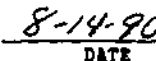


DATE

APPROVED:



DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (OPERATIONS)



DATE

FUNCTIONAL STATEMENT

DIVISION OF TRUST FUNDS ACCOUNTING
OFFICE OF TRUST FUNDS MANAGEMENT

The Division of Trust Funds Accounting is responsible for implementing, operating, and controlling accounting systems which properly reflect and report to all funds collected, disbursed, invested, and held in trust for individual Indians and Indian tribes. The Division formulates policies, procedures, standards, and systems governing the trust funds accounting activity and controls the operation of accounting systems at the field level to ensure they are operated in accordance with system design, standards, policies, and procedures of the Treasury, the Department, and the Bureau. It ensures that actual and projected receipts fairly and accurately disclose, in a timely manner, the financial condition of each account in sufficient detail to properly distribute funds held in trust to the account holder. The Division is responsible for maintaining correct accounts of funds held in trust and for reconciliation of subsidiary accounts with these federal accounts. In coordination with the Division of Trust Funds Investment, the Minerals Management Service, and Bureau trust program organizations, the Division is responsible for disbursement of funds from trust accounts held for individual Indians and Indian tribes. The Division is responsible for designing and preparing recurring and special request reports to provide information to Bureau management officials, account holders, and officials of other Federal agencies.

The Branch of Individual Indian Monies is responsible for managing the system and procedures for all funds which are collected for and disbursed to individual Indians under the Indian Services Special Disbursing Agency authority. It ensures that the books and records fairly and accurately disclose, in a timely manner, the financial condition of each individual's account and that all transactions against that account are in compliance with legal, regulatory, and procedural requirements. It is also responsible for ensuring that sufficient detail is maintained for each account to ease proper distribution of income resulting from claims, leases, royalties, and other sources. The Branch provides advice and assistance to all accounting locations in the Bureau which maintain IIM accounting records and which are charged with carrying out ISSDA activities associated with the IIM accounts. It is responsible for developing reports as required by management officials or as requested by tribes and individuals involved.

The Branch of Tribal Trust Funds is responsible for managing the system and procedures for all funds which are collected for and disbursed to Indian tribes. It ensures that the books and records fairly and accurately disclose, in a timely manner, the financial condition of each tribal account and that all transactions against that account are in compliance with legal, regulatory, and procedural requirements. It is responsible for developing reports as required by management officials or as requested by tribes and individuals involved. It is also responsible for ensuring that sufficient detail is maintained for each account to permit proper distribution of income. The Branch provides assistance to all accounting locations in the Bureau which are involved in accounting for tribal trust funds.

RECOMMENDED:




DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (TRUST FUNDS)

7/23/80

DATE

APPROVED:



DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (OPERATIONS)

8-14-80

DATE

FUNCTIONAL STATEMENT

DIVISION OF TRUST FUNDS INVESTMENT
OFFICE OF TRUST FUNDS MANAGEMENT

The Division of Trust Funds Investment is responsible for planning, developing, operating, and controlling the buying, selling, and trading of investment instruments in accordance with applicable laws, regulations, and policies. It makes recommendations on investments of trust funds consistent with the strategies developed, and it aggregates funds in order to realize the benefits associated with cash concentration and economies of scale. The division provides technical information to area and agency operating officials and to tribes regarding the status of funds invested and serves as liaison between the Office of Trust Funds Management and public and private sector organizations involved with investments. The division serves as the custodian of investment instruments held by the Bureau and ensures the proper custodianship of instruments held by other organizations for the Bureau. It is responsible for accounting for investments in sufficient detail to properly and timely distribute principal and income earned into each account from which funds were derived for investment.

The Branch of Investment Operations is responsible for the buying, selling, and trading of investment instruments in accordance with applicable laws, regulations, and policies. It maintains contacts with financial institutions, develops bidding protocols for investment activity, and places funds with financial institutions for investment purposes.

The Branch of Investment Records is responsible for the control of and accounting for investment instruments acquired by the Division. It serves as the custodian of investment instruments held by the Bureau and ensures proper custodianship of instruments held by other organizations for the Bureau. It maintains the accounting records of investments made in sufficient detail to properly and timely distribute principal and income earned into each account from which funds were derived for investment. The Branch provides technical information to area and agency operating officials and to tribes regarding the status of funds invested.

RECOMMENDED:



DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (TRUST FUNDS)

7/23/90
DATE

APPROVED:



DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (OPERATIONS)

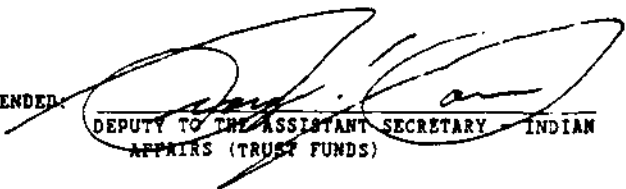
8-14-90
DATE

FUNCTIONAL STATEMENT

DIVISION OF TRUST INCOME COLLECTION
OFFICE OF TRUST FUNDS MANAGEMENT

The Division of Trust Income Collection is responsible for planning, developing, and recommending policies and procedures governing the billing for and collection of funds which will be held in trust by the Bureau. The division maintains an accounts receivable system to ensure that amounts owed to or to be collected from Individual Indian or Indian tribe account holders are properly billed and collected in compliance with established policies and procedures. The division develops or adapts existing systems of fund collection to ensure the least possible time delay between payment of accounts receivable and deposit to trust accounts. The division operates a centralized trust income accounts receivable and collection reporting system and prepares reports of income collected for use in account reconciliation.

RECOMMENDED:



DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (TRUST FUNDS)
7/22/90
DATE

APPROVED:



DEPUTY TO THE ASSISTANT SECRETARY - INDIAN
AFFAIRS (OPERATIONS)
8-14-90
DATE

LIST OF ATTENDEES
RECONCILIATION & AUDIT RFP REVIEW
SEPTEMBER 20, 1990

NAME	TRIBE	ADDRESS
1. Dan Lewis	Navajo	BIA-Central Office
2. Larry D. Beck	S. Ute Tribe	Ignacio, Colorado
3. Wil Herrera, Jr.	Laguna Pueblo	Laguna, N.M.
4. Bobby Whitefeather	Red Lake	Red Lake, Mn.
5. Bob Newell	Passamaquoddy	Pleasant Point, Me.
6. Meheim Frances	Passamaquoddy	Pleasant Point, Me.
7. Fred Francis	Passamaquoddy	Pleasant Point, Me.
8. Karen S. Hatt	Seneca Nation	Salamanka, N.Y.
9. J. Wilfred Madrid	Ute Mtn.	Towaoc, Co.
10. Lyle Lemon	N. Ute Mtn.	Ft. Duchesne, Ut.
11. Carlisle Cuch	N. Ute Mtn.	Ft. Duchesne, Ut.
12. Vernon Masoyesve	Hopi	Kykokmori, Az.
13. Lillian Seibel	S. Ute	Ignacio, Co.
14. Governor Conrad Lucero	Laguna Pueblo	Laguna, N.M.
15. George Gover	Pawnee	BIA-OTFM
16. Dorrance D. Steele	Ute Mtn. Ute	BIA-Towaoc
17. Basil Laloot	Passamaquoddy	Princeton, Me.
18. Annette M. Mohawk	Seneca Nation	Salamanca, N.Y.
19. Darlene Miller	Seneca Nation	Salamanca, N.Y.
20. Jack Valliant	Mescalero	Mescalero, N.M.
21. Terry Knight	Ute Mtn. Ute	Towaoc, Co.
22. Bill Mealing	Ute Mtn. Ute	Towaoc, Co.
23. Ernest House, Sr.	Ute Mtn. Ute	Towaoc, Co.

NAME	TRIBE	ADDRESS
24. Frank Johnson	White Earth	White Earth, Mn.
25. Lonnie Points	Turtle Mtn.	Belcourt, N.D.
26. Ray Trotting	Turtle Mtn.	Belcourt, N.D.
27. Henry Houle	Turtle Mtn.	Belcourt, N.D.
28. Wayne Bladh	Jicarilla	Sante Fe, N.M.
29. Lori Melendez	Yurok	Eureka, Ca.
30. Floyd DeCeteau	Sisseton-Wahpeton Sioux	Agency Village, S.D.
31. Timothy C. Lake	Sisseton-Wahpeton Sioux	Agency Village, S.D.
32. James Strong	Red Lake	Red Lake, Mn.
33. Mike Peterson	Red Lake	Red Lake, Mn.
34. Ada White	Crow Tribe	Crow Agency, Mt.
35. Don Gray	Trust Funds	BIA-OTFM
36. Vern Claimont	Flathead	Pablo, Montana
37. Juanita Vanello	Tohono O'odham	Sells, Arizona
38. Mary Ann Antone	Tohono O'odham	Sells, Arizona
39. Pearl Hopkin	Assinaboine	Poplar, Mt.
40. Earl J. Azure	TMC	BIA-Aberdeen
41. Stephen Francis	Fort Berthold	New Town, S.D.
42. Miles King	Warm Springs	Warm Springs, Or.
43. John Vale	Osage Tribe	Pawhuska, Okla.
44. Sue Lara	Jicarilla	Dulce, N.M.
45. William Heisler	White Earth	White Earth, Mn.
46. Caleb Shields	Ft. Peck	Poplar, Mt.
47. Susan Masten	Yurok	Klamath, Ca.
48. Zane Jackson	Warm Springs	Warm Springs, Or.

NAME	TRIBE	ADDRESS
49. Ed Jensen	Crow Tribe	Billings, Mt.
50. Jose Rivera	SRPNIC	Scottsdale, Az.
51. Joe Weller	Caddo	BIA-OTFM
52. Ralph Honhongva	Hopi	Kykotsmoui, Az.
53. Jim Parris	Osage/Cherokee	BIA-OTFM
54. Marilyn Childs	Ft. Peck	BIA-OTFM

09-20-90
TRBMTG

BIA - OFFICE OF TRUST FUND MANAGEMENT
ALBUQUERQUE, NM

RECORD OF MEETING: RECONCILIATION & AUDIT PROCEDURES FOR TRIBAL REPRESENTATIVES

OPENING REMARKS-

- I. GEORGE GOVER: Commented on establishment and implementation of the Office of Trust Fund Management (OTFM) from the July 23 YATES letter.

Included comments and quotes from Yates' letter re. requirements of the OTFM in accomplishing the reconciliation and the auditing services.

Also commented on the \$17million "missing funds" and resolution and reconciliation of that amount to within \$1200 by Arthur Andersen

Introduced OTFM personnel:

Don Gray
Bart Wright
Joe Weller
Marilyn Child
Jim Parris (Audit Manager)

RECONCILIATION RFP-

- II. JIM PARRIS: commented on the 2-project, 2-phase reconciliation/audit efforts.

COMMENTS:

1. requested copies of the exhibits not now included in the packages distributed but referenced.

JIM: described complexity of the systems in the field; expanded on the TWO-PHASE method - 37 tribes: and 3 agency IIM sites. The background work in gathering data from tribal and IIM sites from which the exhibits are being developed has not been completed but is in progress.

COMMENTS:

1. What is extent of the experience of audit staff?

JIM: trained accountants to do the work.

2. can the Tribe's accounting staff perform the audit?

GEORGE: No. This audit requirement is identified strictly as a BUREAU TRUST responsibility, and the Congressional language must be acted on by the BIA's control and response through the contracted services.

QUESTION:

1. Re. proceeds of labor monies - what are they?

JIM: IMPL tribal 7000 accounts - income.

2. Re. accounting firm workplan and available records, how do you define "earliest possible date"?

GEORGE: re. "earliest date possible" - open end accounting services to complete the effort as described by Congress. The volume of accounts - 300,000 IIM, 2,000 Tribe - \$10,000,000 now is considered acceptable/reasonable re. costs of the accounting work that includes going back in time to the earliest date possible as supported by the records available.

3. Re. page 2 of the PHASE II, second para. on "July 1, 1991" date, explain this date.

JIM: records availability at the tribal/IIM sites.

QUESTION from:

1. Re. funds to accomplish this task, source?

JIM: Congress has appropriated the funds to cover the accounting work. Spread of work depends on data entry; bulk of tribal at Albuquerque; investments totally at Alb.; IIM bulk in the field.

Exhibits referred to for IIM in B., page 2, for IIM agency sites C56, P06, H62 are the monthly reconciliation and balance sheets. Available for review.

QUESTION from: Caleb Shields, Ft. Peck:

1. What happens after Phase I, discrepancies at Ft. Peck? Will the BIA continue or just let it go on unresolved?

JIM: Phase I, the work will continue, and working with Appropriation Committee as closely as we are, the work will NOT end without continuing through Phase II. Approp. Committee is proving to be dedicated to the completion of this project through all phases. We are dedicated to meeting the language as spelled out by the Committee.

The discrepancies: where funds NOT there, then funds from

other accounts will be applied to cover, with approval from Solicitor and Congressional intervention.

GEORGE: If the account is not whole, then we will go to Congress to make the account whole.

QUESTION:

1. So does the Bureau then hire more personnel to continue from the audit?

GEORGE: We are looking at the MITRE group is looking to design the efforts of OFTM to work more efficiently.

2. What about the Security Pacific contract? Our Tribe doesn't know what the status is.

GEORGE: the Security Pacific contract is expiring the end of this month.

3. Is the Bank going to reimburse the government the funds paid it?

GEORGE: NO.

4. Question re. annual audits following this TWO-PHASE project?

GEORGE: the MITRE group will be examining that procedures.

5. But there will be annual audits?

GEORGE: The Arthur Andersen & Co. contract includes 1990, and annual audits will be performed by whoever is contracted.

6. Payment of interest earnings that haven't been distributed, will that follow as a result of the audit?

GEORGE: No, only where the accounts are shown as not whole.

7. Is the reconciliation effort going to identify those monies that should have been distributed?

GEORGE: the Tribe must pursue its own claim by some legal process.

8. Copy of the reconciliation?

GEORGE: Yes, copies of the reconciliation will be distributed.

9. Question re. the certification of the audit by other CPA?

10. Question re. the audit firm, to have a single firm come in and reconcile AND audit the accounts after the reconciliation work is completed.

GEORGE: Chairman Yates requires that TWO firms be contracted in view of the S&L bailout.

BREAK

10:30 A.M. RESUME.

JIM: Remarks re. cost of staffing and the funding for this project got full consideration to avoid any problem with records gathering and maintenance, or any interruption to the preparatin for the contracted services.

QUESTION: as far back as possible, how do you interpret that?

JIM: just as that indicates; the dated records in Albuquerque are available back to 1976, and availability of records at the field sites is being determined.

QUESTION: Tribal records that aren't in the field--available at the Area?

JIM: This is a good question, and we are working on the inventory.

QUESTION: What about the advisory committee?

GEORGE: Two committee members by nomination of tribal vote. will be your representative; committee will be working in cooperation with the OTFM; investment policies, meetings twice a year, minimum; terms of the committee members will be for 2 years...

QUESTION: When will the committee be active?

GEORGE: By the first of the year (January)

JIM: Turn to page 7, Item 3: representatin letters for information from legal sources or other; Item 4 - reconciliation, copies will be available; Item 5 - efforts at the tribal offices and agencies for work space must be made; Item 6 - pre-proposal will be held October 30, so that the contract hopefully will be awarded by mid-January 1991.

In Item D. page 7, Report Requirements, where documentation is not available, then the report will make notatianto that

effect.

Arthur Andersen audits have not expressed an opinion on the balances; in this effort, the narrative will be included regarding the adjusting entries, and an FY report will be presented for each year the auditors go back through, with full disclosures as to what the reconciliation work covered.

The auditors will be working with your staff in finalising the numbers.

QUESTION: To what extent will there be detail, or just summarizing of the accounts in the reports?

JIM: The detail will include the micro-level of the accounts' detail. People have asked the depth of detail in IIM--is this effort going into the reconciliation of the individual Indian accounts. This is not realistic, and we take the macro-level approach.

QUESTION: I hear a contradiction; detail and reconstruction of accounts in an audit, but now you say this effort will not be done - not feasible. What do you mean?

JIM: Testing will occur at the agency level, for error rate and reasonable tests from the reconciliation effort, and if the rate of error is significant, that will determine if the detail work is required.

QUESTION: The committee is to be advised of this, then who decides the error rate level? Need input from the IIM location in determining the detail of examination.

JIM: If the records are there, we will try to meet the full intent of the law, and complete as much as we can in PHASE I.

QUESTION: Will there be tribal involvement in the reconciliation function.

JIM: Tribal input in the early stage can be received at my office (address given and telephone number).

Phase I, the tribal reconciliation, will be by the BIA Finance system, and we'll sink or swim with the balances there. Manual controls totals will be considered but the Finance system is the official record.

QUESTION: Regarding the exit conference with tribal input, this is not stted in the RFP--can it be added?

JIM: Yes, it will be added in; it is important.

QUESTION: Regarding adjusting entries--errors due to BIA, i.e., BIA claiming negative interest without approval of the tribe: what is your policy on making these kinds of adjustments, and how will they be handled?

JIM: Meetings will be held with the tribal staff re. the adjusting entries. The negative interest is a function of the program that distributes interest, and we will be analyzing these specific adjustments, but we will definitely look at the adjusting entries at the exit conference. The actual adjustments may be passed to the auditors to complete their review. We will necessarily wait for the auditors' decisions.

QUESTION: Unearned interest--will the reconciliation handle these items?

JIM: I clarify: reconciliation is what HAS HAPPENED.

QUESTION: We, the Tribe, need to have a stand on the records we maintain; and are we going to acknowledge that we have interest earned in our records, and include these in our records, so that consideration is taken of the entries in the reconciliation, and the actual question of earnings is determined during the audit?

We need to record what SHOULD have happened before the reconciliation so that that is what is to be reconciled.

GEORGE: We cannot make a policy that will allow these kinds of recordings of what SHOULD have been; the Solicitor does not give us that authority. The reconciliation is only to include what actually was recorded. The Tribe will have the right to claim.

QUESTION: If the interest isn't there as earnings and should have been, then how can the Bureau not have these postings included in the reconciliation. Can the reconciliation show that these kinds of earnings should have been recorded.

JIM: Again, the reconciliation can only show what happened up to that point in time. The audit will recognize by analysis what earnings were or weren't, and what should have been earned, and opportunity costs will be quantified and so stated.

QUESTION: I cannot find for a period of one month \$1 million of unallotted monies, and NO interest was posted.

I want this shown in some report--the audit report.

GEORGE: If no interest is posted, then that is an audit finding, not to be in the reconciliation.

JIM: This debate of what RFP this type of transaction is to be placed where will be taken under consideration.

GEORGE: Discussion with Congressman Yates: the reconciliation shows what has taken place, and by seeing what took place, you can recognize what DID NOT TAKE PLACE.

QUESTION: Isn't this critical to the reconciliation.

JIM: I would appreciate what your ideas are on format for what you feel how investments should be recorded and recognized in the reconciliation.

QUESTION: We want to know what we SHOULD have earned, not just what we HAVE earned. This is what we're talking about, and requesting.

JIM: I believe what I am hearing is that you want an investment analysis, and where this information is to appear.

GEORGE: Each tribal case is difference, and what earnings are not shown, that is the Tribe's responsibility to seek legal recourse.

QUESTION: Can you give the data on what the transactions for interest earnings were and what should have been?

JIM: You mean a pro forma type presentation--this will not be as an analysis of the investment per se.

GEORGE: ...however, this type presentation could be part of the audit. In cases of where we had the monies and we didn't invest them, we would have it disclosed in the audit report.

LUNCH BREAK - 11:30 A.M.

REASSEMBLE AT 1 P.M.

JIM: Regarding the Audit Services Contract - we request and need input from your tribal leaders.

QUESTION: RFP for the audit: where does it pick up, for what FY period?

JIM: This audit program will come up through FY1990. A real concern of the Department of Interior is what can we do to enhance the reconciliation and present balances that are good in the audit report. Audit function will be concentrated in Albuquerque for Investments and Tribal work. But greater intensity will necessarily be to the IIM function where fractionated data must be examined.

PHASE I - actual onsite at the agency level for IIM;
PHASE II - Bureau maintained balances at Albuquerque.

QUESTION: Funding on X-year basis?

GEORGE: We cannot expect OMB to approve X-year funding.

JIM: The type of audit work - global view on how the BIA has accounted for your money.

Statistical sampling will be employed. Judgement awards will be examined at 100% level from inception of the award, but sampling of the 7000 accounts will be done because of the volume.

QUESTION: Records location, missing records, what happens in this circumstance?

JIM: Auditors will discuss with you the logistics regarding the record where they are not complete.

QUESTION: Are we looking at separate efforts by agencies to get records accumulated or do the audit work?

JIM: No. We are looking at consistency in these contracts for reconciliation and audit services at each site, Bureauwide.

The basis of accounting is on cash. Arthur Andersen, in the 1988 and 1989 audits of the Trust Funds, has adjustments for accrual entry, adjustment for what actually occurred, and NOT for what might have been or pro forma presentation.

Report requirements - fund balance on statements will be what the auditor opinion will be based on by fiscal year. Footnotes will discuss particular audit procedures; and general audit procedures as Arthur Andersen has done in their performance of audits of trust funds. The auditors will work with you, your input for the benefit of the most accurate audit report.

Opinions will be stated by fiscal year--we expect qualified and unqualified opinions, disclaimers, depending on the degree of going back in time. What we might end up with is an unqualified opinion on the Judgement Award accounts, and

a qualified opinion on the 7000 account balances.

This is a beginning. We will have to accept these conditions for this first effort.

Item 4 on page 8, Required Presentation to Tribes/IIM account owners, exit conference with representatives of the Tribe.

QUESTION: Regarding IIM accounts audit, will the reports be distributed to the Tribes?

JIM: The report will be furnished per Tribe, and the RFP will so state.

GEORGE: Audit reports will be distributed; management letters are to be available through the Bureau. BIA as the manager will receive the management letters but distribution is not a requirement...

QUESTION: After review by the Assistant Secretary, will the management letter be available to the Tribes?

GEORGE: They MAY be.

QUESTION: If there are any questions regarding the report, and the adjusting entries, when does the BIA and the Tribes discuss any questioned items?

JIM: If there are disputed items, OFTM will make the decision on the adjustment, but discussions and resolutions to any dispute will be updated with the individual Tribes.

QUESTION: When do we get to see the reconciliation format?

JIM: The summaries of the reconciliation process, a critical part of the process, will be developed for clarity to the reader. Do you expect to review for....?

QUESTION: ...to review the format for our comments.

JIM: Reconciliation format, worksheet presentation, adjusting entries, exhibits that will all be utilized by the audit team can be made available...delivery of the format could be developed for availability for comments by the Tribes. We've done this for other audits, and I have to complete these formats, and will be doing so...

QUESTION: ...a format for investment analysis?

JIM: We have that format, and could include in the RFP as transactions analysis relative to the specific tribes.

GEORGE: But, to avoid missing the delivery deadline, the RFP could be issued without the formats.

QUESTION: How is the RFP going out?

GEORGE: Open Bid.

JIM: Joint venture has been used on other RFPs. This won't be the case.

QUESTION: Fixed Price contract?

JIM: We have asked for certain aspects of the bid to be fixed; however, some aspects cannot be viewed for a fixed amount and modifications will be done. If it goes over what is spelled out, the firm's hourly rate will be used to project the cost of the modifications.

GEORGE: An escape clause will be built in, as expressed by Congressman Yates.

QUESTION: Jicarilla Tribe: is there a formal way to get to the Committee regarding concerns we have, and request that an oversight committee hearing or a committee be formed regarding the uninvested funds, that is, where they sat around uninvested?

We understand the reluctance of the BIA to state what the interest rate might have been. Our understanding of what the BIA management has done in the past, the audit report MUST state what the interest rate, time, amount of funds, but someone must state what the interest rate and earnings SHOULD HAVE BEEN.

GEORGE: Congressman Yates and the Committee will be advised of your concerns and comments. Resources are scarce. We will present you with as much of the data that we have have and what you are requesting. I don't have the authority, but we can give you the fund balances available, the investment period, interest rate, but investment consultation is not part of what we can furnish.

QUESTION: Can we get copies of the minutes along with the formats?

JIM: We'll send out the minutes with the formats.

QUESTION: OFTM with trust funds accountability has the responsibility to correct deficiencies...

GEORGE: We deal with those problems ... if you've had an

QUESTION: Time frame...scheduling for initiating the reconciliation and the audit efforts...are you going to make it?

GEORGE: If we need more time, more money, we will deal with that; but, we are moving on the ambitious schedule we've set. We've been criticized for the way we've scheduled. Funding may need work, but we are going ahead with this as we've planned.

QUESTION: report revisions that'll go to the tribes...any plans?

GEORGE: MITRE is going to look at the formats for that purpose as well as other aspects.

QUESTION: Copy of the letter you were reading that was a draft to Yates...can we have a copy?

GEORGE: Yes, as soon as we tend to protocol and the original is in Yate's office.

THANK YOU FOR COMING, ETC.

TECHNICAL PROVISIONS FOR RECONCILIATION SERVICES

I. Nature Of Services Required.

Phase I- Reconciliation of 37 top tribal accounts/IIM accounts at three agency sites.

A. Description of Funds to be Reconciled

1. The Tribal Trust Fund accounts belonging to the Tribes whose total cash and investments rank in the top thirty seven of the 254 Tribes maintained by the Bureau of Indian Affairs (See Exhibit A). All of the Tribal Trust Fund Accounts belonging to each of the thirty seven Tribes selected will be addressed in the Scope of Work. This means that both Judgment Award (9000 series accounts) and Proceeds of Labor (7000 series accounts) will be included.
2. The Individual Indian Monies (IIM) accounts at the Uintah & Ouray Agency (Fort Duchesne, Utah), Olympic Peninsula Agency (Hoquiam, Washington), and Fort Peck Agency (Poplar, Montana) will be reconciled in Phase I of this effort. The accounts at these three Agencies are summarized below:

<i>Agency</i>	<i>No. of Accounts</i>	<i>Dollars (millions)</i>
Uintah & Ouray	4432	25.3
Fort Peck	9182	9.4
Olympic Peninsula	3958	32.2

The accounts at these three Agencies have been reconciled through the following dates (per hard copies provided by the Agencies): U&O Agency-January 1989, Ft. Peck Agency-February 1990, and Olympic Peninsula Agency-July 1988.

After the completion of PHASE I, the firm selected must prepare a Report summarizing the following:

1. Recommendations for change in procedures used.
2. A projection of what time and resources (i.e., funds, staff and equipment, etc.) that would be needed to complete the reconciliation of all remaining Tribal and IIM accounts.

The Bureau would need to respond to the projection and give

approval for proceeding within 60 days of receiving the estimates. The Scope of the work to be performed in Phase II will be negotiated with the firm selected.

Phase II- Reconciliation of balance of tribal and IIM accounts.

This phase of the Scope of Work will address the Tribal and IIM reconciliations for all accounts maintained by the Bureau not addressed in Phase I.

This Phase will require the accounting firm to prepare a work plan that will indicate the time, sequence and projected costs associated with reconciling the rest of the Bureau's IIM and Tribal accounts. This work plan will be required to be submitted to the Contracting Officer in Albuquerque, New Mexico no later than July 31, 1991. The plan will be reviewed by the Contracting Officer, Contracting Officer's Representative and the Director, Office of Trust Fund Management and a decision will be made by those parties as to the reasonableness of the plan and the availability of funds to pay for the work projected. If the determination is made that the Bureau does not wish to proceed with the Scope of Work, a formal written notice will be provided to the accounting firm by September 30, 1991.

B. Type of Reconciliation Work Required

The accounting firm selected will be required to complete the Scope of Work described below:

1. Reconciliation of accounts as indicated:

TRIBAL

- a. Judgment Award accounts-All Judgment Award accounts will need to be reconciled to source documentation at the Central Office (Albuquerque) level, Area Office and, in some instances, may need to visit an Agency. In some situations, Tribal Offices may need to be visited. These accounts will need to be reconciled from the date of inception of the Tribal Trust Fund account through the last month of the most current month-end at the time the reconciliations are being performed.
- b. Tribal Income accounts-These accounts will need to be reconciled from the date of inception through the most current month-end at the time the reconciliation work is being performed.

INDIVIDUAL INDIAN MONIES

- a. All the IIM accounts at the three Agencies indicated will need to be reconciled from inception to the most current

month-end at the time the reconciliations are being performed. This includes all 206.11 (IIM), and 206.70 (Special Deposits) groups of accounts. Copies of the Balance Sheets from the three Agencies are attached (see Exhibit B). Copies of the latest reconciliations received from each of the 3 Agencies are also attached (see Exhibit C).

Investments

The Tribal unallotted cash balances (ie-those balances that are not invested in CD's or Government securities) that are to be invested in the Treasury "overnighter" investments should be identified by dollar amount and period invested in the "overnighter", or for what period the funds (for any reason) were uninvested in any investment. The same type of analysis must be reconciled for the IIM investment pool.

3. Basis of Accounting

- a. The cash basis of accounting is utilized for all Tribal Trust and IIM financial transaction activity on the Bureau's Finance System. The MONEYMAX system however, which is used for portfolio reporting purposes, has an accrual option to compute accrued interest earnings to date.

4. Description of Records Maintenance & Volume Statistics

- a. Records Maintenance

TRIBAL RECORDS

A recent survey of records availability at the Area Office level is summarized in Exhibit D. If the necessary records are not available, then it will be the responsibility of the Bureau of Indian Affairs to locate and present the selected firm with the necessary records. In all instances, the BIA will provide the firm selected with any available records. In the event that the BIA is unable to locate the necessary records, the selected firm will indicate which accounts could not be reconciled.

INDIVIDUAL INDIAN MONIES RECORDS

For Phase I, the IIM records availability at the 3 Agencies is summarized on Exhibit E. The Bureau is currently in the process of gathering the data for the records

availability at the rest of the sites.

b. **Volume Statistics**

TRIBAL

A full listing by Area/Agency location of all Tribal accounts, dollar value at September 30, 1989 and a total dollar value of receipt and disbursement transactions for FY-1989 and FY-1988 is included. See Exhibit F. There are a total of 529 accounts, of which there are 57 dockets, 10 Area Offices and 37 Tribes involved. All Areas except Juneau and Anadarko are included. The coverage is approximately 87% of the total Tribal Trust Fund balance of \$1.3 billion as of September 30, 1989.

INDIVIDUAL INDIAN MONIES

The volume at the 3 Agency sites is summarized in Exhibit G.

5. **Description of Systems, Records & Procedures**

a. **Systems:** The BIA maintains all Tribal and IIM data on one of the following systems:

- i. **Finance System:** This is the official general ledger accounting system that is an automated system for which all processing is centralized at the National Technical Service Center (NTSC) in Albuquerque, New Mexico. The data affecting all the accounts is entered into the system from each Area Office (Journal Vouchers, deposited checks, etc.), Division of Trust Fund Management (investment maturities, purchases, etc.), and the Branch of Trust Fund Accounting (wire transfer deposits, fund transfers between accounts/funds, all disbursements, transfers from other Government agencies, such as Minerals Management Service (MMS), and certain journal voucher transactions). The Division of Trust Fund Investments and Branch of Trust Fund Accounting are located in Albuquerque.
- ii. **MONEYMAX System:** This system is used to accomplish the portfolio accounting for investment activity related to each individual Tribal account, and the IIM pool. It is not integrated with the

Finance System data. This system is provided through a contract arrangement with Wismer & Assoc., a contractor located in California, where the actual processing of the data occurs.

3. Easytrieve "System": This is actually a data base reporting set of software (something like dBase III) that is used by the BIA to access data from the Finance System or build a report from data entered. This "system" is used to calculate and distribute interest on the Treasury "overnighter" investments.

- iii. IRMS System: This system is comprised of four primary subsystems, (1) the Ownership system in which the ownership of all land resources is recorded, (2) the Lease Master file system, which is used to record the ownership of all leases and the lease income ownership, (3) the People system, which is used to record the information related to the individual Indians that own trust property or receive Trust income from any source, or are registered members of a Tribe, and (4) the Individual Indian Monies (IIM) system which is used to record the subsidiary accounting to an individual Indian account level for the transactions recorded in the Finance System to a General Ledger account level. There are numerous subsystems within the IRMS system, such as Lease Distribute, which is used to accomplish automated distributions of most lease income dollars, the Royalty Distribution & Reporting System, which is used to distribute the oil and gas royalties received from Minerals Management Service (MMS), and there is a type of billing system developed that is used to pre-bill Range Lease income for individuals and Tribes. None of the IRMS systems or subsystems are currently interfaced with the Finance System.
- iv. The INFO System: This system is used by the Bureau to track the collateral reporting for CD type investments.

- b. Records: There are several types of records stored by the BIA relative to the Tribal/IIM accounting transactions. The following summarizes the kinds of records stored:

1. **Hardcopy documents:**

- a. Accounting documents such as BF-349 (transfer documents), SF-1166 documents (disbursement authorization), Deposit Tickets (SF-214), and Journal Vouchers (used for adjusting entries), Electronic Fund Transfer documents for receipts and investment accounting related documents such as Negotiation Sheets and Accounts Distribution Sheets are all available at the Central Office-Division of Trust Fund Accounting Office in Albuquerque from 1979 to the present.

In the event that certain key documents cannot be located, the Area Offices and/or Agency Offices will need to produce the necessary documents that are at their locations or had been stored in GSA Records Centers by their offices.

b. Reports are available as follows:

* **Summary of Trust Funds Report**-This report presents a summarization of the total cash receipts, cash disbursements, beginning and month end cash balances, and also includes a summary of what assets the cash is in (i.e., invested or "unallotted". Note: The unallotted category refers to the amounts invested on any given day in the Treasury "overnighter" investments that are not otherwise invested in CD's, T-Bills, and/or other Government securities. The Summary of Trust Funds Reports were not used prior to 1968. The only statements available prior to that point were Manual Control Cards (MCC) used to account for each Tribal account.

* **Detail of Trust Funds Report**-This report presents a summary of all individual financial transactions effecting each Tribal Trust account by appropriation & activity. (Note: These reports were not available prior to 1968).

* **Monthly Journal of Transactions**-This lists all accounting transactions by Area/Agency and transaction code sequence by date and amount.

* **General Ledger Detail Report**-This report is run at each month-end and lists each general ledger account by beginning balance, transactions, and month-end balance by location.

* **MONEYMAX Report**-This report lists all the investment securities by type of security, amount, bank (if applicable), and maturity\ date for each Tribal account as of the end of the report month. (Note: These reports were not available prior to 1980, before which there were only manual controls from the time that the investment program was initiated in the late 1960's.

* **INFO Report**-This report is used to track the collateral coverage and security for each Tribe by Bank to assure that the investments are adequately collateralized.

Note: The Summary & Detail of Trust Funds, and MONEYMAX Reports are sent to each Tribe at the end of each month. The amount shown as invested at month-end on the MONEYMAX report may not agree with the Summary & Detail (which are generated from the Finance System data), and difference is not always reconciled at each month-end. These reports plus the Monthly Journal of Transactions are all sent to each Tribe.

* **Individual Indian Monies (IIM) Statement**-This is a semi-annual statement sent to IIM account owners up through June 1990, at which time we changed the statements to be generated on a monthly basis. These statements are generated from the IRMS-IIM system.

***Various IRMS Reports**-The IRMS system generates a multitude of reports used for accounting purposes, such as daily

transaction summaries, check registers, daily collection reports, and distribution reports that will be available back to the point that the various offices were brought up on the IIM automated system. There are account ledger cards which were used prior to the use of the IRMS-IIM system. A listing of when each Area initiated use of the IRMS-IIM system is presented in Exhibit H.

C. Procedures

The following manuals, regulations and laws are relevant to IIM and Tribal Trust Fund accounts:

1. Manuals-

* 42 Bureau of Indian Affairs Manual, Supplement #3 Accounting Policy & Procedures Handbook;

* 42 Bureau of Indian Affairs Manual, Supplement #2 Financial Management, Accounts Handbook;

* Treasury Fiscal Requirements Manual; *Office of Management and Budget Circulares A-11, A-12, A-34, A-123 and A-127;

* General Accounting Office Policy & Procedures Manual for Guidance of Federal Agencies-Title 2- Accounting, and Title 7, Fiscal Procedures.

2. Regulations-

* 25 Code of Federal Regulations, Chapter 1, Subchapter G- Financial Activities.

3. Laws-

* All laws applicable to the Tribal Trust Funds are codified in the 25 United States Code.

Note: Copies of the above will be made available for review at the Branch of Trust Fund Accounting, 500 Gold Avenue, 7th Floor, Albuquerque, New Mexico 87103 (Phone: (505) 766-2994. It should be noted that there are several other sources of direction that impact the Trust Accounting operations. Decisions of the Comptroller General of the United States, Solicitor's Opinions, ISSDA Memorandums of instruction to the field, and letters from

the Assistant Secretary - Indian Affairs are all examples of other types of accounting procedures sent out to BIA Field Offices.

D. Assistance Available to Proposer

1. Names of BIA Staff Available to Assist the Proposer by Providing Information and Explanations

All requests for information related to this Request for Proposal must be forwarded to the Contracting Officer, Branch of Acquisition and Property Management P.O. Box 26567, Mail Code 210, Albuquerque, New Mexico 87125-6567. Telephone: Area Code (505) 766-2997.

2. After the contract has been awarded, the winning bidder may utilize, to the extent necessary, the data available on the BIA's Finance System, Wismer & Assoc. data related to the MONEYMAX system, and any IRMS system data related to the Trust Funds. The BIA will provide any hardware and technical support necessary for the firm conducting the reconciliation and audit work described above to develop their own audit software. Prior to any use of the BIA's data processing system, the firm selected must submit a written action plan which must be approved in advance of any actual use of the systems by the Contracting Officer. The data on the systems described above will be made available to the extent required to allow the completion of the Scope of Work. Legal counsel will be made available to clarify any relevant issues. Questions requiring legal clarification may be required to be submitted in writing to the Contracting Officer. The firm can notify the COR, Jim Parris, with any questions of a technical nature from a reconciliation procedural standpoint.
3. Representation letters-Any representation letters required should be forwarded through the Contracting Officer, or the Contracting Officer's Representative, for handling. He will then be responsible for obtaining the response to the letters.
4. Reconciliations-Copies of any available reconciliations will be made available to the Bureau. These reconciliations must be verified to assure that they can be relied upon by the reconciliation teams.
5. Availability of Work Space-Office space will be made available in Albuquerque by the Contracting Officers Representative, the Chief, Branch of Trust Fund Accounting where the Project is to be focused. Any office space necessary at the Area and Agency

Office level will be arranged by the COR, Mr. Jim Parris. Any calculators, supplies, etc. will be the responsibility of the firm awarded the Contract. Any Tribal office space required during the course of this engagement will also be coordinated by Mr. Parris.

6. Pre-Proposal Conference

A Pre-Proposal Conference will be held in Albuquerque, New Mexico on October 30, 1990 at the Albuquerque Area Office conference room located on the third floor of the Plaza Maya Building, 615 North First Street, Albuquerque, New Mexico. Any questions concerning the meeting should be forwarded to the Contracting Officer at (505) 766-2997.

E. Report Requirements

1. All summary reports should be addressed to the Deputy to the Assistant Secretary - Indian Affairs (Trust Funds), P.O. Box 1067, Albuquerque, New Mexico 87103. The summary reports should be prepared separately for each Tribe's accounts, and should include a summary of the results of the reconciliations performed by Agency for both the relevant IIM accounts and Tribal accounts.

The reconciliation format will be required to follow the guidelines established by the Bureau for the levels of the reconciliations being performed. The following describes the methodology to be used in preparing the required formats.

LEVEL I-IIM

The format for LEVEL I should be for reconciling the source documents (ie-deposits, disbursements, etc.) with the general ledger control accounts on both the Bureau's Finance System and the IRMS-IIM system. The format for this level is outlined in Exhibit I. A diskette with the necessary dBase IV programs to produce the required formats will be furnished to the firm selected. The firm must provide their own portable hardware that must have a 40 meg hard disk and 640K of RAM to use the required dBase IV diskette programs.

LEVEL II-IIM

The source documents must then be traced to selected IIM accounts for proper posting. The method used for this step will depend on the level of automation used to distribute the postings

to the individual accounts. Any discrepancies noted must be summarized in a format to be agreed upon by the Bureau and the firm selected. Any individual Indian accounts in IIM that have been misstated, must be reconstructed for presentation to the individuals and the Bureau. The reconciliation of the IIM accounts will need to be done in a manner consistent with GAAS incorporating statistical sampling techniques with at least a 95% Confidence Factor, +/-3% Error Rate. If sampling indicates an error rate that is material, then the "sample" must be expanded to include whatever level of coverage needed to assure that the errors are identified. Any uncertainty regarding the level of sampling coverage required will need the express approval of the COR, Jim Parris, prior to acceptance of the procedure recommended by the reconciliation teams.

LEVEL I-Tribal

The Bureau will provide a dBase IV program with the diskettes with the required format (see Exhibit J). This will require the firm to reconcile the source documents with what was posted to the Bureau Tribal Trust accounts for each Tribe. The variances will need to be summarized and accounts reconstructed for presentation of corrected balances to the Bureau and the Tribes. The goal is to accomplish 100% reconstruction of the Tribal account activity. This should be achievable in the case of the Judgment Award accounts (9000 series), but the Tribal Income accounts (7000 series) will require procedures similar to those described above for the Level II-IIM coverage which anticipates the use of statistical sampling techniques allowed in GAAS. This is due to the sheer volume of transaction activity in "income" type accounts for some Tribes. It is our desire to hold this type of procedure to a minimum. It is not to be relied upon for those accounts that do not have a significant number of transactions (other than investment related).

INVESTMENT ANALYSIS-Tribal & IIM

The investment transactions must be reconciled for both the Tribal accounts and the IIM pool. The unallotted balances must be summarized in detail by the reconciliation team and will also be required to summarize the fund balances (by Tribal appropriation and activity, and by IIM pool) by the period in the overnighter or uninvested. This must be prepared in the format presented in Exhibit K.

Required Presentation to Management:

At the completion of the Project, the firm selected will be required to make an oral presentation to the Contracting Officer and/or the COR and other selected officials in Washington, D.C. at a time and place to be determined by the Contracting Officer. The presentation will be required to review the results of the reconciliation reports for each Agency location for the relevant ILM accounts and Tribal accounts. A question and answer session will follow the oral presentation.

Required Presentation to Tribes/ILM account owners: At the completion of the reconciliation of each Tribes' group of accounts, the firm selected is required to schedule an exit conference with each Tribe. There must be an exit conference conducted with each Agency Superintendent at the completion of the reconciliations at each ILM location. Copies of restated ILM accounts and explanations of any required adjustments must be forwarded to the affected ILM account owner, and, if requested, the firm must be available for a conference with the account owner and the Agency Superintendent or his/her representative to discuss the adjustments. The adjustments will be analyzed by the Bureau and will be presented to the audit teams that will arrive later to review them. Any protests by Tribes and/or individual Indians (concerning their ILM account adjustments) will be presented to the auditors for their analysis and recommendation. The Bureau will make the final determination as to the disposition of any contested adjustments.

F. Time Considerations and Requirements

The following dates will apply unless waived in writing by the Contracting Officer within 24 hours prior to the date indicated:

Pre-Proposal Conference October 30, 1990
 Proposal Due Date November 23, 1990
 Contract Award December 17, 1990
 Initiation of Reconciliations NLT January 7, 1991
 Reconciliations (Phase I) NLT July 7, 1991
 Projection of Plan for Phase II NLT August 1, 1991

Exit Conference in Washington, D.C. To Be arranged by C.O.

G. Availability of Funds

The funds for the completion of this Project within FY-1990 have been identified. There is a provision for a continuance into periods beyond September 30, 1991, subject to the availability of funds. This is to be a multi-year contract to be continued no later than five years from the

December 17, 1990, and is to be renewed at the option of the Bureau on an annual basis at the end of each fiscal year, subject to the availability of funds. The agreement between the and the firm selected can be canceled by either Party with notice of at least 90 days prior to the date of cancellation unless both parties mutually agree on an earlier date. This will be required unless the reason for the termination of contract is funding, in which case the Bureau cannot be held liable.

H. Report Review, Timing & Number of Copies

The firm will be required to submit copies of reconstructed account statements for any individual IIM account or Tribal summary statements that are the result of adjustments prepared during the reconciliation process. Any accounts that are restated due to errors in prior years must be furnished to the relevant Agency/Area Office to be forwarded to the account owner. The account statements and corresponding Agency summary statements for IIM accounts should be finalized and furnished to the Bureau, who will forward the statements to the account owners.

Prior to submission of the completed reconciliation reports, the firm will be required to present a draft of the proposed summary reports to the Contracting Officer's Representative, Mr. Jim Parris. Twenty copies of the final reports should be submitted to the Contracting Officer's Representative no later than 60 days after the reconciliations have been completed: (1) at each Agency for IIM accounts, or (2) for each Tribe's complete group of Tribal Trust Fund accounts.

In addition, all reconciled account data must be stored by the firm selected on a laser disk. The laser disk equipment will be forwarded to the firm by the Office of Trust Fund Management.

I. Working Papers

The working papers prepared by the firm related to this engagement will be required to be retained by the firm for no less than three years after the audit report date. The working papers must be made available for examination by authorized representatives of the Office of the Inspector General and the Bureau of Indian Affairs.

J. Proposal Format

(See Exhibit L).

K. Proposal Evaluation Criteria

The following evaluation criteria will be the basis for selecting the

winning proposal:

1.	Personnel Plan	10
2.	Auditing Experience	10
3.	Work Plan	50
4.	Cost Data	<u>30</u>
5.	Total Points	100

TECHNICAL PROVISIONS FOR AUDITING SERVICES

NATURE OF SERVICES REQUIRED

**PHASE I- AUDIT OF 37 TOP TRIBAL ACCOUNTS/IIM ACCOUNTS
AT THREE AGENCY SITES**

A. Description of Funds to be Audited

1. The Tribal Trust Fund accounts belonging to the Tribes whose total cash and investments rank in the top thirty seven of the 254 Tribes maintained by the Bureau of Indian Affairs (See Exhibit A). All of the Tribal Trust Fund Accounts belonging to each of the thirty seven Tribes selected will be addressed in the Scope of Work. This means that both Judgment Award (9000 series accounts) and Proceeds of Labor (7000 series accounts) will be included.

11. The Individual Indian Monies (IIM) accounts at the Uintan & Ouray Agency (Fort Duchesne, Utah), Olympic Peninsula Agency (Hoquiam, Washington), and Fort Peck Agency (Poplar, Montana) will be reconciled in Phase I of this effort. The accounts at these three Agencies are summarized below:

1. U&O Agency	4432 accounts	\$25.3 million
2. Fort Peck Agency	9182 accounts	\$ 9.4 million
3. Olympic Peninsula	3958 accounts	\$32.2 million

The accounts at these three Agencies have been reconciled through the following dates (per hard copies provided by the Agencies): U&O Agency-January 1989, Ft. Peck Agency-February 1990, and Olympic Peninsula Agency-July 1988.

PHASE II- AUDIT OF BALANCE OF TRIBAL AND IIM ACCOUNTS

This phase of the Scope of Work will address the Tribal and IIM audit work for all accounts maintained by the Bureau not addressed in Phase I.

The accounting firm will be required to prepare a work plan that will indicate the time, sequence and projected costs associated with auditing the rest of the Bureau's IIM and Tribal accounts in Phase II. This work plan will be required to be submitted to the Contracting Officer in Albuquerque, New Mexico no later than July 31, 1991. The Scope of Work for Phase II will be negotiated with the firm selected.

The plan will be reviewed by the Contracting Officer, Contracting Officer's Representative and the Director, Office of Trust Fund Management and a decision will be made by those

parties as to the reasonableness of the plan and the availability of funds to pay for the work projected. If the determination is made that the Bureau does not wish to proceed with the Scope of Work, a formal written notice will be provided to the accounting firm by no later than September 30, 1991.

B. Type of Audit Work Required

The accounting firm selected will be required to complete the Scope of Work described below:

1. Audit of accounts as indicated:

TRIBAL

- a. Judgment Award accounts-All Judgment Award accounts will need to be audited at the Central Office (Albuquerque) level, Area Office and, in some instances, may need to visit an Agency. In some situations, Tribal Offices may need to be visited. These accounts will need to be audited from the date of inception of the Tribal Trust Fund account through the end of the month the accounts were reconciled.
- b. Proceeds of Labor accounts-These accounts will need to be audited from the date of inception through the date the accounts were reconciled.

INDIVIDUAL INDIAN MONIES

- a. All the IIM accounts at the three Agencies indicated will need to be audited from inception to the date the accounts were reconciled. This includes all 206.11 (IIM), and 206.70 (Special Deposits) groups of accounts.

Copies of the Balance Sheets from the three Agencies are attached (see Exhibit B). Copies of the latest reconciliations received from each of the 3 Agencies are also attached (see Exhibit C).

3. Basis of Accounting

- a. The cash basis of accounting is utilized for all Tribal Trust and IIM financial transaction activity.

4. Description of Records Maintenance & Volume Statistics

a. Records Maintenance

TRIBAL RECORDS

A recent survey of records availability at the Area Office level is summarized in Exhibit D. If the necessary records are not available, then it will be the responsibility of the Bureau of Indian Affairs to locate and present the selected firm with the necessary records. In all instances, the BIA will

provide the firm selected with any available records. In the event that the BIA is unable to locate the necessary records, the selected firm will indicate which accounts and what periods could not be audited.

INDIVIDUAL INDIAN MONIES RECORDS

For Phase I, the IIM records availability at the 3 Agencies is summarized on Exhibit E. The Bureau is currently in the process of gathering the data for the records availability at the rest of the sites.

b. Volume Statistics

TRIBAL

A full listing by Area/Agency location of all Tribal accounts, dollar value at September 30, 1989 and a total dollar value of receipt and disbursement transactions for FY-1989 and FY-1988 is included. See Exhibit F. There are a total of 529 accounts, of which there are 57 dockets, 10 Area Offices and 36 Tribes involved. All Areas except Juneau and Anadarko are included. The coverage is approximately 87% of the total Tribal Trust Fund balance of \$1.3 billion September 30, 1989.

INDIVIDUAL INDIAN MONIES

The volume at the 3 Agency sites is summarized in Exhibit G.

5. Description of Systems, Records & Procedures

A. Systems: The BIA maintains all Tribal and IIM data on one of the following systems:

1. **Finance System:** This is the official general ledger accounting system that is an automated system for which all processing is centralized at the National Technical Service Center (NTSC) in Albuquerque, New Mexico. The data affecting all the accounts is entered into the system from each Area Office (Journal Vouchers, deposited checks), Division of Trust Fund Management (investment maturities, purchases, etc.), and the Branch of Trust Fund Accounting (wire transfer deposits, fund transfers between accounts/funds, all disbursements, transfers from other Government agencies, such as Minerals Management Service (MMS), and certain journal voucher transactions). The Division of Trust Fund Management and Branch of Trust Fund Accounting are located in Albuquerque.

2. **MONEYMAX System:** This system is used to accomplish the portfolio accounting for investment activity related to each individual Tribal account, and the

IIM pool. It is not integrated with the Finance System data. This system is provided through a contract arrangement with Wisner & Assoc., a contractor located in California, where the actual processing of the data occurs.

3. Easytrieve "System": This is actually a data base reporting set of software (something like Qbase I/II) that is used by the BIA to access data from the Finance System or build a report from data entered. This "system" is used to calculate and distribute interest on the Treasury "overnighter" investments.
- B. Records: There are several types of records stored by the BIA relative to the Tribal/IIM accounting transactions. The following summarizes the kinds of records stored:

1. Hardcopy documents:

- a. Accounting documents such as BF-349 (transfer documents), SF-1166 documents (disbursement authorization), Deposit Tickets (SF-214), and Journal Vouchers (used for adjusting entries), Electronic Fund Transfer documents for receipts and investment accounting related documents such as Negotiation Sheets and Accounts Distribution Sheets are all available at the Central Office-Branch of Trust Fund Accounting Office in Albuquerque from 1979 to the present. In the event that certain key documents cannot be located, the Area Offices and/or Agency Offices will need to produce the necessary documents.

b. Reports are available as follows:

- Summary of Trust Funds Report-This report presents a summarization of the total cash receipts, cash disbursements, beginning and month end cash balances, and also includes a summary of what assets the cash is in (ie- invested or "unallotted". Note: The unallotted category refers to the amounts invested on any given day in the Treasury "overnighter" investments that are not otherwise invested in CD's, T-Bills, and/or other Gov't securities.
- Detail of Trust Funds Report-This report presents a summary of all individual financial transactions effecting each Tribal Trust account by appropriation & activity.

- *Monthly Journal of Transactions-This lists all accounting transactions by Area/Agency and transaction code sequence by date and amount.
- *General Ledger Detail Report-This report is run at each month-end and lists each general ledger account by beginning balance, transactions, and month-end balance by location.
- *MONEYMAX Report-This report lists all the investment securities by type of security, amount, bank (if applicable), and maturity date for each Tribal account as of the end of the report month.
- *INFO Report-This report is used to track the collateral coverage and security for each Tribe by Bank to assure that the investments are adequately collateralized.

Note: The Summary & Detail of Trust Funds, and MONEYMAX Reports are sent to each Tribe at the end of each month. The amount shown as invested at month-end on the MONEYMAX report may not agree with the Summary & Detail (which are generated from the Finance System data), and difference is not always reconciled at each month-end. These reports plus the Monthly Journal of Transactions are all sent to each Tribe.

- *Individual Indian Monies (IIM) Statement-This is a semi-annual statement sent to IIM account owners.

C. Procedures

The following manuals, regulations and laws are relevant to IIM and Tribal Trust Fund accounts:

1. Manuals-

- *42 Bureau of Indian Affairs Manual, Supplement #3 Accounting Policy & Procedures Handbook;
- *42 Bureau of Indian Affairs Manual, Supplement #2 Financial Management, Accounts Handbook;
- *Treasury Fiscal Requirements Manual;
- *Office of Management and Budget Circulars A-11, A-12, A-34, A-123 and A-127;
- *General Accounting Office Policy & Procedures Manual for Guidance of Federal Agencies-Title 2- Accounting, and Title 7, Fiscal Procedures.

2. Regulations-

*25 Code of Federal Regulations, Chapter 1,
Subchapter G-Financial Activities.

3. Laws-

*All laws applicable to the Tribal Trust Funds are
codified in the 25 United States Code.

Note: Copies of the above will be made available for
review at the Branch of Trust Fund Accounting, 800
Gold Avenue, 7th Floor, Albuquerque, New Mexico 87102
(Phone: (505) 766-3875. It should be noted that there
are several other sources of direction that impact
the Trust Accounting operations. Decisions of the
Comptroller General of the United States, Solicitor's
Opinions, ISSDA Memorandums of instruction to the
field, and letters from the Assistant Secretary -
Indian Affairs are all examples of other types of
accounting procedures sent out to BIA Field Offices.

C. Assistance Available to Proposer

1. Names of BIA Staff Available to Assist the Proposer by
Providing Information and Explanations

1. All requests for information related to this Request
for Proposal must be forwarded to the Contracting
Officer, Branch of Acquisition and Property Management
P.O. Box 26567, Mail Code 210, Albuquerque, New Mexico
87125-6567. Telephone: Area Code (505) 766-2997.
2. After the contract has been awarded, the winning bidder
may utilize, to the extent necessary, the data
available on the BIA's Finance System, Wisner & Assoc.
data related to the MONEymax system, and any IRMS
system data related to the Trust Funds. The BIA
will provide any hardware and technical support
necessary for the firm conducting the reconciliation
and audit work described above to develop their own
audit software. Prior to any use of the BIA's data
processing system, the firm selected must submit a
written action plan which must be approved in advance
of any actual use of the systems by the Contracting
Officer. The data on the systems described above will
be made available to the extent required to allow the
completion of the Scope of Work. Legal counsel will be
made available to clarify any relevant issues.
Questions requiring legal clarification may be required
to be submitted in writing to the Contracting Officer.
3. Representation letters-Any representation letters
required should be forwarded through the Contracting
Officer, or the Contracting Officer's Representative,
for handling. He will then be responsible for obtaining
the response to the letters.

4. Reconciliations-Copies of any available reconciliations will be made available to the winning contractor.
5. Availability of Work Space-Office space will be made available in Albuquerque by the Contracting Officers Representative, the Chief, Branch of Trust Fund Accounting where the Project is to be focused. Any office space necessary at the Area and Agency Office level will be arranged by the COR, Mr. Jim Parris. An, calculators, supplies, etc. will be the responsibility of the firm awarded the Contract.
6. Pre-Proposal Conference
A Pre-Proposal Conference will be held in Albuquerque, New Mexico on , October 30, 1990 at the Albuquerque Area Office conference room located on the third floor of the Plaza Maya Building, 615 North First Street, Albuquerque, New Mexico. Any questions concerning the meeting should be forwarded to the Contracting Officer at (505) 766-2997.

D. Report Requirements

1. All audit reports should be addressed to the Deputy to the Assistant Secretary - Trust Funds, P.O. Box 1067, Albuquerque, New Mexico 87103. The audit reports should be prepared separately for each Tribe's accounts, and should include a Balance Sheet, Statement of Cash Receipts and Disbursements, and a Combined Statement of Cash Receipts and Disbursements. See Exhibit H for recommended format of each. There should also be a Management Letter prepared summarizing the findings and recommendations, and commenting on specific problem areas detected during the course of the audit. The Letter should elaborate on these problem areas in such a manner to allow management to properly understand them. There should be a separate Management Letter for each Tribe's accounts, and a summarization Management Letter for BIA management that combines all of the findings and recommendations in one report for all locations.
2. Required Opinions in Report:
Each audit report should, at a minimum, include an opinion as to whether the financial statements issued by the BIA conform to Generally Accepted Accounting Principles (GAAP) and an opinion as to whether the BIA trust accounting procedures complied with applicable laws, regulations and accounting procedures (as defined by the documents listed above in Section 8, Part 5, Paragraph c above). The audit report should also state the scope of the examination and that the audit was performed in accordance with Generally

Accepted Auditing Standards (GAAS).

3. **Required Presentation to Management:**
 At the completion of the Project, the firm selected will be required to make an oral presentation to the Contracting Officer and/or the COR and other selected officials in Washington, D.C. at a time and place to be determined by the Contracting Officer. The presentation will be required to review the findings and recommendations of the audit firm that will be disclosed in both the audit reports and (summarization) Management Letter. A question and answer session will follow the oral presentation.
4. **Required Presentation to Tribes/IIM account owners:**
 At the completion of the audit of all accounts for each Tribe, the audit firm will be required to conduct an exit conference with representatives from the Tribe. This exit conference will be scheduled by the Area Office involved together with the audit firm and the COR.

At the completion of the audit of each Agency's group of accounts, it will be necessary to furnish the Agency with an audit report for that Agency's accounts. Copies of the audit report will be made available for review and comment by the appropriate Agency, Area and Central Office level managers prior to finalization of the audit reports, which will be presented in final form for the IIM account owners. The audit reports will be furnished to each IIM account owner and will relate only to the financial statements for the Agency being audited.

E. Time Considerations and Requirements

The following dates will apply unless waived in writing by the Contracting Officer within 24 hours prior to the date indicated:

Pre-Proposal Conference.....	October 30, 1990
Proposal Due Date.....	November 23, 1990
Contract Award.....	December 17, 1990
Initiation of Audits.....	At Option of Contractor after reconciliations are completed by Tribe and by Agency for IIM accts.
Completion of Audit Reports (Phase I)...	NLT September 30, 1991
Projection of Costs/Plan for Phase II...	NLT October 31, 1991
Mgmt Conferences in Washington, D.C....	To Be arranged by C.O. on an Annual Basis.
Completion of Audit Reports (Phase II)...	NLT September 30, 1996

F. Availability of Funds

The funds for the completion of this Project within FY-1990 have been identified. There is no provision for a continuance

into any period beyond September 30, 1991 without adequate availability of funds as appropriated each year by Congress.

- G. Report Review, Timing & Number of Copies**
 Prior to submission of the completed audit reports, the audit firm will be required to review a draft of the proposed reports and management letters to the Contracting Officer's Representative, Mr. Jim Parris. Twenty copies of the final reports should be submitted to the Contracting Officer's Representative no later than 90 days after the completion of the field work.
- F. Working Papers**
 The working papers prepared by the audit firm related to this engagement will be required to be retained by the auditor for no less than three years after the audit report date. The working papers must be made available for examination by authorized representatives of the Office of the Inspector General and the Bureau of Indian Affairs.
- G. Proposal Format**
 (See Exhibit I).
- E. Proposal Evaluation Criteria**
 The following evaluation criteria will be the basis for select the winning proposal:
- | | |
|------------------------|------------|
| 1. Personnel Plan | 10 |
| 2. Auditing Experience | 10 |
| 3. Work Plan | 50 |
| 4. Cost Data | <u>30</u> |
| Total Points | 100 |

APPENDIX 3.—QUARTERLY REPORT STATUS OF MANAGEMENT OF TRUST FUNDS

QUARTERLY REPORT STATUS ON MANAGEMENT OF TRUST FUNDS FOR THE QUARTER ENDED DECEMBER 31, 1990

The Bureau of Indian Affairs has made significant progress during the past quarter in improving the condition of the trust fund management program. The following narrative summarizes the status of the trust fund management hiring, contracts, reconciliation and audit work, development of a trust fund management system, expenditures for the quarter, and a discussion of any changes in the target dates for items listed in the status report for the quarter ended September 30, 1990.

STATUS OF RECONCILIATION AND AUDITS

The Office of Trust Fund Management has developed and is in the process of implementing an audit and reconciliation strategy that is meant to provide a comprehensive plan for thorough audit and reconciliation coverage of the various trust fund accounting systems utilized by the Bureau:

1. Reconciliation of Tribal and Individual Indian Monies

In response to language in the Interior Appropriations Bills for Fiscal Years 1988-1991, the Bureau developed the framework for the reconciliation of the approximately 300,000 Individual Indian Monies (IIM) accounts and 2000 Tribal accounts maintained at over 94 Agency Offices and 12 Area Offices Bureau-wide.

The goal is to reconcile all financial transactions for all Tribal and IIM accounts back to the earliest date "practicable". The Bureau began working on a reconciliation plan in late 1989, but did not submit a draft copy of the plan to the Appropriation Committees until May 1990. A rough draft of the reconciliation plan was submitted to the office of Chairman of the House Subcommittee on Interior and Related Agencies in June 1990 and was subsequently approved in July 1990. This plan called for a two phased approach, the first of which would accomplish the reconciliation of over 500 Tribal accounts belonging to 37 Tribes that comprised over 87% of the total Tribal Trust Fund balance at September 30, 1989, and over 17,000 IIM accounts comprising over 17% of the total IIM Trust Fund balance. The second phase would address the balance of the accounts in the Tribal and IIM Funds. The intent was to gain experience from Phase I, which was to be completed within a 1 year period, and apply that experience to developing a long range plan expected to take up to an additional 4 years to complete Phase II.

The Office of Trust Fund Management called a meeting in Albuquerque, New Mexico on September 20, 1990 of representatives

from all 37 Tribes included in the Tribal Trust account reconciliations in Phase I, and also invited Tribes from the 3 Agencies to be included in the IIM Trust Fund reconciliation. The Tribes at that meeting formed an Ad Hoc Tribal Committee that selected 6 representatives to attend detailed discussions between the Bureau officials, the Office of the Inspector General, the General Accounting Office, the House Committee on Government Operations, chaired by Congressman Mike Synar, and Ms. Kathy Johnson of the House Subcommittee on Interior and Related Agencies staff. A series of meetings occurred from October through December in Washington, Denver and Albuquerque in which a final draft of the Reconciliation Request for Proposal (RFP) was developed. That RFP was advertised in the Commerce Business Daily (CBD) on December 28, 1990 and again on January 4, 1991. A pre-bid conference is expected to be scheduled in early February.

The coordination with the Ad Hoc Committee, GAO, the Committee on Government Operations and the House Interior Appropriations Committee office has contributed to the progress and thoroughness with which this effort is proceeding. It is our intent to continue this same level of coordination with all the related parties through the completion of the entire reconciliation effort.

In an effort to complement the prior year reconciliation of the trust funds by an outside accounting firm, the Office of Trust Fund Management has provided training to Bureau accounting staffs at all twelve Areas as to how to reconcile current IIM accounting transactions on a monthly basis using a new P.C. based set of programs. During the next quarter, there will be training for the Area Offices on a similar automated set of programs to reconcile current Tribal accounting transactions on a daily/monthly basis, and there will also be followup training for the IIM reconciliation process. The prior period reconciliation effort coupled with the on-going current reconciliation training and installation of programs and equipment to utilize the new reconciliation programs will assure that the Bureau is properly addressing the serious deficiencies of the past several decades related to the proper reconciliation of Tribal and IIM accounting transactions.

2. Audit of Tribal and IIM Funds (Prior Year)

It has also been required in each Interior Appropriations Bill since 1988 that the Bureau must audit the Tribal and IIM accounts back to the earliest possible date. The date to which the accounts will be auditable will depend upon the ability of the reconciliation effort described above to produce the source documentation required to assure that all transactions are reflected on the Bureau's accounting records and that sufficient testing of transactions is possible by an audit firm to be the basis of an opinion on whether the Tribal and IIM account statements reflect fairly the transactions that occurred during the report year. The audit requirements will be finalized during the next few months and a

Request for Proposals will be advertised after the draft RFP has been approved by the Tribal Ad Hoc Committee, the General Accounting Office, the Committee on Government Operations and the House Subcommittee on Interior and Related Agencies.

3. Annual Audit of Trust Fund Financial Statements (Current Year).

There is a need for an on-going annual compliance and financial audit of the financial statements for each of the trust funds by an independent audit firm. This process was initiated in 1988 with the award of a three year contract to Arthur Andersen & Company in Albuquerque, New Mexico. This effort has complemented the Office of the Inspector General's resources on such items as Judgment Award audits, audits of the investment program for trust funds, certain fraud and embezzlement cases currently under investigation by Special Agents of the OIG, and interest computations for distributions related to trust accounts. The additional audit coverage provided by Arthur Andersen & Company auditors has benefited the Bureau, the OIG, GAO, Tribes and individual Indians whose accounts have been affected.

It has proven to be of great benefit to the Bureau, since it highlights on-going weaknesses in the accountability for trust funds Bureau-wide for each of the trust funds. These weaknesses have been the basis for several enhancements to the current systems utilized by the Bureau for the trust funds. These enhancements include monthly distribution of interest, tighter controls of ISSDA Treasury check stock and signature plates, closer monitoring of the cash flow for the proper investment and disbursement of trust funds, greater controls on the custodial services provided by the Division of Trust Fund Investments, establishment of training programs for reconciliation, examination and correction of accounting entries related to investment activity, and closer supervision by field accountants related to trust fund accounts at the Area and Agency levels. Auditors help put emphasis on those procedures and individual transactions that distort the accounting or contribute to material internal control weaknesses across the Bureau. They are in a way a supplement to any training program the Bureau uses, since they advise Agency and Area staffs related to the accounting process as they test transactions across the Bureau in the course of conducting the audit procedures.

4. Internal Auditing Office

In addition to the steps described above, the Office of Trust Fund Management will be working closely with an internal audit and review team to be located in Denver, Colorado. A total of 15 positions will be dedicated to reviewing accounting transactions in both the trust and appropriated accounting systems operated by the Bureau. The DM130 has been signed by the Department, and the new positions will be filled prior to October 1991. That group will

play an important role in assuring that problems are identified and reported to management in the Bureau in order to resolve them prior to being discovered in an independent audit. This type of resource is mandatory as a cornerstone of any comprehensive audit strategy.

The combination of prior year audit and reconciliations back to the earliest date practicable together with current year reconciliation training and followup, the on-going annual external audit of current year financial statements for trust funds, and the initiation of an internal audit function within the Bureau will provide a comprehensive audit and reconciliation strategy for trust funds. These steps are intended to relieve any doubt about the Bureau's intentions regarding the development of a solid trust accounting program. Since the audit and reconciliation requirements are basic to any creditable accounting program, the Bureau is dedicated to the development and implementation of the strategy described above.

STATUS OF HIRING/ESTABLISHMENT OF OFFICE OF TRUST FUND MANAGEMENT

During the first quarter of F.Y. 1991, this office has been preparing to relocate from the Federal Building at 500 Gold Avenue to the Western Bank Building, which is located some 6 blocks away at 505 Marquette St. Full time effort was also made to complete the personnel actions necessary to recruit individuals to fill the new and/or vacant positions authorized for the Office of Trust Fund Management. The planning of office logistics and the work environment for the entire staff of the Office has been on-going since January 1990. The following summarizes those activities:

On November 21, 1990, the 130 DM 2-14 Organization of the Bureau of Indian Affairs, was approved, in which the Office of Trust Fund Management was organizationally established. On December 18, 1990, the Office of Trust Funds Management organizational charts and functional statements were signed and approved. From a personnel management standpoint, the progress in our recruitment effort has been substantial. There are 46 positions within the Office of Trust Funds Management (See Attachment A). Ten of these positions are being classified and recruited by BIA Central Office Personnel for the Director, Deputy Directors, Program Analyst, Secretary and five of the GM-15 Division Chiefs. Of these, the Program Analyst and Secretary positions were permanently filled in the first quarter of F.Y. 1991. The other key positions are still pending classification action and review by the Department. The remaining 36 positions are being handled by the Albuquerque Area Branch of Personnel. Of the remaining 36 positions, 15 are encumbered. However, our work has involved writing 46 new position descriptions, and the related Knowledge, Skill and Abilities requirements, and the Crediting Plans for 21 of these 46 positions in order to prepare them for advertising by Albuquerque Area Personnel. The current status of the 36 positions is as follows:

- 3 -Currently being advertised with closing date of 1-23-91.
- 9 -POB's are closed & Certificates for Selection are being prepared.
- 5 -Positions are classified & pending Personnel issuance of POB's.
- 1 -GS-11 Staff Accountant position filled by administrative reassignment effective 1-27-91.
- 4 -Position descriptions are pending classification action by Albuquerque Area Personnel. Expect classification to be complete by 1-21-91.
- 14 -Position descriptions classified & incumbents reassigned.
-
- 36 TOTAL

When the selections are made, the reporting dates are expected to be on or after our scheduled move-in date of March 18. By the end of the second quarter most positions should be filled.

The General Services Administration, Dallas Region, gave this office officieal notification on November 20, 1990 that our leased office space (8,749 sq. ft.) would be located in the Western Bank Building, located at 505 Marquette St., N.W., Albuquerque. This office initiated the request for office space in March 1990, and we have spent nine months of the past year waiting for the assignment of office space. Once the office location was determined by GSA, we began formal planning of the office layout for the systems furniture, ADP requirements, electrical and communications layout, which was directly coordinated with the Western Bank building management personnel. Final floor plans were signed January 4, 1991, and Western Bank has issued the RFP for the construction. Estimated completion and occupancy date is March 1, 1991.

The systems furniture requirements were finalized on December 24, 1990 with delivery and installation scheduled to begin on March 4 and completed no later than March 15, 1990. Telephone equipment and wiring has been ordered January 14, 1991, and is scheduled for delivery and installation during the period March 11-15, 1991. We are presently scheduling contractors to physically move the existing staff to the new site is being planned for and in the interim each office is taking inventory of accountable equipment, excessing items which are considered obsolete or noncompatible with planned ADP systems.

In conjunction with planning the new office layout we have purchased office equipment to support our operations. The Office of Trust Fund Management will be physically separated from all other BIA offices, and must be self sufficient for office support, such

as:

- Mail room equipment (scales, meters, postage meters)
- Facsimile machine
- Copier machine, paper shredder
- 10 replacement units- IBM personal computers/printers/
related software
- Office typewriters, calculators, mobile pedestal file units
- Telephone instruments, modems, cables, maintenance services
- Laser imaging equipment for recording and storing trust
records
- Office chairs
- Space saver filing system

It is planned in our F.Y. 1991 budget to also purchase necessary computer equipment for the new positions. This will be initiated during the second quarter. For a summary of the Office of Trust Fund Management's appropriation/obligation status as of December 31, 1990, please review Attachment B.

The F.Y. 1991 fund allocations have been made on a Bureau-wide basis to all locations where financial trust services functions exist. Each Area is also going to be assisted with additional funds to pay salary cost of temporary staff to perform records research and inventory for the audit and reconciliation projects. The F.Y. 1992 budget projections are currently being reviewed for update.

CONTRACTING ACTIVITY

During the quarter ended December 31, 1990, the Office of Trust Fund Management had the assistance of three contractors:

1. Arthur Andersen & Company
Albuquerque, New Mexico

The Bureau has a contract with Arthur Andersen & Company to perform a financial and compliance audit of the financial statements for the tribal, Individual Indian Monies, Alaska Native Escrow, Contributed, Cooperative Fund and the investments for the Irrigation & Power Funds for the fiscal year ended September 30, 1990. This is the final year of a three year contract with the accounting firm to audit these trust funds. The Bureau intends to advertise a Request for Proposal prior to May 1991 to continue this annual audit of the trust funds on a continuing basis. For an example of the audit reports prepared for the fiscal year ended September 30, 1989, please examine Attachments C, D and E. The work performed during the past quarter was a continuation of the audit of the trust funds for the fiscal year ended September 30, 1990. They provided 3482.7 man-hours of work during the past quarter at a cost to the Bureau of \$210,868.40. It is projected that the audit work for the year ended September 30, 1990 will be

completed prior to March 31, 1991.

2. Wismer & Associates
Los Angeles, California

The Bureau has had a contract with Wismer & Associates since 1980 to provide access to their MONEYMAX portfolio accounting system reports in order to account for the various investments made on behalf of each of the various trust funds. Monthly portfolio summaries summarizing the securities in which the Bureau has placed each Tribe's trust funds is provided by the contractor to each Tribe as a result of this contract. In addition, the contractor provides portfolio reports to the Bureau offices on a monthly basis, and several reports are provided to the Division of Trust Fund Investments on a weekly basis. During the past quarter, processing services were provided to the Bureau by Wismer at a cost of \$55,410.30.

3. COMSIS
Denver, Colorado

The Bureau initiated a contract with COMSIS in April 1990 to assist the Office of Trust Fund Investments in designing, programming and implementing certain enhancements to the Bureau's current accounting and investment systems to make them more efficient and responsive to our requirements in the short term. During the past quarter, COMSIS has provided services related to the following:

1. Investment Interface Project:

The purpose of this task is to design, develop and implement the capability to enter investment transactions into a data base that will automatically update the five currently non-integrated systems used by the Bureau (i.e. - MONEYMAX, Finance, INFO, Easytrieve and (for CD's) Federal Home Loan Bank-Dallas). During the past quarter, COMSIS completed the programming, testing and implementation of a data base that would allow the automated interface into three (MONEYMAX, INFO and Finance) of the five systems required for the placement of CD's. They provided a total of 3,227 man-hours at a cost to the Bureau of \$164,789 during the past quarter. During the next quarter, we expect COMSIS to implement the programs required to enter the investment transactions into the final two systems for the placement of CD's, and the other types of securities. They will also be developing a set of programs to provide the investment portfolio accounting and reporting capabilities that we currently obtain from Wismer & Associates.

2. Individual Indian Monies Interface Project:

COMSIS has been working since June 1990 to develop the capability for the Bureau to enter IIM transactions once into the Integrated Resources Management System (IRMS) and have those transactions automatically entered into the Bureau's automated Finance System in Albuquerque. Every transaction entered into the 300,000 IIM accounts on the IRMS system must be currently be re-entered into the Finance System. At the end of December 1990, the programs were being tested using data from Aberdeen Area. COMSIS provided 1504 man-hours of assistance to the Bureau (see Attachment F) at a cost of \$77,527. We expect to have the new interface programs tested at several other Areas prior to implementation which is scheduled to begin in May 1991.

3. IIM Reconciliation Training:

COMSIS was required to provide professional trainers to assist the Bureau in training Area and Agency accounting staff members to use a dBase IV system developed by a Billings Area staff accountant. They were also required to develop and provide a user's manual for the new reconciliation programs. This project was initiated in mid-August 1990 and the first cycle of training for all Areas was completed in December 1990. The Bureau intends to expand the dBase IV Reconciliation process to Tribal transactions and will initiate this training and followup training on the IIM Reconciliation process in late January 1991. The COMSIS staff provided over 708 man-hours of assistance to the Bureau in the past quarter on this project at a cost to the Bureau of \$25,689. (See Attachment G for a copy of the User's Guide developed for the IIM Reconciliation).

4. Project Management Training:

The Office of Trust Fund Management requested COMSIS to provide a person with extensive Project Management experience to assist them in initiating software and systems development methodology to better manage the various projects being conducted by the Bureau related to trust fund management. They responded by acquiring the services of a subcontractor that had the necessary experience and communicative skills required. This task did not officially begin until January 1991, and will continue through May 1991. It is proving to be of great benefit to the Office of Trust Fund Management and the training being acquired will provide a basis for solid project management over the next several years.

5. Local Area Network System:

COMSIS was required to provide a LAN design and implementation plan for the Office of Trust Fund Management, and to

assist in the acquisition and installation of the hardware and software. That plan was developed during the quarter ended December 31, 1990, and a portion of the equipment and related software was installed (see Attachment H). COMSIS provided equipment to the Bureau of at a cost of \$66,818 for the LAN.

The Bureau advertised it's intent to contract with MITRE Corporation in August and September 1990 to provide systems analysis and design services to the Office of Trust Fund Management related to a new Trust Fund Management System to more efficiently and accurately invest, account for and manage trust funds. An agreement between the Bureau and MITRE was drafted and is currently being finalized by the Office of Data Systems before being forwarded to Department managers for their concurrence. If the arrangement as defined in that agreement meets with the approval of the Department, the Bureau will proceed with acquiring these services at the earliest possible date.

STATUS OF "SYNAR HEARING" TOPICS

In September 1990, the House Appropriations Committee on Government Operations, chaired by Congressman Mike Synar, questioned the Bureau of Indian Affairs and Department staff present at the hearing about the status of several topics concerning trust funds. Below is a brief update on those topics:

I. Status of Security Pacific National Bank Contract:

The Bureau provided written notification to the Bank that we did not intend to exercise our option to extend the Contract for F.Y. 1991. As a result, no further services or involvement under the terms of the Contract were provided by Security Pacific since September 30, 1990.

II. Red Lake Band of Chippewas

The \$811,000 claim mentioned in the last hearing concerning the Tribe is still in Claims Court. There has been no action taken by the Court to resolve this matter during the past quarter.

III. Unallocated Balances

This amount was highlighted in both the F.Y. 1988 and 1989 financial statements prepared by Arthur Andersen & Company. It pertains to a combination of accounting differences between the Bureau's general ledger accounting system and subsidiary accounting systems for Individual Indian Monies (IIM) and other less significant accounting differences that will be clarified as a part of the reconciliation process to be initiated in May 1991 (See Status of Reconciliation and Audits section on Page 1 above).

IV. Investment Losses

At the last hearing, the Bureau indicated that a written opinion dated May 2, 1990 identifying the Bureau's liability related to any trust fund losses was being studied (See Attachment I). Five of the various losses are still being studied by the Solicitor's Office for a determination as to the proper course of action. One case is being handled by the Department of Justice, and one case needs to be researched further by the Office of Trust Fund Management before being submitted to the Solicitor for a determination as to what action should be taken.

V. \$17 Million Fund Imbalance

With the assistance of Arthur Andersen & Company, the variance between the Bureau's accounting and investment systems was reconciled and the adjusting entries were entered into the accounting system prior to September 30, 1990. There was a small variance totalling \$1239 that has not yet been identified that will be addressed in the reconciliation project.

VI. The "1081 Reconciliation Project"

The distribution of royalty interest and reconciliation of the royalty data from MMS has not yet been initiated by the Bureau. At the end of December 1990, the royalty and related interest has been calculated accurately, but the "explanation of payments" data related to quantity (i.e.-barrels, mcf of gas, etc.) is not being distributed properly at the Anadarko Area and Muskogee Area test sites. We currently have the Office of Data Systems' programmers analyzing the system. We anticipate a solution to be developed within the next few weeks. A problem detected in December 1990 with the data received from MMS was subsequently resolved in January 1991 with the help of their contract programmers, which was greatly appreciated.

FINAL COMMENTS

The Office of Trust Fund Management has initiated clear and definite action to address specific problems facing the accounting, cash management and investment functions managed by the Bureau. The long term system development needs are not yet underway, but we hope that we can begin that effort in the very near future.

The Division of Trust Fund Investments has prepared a report summarizing it's activities over the past year (See Attachment J), and the Division of Trust Fund Accounting has prepared a report presenting some statistical data related to the trust fund accounts maintained by the Bureau for F.Y. 1990 (See Attachment K).

Over the next quarter, the Office of Trust Fund Management will

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continue to work closely with the Tribal Ad-Hoc Committee and the GAO staff assigned to the Reconciliation Project. The proposals received in response to the Reconciliation RFP should be evaluated and "best and final bids" should be received by the end of the next quarter. The move to the new office site in Albuquerque should be initiated, and most of the advertised positions should be selected by the end of the first quarter of 1991. The COMSIS contractors will continue to work on the various projects meeting our short term needs for the various accounting systems that we are currently utilizing, and Arthur Andersen & Company will issue the F.Y. 1990 Financial Statement Audit Reports for all Trust Funds.