

**BUREAU OF INDIAN AFFAIRS' MANAGEMENT OF
THE \$2 BILLION INDIAN TRUST FUND**

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

MAY 20, 1991

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BUREAU OF INDIAN AFFAIRS' MANAGEMENT OF THE \$2 BILLION INDIAN TRUST FUND

MONDAY, MAY 20, 1991

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

The subcommittee met, pursuant to notice, at 10:32 a.m., in room 2247, Rayburn House Office Building, Hon. Mike Synar (chairman of the subcommittee) presiding.

Present: Representative Mike Synar.

Also present: Representative Collin C. Peterson.

Subcommittee staff present: Sandra Harris, staff director; Steve Richardson, professional staff member; Elisabeth Campbell, clerk; and Kirk Esherick, minority professional staff, Committee on Government Operations.

OPENING STATEMENT OF CHAIRMAN SYNAR

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

The BIA is responsible for managing almost \$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, the Office of Management and Budget, and others have documented significant problems in BIA's ability to accurately and fully account for trust fund moneys, to properly discharge its fiduciary responsibilities, and to prudently manage the trust funds.

During our last hearing on September 25, 1990, subcommittee members expressed both disappointment and serious concern over the Bureau's intolerable slowness in resolving the chronic management deficiencies that have plagued the trust fund program. Now, almost 8 months later, our continuing review suggests that only marginal progress has been made.

The subcommittee has been particularly troubled by BIA's efforts, undertaken only grudgingly, to implement repeated congressional directives designed to provide a full accounting of the individual and tribal account funds. Since our last hearing, some progress on this effort has been made, but BIA is still moving at a snail's pace.

Now, the subcommittee intends to look at the status of the Bureau's various management improvement efforts and to explore why more substantive progress has not been made despite the passage of so much time. It would add insult to injury to spend millions of taxpayers' dollars finally reconciling the Indian Trust Fund accounts only to have the BIA just slide back into its old, slipshod management habits.

Sadly, there is no assurance that BIA has made any advancement toward correcting the basic financial management failures brought to their attention. Despite a decade of "initiatives," BIA's headquarters leadership and accountability continue to be woefully inadequate. Although many significant problems continue to be cited by the inspector general, by GAO, by OMB, by independent accounting firms and by this subcommittee, the BIA remains quick to promise, but slow to perform.

This is the subcommittee's fourth hearing on these serious problems. I must say, it is beginning to border on the ridiculous that this subcommittee should have to devote such significant resources to reviewing one program in one agency, without seeing the kind of progress that should have resulted long ago.

The subcommittee is about to embark on the drafting of a report on the Bureau's management of the Indian trust funds and on its responses to the many serious problems plaguing this program. Our report will accurately reflect that progress has been made by the Bureau since we began our oversight efforts in 1989. However, I can assure you that, on the whole, it will not reflect a positive picture of headquarters' concern over the management of this program.

Our continuing oversight hearings appear to be about the only reason the Bureau has made any progress in this area. I can only hope that our committee's report and recommendations will have an even greater effect on the Government's management of the Indian Trust Funds.

Mr. SYNAR. I would like to insert into the record at this point Mr. Clinger's statement.

[The prepared statement of Mr. Clinger follows:]

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STATEMENT OF THE HONORABLE BILL CLINGER
RANKING REPUBLICAN MEMBER

SUBCOMMITTEE ON ENVIRONMENT, ENERGY AND NATURAL RESOURCES
The Bureau of Indian Affairs Trust Fund Management -- IV*
May 20, 1991

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SELECT COMMITTEE ON AGING

Thank you, Mr. Chairman.

Today's hearing represents the fourth, and hopefully last, hearing undertaken by this Subcommittee examining the mismanagement of tribal and Indian trust fund accounts. Our previous hearings have documented egregious problems with the operation and management of tribal and Indian trust funds. I am disappointed to see that at today's hearing we will hear more of the same. At our last hearing, the Bureau of Indian Affairs testified that accounts would begin to be reconciled and audited by this time. Yet, it was not until just last week that BIA contracted with Arthur Andersen & Co. to commence with the reconciliation and audit work. No comprehensive plan has been developed. Continued delay is unacceptable to me and must be unbearably frustrating to tribal and individual Native American account holders.

I understand that the Bureau's trust fund accounting and management troubles have grabbed the attention of the Office of Management and Budget. I am hopeful that OMB's active interest, combined with the interest of the Department of the Interior, the Appropriations Subcommittee on Interior, and this Subcommittee, will result in the rapid resolution to the Bureau of Indian Affairs' trust fund management woes.

Apparently, the Bureau has already begun to take some notice. I understand that the Assistant Secretary for Indian Affairs is reviewing three candidates for the Director position at the Office Trust Funds Management. I am hopeful that with the filling of the Director vacancy, we will see the expeditious development of a comprehensive long-term management plan. Coupled with the commencement of Phase I of the reconciliation and audit task, these activities will represent real, tangible progress.

This Subcommittee acknowledges that there may be schedule slippages. And, as I said at the outset of my statement, hopefully this will be the last hearing we conduct. However, if systemic problems are not adequately addressed in a timely manner, I will be among the first to push for our re-entering the hearing room and getting those problems resolved.

As I have said in the past, Native Americans deserve better than what the Bureau of Indian Affairs has delivered. For their sakes, I hope I never feel compelled to say that again.

Thank you, Mr. Chairman.

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Mr. SYNAR. Joining us from the full committee is Mr. Collin Peterson. He is from Minnesota and represents the Red Lake Band of Chippewa. I would recognize him for any opening statement he might have.

Mr. PETERSON. Thank you. I just am pleased you let me join you today and appreciate you looking into this. I have a considerable amount of information that is pretty troubling about what has happened to the Red Lake Band, and they are small potatoes compared to the rest of the problems out there.

We have a situation in that band where they have a determined amount of money they put in the trust fund, and the Bureau arbitrarily reduced it. There are some serious questions. I hope they can get to the bottom of it somehow.

Mr. SYNAR. Thank you for being with us.

Our first panel is Mr. Jeffrey Steinhoff, Director of Civil Audits, Accounting and Financial Management Division in the U.S. General Accounting Office. Today, he is accompanied by Ms. Gayle Condon, Mr. Robin Wagner, and Mr. Tom Armstrong.

We also have the Honorable James R. Richards, inspector general of the U.S. Department of the Interior.

It is the policy of the subcommittee, in order not to prejudice past or future witnesses, that we swear in all of our witnesses in. Anybody have an objection to being sworn in? Anybody who has the potential of testifying please stand and raise your right hand at this time.

[Witnesses sworn.]

Mr. SYNAR. Mr. Steinhoff, let's start with you. Welcome back again. As you know, your entire testimony will be made a part of the record. At this time, we would ask you to summarize.

STATEMENT OF JEFFREY C. STEINHOFF, DIRECTOR, CIVIL AUDITS, ACCOUNTING AND FINANCIAL MANAGEMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY GAYLE CONDON, ROBIN WAGNER, AND TOM ARMSTRONG

Mr. STEINHOFF. I am pleased to be here today to discuss efforts by the Bureau to reconcile and audit the Indian trust funds accounts. BIA faces serious financial management problems that go back decades. There is no shortage of audit reports and management studies which detail a litany of horror stories with BIA's overall financial systems and operations, and in particular, its trust fund accounting.

For years, BIA has acknowledged these problems. What has been lacking is meaningful action to remedy the situation, action that gets to the root cause of what is wrong. As a result and most understandably, BIA has totally lost credibility with its trust fund account holders. It simply has not carried out its fiduciary responsibility.

BIA is making some progress and finally beginning an effort to attempt to reconcile the Indian Trust Fund accounts. After 4 years in the making, it awarded a reconciliation contract in early May. The magnitude of this undertaking is tremendous.

Up front, everyone must understand the potential limitations of any reconciliation where records weren't retained or are incom-

plete, and that stretches back over many years. Think of trying to determine the correct balance of a personal bank account that has been active for more than 50 years and is replete with accounting errors which were not reconciled and corrected along the way.

Think about trying to determine the correct balance when many of the supporting records cannot be located, and then multiply this times 300,000 accounts. Given the circumstances, I don't believe it is realistic to expect a full reconciliation of all accounts back to their inception.

What should be expected is a good-faith effort to the extent practicable. BIA must closely manage this effort to assure it is carried out properly and cost effectively. It should involve the Indian account holders so there is agreement at the end that BIA has made a reasonable effort to provide a proper accounting.

This is not a turnkey operation where you award a contract and hope for the best. Also, I want to emphasize that the reconciliation, while certainly important and long overdue, is not the ultimate solution. Questionable account balances are only a symptom of a much larger problem. BIA must get to the root cause if it is ever to develop confidence in the stewardship of these moneys. Once reconciled, an account will have to be kept in balance.

BIA is not alone in its need to make financial management improvements. In passing the Chief Financial Officers Act of 1990, the Congress recognized that across the board, the Federal Government needs to upgrade financial management.

This act is the most comprehensive financial reform package in 40 years. The CFO Act calls for the establishment of a Chief Financial Officer structure and a cadre of trained accounting professionals in each department, the development of a comprehensive 5-year plan to guide the implementation of modern financial systems and the building of first-rate financial management operations, and the preparation and audit of financial statements that include all trust funds and the issuance of an annual management report which tells the story of where an agency stands financially.

Successful implementation of the CFO Act is the key to solving BIA's financial management problems. This will require strong leadership and fundamental changes in the way financial management is viewed. There must be strong commitment at the top or next year, we will again be talking about what is wrong without seeing meaningful improvement.

Interior and BIA will need the full support of this committee as they move to implement the act. Money invested wisely to build new financial systems that work, to recruit and train professional accountants, and to prepare and audit financial statements will pay off manifold in the long run.

Mr. Chairman, this concludes my summary remarks. I would be pleased to respond to any questions you or Mr. Peterson have at this time.

[The prepared statement of Mr. Steinhoff follows:]

United States General Accounting Office

GAO

Testimony

For Release
on Delivery
Expected at
10:30 a.m.
Monday
May 20, 1991

Bureau of Indian Affairs' Efforts to
Reconcile, Audit, and Manage the Indian
Trust Funds

Statement of
Jeffrey C. Steinhoff
Director, Civil Audits
Accounting and Financial Management Division

Before the
Subcommittee on Environment, Energy, and
Natural Resources
Committee on Government Operations
House of Representatives



Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the status of the Bureau of Indian Affairs' (BIA) efforts to implement the congressionally mandated trust fund reconciliation and audit project and the steps being taken to improve Indian Trust Funds financial management. Our testimony will focus on the progress BIA has made in preparing for the reconciliation and audit project and factors that may directly affect BIA's efforts to resolve its trust fund financial management problems.

BIA has a fiduciary responsibility to ensure that proper control and accountability is maintained over each trust account. In line with BIA's fiduciary responsibility, it is critical that the tribal and Indian trust accounts be reconciled and audited. After accounts are reconciled, the balances of each of these accounts will be certified as correct by auditors independent of both BIA and the account holders and will provide a baseline for subsequent confirmations of the tribal and individual Indian monies account balances. The reconciliation will also facilitate future audits of the trust funds' financial statements. Another advantage of the reconciliation and audit project is that it gives BIA a chance to improve its image regarding its ability to manage and oversee the trust fund accounts.

As requested by the Subcommittee, I will discuss (1) a chronology of the reconciliation project's planning and development, (2) the difficulty of completing the reconciliation project, (3) the need for a strategic plan for trust fund for financial management improvement, (4) how BIA can use the Chief Financial Officers (CFO) Act of 1990 to help build a strong financial management structure, and (5) potential options for managing BIA's trust fund program.

Before I discuss these issues, I would like to provide some perspective on the size of the trust funds, their growth over the last 10 years, BIA's long-standing financial management problems, and the magnitude of the reconciliation and audit project.

The Secretary of the Interior is authorized by law to manage Tribal and Individual Indian Monies Trust Funds. These funds are collectively referred to as Indian Trust Funds. The Indian Trust Funds are comprised of payments of claims against the government; oil, gas, and minerals royalties; income from land use agreements; investment income; and income from other sources.

During the 1980s, higher royalty payments primarily from higher oil and gas prices and proceeds from a number of water and land claims settlements significantly increased the balances in these accounts. The accounts grew from about \$1.1 billion in 1980 to over \$2 billion in 1990. By the end of fiscal year 1990, there

were approximately 2,000 tribal and 300,000 individual Indian money accounts in the Indian Trust Funds with balances of \$1.5 billion and \$500 million, respectively.

BIA HAS BEEN PLAGUED BY LONG-STANDING
FINANCIAL MANAGEMENT PROBLEMS

BIA has serious financial management problems permeating almost every one of its principal accounting systems. Tribes and individual Indians have long been concerned about the accuracy of BIA's accounting for trust receipts and disbursements and the effectiveness of BIA's investment practices. BIA has often been criticized for erroneous allocations of receipts, erroneous payments to account holders, failure to consistently invest trust fund balances, and failure to pay interest.

Almost 9 years ago, we reported¹ that BIA's appropriation and trust fund accounting systems needed major improvements. At that time, we found that the information produced by BIA's accounting systems was unreliable, that trust accounts had not been reconciled with the general ledger to ensure correct balances, and that controls over cash receipts and disbursements were inadequate.

¹Major Improvements Needed in the Bureau of Indian Affairs' Accounting System (GAO/AFMD-82-71, Sept. 8, 1982).

Since 1982, numerous audits have been performed by the Interior Department's Inspector General and public accounting firms hired by BIA. These audits have continued to point out serious accounting and financial management problems and weak internal controls throughout BIA. Furthermore, since its first report under the Federal Managers' Financial Integrity Act in 1983, each year the Department of the Interior has continued to report on serious long-standing financial management problems in BIA.

Since 1983, two different public accounting firms have reported serious internal control problems in BIA's trust accounting operations. One recent report, covering Arthur Andersen & Co.'s fiscal year 1988 and 1989 financial audits of the trust funds, expressed a qualified opinion on BIA's trust fund financial statements due to an inability to confirm cash balances, major inadequacies in accounting records and related systems, and accounting errors. In addition, it reported that BIA's financial systems did not provide accurate and timely reports to Indian and tribal account holders. These problems were similar to those discussed in our 1982 report.

BIA'S TRUST FUND RECONCILIATION PROJECT

In 1987, to meet the demands of Indian account holders for accurate account balances, the Congress mandated that BIA reconcile and audit all trust fund accounts. Since then, the

Congress has called for the trust accounts reconciliation and audit three more times in BIA's 1989, 1990, and 1991 appropriations acts. Because it could not develop an acceptable approach for conducting the work, BIA has taken 4 years to reach the point where it can begin the trust account reconciliation and audit project.

In May 1990, BIA developed a request for proposal (RFP) to reconcile, audit, and certify the tribal and individual Indian monies trust fund accounts. At that time, Mr. Chairman, you asked for GAO's assessment of the proposal. We advised you, as did tribal representatives, that the reconciliation work should be done independently from the audit and certification of the accounts. As a result, BIA canceled this RFP and began to develop separate RFPs for reconciliation of the trust fund accounts and for audit and certification of the reconciled balances.

During the summer of 1990, after the May RFP was canceled, BIA submitted a plan to the Congress for carrying out the reconciliation and audit project. BIA has divided this project into two phases, each of which includes the same two processes: (1) reconciliation, which may require reconstruction of trust accounts from the earliest date practical, given the availability of supporting documentation, and (2) independent audit and certification of the reconciled balances.

Phase I will cover over 500 tribal accounts belonging to 37 of the 254 tribes. BIA selected these accounts for Phase I because they make up over 87 percent of the tribal trust funds balance and they represent the majority of the tribal accounts. In addition, Phase I will cover 17,000 individual Indian money accounts that make up over 17 percent of the Individual Indian Monies Trust Funds balance. BIA selected individual Indian money accounts which are maintained at three of its agency offices-- Uintah and Ouray, Fort Peck, and Olympic Peninsula--because reconciliations have been completed on these accounts for most of the last 3 years, and the results would serve as a useful starting point. The Phase I contract will also require the contractor to submit a plan for Phase II for BIA's consideration. Phase II will cover the remaining 1,500 tribal and approximately 283,000 individual Indian money accounts.

Status of Phase I

During the fall of 1990, a series of meetings was held with BIA trust fund officials and the Ad Hoc Indian/Tribal Advisory Committee to reach consensus on what should be included in the RFPs for Phase I account reconciliation and audit/certification. Other participants at those meetings included a member of your staff, a staff member from the House Appropriations Subcommittee on Interior and Related Agencies, and GAO staff. During these

meetings, a decision was made to delay work on the audit/certification RFP until the reconciliation work was underway and projections could be made for a reasonable completion date for the reconciliation work. BIA issued an RFP for Phase I reconciliation work on December 28, 1990. BIA intends to develop a separate RFP to contract for Phase I audit and certification work after the accounts are reconciled.

On April 11, 1991, we testified² before the House Appropriations Subcommittee on Interior and Related Agencies on the status of BIA's efforts to prepare for reconciliation and audit of the Indian trust fund accounts. At that time, we pointed out that Phase I of the reconciliation project was still in the contracting phase, that work on the project would probably not start until late spring 1991, and that the Bureau's plans for managing and overseeing the project had not been finalized.

Since our April testimony, BIA has continued to make progress toward awarding a contract for the Phase I reconciliation work. BIA reviewed contractor proposals from six firms and requested "best and final offers" from four firms. The winning bidder, Arthur Andersen & Co., was selected and notified on May 10, 1991. BIA estimates that Phase I reconciliation work will be completed sometime in the late spring of 1992. Audit and certification

²Bureau of Indian Affairs' Efforts to Reconcile and Audit the Indian Trust Funds (GAO/T-AFMD-91-2, Apr. 11, 1991).

work could begin before then, if enough accounts are reconciled. We caution that, while BIA has made progress since last fall in getting the reconciliation project started, there are no results yet. In addition, BIA still needs to take action to ensure effective project management and reporting of reconciliation results.

Phase I Contract Management Plan

BIA's Phase I reconciliation management plan still has not been finalized. Given the importance, scope, and complexity of the reconciliation work, BIA needs to finalize this plan quickly. In our April testimony, we pointed out that BIA's management plan needed to address several key issues such as contract oversight, BIA project support and staffing, the role of the designated tribal representatives, contractor reporting, plans for audit and certification of the reconciled accounts, and how the accounts will be kept accurate once they are reconciled.

Of most immediate concern is BIA's staff support for this project. According to the project director, BIA field staff were designated to provide project support in January 1990. However, some of these staff no longer hold these positions and others are inexperienced, according to the reconciliation project manager. In addition, some of these staff will not be devoting all of their time to this project because they have other duties.

Because of the importance of this project, we are continuing to emphasize to BIA officials the need to ensure that experienced staff are dedicated to it. The project manager recently advised us that, in early May 1991, full time trust fund accountants were assigned to work on this project at 5 of the 12 area offices.

In the contractor reporting area, BIA needs to finalize the format the contractor will use to report trust account balances to account holders and to the congressional committees monitoring this project.

After the reconciliation project management plan is completed, BIA needs to develop the Phase I audit and certification RFP and a timetable for completing the audit and certification work. These tasks should be completed as soon as possible so that work proceeds smoothly throughout Phase I and into Phase II. BIA also needs to determine how the accounts will be kept accurate once they are reconciled. In this regard, BIA needs to ensure that it has consistent written policies and procedures for trust fund accounting, investment activity, and financial reporting. Finally, BIA needs to ensure that it has reliable financial systems for accounting for trust fund receipts, disbursements, and investments, and for generating periodic statements to account holders on the status of their accounts.

RECONCILING THE ACCOUNTS
WILL BE DIFFICULT

The reconciliation and audit work will not be easy and expectations must be realistic because the reconciliation work may involve reconstructing accounts from source documents. However, all records to support the transactions in these accounts may not be available. This issue was raised in an October 1989 letter to this Subcommittee from Arthur Andersen & Co., the accounting firm that performed BIA's fiscal year 1988 and 1989 financial statement audits. The letter stated that a complete audit and reconciliation of all account activity back to inception might not be possible, or practicable, due to the lack of available records at certain locations.

Many accounts are between 50 and 100 years old and will have to be reconstructed before an accurate balance can be determined. The magnitude of this undertaking is tremendous. Think about trying to determine the correct balance of a personal checking account that was active for over 50 years but was never reconciled periodically. Then, think about attempting to determine the correct balance of the account when many of the supporting records were not retained. This situation is similar to what a contractor will face as it begins to perform the trust fund reconciliation work for BIA. However, the contractor will ultimately be trying to determine the balance for over 300,000 accounts, not just one.

The reconciliation RFP attempts to address some of the concerns about the potential records availability problems by specifying that accounts will be reconciled as accurately as possible back to the earliest date practicable. The intent of this language is to openly acknowledge that all records pertaining to these accounts may not be available. This language was agreed to by BIA, the Ad Hoc Indian/Tribal Advisory Committee, and congressional staff at the meetings held during the fall of 1990.

Any attempt to reconstruct accounts, if the records are not readily available, would be futile and costs for such an effort would be excessive. Therefore, everyone's expectations of what can be reasonably achieved by this project have to be realistic. In recognition of this, the RFP also contains a cost containment measure. This measure requires the firm performing the reconciliation to provide, after the initial 2 to 4 weeks of work at each location, an assessment of the level of effort and cost required for the Phase I reconciliation work. We will advise you of these estimates when they become available.

BIA officials realize that a complete set of trust fund records is important and they are aware of the problems that incomplete account records will cause. Therefore, since last summer, BIA employees have been gathering, and centrally locating, trust records to facilitate the Phase I reconciliation work. At this

point, BIA feels it has gathered most of the available records needed to support Phase I of the project and that records of account activity should be available for the last 10 years for most BIA Area Offices. As indicated earlier, this is the period when the size of the trust funds grew very rapidly--from about \$1.1 billion in 1980 to over \$2 billion in 1990. However, there is still no guarantee that all of the necessary records for reconciling these accounts have actually been located.

Potential Outcomes of Phase I

Despite the significant potential for incomplete records and the problems this will cause, BIA and the account holders believe the reconciliation work will disclose account overpayments, underpayments, and instances where BIA did not always consistently invest the trust monies, which resulted in lost interest to many account holders.

Therefore, after Phase I is completed, BIA and the Congress might be facing some difficult issues. Mr. Chairman, you recently introduced legislation that would require BIA to pay interest on individual Indian money accounts. Other issues also need to be addressed. For example, due to incomplete records, the balances of some accounts may still be unknown. Or, where reconciliation is possible, the account holders may not agree with the balances. The work might show that certain tribes

and/or individual Indians owe money to BIA due to overpayments. This could be a contentious issue because errors may go back many years. On the other hand, BIA may owe money to account holders due to unpaid interest or underpayments of interest.

Both BIA and the Congress need to be prepared to address these issues. Legislation may be needed to provide appropriations for monies owed to account holders, or relief may be needed for unrecoverable overpayments.

STRATEGIC PLANNING IS NEEDED

While an accurate snapshot of account balances today is important, completion of the reconciliation and audit project should not be viewed as the ultimate goal. After the accounts are balanced, BIA must keep them in balance. Therefore, completion of the reconciliation and audit project should really be viewed as a first step in BIA's efforts to improve trust fund management.

As noted in our April testimony, BIA's trust fund financial management problems are long-standing, and BIA does not have an adequate, comprehensive strategy for addressing them. BIA officials are aware of the need for corrective action, and they have identified a number of initiatives to improve their current operations. However, these actions are identified in a number of

different documents. For example, we obtained four different BIA documents that collectively identified 24 separate trust fund financial management initiatives. Mr. Chairman, on March 26, 1991, BIA provided you with a list containing 41 separate initiatives, many of which are included in the four documents we were provided earlier. After reviewing these documents, we are concerned about the lack of a comprehensive approach that would tie these projects together. For example, reconciliation and audit of the trust fund accounts is not tied to an initiative that adequately addresses how these accounts will be kept accurate after they are reconciled. Moreover, we noted that 10 of the 41 financial management improvement initiatives, including the more significant and more difficult initiatives, are assigned to one individual who has had only one staff member assigned to him. For example, this individual is responsible for managing the reconciliation and audit/certification project--a full-time job in itself.

The Office of Management and Budget (OMB) has also been critical of BIA's plans for correcting these long-standing problems. Last summer, under its high risk monitoring program, OMB reviewed BIA's progress in correcting a number of financial management weaknesses. OMB noted that many weaknesses remained partly, or completely, uncorrected and that BIA's action plan was inadequate because it did not fully address all necessary corrective actions.

If BIA is to make significant progress in addressing its trust fund financial management problems, it needs to develop an overall strategic plan and provide the necessary resources to implement the plan. BIA officials acknowledge the need for a strategic financial management plan. However, they explained that developing such a plan was postponed based on a decision to wait until the position of Office of Trust Fund Management (OTFM) Director has been filled. This position has not been filled on a permanent basis since OTFM was established a year ago. BIA's latest vacancy announcement closed on April 26, 1991, and a selection is expected soon.

A very critical element to the success of BIA's financial management improvement efforts is the need to seek the participation of key external groups. In the past, BIA has taken action to correct problems without properly consulting the client groups that have an interest in the outcome of these projects. In two instances projects were abandoned after complaints that BIA did not consult with the tribal and individual Indian account holders. In 1985, BIA was pursuing the use of a third-party contractor to carry out certain basic trust fund accounting and investment activities, but it did so without consulting with the account holders. The account holders appealed to the Congress to cancel the project. In 1990, another contract was also canceled, partly because BIA again failed to consult with account holders

prior to entering into the contract. To avoid these problems, BIA, trust fund account holders, tribal and Indian leaders, OMB, and the Congress need to be included in the strategic management process. Without the support of these key groups, any attempts to plan and execute a trust fund management improvement program could be unsuccessful.

IMPLEMENTATION OF THE CFO ACT:
A KEY TO LASTING IMPROVEMENT

BIA's need to solve its overall trust fund problems is part of the larger set of problems of governmentwide financial management that the Chief Financial Officers (CFO) Act of 1990 (P.L. 101-576) is intended to address. This law, enacted at the close of the last Congress, represents the most comprehensive financial management reform package in the last 40 years. The CFO Act provides a framework that BIA can use to help address its financial management problems.

In implementing the act, the overall objective for both Interior and BIA should be to ensure that they have (1) an adequate financial management organizational structure, (2) a cadre of qualified and trained accounting professionals that has the capacity to carry out the broad authorities envisioned by the act, (3) modern, integrated accounting, budget, and financial systems, (4) strong internal controls, (5) audited financial statements which can pass the test of relevance and usefulness

established in the act, (6) financial information on costs and performance measurement which tie into financial reports, as well as program operations, and (7) annual reports prepared by the CFO that present the results of BIA's financial operations.

The trust fund reconciliation project is clearly a step forward. However, the unreconciled accounts are really only a symptom, and not a cause of BIA's trust fund financial management problems. In the long-term, BIA has to deal with the root cause of its problems or it will revisit the issue of unreconciled accounts over and over. The CFO Act requires agencies to develop comprehensive 5-year financial management plans, including a strategic plan for financial management improvements, a financial systems plan, and useful reports on performance and costs. Within the 5-year plan, BIA should rank its financial management improvement projects and initiatives and develop realistic milestones within the framework of the Department's comprehensive plan. In this regard, BIA should consider the appropriateness of using both in-house and contractor expertise. These initiatives should be under the direction and control of the Interior Department's Chief Financial Officer.

The CFO Act is directed at substantive change, and substantive change is what BIA needs in order to go beyond the symptoms of its problems to find the cure. It needs to seize the opportunity this important legislation provides in order to establish credibility over its trust fund and other financial operations and to develop a modern financial management system and operation.

POTENTIAL OPTIONS FOR
TRUST FUND MANAGEMENT

As BIA begins to think about key program objectives and how to achieve them, it needs to consider various options for managing and overseeing the trust fund program. For example, BIA could continue to collect, account for, invest, and disburse trust fund monies. To do this successfully, however, BIA will need to ensure that it has adequate financial management processes and systems in place to accurately maintain trust fund accounts once they are reconciled. Otherwise, we will continue to revisit these problems. Given BIA's past track record, however, there is no assurance that BIA can correct these problems by the time the Phase I accounts are reconciled in the spring of 1992.

Other options for handling trust fund financial management could include BIA (1) contracting with a third party for certain account maintenance services, (2) leasing an accounting system that BIA would operate itself, or (3) entering into a cross-

servicing arrangement with another federal agency. Another option, which would involve an alternative to BIA's continued handling of trust fund accounting and investment activities, would be to transfer trust fund account management to another federal agency. This option may require legislation.

As BIA and the Congress begin to assess these, or other options, they need to consider that basic trust fund account data must still come from BIA and other Interior components such as the Minerals Management Service (MMS). For example, MMS collects oil, gas, and mineral royalties and processes these payments to BIA. BIA then distributes this income to multiple beneficiaries using allocation tables. Therefore, these components must ensure that this data, which has been questioned in the past, is reliable.

CONCLUSIONS

There are no easy solutions to the BIA's trust fund financial management problems. These problems did not happen overnight, and they cannot be resolved overnight. Whatever option is selected for trust fund management, a strategic trust fund financial management plan needs to be developed and staffed with talented, committed people, who will faithfully execute trust fund management improvement initiatives.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions that you or members of the Subcommittee may have at this time.

Mr. SYNAR. Thank you.
Mr. Richards.

**STATEMENT OF JAMES R. RICHARDS, INSPECTOR GENERAL, U.S.
DEPARTMENT OF THE INTERIOR**

Mr. RICHARDS. Thank you.

I have testified at the subcommittee's first hearing on this matter shortly after we had issued an audit report on the BIA's administration of its trust funds. Mr. Steinhoff has gone into some detail in his statement.

I am sure that I don't need to repeat any of that except to say that little progress has been made in BIA's administration of the trust fund. However, the BIA has been taking steps, particularly on their general accounting system.

With your permission, I will concentrate on talking about what has recently come to pass as to the sufficiency of the general accounting system of the BIA.

In March 1991 we issued a report entitled, "The Status of the Financial Accounting System of the Bureau of Indian Affairs." It doesn't paint a very pretty picture.

The audit concluded the Bureau's accounting systems did not adequately and accurately account for appropriated funds. Weaknesses in the system were so pervasive that reported information was totally unreliable.

We found, first, that accounting data was entered at approximately 250 remote field locations, without adequate system edits or central office review to ensure the propriety and integrity of the entries. As a matter of fact, at those entry places, the instructions on how to use the machine were taped to the machine, along with the password, which means that literally there was no security and virtually anybody could make entries into those systems.

As a result, the Bureau's general ledger showed substantial and continual imbalances. Yearend statements to the Office of Management and Budget and the U.S. Treasury were often inaccurate.

The Office of Management and Budget had reported a \$95 million discrepancy as a result of the preliminary resolution of fiscal year 1990 accounts. This lack of control created ample opportunity for potential fraudulent transactions to be entered virtually anywhere in the system.

Second, we found the Bureau did not establish edits in its accounting system to prevent inappropriate entries into the system. As a result, the other affected accounts were plugged by the Bureau with corresponding amounts to force the general ledger to balance.

In other words, if accounts didn't balance at any given time, they would simply plug in an amount which would make it balance.

The audit found the Bureau's consolidated general ledger contained numerous gross imbalances in accounts, accounts that anybody with any accounting experience know should have credit balances, have negative balances and vice versa. The audit reported Bureau personnel lacked a general knowledge and understanding of the accounting principles and balances.

Consequently, errors or inconsistencies were not analyzed or disclosed until periodic financial reports were prepared as noted by the \$95 million discrepancy in the report that the Bureau submitted to the OMB. We found there may have been a potential violation of the Anti-Deficiency Act, but the accounts were in such sad shape that we can't tell.

We recommended a comprehensive review and analysis of the Bureau's consolidated general ledger in order to reconstruct accurate account balances to determine over-obligated appropriation balances, the establishment of internal controls and system edits to ensure the accuracy and a development of a plan to obtain the needed expertise to execute the accounting responsibilities.

There was great interest at high levels in the Office of Management and Budget, even while we were doing field work on this review. In response to this report, even before it was final, the Bureau, in conjunction with the Department and OMB, took immediate action to start the process of revising current accounting practices, purifying inaccurate records and implementing the financial management improvement project.

In this connection, a task force consisting of accounting personnel from the Department, the Bureau of Indian Affairs and other bureaus and offices of the Department has been appointed to address the many deficiencies and problems of the bureau accounting system. While these are significant first steps, they are only the beginning of a very long process.

In the past the Bureau has agreed with many of our audit recommendations on a variety of issues, and stated that corrective actions would be initiated. However, in many instances the Bureau has failed to achieve these corrective actions.

One reason for this nonaccomplishment has been the Bureau's failure to establish a system of accountability for Bureau officials responsible for correcting these problems.

Another reason the reported accounting deficiencies are not being corrected is because of two long-term issues the Bureau must address.

One is the development of an experienced and permanent accounting systems staff and, second, the implementation of an acceptable accounting system. The Bureau's successful conversion to the Federal financial system is imperative.

The Bureau was to have converted to the system by October 1, 1990. However, the date was postponed until October 1991.

The Federal financial system is the Department's integrated core financial system, which will replace 13 different accounting systems from all the bureaus.

The task force that I mentioned has developed a plan, denominated the financial management improvements project which has an 18-member multidisciplinary team working to correct problems. These people are experienced accountants and auditors and other management officials.

Given the commitment of the task force to correct the problems and the high-level support of both the Secretary, OMB officials and the task force, we are optimistic that the financial system will be converted to the Federal financial system on time.

The Bureau has made a beginning. However, as my testimony indicates, the corrective actions are mostly not complete and many of the deficiencies may still exist or may reoccur if the actions are not fully implemented.

The Bureau has a long, long road to travel before an acceptable system is in place.

That concludes my summary.

I will be pleased to respond to questions.

[The prepared statement of Mr. Richards follows:]

STATEMENT OF
JAMES R. RICHARDS
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

BEFORE THE
SUBCOMMITTEE ON ENVIRONMENT, ENERGY, AND NATURAL RESOURCES
COMMITTEE ON GOVERNMENT OPERATIONS
U.S. HOUSE OF REPRESENTATIVES

MAY 20, 1991

Mr. Chairman, members of the Committee, I am pleased to appear before you today to discuss the results of our audit efforts regarding various Bureau of Indian Affairs accounting functions.

Historically, our reports have shown that Bureau programs and the Native Americans have suffered from the Bureau's inadequate financial management. Since 1967, we have issued over 150 reports dealing with accounting and financial management deficiencies at both the Bureau and the tribal levels. Over 30 of these reports dealt with problems in trust fund accounting. Some of the significant and often repeated deficiencies which the reports cited were:

- Inadequate reconciliation of accounting records,
- Incomplete and inaccurate financial reports,
- Improperly or inadequately documented program costs,
- Inadequately controlled receipts, and
- Ineffective management and maintenance of Individual Indian Money accounts.

The deficiencies cited in these reports are also reflected in the Department's Federal Financial Managers' Financial Integrity Act process. Each annual report since the Act was passed has rendered a negative opinion on the Bureau's accounting system. The Secretary's 1990 report to the President identified the existence of significant financial weaknesses within the Bureau as one of the most critical problems facing the Department. The report stated

that the Bureau's accounting system did not conform with either the Comptroller General principles, standards, and related requirements or with the Core Financial System Requirements promulgated by the Joint Financial Management Improvement Program. The report identified six functional categories of nonconformance: the standard general ledger, primary accounting, effective interface, cost accounting, documentation and/or audit trails, and data quality.

The Bureau has delegated key accounting responsibilities to two divisions: the Division of Trust Funds Accounting and the Division of Accounting Management. The Division of Trust Funds Accounting, which is organizationally located within the Office of Trust Funds Management, is responsible for implementing, operating, and controlling accounting systems which record and report on all funds collected, disbursed, invested and held in trust for individual Indians and Indian tribes. The Division of Accounting Management, which is organizationally located within the Office of Management and Administration, is responsible for implementing, operating, maintaining, and controlling the administrative accounting operations of the Bureau. These split responsibilities have been part of the cause of the Bureau's many financial management problems.

In the last two years, we have issued two reports which covered this subject area extensively. We found that the deficiencies

previously identified in the Bureau's accounting and internal control systems still existed. These deficiencies resulted in totally unreliable financial reports and the inability of the Bureau to accurately account for almost \$1.7 billion of trust funds belonging to individual Indians and Indian tribes. Also, the Bureau could not accurately account for approximately \$1.4 billion of appropriated funds designated for the operation of needed Indian programs.

In September 1989, we issued the first report dealing with the Bureau's accounting system, entitled "Selected Aspects of Indian Trust Fund Activities, Bureau of Indian Affairs." The objective of this audit was to determine whether Indian trust fund investments of \$1.7 billion as of June 30, 1988, shown in the Bureau's official accounting records and reported to the U.S. Treasury, were valid.

Our audit questioned the credibility of the Bureau's accounting for the \$1.7 billion invested by the Bureau on behalf of Indian tribes and individual Indians. The audit highlighted four areas of deficient accountability.

First, the Bureau's official general ledger and subsidiary accounting records of trust fund investments were not considered reliable enough to accurately account for the trust funds. As of June 30, 1988, the Bureau's general ledger account balance was \$17 million more than the subsidiary accounts. The \$17 million

shortage consisted of \$3.1 million of certificates of deposit and \$13.9 million of other investments in Government instruments. The primary cause for this unreliable accounting system was that the Bureau did not perform adequate reconciliations of subsidiary records of actual investments with the official general ledger accounting records. Also, the Bureau did not implement effective internal controls or correct long-standing unresolved differences in individual accounts.

Second, the Bureau had neither recognized investment losses in its official accounting records nor reimbursed tribal accounts, when appropriate, for losses of invested trust funds. At the time of our audit, identified and recognized investment losses and accumulated interest totaled approximately \$12 million. The Bureau did not properly account for known losses because it had no formal policy and related procedures for recognizing the loss of invested trust funds. The Bureau's practice was to not disclose the losses but rather to wait for the account holders to become aware of the losses, if they ever did, and to file a claim or sue the Government for recovery of the funds

Third, the Bureau did not adequately control Indian trust funds invested by it in Government-guaranteed loans. In 1983, the Bureau transferred about half of its guaranteed loans to a fiscal agent without documenting the actual number and dollar value transferred. As a result, the Bureau lost accountability for about \$23 million

of guaranteed loans involved in this transfer. The Bureau was unable to provide evidence supporting the payoff of loans totaling \$3.5 million maintained by the agent or \$1.5 million of loans it maintained.

Fourth, tribal trust fund accounts for over 200 tribes were not credited with the correct interest for overnight deposits with the U.S. Treasury for the period July 1985 through December 1986. The Bureau did not earn sufficient interest to reimburse the accounts because it underreported the amount of daily deposits. Unearned and undistributed interest for the period amounted to \$2.4 million (including interest) that would have been earned through April 30, 1989.

We recommended greater centralized management control and authority over all aspects of trust fund operations, including cyclical reviews and periodic reconciliations of trust fund account balances and the establishment of policies and procedures that definitize when the Bureau is liable for losses and how Indian accounts will be reimbursed.

As you know, I testified at this Subcommittee's hearing on October 26, 1989, about the findings of that report.

The Bureau agreed with the report's recommendations and initiated actions to implement them. They have made proper adjustments and

reconciliations between the general ledger and subsidiary records, but we have not verified these. Also, the Bureau has prepared findings of fact for the seven uninsured investment losses cited in the audit, and the Solicitor has responded on two of the seven setting out the Bureau's options. For the remaining five losses, the Solicitor is pursuing the matter of insurance coverage for them with the Federal Deposit Insurance Corporations and the National Credit Union Administration. Further, the Bureau reimbursed the affected tribal accounts for the unearned overnight interest in January 1990.

However, in several instances the actions are incomplete. For example, the Bureau established the Office of Trust Funds Management, which is responsible for all aspects of trust fund operations, but so far a permanent director has not been selected. It also proposed an Office of Audit and Evaluation to make cyclical reviews of area and agency operations of Individual Indian Money accounts. However, this office has not been formally established or staffed. Also, within the last week, the Bureau finally selected the contractor to reconcile the 37 top dollar value tribal judgment award accounts and the Individual Indian Money accounts for 3 agencies. And, as of this date, the Bureau has yet to issue its policy regarding the reimbursement of losses on investments made on behalf of the tribes and has not reimbursed the tribal accounts for the losses identified in the audit report.

In March 1991, we issued the second report dealing with the Bureau's accounting system, entitled "Selected Aspects of the Bureau of Indian Affairs Accounting System." The objective of our audit was to evaluate the accuracy of selected account balances in the Bureau's accounting system and the potential for and the extent of any violations of antideficiency statutes. We initiated this review because Departmental and Office of Management and Budget officials informed us that they were concerned about the reliability of Bureau accounting data and reports to the U.S. Treasury and the Office of Management and Budget.

This audit concluded that the Bureau's accounting and control systems did not adequately and accurately account for appropriated funds. Weaknesses in the system were so pervasive that reported information was totally unreliable.

First, we found that the Bureau had not provided sufficient management oversight and control of its accounting responsibilities. For example, accounting data was entered at approximately 250 remote field locations without adequate system edits or central office review to ensure the propriety and integrity of the entries. At these 250 locations, costs were transferred and adjusted within and between appropriation accounts, and daily transactions were entered directly into the Bureau's general ledger. However, Bureau personnel did not routinely perform fundamental account analyses or reconciliations of the

accounts affected by the adjustments to identify and correct errors or irregularities. As a result, the Bureau's general ledger showed substantial and continual imbalances, and year-end statements to the Office of Management and Budget and the U.S. Treasury were often inaccurate. The Office of Management and Budget had reported a \$95 million discrepancy as a result of the preliminary resolution of fiscal year 1990 accounts. This lack of control created ample opportunity for potentially fraudulent transactions to be entered virtually anywhere in the system.

Second, Bureau management did not establish sufficient internal edits in its accounting system to prevent inappropriate entries into the system. For example, although the road construction appropriation for fiscal year 1990 was merged with the appropriation for other construction, edits were apparently not programmed into the system to prevent charges against the old account. As a result, charges were made to the old account, resulting in a \$21 million negative balance at year end. We also noted that the Bureau's accounting system had accepted and posted "one-sided" transactions instead of the standard double-entry transactions. A "one-sided" entry occurs when a dollar amount is posted to one account but not to the other affected account. As a result, the other affected accounts were "plugged" by Bureau personnel with corresponding amounts to force the general ledger to balance.

The audit also found that the Bureau's Consolidated General Ledger contained numerous gross imbalances in its accounts. Specifically, accounts that should have had debit balances, such as cash, receivables, or other asset accounts, often had credit balances. Conversely, accounts which should have had credit balances, such as payables and other liability accounts, were often found to have debit balances. For fiscal year 1990, we found that 21 percent of the debit accounts had credit balances and 30 percent of the credit accounts had debit balances. Bureau personnel, however, did not research these obvious imbalances to determine the cause and magnitude of the errors made.

The audit reported that Bureau personnel lacked essential knowledge and understanding of accounting principles and standards. Bureau officials noted that its accounting staff tended to perform procedures without a full understanding of the impact of their actions on the total accounts. Since Bureau personnel did not routinely perform account analyses and reconciliations and since adjustments were made directly to the General Ledger, transactions were often made without proper validation. Consequently, errors or inconsistencies generally were not analyzed or disclosed until periodic financial reports were prepared, as evidenced by the \$95 million discrepancy noted in the reports that the Bureau submitted to the Office of Management and Budget.

We also found what may have been a potential violation of the Anti-Deficiency Act in that 4 of the 10 Operation of Indian Programs appropriations reviewed for fiscal years 1989 and 1990 exceeded their appropriations by about \$44.4 million. We were not able to confirm these potential violations because of the poor condition of existing financial records and the excessive amount of time required to reconstruct these records. However it is incumbent upon the Bureau to perform the necessary research to determine whether an antideficiency violation does exist and, if so, to report it accordingly.

We recommended a comprehensive review and analysis of the Bureau's Consolidated General Ledger in order to reconstruct accurate account balances to determine overobligated appropriation balances, the establishment of internal controls and system edits to ensure the accuracy of data entry, and the development of a plan to obtain the needed expertise to execute the accounting responsibilities.

There was great interest at high levels in the Office of Management and Budget (OMB), even while we were doing field work on this review, and in response to this report, even before it was final, the Bureau in conjunction with the Department and OMB, took immediate action to start the process of revising current accounting practices, purifying inaccurate records, and implementing the Financial Management Improvement Project. In this connection a task force consisting of accounting personnel from the

Department, the Bureau of Indian Affairs, and other bureaus and offices of the Department has been appointed to address the many deficiencies and problems of the Bureau accounting system. The goals of this task force are to:

- implement immediate controls in the administrative accounting process to ensure integrity in current fund accounting,
- achieve reconciliation of currently active appropriation account balances,
- accurately report appropriation account balances as of September 30, 1991
- develop a regular mechanism for financial management interaction with area offices, and
- successfully convert to the Federal Financial System, the Department's standard appropriated fund accounting system, on October 1, 1991.

While these are significant first steps, they are only the beginning of a very long process. In the past, the Bureau has agreed with many of our audit recommendations on a variety of issues and stated that corrective actions would be initiated. However, in many instances the Bureau has failed to achieve these corrective actions. One reason for this nonaccomplishment has been the Bureau's failure to establish a system of accountability for Bureau officials responsible for correcting these problems.

Another reason the reported accounting deficiencies are not being corrected is because of two long-term issues the Bureau must address: the development of an experienced permanent accounting staff and the implementation of an acceptable accounting system.

First the Bureau needs to recruit, train, and retain individuals who possess the required accounting expertise to execute the Bureau's accounting and administrative responsibilities. Currently, the Bureau and the Department are emphasizing audit experience in the individuals it recruits.

Second, the Bureau's successful conversion to the Federal Financial System, is imperative. The Bureau was to have converted to the system by October 1, 1990. However, the date was postponed until October 1991. As part of the Bureau's commitment to a successful conversion, it must ensure that accounting data entered into the system is verified as being accurate, that the staff responsible for maintaining the system receives sufficient training to operate the system, and that Bureau officials are held accountable for the system's successful conversion. The task force has developed a plan denominated the Financial Management Improvement Project, and has an eighteen member multidisciplinary team working to correct problems. Given the commitment of the task force and the high level support of both Departmental and OMB officials, we are optimistic that the financial system will be converted to the Federal Financial System on time.

The Bureau has made a beginning. However, as my testimony indicates, the corrective actions are mostly not complete and many of the deficiencies may still exist or may recur if the actions are not fully implemented. The Bureau has a long, long road to travel before an acceptable system is in place.

This concludes my opening statement. I would be pleased to respond to any questions the Committee may have concerning these audits.

Mr. SYNAR. Thank you very much, Mr. Richards.

The Chair recognizes himself for 5 minutes.

Mr. Steinhoff, as you know, we have had previous hearings on these matters. We have had problems reported by the inspector general, by the GAO and by independent public accounting firms and by this subcommittee.

Can you tell the subcommittee whether the BIA's internal system for accounting for and reporting the trust fund balances are adequate?

Mr. STEINHOFF. They are not. These problems go back many years.

I was involved with the study that we did back in 1982. What you see today is really the same song, a different verse. So the problems remain.

Mr. SYNAR. Those responsibilities of reporting and accounting for those trust funds are critical to their fiduciary responsibilities?

Mr. STEINHOFF. Yes.

Mr. SYNAR. Does the BIA have a plan to correct that fundamental deficiency?

Mr. STEINHOFF. It needs today to put together a strategic plan. It has a series of initiatives, but it does not have a clear-cut strategic plan.

Mr. SYNAR. Can you tell us how that happened that they don't even have a plan?

Mr. STEINHOFF. In thinking about this and looking back over many years, if you look at the key things you have to have—you have to have strong leadership, you have to have accountability, you have to have adequately trained professionals, an adequate financial system, and good management reporting. If you look back over many, many years, the Bureau has had not these things.

I thought back a little bit the other day to the 1982 study we did. I was involved in that study and I recall having meetings at that time with the officials at BIA and hearing things were going to change.

They had high hopes and plans, but they never really got done. There was no real result at the end.

I think it is because those main components weren't in place. The hope is that the current team is able to pull this off and is really able to make meaningful change, which is needed here.

Mr. SYNAR. Mr. Richards, do you agree with that assessment?

Mr. RICHARDS. Yes, I think that is a fair assessment. I won't add anything to it.

I think probably the accountability and the trained personnel are two of the key factors, but those other factors that Mr. Steinhoff mentioned are equally important.

Mr. SYNAR. OK.

Mr. Steinhoff, let's try to delve in this a little bit deeper. How about BIA's controls over receipts and disbursements, are they adequate?

Mr. STEINHOFF. No. This has been chronicled over and over again. It has been shown by Mr. Richards in his studies, it has been shown by GAO, it has been shown by independent CPA firms.

Mr. SYNAR. That again is a task of the trustee, is it not?

Mr. STEINHOFF. Yes, it is.

Mr. SYNAR. How long has BIA known that GAO and others believe controls over these receipts and disbursements are inadequate?

Mr. STEINHOFF. I think this goes back 10, 20, 30 years. So we are talking about long periods of time. This isn't a new story.

Mr. SYNAR. In all that time, has BIA made any significant progress in correcting that deficiency?

Mr. STEINHOFF. Not really, no.

Mr. SYNAR. Do they have an adequate plan for undertaking the necessary corrections?

Mr. STEINHOFF. Not at this time. We have stressed the need for an overall strategic plan that ties it all together. They do have a list of initiatives.

I guess you could say they have a framework from which they can put together a strategic plan. But I think that is what is lacking now.

Mr. SYNAR. Mr. Richards, do you agree with that assessment?

Mr. RICHARDS. Yes. As far as the trust fund accounting is concerned, I have not seen and am not aware that they have a strategic plan. I do wish to volunteer to you, though, that with regard to the general accounting system, the one that I just mentioned in my testimony, this appears to be the most comprehensive plan that has been developed with regard to anything involving the Bureau of Indian Affairs.

It is staffed by competent accountants and other management officials, and it is out on the ground working, actually fixing the system. But, it is just the general accounting system. It is not the trust fund system, which is as you know, different.

Mr. SYNAR. Does the BIA conduct periodic or timely reconciliations, Mr. Steinhoff, for the 300,000 Indian Trust Fund accounts to assure they are accurate?

Mr. STEINHOFF. No. This is really one of the fundamental problems they have. You have got accounts that go back 50, 60, 70 or more years that have never been reconciled.

Mr. SYNAR. What about cash balances? Does BIA have the ability to determine the accurate cash balances of accounts under their charge?

Mr. STEINHOFF. In 1989 and 1988, one of the major CPA firms went in, attempted a financial audit and could not provide an opinion on BIA's cash balance. Not only is there great uncertainty as to the total cash balance, but when you get down to the individual accounts, there is a great deal of uncertainty as to what is reported as being there, whether those amounts are in the right accounts.

You have got uncertainty in total as well as at the account level. No one really knows.

Mr. SYNAR. OK. Does the BIA have a meaningful plan to correct that deficiency?

Mr. STEINHOFF. As I mentioned before, I think that there is a need for a strategic plan that ties together all the actions BIA needs to take, ties together exactly what they are going to do to put a system in place. Now they are going out, they are starting this effort to reconcile the accounts.

Once they finish that, you will have a picture or a snapshot at that point in time as to what the balances are. What they need

now is a clear plan as to what they are going to do, once they have those balances, to maintain the balances, how they are going to get a cadre of trained accounting professionals in place, how they are going to improve the system.

Mr. SYNAR. Do they have any of this that you are going through?

Mr. STEINHOFF. No.

Mr. SYNAR. Let's turn to investments. Has BIA consistently and prudently invested trust funds and paid interest to account holders?

Mr. STEINHOFF. No. Again, this is something that has been reported on many times.

Mr. SYNAR. That is, again, one of the fundamental obligations of the fiduciary responsibility; is that not correct?

Mr. STEINHOFF. Yes, it is.

A fiduciary is held to a standard even higher than managing your own money. It is one thing to waste your own money and another thing to lose control of another party's money.

It is a very high level, and they have not met that level.

Mr. SYNAR. The Bureau asked the Comptroller General for an opinion regarding BIA's obligations to reimburse lost interest to holders of individual Indian trust funds. After analyzing the current law and the history of the court rulings in that regard, the Comptroller General found that while BIA was required to reimburse such interest losses to tribal accounts, it was not required to do so for individual accounts.

As you know, I recently introduced legislation to change the existing law to bring the Bureau's obligations concerning lost interest on individual accounts into conformance with its obligations for interest on tribal accounts. Explain the difference between the failure to invest, a failure to distribute interest income and the recent Comptroller General's opinion concerning imputed interest.

Mr. STEINHOFF. Basically, what the court has held for many years and what the law states is that for tribal accounts, BIA is required to invest the funds. Therefore, even if they fail to do so, interest would still be due to the account holder.

With respect to the individual Indian moneys, the 300,000 IIM accounts, what the law says is that BIA is authorized, but not required, to deposit the money, and that the accounts may earn interest. That is the turning point here.

Mr. SYNAR. Is the BIA able to prepare and supply account holders meaningful periodic statements on their account balances?

Mr. STEINHOFF. No.

Mr. SYNAR. Why not?

Mr. STEINHOFF. It gets back, I think, to the myriad of systems and accounting problems we have seen for many years, the fact that accounts have not been reconciled.

There is great uncertainty when a major accounting firm goes in and says they are not putting their name at the bottom and they are not going to attest to these numbers. It is very, very serious.

So, no one really knows what the account balances are, whether they are off by 5 percent, 20 percent or if they are valid.

You might have many that are, in fact, correct.

Mr. SYNAR. Basically, this trust fund is a bank that doesn't know how much money it has?

Mr. STEINHOFF. It is not sure of the total trust fund balance, plus there is great concern as to the veracity of individual accounts.

Mr. SYNAR. Does BIA have consistent or written policies or procedures for its management of accounting?

Mr. STEINHOFF. Something we have found in the past is BIA has not had good, solid written policies or procedures that cover all of its trust fund accounting practices.

Mr. SYNAR. Why not?

Mr. STEINHOFF. That is a hard thing to say. It is fairly fundamental.

It is very important, especially in the case of having lots of people entering data, and the fact that it has been recognized for many years that they have not had trained professional accountants.

So, I think it is a matter that was not given sufficient priority.

Mr. SYNAR. Tell me about BIA's staffing, its supervision and training in general. Are these functions adequate?

Mr. STEINHOFF. Studies that have been done in the past have pointed to the fact that BIA does not have a cadre of trained accounting professionals. The work done by the IG has shown that.

Work done by major consulting firms over many years has shown a lot of the staff are untrained. You need to have a cadre of trained accountants, not bookkeepers; accountants, people that understand what this means.

Mr. SYNAR. Mr. Peterson, any questions?

Mr. PETERSON. Thank you, Mr. Chairman. I just understand the problem. Does somebody have some responsibility to audit or have oversight over the BIA at the national level, wherever this accounting was supposed to be taking place?

You know, the tribes have to go through an audit every year. If they were doing something like this, they would be put out of business in a big hurry.

There would be a big change. Who is supposed to be watching at the national level? How come they weren't watching?

Mr. STEINHOFF. Basically, until the passage of the CFO Act at the end of the last Congress, there was no legal requirement to have a financial audit. So, we are talking about trust accounts where we had a clear fiduciary responsibility which had been in being for 150 years and had never undergone the type of financial audit that you are accustomed to.

Basically, in the future the ultimate responsibility for this under the CFO Act will rest with the Interior Department to assure that BIA has in place the capacity to perform. You know people don't like to do a bad job.

I am sure it is very uncomfortable for the BIA folks to come up here year-and-year again. But to a certain degree you have to have the capacity to perform and the management infrastructure and systems in place to manage. That is what has been lacking in the past. And what has been lacking is, I think, clear accountability to who is, in an ultimate sense, responsible for this; whether it be at the Interior level or at the BIA level.

Mr. PETERSON. There was a CPA firm that looked at this? They kind of threw up their hands?

Mr. STEINHOFF. Yes, Arthur Andersen tried to do a financial audit for 1988 and 1989, and they qualified their opinion, really, based on the cash balances, based on the myriad of weak controls and weak systems. That was the first time a financial audit was tried.

Mr. PETERSON. Do you have any confidence at all that—first of all, the proposal has been accepted that Arthur Andersen will try to establish those balances?

Mr. STEINHOFF. Yes.

Mr. PETERSON. Do you think they will get that done by the date required?

Mr. STEINHOFF. One of the things they are going to have to do, and I think you are going to have to watch this contract as it moves through, but people are going to have to develop realistic expectations as they go through all of this.

You have got a large number of accounts here, many of which are 30, 40, 50 or more years old. As I said before, the records aren't always there.

The contract itself calls for, I think, once you are into the thing 2 to 4 weeks, for the contractor to come back with a clear plan, with a clear strategy. I think it remains to be seen how successful they will be.

I do think that they have got the capability, though, to make the best effort they can. I think it is very incumbent on BIA to have the tribes fully involved in all this so that at the end people accept that a good-faith attempt was made, and that we accept a certain set of numbers at a certain point in time.

Otherwise, I am afraid we will be spending the next 10 years or so discussing that initial set of numbers.

Mr. PETERSON. My tribe, one of my tribes did these audits in 1984, and spent a bunch of money to establish what it is, and then they ignored it and actually transferred it out of their accounts. I think you are exactly right.

I guess the final thing, if they could actually get this done, and it may drag out a lot longer than people think, I have a real question as to whether the BIA is going to come up with a strategic plan, or whatever they do, they are going to be able to accomplish this.

Has there been any consideration given to turning this over to the tribes? Some of these tribes have pretty sophisticated accounting systems and do an excellent job.

I am personally familiar with some of their accounting systems. It seems to me that maybe the easiest way out of this would be to turn this function over to them.

They are audited once a year. I think we have got a lot better chance of keeping control of things that way than relying on the Bureau to somehow or another miraculously have a conversion.

Mr. STEINHOFF. I think in really developing the strategic plan, that it becomes very important that BIA consider every option that is there. That would certainly be one that they should be looking at, where you have tribes that have the ability.

I think you may have to change some laws on some of that, but I think all options should be considered. The reconciliation of the accounts now, on which I share your view, it is a herculean effort, they are trying to address.

You are talking about years of neglect. The current management team is being told they have to try to establish a balance. It may or may not work.

Once that is completed, that is just the first small step. You are going to have to keep those accounts current.

You certainly aren't going to do it with the current systems. It takes some time to put systems in place that work and it takes some time to develop a cadre of trained professionals.

So I think that all alternatives need to be explored.

Mr. PETERSON. Thank you, Mr. Chairman.

Mr. SYNAR. Thank you.

Mr. Steinhoff, in light of the long-term mismanagement that we have found over and over again, the persistent management failures and deficiencies, the Office of Management and Budget designated BIA as a high-risk agency requiring priority attention in October of 1989.

At that time, OMB asked the BIA to prepare a strategic plan for corrective action of these problems. Now, tell us about the status of that strategic plan and the status of corrective actions on the trust fund financial management weaknesses.

Mr. STEINHOFF. OMB has acknowledged that BIA does not have a strategic plan to deal with the trust fund accounting problems.

Mr. SYNAR. That would be only prudent if we were going to have any kind of improvement; is that correct?

Mr. STEINHOFF. That is correct.

Mr. SYNAR. I would like to ask unanimous consent to enter into the record exhibit 1 for the record. This is an exhibit that is composed of two letters.

The first is the subcommittee's May 9, 1991, letter to OMB Director Richard Darman, requesting information about the BIA strategic plan for correcting longstanding financial management problems in BIA's administration, the Indian Trust Fund, a strategic plan requested by OMB some time ago.

The second is OMB's response to the information dated May 17, 1991. This exhibit states BIA has not provided OMB with a strategic plan. Moreover, OMB notes its "reservations about the adequacy of progress and plans," for improving the trust fund management.

All that OMB or BIA have been able to provide this subcommittee, Mr. Steinhoff, is what OMB's May 17, 1991 letter described as, "several inventories of various actions taken, "to improve BIA's management of Indian Trust Funds.

Mr. Steinhoff is this "inventory of actions taken" an adequate substitute for a strategic plan?

[The information follows:]

WILLIAM F. CLARKE, JR., MISSISSIPPI
 RICHARD L. ROBERTS, MISSISSIPPI
 R. BOB G. BURTON, MISSISSIPPI
 BOB BRADEN, ALABAMA
 CHARLES L. HAYES, MISSISSIPPI
 JOHN W. OHR, AL, ALABAMA

WILLIAM F. CLARKE, JR., MISSISSIPPI
 RICHARD L. ROBERTS, MISSISSIPPI
 R. BOB G. BURTON, MISSISSIPPI
 BOB BRADEN, ALABAMA
 CHARLES L. HAYES, MISSISSIPPI
 JOHN W. OHR, AL, ALABAMA

ONE HUNDRED SECOND CONGRESS
Congress of the United States
House of Representatives

ENVIRONMENT, ENERGY, AND NATURAL RESOURCES
 SUBCOMMITTEE
 OF THE
 COMMITTEE ON GOVERNMENT OPERATIONS
 RAYBURN HOUSE OFFICE BUILDING, ROOM B-371-B-C
 WASHINGTON, DC 20515

May 9, 1991

The Honorable Richard G. Darman
 Director
 Office of Management and Budget
 Executive Office Building
 Washington, D.C. 20503

Dear Mr. Darman:

Pursuant to its authority under Rules X and XI of the House of Representatives, the Subcommittee on Environment, Energy and Natural Resources is continuing its review of the Bureau of Indian Affairs' management of the \$2 billion Indian Trust Fund. In this regard, the Subcommittee will hold its fourth oversight hearing on Monday, May 20, 1991 at 10:30 a.m. in room 2247 of the Rayburn House Office Building.

As you know, our previous hearings have addressed numerous, longstanding BIA financial management deficiencies. These problems continue to be reported by the Inspector General of the Department of the Interior, by the General Accounting office, and by independent public accounting firms auditing BIA's management of Indian Trust Funds. BIA's longstanding problems include:

- Inadequate systems for accounting for and reporting trust fund balances;
- Inadequate controls over receipts and disbursements;
- Absence of periodic, timely reconciliations to assure accuracy of accounts;
- Inability to determine accurate cash balances;
- Failure to consistently and prudently invest trust funds and/or pay interest to account holders;
- Inability to prepare and supply account holders with meaningful periodic statements of their account balances;

Honorable Richard Darman
May 9, 1991

- Absence of consistent, written policies and procedures for trust fund management and accounting; and
- Inadequate staffing, supervision and training.

In light of the long-term nature of BIA's mismanagement of the Indian Trust Fund and BIA's other persistent management failures and deficiencies, the Office of Management and Budget (OMB) designated BIA as a high risk agency requiring priority attention in October 1989. At that time, OMB asked the BIA to prepare a strategic plan for corrective action on these problems.

In preparation for its May 20, 1991 oversight hearing, it is important for the Subcommittee to review BIA's strategic plan and the status of corrective actions on trust fund financial management weaknesses to date. Accordingly, we ask that you provide the following information to the Subcommittee no later than by close of business, Thursday, May 16, 1991:

- 1.) BIA's strategic action plan for achieving reliable, timely trust financial management and reporting.
- 2.) A list of specific initiatives, within the strategic plan, for correcting identified weaknesses; a list of the managers responsible for implementing these initiatives; staff commitments (by grade level, job series, and full or part-time commitment); and milestone dates for completing the corrective actions.
- 3.) An indication of any staff resources required to accomplish these initiatives beyond BIA's existing staff levels.
- 4.) A summary of OMB's actions to assure BIA implementation of its strategic action plan and correction of the identified weaknesses.

Your timely response to this request for information will be most helpful to the Subcommittee. We want to give full and fair consideration to BIA's efforts to improve trust fund management improvement plans and actions to date. In this respect, OMB's cooperation should prove most useful.

If you have any questions regarding this request, please have your staff contact Steve Richardson of the Subcommittee staff at 225-6427. Thank you in advance for your cooperation in this matter.

Sincerely,

MIKE SYNAR
Chairman



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 17 1991

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:

Thank you for your recent letter to Director Darman requesting information on efforts to improve the Indian trust funds managed by the Bureau of Indian Affairs (BIA), Department of the Interior.

We agree that management of the Indian trust funds must be improved. In October 1989, OMB cited BIA management and financial deficiencies as an area of high risk to the Government. In 1990, DOI submitted to OMB two progress reports (see Enclosures I and II) on actions taken to correct these deficiencies. During the ensuing review of the area, BIA provided OMB with several inventories of various actions being taken to correct problems in trust funds systems and management, as well as the same quarterly report provided to you and your staff. OMB was never provided a strategic plan. OMB's assessment of progress, as delineated in the President's FY 1992 Budget, concluded that we had reservations about the adequacy of progress and plans for this area.

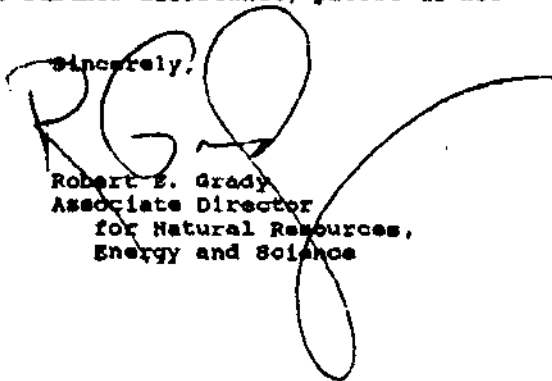
To support improved BIA management and accountability of programs serving Indian tribes and individual Indians, the President's FY 1992 Budget provides approximately \$26 million (\$12 million over 1991). Of this amount, \$4.2 million is requested to reconcile and audit tribal and individual Indian trust fund accounts. We understand that a plan to reconcile and audit all trust fund accounts has already been provided to you by DOI.

As part of the Administration's effort to address BIA management problems, OMB and DOI established the Management Improvement Oversight Committee (MIOC). The MIOC's charter is to ensure significant management improvement efforts in financial oversight, procurement and property, credit, personnel, and information resources.

The MIOC's first project has been the correction of serious accounting failures in the appropriated fund accounts. That project is now well underway and we expect that BIA will convert to a new accounting system beginning in October 1991. At the April 16, 1991, meeting of the MIOC, the committee had an initial discussion about the Indian trust funds and possible approaches to correcting the systemic problems. We will keep you apprised of the MIOC's progress in developing and implementing a comprehensive improvement project for the Indian trust funds.

I hope the information we have provided will be useful as the Subcommittee reviews efforts to improve the management of Indian trust funds. If we can be of further assistance, please do not hesitate to contact me.

Sincerely,



Robert E. Grady
Associate Director
for Natural Resources,
Energy and Science

Enclosures

SOURCE: Department of the Interior
July 18, 1990. Department of the
Interior's High Risk Area Progress
Report.

Enclosure I

(B) **INDIAN TRUST FUNDS MANAGEMENT**

DATE OF REPORT: July 1990

PERIOD COVERED: October 1, 1989 to June 30, 1990

PRINCIPAL STAFF CONTACT: C. L. Hanson

TITLE: Deputy Director, Office of Administration

AGENCY: BIA

TELEPHONE NUMBER: 208-4174

BUREAU/APPROPRIATION: Operation of Indian Programs

HIGH RISK AREA

The management of BIA's \$1.8 billion Indian Trust Fund lacks effective internal controls, reliable systems, and management controls and information. Tribal and Individual Indian accounts lack credibility and have not been consistently reconciled during the history of the trust fund. The combination of unreliable management and system controls and lack of consistent reconciliation activity by the BIA creates an environment that is highly vulnerable for erroneous accounting entries to remain undetected in the trust accounts.

STRATEGY

BIA set trust fund management as a priority at the agency level. BIA is establishing and staffing a managerial position and organizational unit that will have complete responsibility and authority over all components of trust fund operations.

CRITICAL MILESTONES

A. COMPLETED ACTIONS/EVENTS

Established the Office of Trust Fund Management in December 1989 as required by Secretarial Order No. 3137. BIA is currently awaiting formal approval by the Congressional Appropriations Committee before proceeding with the establishment of the new Office.

Established Director, Trust Funds Management on 12/31/89.

Prepared Departmental Manual changes on 1/30/90 for Secretarial approval of established position.

Included the new organizational unit in BIA's budget for FY 1991 and FY 1992.

Reviewed the accounting and reporting requirements for Tribal Trust Funds on 2/28/90.

Arranged for tribal access to: (1) investment data from the BIA's NREDFAX system, a contracted portfolio accounting system obtained from Wisner & Associates, and (2) the accounting activity processed on the BIA's automated Finance System. The first Tribe to gain this access was the Confederated Tribes of Warm Springs in Oregon (made available in April 1990).

Obtained COMSIS, a small business firm, to help prepare the system specifications and design document for integration of current system data entry of investment and IIM (Individual Indian Money) activity as part of a short term strategy to provide more efficient data entry.

Submitted copies of the BIA short and long term strategic plan to the Appropriation Committee on 6/15/90.

Submitted COMSIS draft report for integration of investment system data entry to BIA on 6/29/90.

B. PLANNED ACTIONS/EVENTS (SHORT TERM)

Staff all positions and organizational units that will report to the Director for Trust Funds Management by 12/31/90.

Decide whether to extend or cancel contract with Security Pacific National Bank.

Integrate the data entry for financial transaction activity into the investment and IIM systems by 10/1/90.

Identify and consider other high priority initiatives including a proposal by the Director, Mineral Management Service concerning system development and operation.

APPROVALS

Develop Tribal and IIM reconciliation and audit strategy with concurrence of Department, Appropriations Committee and OMB by 7/31/90.

Designate Audit Manager to coordinate all reconciliation and audit activity for Tribal and IIM accounts over next several years.

Scheduled meeting on 7/24-25/90, with the Management Group comprised of representatives of the Appropriations Committee, OMB, GAO and the Department to discuss the audit and reconciliation strategy, and other short and long term goals of the BIA relating to the trust fund management program.

CONTRACT MANAGEMENT

Draft RFP's for reconciliation and audit contracts by 7/31/90.

Convene meeting with 36 top dollar Tribes to discuss the audit and reconciliation strategy in early August 1990.

Hold pre-bid conference with potential bidders on the reconciliation contract and the separate audit contract by 8/31/90.

Award both contracts by 9/30/90.

Initiate field work by 10/1/90.

PRE-RECONCILIATION/AUDIT TASKS

Authorize temporary positions to assist Area/Agency staffs in gathering records required for reconciliation/audit activity. (Note: these positions are in place at 8 locations as of 7/9/90, with the other 49 locations being filled by mid-August 1990).

Inventory IDN accounts at 3 Agencies selected for initial reconciliation and audit work by 8/1/90.

Gather records for 3 selected Agencies and 36 Tribes by no later than 9/30/90.

RECONCILIATION OF ACCOUNTS

Reconcile all IDN accounts at 3 selected Agency Offices.

Reconcile all accounts belonging to the 36 top dollar Tribes.

Provide IDN account owners a report when reconciliation of their accounts are complete indicating variances/problems encountered.

Provide Tribes a report of reconciliation done at an exit conference scheduled with each individual Tribe.

Decide on action plan for reconciliation of balance of accounts by no later than 8/1/91.

CERTIFICATION PROCESS

Request OIG to certify that the reconciliation procedures appear to be adequate to comply with the intent of the Appropriations Committee by no later than 12/31/90.

Request OIG to certify that the audit plan complies with intent of the Appropriations Committee by no later than 7/15/91.

OTHER ACTIONS

Initiate monthly IDN statements Bureau-wide no later than 7/31/90.

Implement 1091 Reconciliation System by no later than 8/15/90 to allow BIA to distribute interest related to oil/gas royalties collected from 1988.

Provide training and software for current BIA staff to reconcile IIM and Tribal financial activity Bureau-wide by no later than October 1990.

Secure an investment analysis service by no later than 12/31/90.

C. PLANNED ACTIONS/EVENTS (LONG TERM)

Establish a contractual relationship with MITRE to work with the BIA and CONSIG to develop a program plan for the trust fund management systems and monitoring it's implementation.

Reconciliations of balance of IIM and Tribal accounts will be completed no later than 9/30/94.

Audit of IIM accounts at 3 selected Agency Offices to be completed no later than 12/31/91.

Implement a new trust fund management system for Tribal, IIM, Alaska Native Escrow, and Papago Cooperative Funds by no later than 12/31/91.

Audit of accounts for 36 top dollar Tribes to be completed no later than 7/1/92.

Audit of balance of Tribal accounts due to be completed no later than 4/30/96.

Certification by OIG of work completed by contractors to be completed no later than 9/30/96.

RESULTS INDICATORS

1. Elimination of multiple data entry into:
 - A. MENE/MAK, Finance, EASTRIVE, INFO and INVESTMENT systems used for investment operations and accounting requirements.
 - B. IIM-IIM and ISSDA General Ledger System for IIM account activity.
2. Number of accounts reconciled.
3. Number of accounts audited.
4. Monthly Reconciliation of accounts.
5. Initiation of new Trust Fund Management System.
6. Number of BIA Accounts being reconciled on a current basis.

ASSESSMENT OF PROGRESS

BIA has assembled a plan of action that will correct past errors and develop a new trust fund management system to provide the trust account owners the best possible service for the future.

Enclosure II

Bureau: Bureau of Indian Affairs

Program/Organizational Component: Trust Funds Management

Appropriation/Account Number: Operation of Indian Programs/
K01-51/0/3400/4361

Weakness: INADEQUATE MANAGEMENT OF TRUST FUNDS

The Bureau's management of Individual Indian Monies (IIM) and Tribal trust funds is inadequate to properly maintain and administer the \$1.7 billion fund for which it has responsibility. The BIA's management of the Tribal and Individual Indian Trust Funds lacks effective management/internal controls, reliable systems, and management information. Tribal and individual Indian accounts lack credibility and have never been reconciled in the entire history of the trust fund.

Functional Category in Statistical Summary: Program Execution

Critical Milestones in Corrective Actions:

A. Completed actions/events:

Established organizational unit that has complete authority and responsibility over all components of trust fund operations. (December 1989)

Established Senior Executive Service position of Director, Trust Funds Management. (December 1989)

Prepared Departmental Manual changes for Secretarial approval and included new organization in FY 91 and FY 92 budget. (January 1990)

Prepared request for proposal for independent audit of 26 tribal judgment accounts with highest monetary balances (74% of total). (February 1990)

Suspended contract with Security Pacific National Bank halting further payments of \$50,000/month until reconciliation is complete. (March 1990)

Contracted with small business firm (CONSIE) as part of short-term strategy to enhance reconciliation effort. (May 1990)

Completed and submitted strategic short and long term plan for Trust Funds management to the Appropriation Committees. (June 1990)

Authorized and staffed temporary positions to assist Area/Agency personnel compile records required for reconciliation/audit activity. (September 1990)

B. Planned actions/events (next 12 months):

Complete automated system enhancements and staffing actions including: (1) integrating the system enhancement developed by COMSIS into Bureau's Investment and IIM systems; (2) designating an Audit Manager to coordinate all reconciliation and audit activity for Tribal and IIM accounts; (3) staffing the managerial positions and organizational units for Trust Funds Management; and (4) developing a custodial position or obtaining custodial services for physical securities and collection of investment income. (December 1990)

Establish an Investment Oversight Advisory Committee that includes Tribal account owner representation. (December 1990)

Request OIG to certify that reconciliation procedures are sufficient to comply with Appropriation Committees' requirements. (December 1990)

Collect all records and reconcile all IIM accounts at three selected Agency Offices. (April 1991)

Request OIG to certify that audit plan meets the requirements of the Appropriation Committees. (July 1991)

Reconcile all accounts of 36 Tribes with highest monetary balances. (July 1991)

C. Planned actions/events (longer term):

The BIA is awaiting a Secretarial decision on a new trust fund management system. Implementation of the new system is projected to be completed by December 1991.

Reconciliations of IIM and Tribal accounts will be ongoing and should be completed by September 1994. Auditing of

IIM and Tribal accounts will begin in July 1992 and should be completed by April 1996.

Validation Process to be Used:

The role of the OIG will be to certify the adequacy of the Bureau's corrective actions to the Appropriations Committees. After implementation of the corrective actions, the OIG will conduct a review to ensure that all problem areas are resolved.

Source of Discovery of Material Weakness:

OIG Audit Report No. 89-117, Selected Aspects of Indian Trust Fund Activities - Bureau of Indian Affairs, dated September 29, 1988.

Year Identified: FY 1983

Original/Current Targeted Correction Date: October 1984/December 1995

Targeted Correction Date in Last Year's Report: December 1995

Reason for Change in Dates: N/A

Mr. STEINHOFF. No.

Mr. SYNAR. Tell us more about BIA's list to specific initiatives and correcting identified weaknesses. These do exist; don't they?

Mr. STEINHOFF. Yes. A few months ago we were provided a list of 24 initiatives. Following that we were provided a second list, I believe, that BIA provided to your staff that showed 41. These don't always totally tie together.

But what BIA really needs to do is to pull the wide range of thoughts it now has, pull those initiatives together. Also, I think it needs to explore the options for dealing with the trust fund accounts once they have been reconciled.

It needs to deal with very specific terms, with what it is going to do to go out and get the kind of trained professional accountants it needs, and what it is going to do in very clear terms to train those folks. It would not be enough, for example, to say we are going to train our staff.

You would have to lay out in very clear terms how you are going to achieve these things, who is accountable for this work, what the cost is going to be, and have a very comprehensive plan. That, in part, is what the Chief Financial Officers Act expects when it calls for each department to have a 5-year comprehensive plan. That is what they need at this point in time.

Mr. SYNAR. Those 41 initiatives, or 40 initiatives that you said we got, we got those on March 26, when Mr. Richards and I toured the Albuquerque office.

I can tell you that we were surprised by the initiatives. They were even warm from the Xerox machine when they were handed to us.

Let's talk about the list of managers responsible for handling these initiatives. Is there a list?

Mr. STEINHOFF. Yes. There were names attached to each of the initiatives that we had. One concern that we raised, though, was that it appeared like people were being spread very thin.

Ten of the most important initiatives were assigned to one person. That person was also assigned the responsibility for overseeing the ongoing reconciliation, which is probably a big enough job just alone.

Mr. SYNAR. What about BIA's milestone dates for completing corrective actions?

Mr. STEINHOFF. There were dates shown. I think until you have a very clear game plan, until you have that strategic plan about which I spoke, you have to, to a certain degree, not consider the dates as perhaps being set in stone. I mean they are going to have to sort through what they are going to do.

Also, they are going to have to get a better sense as to how difficult the reconciliation will be.

Mr. SYNAR. Let me ask you this. What happens to initiatives and these corrective-action milestones when an agency doesn't put them in a strategic plan?

Mr. STEINHOFF. I think they are changed a lot. I think even when they put them in a plan, you run the risk of them never being met.

Mr. SYNAR. Because of the leadership?

Mr. STEINHOFF. Yes. I think the key is to have milestones and achievements that make sense, that people accept, that people understand and that people can achieve.

The person assigned the task of putting a new system in or reconciling accounts, whatever it might be, has to have the capacity to do that job.

It has to be very clear what they are expected to do, and they have to have the staffing resources and top management support to do the job.

Also, I feel strongly that oversight, such as this hearing today, is very key, and that the Department, not just the Bureau, the entire Department of the Interior, which itself has a myriad of problems, will have to have the support of the Congress as it tries to deal with these matters.

I think all too often in dealing with financial management, we are "penny wise and pound foolish" and that across the board in government, we often times have not invested enough in the right kinds of people and the right kinds of systems.

Mr. SYNAR. Mr. Peterson.

Mr. PETERSON. No questions.

Mr. SYNAR. Mr. Richards, what are your overall conclusions regarding the problems that you have identified in BIA's management?

Mr. RICHARDS. Well, let me start with the optimism. The optimism is that we are optimistic that the approach that has been taken to in effect, reconcile and fix the overall accounting system, leaving the trust fund aside for the moment, is probably the most credible and significant action that we have seen in 25 years of reviewing BIA programs, both in the Office of the Inspector General since 1978 and going back to 1967.

If such an effort were made and sustained, and I emphasize "sustained," on the BIA trust accounting, it would be another cause for optimism. The assessment Mr. Steinhoff has given here in response to your questions and those of Mr. Peterson's are probably right on the mark.

Unless there is some methodical, high level, sustained effort, this one will slip back into the morass, as they have over the last 25 years, according to our memory.

Mr. SYNAR. Has any significant progress been made in correcting the problems Mr. Steinhoff has identified?

Mr. RICHARDS. Well, there have been some steps.

Mr. SYNAR. But no significant progress?

Mr. RICHARDS. There have been some reconciliations, for instance, that we have not verified. You recall the ledger and the subsidiary records of the trust fund were out of balance.

The accounting firm that they had on retainer has told us that they have reconciled that down to a small amount, which we have not yet verified. They have advertised for and they have organized an office of trust management.

They are recruiting for a director, but it has not yet been filled.

Mr. SYNAR. Let's get into some specifics. I think that would be helpful. Your September 29, 1989, audit report stated \$17 million of the Indian Trust Fund investments could not be accounted for in the official investment accounting fund records, that these missing

funds may never be accounted for. Has the Bureau resolved that issue?

Mr. RICHARDS. The Bureau has informed us and Arthur Andersen has informed us they have reconciled that amount down to \$1,000—\$1,239. We have not verified that.

Mr. SYNAR. Have the underlying deficiencies that caused that problem been corrected?

Mr. RICHARDS. We don't think so.

Mr. SYNAR. What did that \$17 million represent?

Mr. RICHARDS. It represented an unknown as to whether the general ledger was correct or subsidiary records were correct. They did not balance.

Mr. SYNAR. It represented the difference between total funds invested as shown by the Bureau's official ledger accounting and the amount the individual investments in the Bureau's subsidiary reports; right?

Mr. RICHARDS. That is basically it.

Mr. SYNAR. I think our records show \$3.1 million of certificates of deposit, and \$13.9 million of Government agency investment issues; is that correct?

Mr. RICHARDS. Yes.

Mr. SYNAR. Shouldn't the Bureau employees have been doing periodic reconciliations over the years as a matter of course?

Mr. RICHARDS. Absolutely.

Mr. SYNAR. Have you been doing the Bureau's work for them?

Mr. RICHARDS. Yes. I don't think this would have been done if Arthur Andersen hadn't done it.

Mr. SYNAR. Is it possible to be more specific as to the amount of loss suffered by these individuals in the tribes?

Mr. RICHARDS. Not given the current state of affairs. To their credit, they have written up the seven instances of losses. They have given those matters to the Solicitor.

The Solicitor has replied to them on two of those matters and is pursuing FDIC insurance and National Credit Union insurance on the other five matters.

Mr. SYNAR. That is essential; right?

Mr. RICHARDS. Yes, it is.

Mr. SYNAR. On page 13 of your September 29, 1989, audit report reads, "We believe that the primary reason why Indian account holders were not reimbursed for losses they sustained is because the Bureau did not have a formal policy to reimburse account holders for losses. From our review we determine that the Bureau's practice regarding known losses of trust funds has not been to disclose the losses and to wait for the account holders to become aware of the losses if they ever do, and file a claim or sue the government for recovery of the funds."

It is the Bureau that has no policy for identifying the losses.

How can they find them?

Mr. RICHARDS. We found them for them, and found the instances of where there were potential losses. But the Bureau still has not devised such policy.

Mr. SYNAR. You have made recommendations in that report; is that correct?

Mr. RICHARDS. Yes.

Mr. SYNAR. What were they?

Mr. RICHARDS. We made basically four recommendations. One was on accuracy of financial records.

Mr. SYNAR. That is fine. We have them in the record. I wanted to make sure that you did make some recommendations.

The corrective action included a Solicitor's opinion regarding the Bureau's liability for losses. It also established written procedures and policies that recognized losses plus interest where appropriate, within a reasonable period of time after sustaining the losses; is that correct.

Mr. RICHARDS. Yes.

Mr. SYNAR. Has BIA implemented that recommendation?

Mr. RICHARDS. They have implemented the first part of it. They did prepare a factual analyses of the seven identified losses, submitted them to the Solicitor and asked for the Solicitor's opinion as to liability of those seven losses.

The Solicitor responded to them on two of the losses and they are pursuing insurance on the other five.

On the second part of developing a policy to take care of losses, nothing that we are aware of has happened with regard to that.

Mr. SYNAR. Have they established written procedures and policies that recognize losses plus interest where appropriate and at a reasonable time?

Mr. RICHARDS. No.

Mr. SYNAR. Why are they resisting that recommendation?

Mr. RICHARDS. The feedback we get is the Solicitor told them that they have this trust responsibility. The Solicitor has told them what the standard of care is for the trust responsibility.

It has also told them the same thing that GAO said about whether there has to be reimbursement for interest on IIM accounts and reimbursement for interest on tribal accounts.

But they think that is the policy and they will ask the Solicitor next time a loss comes along, and he can tell them whether they are liable or not. It is rather confusing, but they don't get down to the point of saying what they will do when they have a loss—you remember those guaranteed loan funds that they put out to a private agent and then lost the records and didn't know how much they had put out to the agent and the agent's figures then didn't jibe with their figures?

They should have a policy to take care of that, to say if we screw up—

Mr. SYNAR. They agree with your recommendations? They just don't implement them?

Mr. RICHARDS. We say when they foul up, they should have an obligation to notify the people whose records and accounts they have fouled up.

Mr. SYNAR. Have they notified anybody?

Mr. RICHARDS. Probably the tribes know, because of all the publicity that has come from this report and series of hearings.

Mr. SYNAR. In 1989, you stated the act of June 24, 1938, 16 U.S.C. 162(A), authorized the funds of any Indian or tribe held in funds in the United States to be invested only in public debt obligations of the United States, and in bonds, notes, or other obligations unconditionally guaranteed as to both principle and interest invested by

the United States. Inherent in that act is the responsibility to properly account for those trust funds.

Do you believe the BIA can fulfill the obligations?

Mr. RICHARDS. I think the reports show they weren't.

Mr. SYNAR. Do you hold the view stated in the 1989 report that says, "We believe this loss of trust funds is inconsistent with the fiduciary and trust responsibility the Bureau has over Indian resources and with the restrictive investment operating parameters which Congress instituted to ensure the safety of Indian trust funds."

Mr. RICHARDS. Absolutely. The Solicitor quite agrees.

Mr. SYNAR. I would like to ask unanimous consent to enter into the record, exhibit 2, for the record.

This exhibit includes the contents of a telefax from the BIA received in the subcommittee office on last Saturday, May 18, 1991.

There are three parts to the exhibit. The first is an undated memorandum from the Interior Department Solicitor concerning recovery of the Indian trust funds invested by BIA and failed institutions.

The second part is a list of potential overpayments of trust funds due to tribes and individual account holdings. The final part is a list of potential losses of the trust funds to tribes and individual tribe holders.

Does this exhibit appear to fulfill the inspector general's recommendations concerning the loss of the individual trust funds?

[The information follows.]



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D. C. 20240



Memorandum

To: Joe Weller

From: Special Assistant to the Associate Solicitor, Division of Indian Affairs

Subject: Trust Funds Invested in Failed Credit Unions and Savings and Loans.

ISSUE:

Recovery of trust funds invested by BIA in failed financial institutions.

Background:

Central Place Savings Credit Union was declared insolvent and taken over by the National Credit Union Administration (NCUA) on July 8, 1985. BIA has recovered approximately \$2,372,895 of its initial \$7,000,000 investment, leaving a loss of principal of approximately \$467,708.20.

Financial Services Credit Union was placed in liquidation in October 31, 1984. Invested in the institution was approximately \$1,860,00 of IIM funds and \$440,000 of tribal funds. BIA has managed to recover the entire principal of the tribal funds. As for the IIM funds, roughly \$1,538,270 has been recovered leaving a loss of principal of \$21,730.

Sionio Federal Credit Union was placed in liquidation on June 6, 1984. BIA has recovered all of the principal of the approximate \$5,881,724 in tribal funds invested in the institution. Of the \$5,086,263 in IIM funds invested, BIA has succeeded in recovering approximately 2,048,487, leaving a loss of principal of roughly \$3,037,766.

Mainland Savings and Loan was placed in receivership on or about April 4, 1986 and its insured assets transferred to Allen Park Federal Savings and Loan. Of the \$94,000 of Indian irrigation system funds and \$97,000 of Indian power system funds invested in Mainland only a total of \$100,000 was transferred, leaving a loss of principal and interest of approximately \$97,572.34.

Sun Savings and Loan was placed in receivership on July 18, 1986, and its insured assets transferred to Flagship Savings and Loan. Invested in Sun Savings and Loan was \$184,000 in tribal funds and \$184,000 in Indian irrigation and power system funds. The tribal

funds were insured in their entirety and transferred to Flagship Savings and Loan. Of the irrigation and power system funds, only \$100,000 was transferred, leaving a loss of principal and interest of approximately \$67,028.

NCUA's and FDIC's Position.

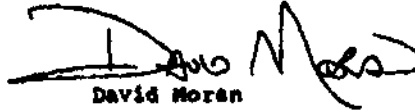
The IIM funds and the irrigation and power system funds each represent single accounts and thus are eligible only for the maximal insurance available for a single accounts (i.e., \$100,000). Any additional amounts to be recovered are dependent upon the liquidation process.

Department's (BIA's) Position.

The IIM funds are comprised of monies belonging to individual Indians and each individual is entitled to insurance up to \$100,000. Likewise, the irrigation and power system funds are two separate legal entities and thus each fund is entitled to be insured to the extent of \$100,000.

Status.

The Department (SOL/DIA) has petitioned the NCUA and FDIC to review the matter and requested concurrence in its position. The NCUA and FDIC are presently reviewing the petitions and each agency anticipates reaching its determination within a month.


David Moran

**BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT**

**POTENTIAL
TRUST FUNDS OVERPAYMENTS TO TRIBES AND INDIVIDUALS
AS OF MAY 1991**

Area	Fund	Account Owner	Amount	Description
Aberdeen	IIM		\$0	
	Tribal		0	
Anadarko	IIM		0	
	Tribal		0	
Billings	IIM		0	
	Tribal		0	
Juneau	IIM	Mary Sanford	100,000.00	Overpayment of Alaska Native Escrow funds due to incorrect ownership data retained by BLM for a gravel pit they managed. Solicitors Office reports as possible claim.
	Tribal		0	
Minneapolis	IIM		0	
	Tribal		0	
Muskogee	IIM		0	
	Tribal		0	
Phoenix	IIM		0	
	Tribal		0	

BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT

POTENTIAL
TRUST FUNDS OVERPAYMENTS TO TRIBES AND INDIVIDUALS
AS OF MAY 1991

Area	Fund	Account Owner	Amount	Description
Sacramento	IIM		0	
	Tribal		0	
Albuquerque	IIM		0	
	Tribal	Jicarilla	359,590.73	Over disbursement of funds to Tribe. The Tribe's accounts are included in Phase 1 of the Audit & Reconciliation Project. Proper disposition of this overpayment will be determined upon conclusion of Phase 1 work.
	Tribal	Jemez Pueblo	442,158.00	Over disbursement to Tribe. Claims Collection Litigation report filed with Field Solicitor 10/10/90.
	Tribal	Taos Pueblo	250,350.00	Per Capita distribution overpayment in 1984 and 1989. Tribe has requested overpayment be restored. Field Solicitor opinion requested 7/25/90.
Navajo	IIM		0	
	Tribal		0	
Portland	IIM		0	
	Tribal		0	

BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT

POTENTIAL
TRUST FUNDS OVERPAYMENTS TO TRIBES AND INDIVIDUALS
AS OF MAY 1991

Area	Fund	Account Owner	Amount	Description
Eastern	IIM		0	
	Tribal		0	
All Locations	IIM		3,680,922.14	Overdrafts of IIM accounts. Account owners paid funds not due them because of administrative error. Will be processed in accordance with CG Decision B-219235.
GRAND TOTAL			<u>\$4,832,920.87</u>	

Source of Data: Reports from each area office, the Office of Trust Funds Management, Albuquerque, NM, and the DOI Office of the Solicitor.

7:14 5/18/91

BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT

POTENTIAL
TRUST FUNDS LOSSES DUE TRIBES AND INDIVIDUALS
AS OF MAY 1991

Area	Fund	Account Owner	Amount	Description
Aberdeen	IIM		\$0	
	Tribal		0	
Anadarko	IIM		0	
	Tribal		0	
Billings	IIM	Ardis Robinson	24,500.00	Claim filed with the Interior Board of Indian Appeals for funds restricted by Superintendent, Fort Peck Agency, Poplar, Mt.
	Tribal		0	
Juneau	IIM		0	
	Tribal		0	
Minneapolis	IIM		0	
	Tribal	Red Lake	687,000.00	Claim no. 388-82L, mismanagement of funds. Case in final stage of settlement.
Muskogee	IIM	Josephine Bosen Estate	1,823.15	Royalty payments disbursed after account owners death. Checks cashed by Niece. Solicitor assisting BIA in collecting from Niece.
	Tribal		0	

BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT

POTENTIAL
TRUST FUNDS LOSSES DUE TRIBES AND INDIVIDUALS
AS OF MAY 1991

Area	Fund	Account Owner	Amount	Description
Phoenix	IIM		0	
	Tribal	Hopi Tribe	15,018.21	Lost interest on \$124,939.60 for period 7/26/88 through 11/30/90. Caused by account -ing error. Collection deposited to appropriation account rather than tribes account. DOI Solicitor reviewing case.
	Tribal	Colo River	\$ 40,798.70	Loss of earnings on uninsured deposits in closed S&L. Principal and interest recovered between date of closing on 1/14/83 and 7/28/89. Amount is loss of earnings while funds being recovered. Calculated through 9/30/90.
	Tribal	U & O	40,798.70	Same as Colo River above.
Sacramento	IIM	Larry N. Olinger	16,602.06	Reimbursement for legal expenses withdrawn from IIM. Cl. Ct. No. 776-87. Discovery in process.
	Tribal	Hoopa-Yurok	560.38	Same as Colo River and U & O above.

BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT

POTENTIAL
TRUST FUNDS LOSSES DUE TRIBES AND INDIVIDUALS
AS OF MAY 1991

Area	Fund	ACCOUNT Owner	Amount	Description
Albuquerque	IIM		0	
	Tribal	Ute Mtn Ute	5,341.78	Estimated lost interest on receipts not promptly posted to Tribe's Treasury account. DOI Solicitor reviewing the case.
	Tribal	Ute Mtn Ute	343.10	Estimated lost interest on receipt not promptly posted to Tribe's Treasury account. DOI Solicitor reviewing case.
	Tribal	Ute Mtn Ute	8,036.87	Estimated lost interest for period 10/7/88 to 11/30/90 on an incorrect disbursement charged to Tribe's trust fund. DOI Solicitor reviewing case.
	Tribal	Zuni	486.75	Estimated lost interest on \$60,607.20 due to erroneous disbursement transactions. DOI Solicitor reviewing case.
	Tribal	Jicarilla	\$ 346.56	Estimated lost interest on \$148,301.47 deposit that was posted incorrectly to Tribes trust account. DOI solicitor reviewing case.
	Tribal	Mescalero	0	Negative trust fund balance. Cleared 11/89.

BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT

POTENTIAL
TRUST FUNDS LOSSES DUE TRIBES AND INDIVIDUALS
AS OF MAY 1991

Area	Fund	Account Owner	Amount	Description
Albuquerque	Tribal	Ute Mt & So Ute	16,589.00	Lost interest on tribal funds due to Credit Union classifying investment as share rather than term. DOI Solicitor reviewing.
Navajo	IIM	Crownpoint Embezzlement of individual's accounts	500,000.00	Disbursements that may exceed \$500,000 from IIM accounts not received by account owners. Under investigation by OIG. Also is receiving a complete audit by AA&Co. \$22,900 confirmed embezzlement to date. US Attorney processing case. About \$150,000 still under review by Solicitor's office and audit firm.
	Tribal		0	
Portland	IIM		0	
	Tribal	Umatilla	2,217.15	Lost interest due to accounting/investment errors DOI Solicitors office reviewing case.
	Tribal	Grand Ronde	\$ 9,295.12	Lost interest due to account-error. DOI Solicitors office reviewing case.
	Tribal	22 tribes	No estimate	Lost investment interest. Additional data being gathered to determine details.

BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT

POTENTIAL
TRUST FUNDS LOSSES DUE TRIBES AND INDIVIDUALS
AS OF MAY 1991

Area	Fund	Account Owner	Amount	Description
Portland	Tribal	Warm Springs	150,000.00	Lost investment interest. Detail being gathered to determine circumstances.
Eastern	IIM		\$0	
	Tribal	Penobscot Nation	\$570,000.00	Claim filed with US Claims Court for loss of principal and interest from the permanent portion of the Maine Indian Claims Settlement Act.
All Locations	IIM		\$1,000,000.00	Treasury Department taking of the proceeds of outstanding Treasury checks issued on or before 9/30/89 per 31 U.S.C. 3334. GAO decision pending.
All Locations	Tribes & IIM,		3,096,693.47	Closed Institutions, lost interest on funds idle after closure and before recovery.
Investment losses due to failed financial institutions, insurance determinations and fraud			\$,946,915.60	See attached details.
GRAND TOTAL			<u><u>\$12,183,166.60</u></u>	

Source of Data: Reports from each area office, the Office of Trust Funds Management, Albuquerque, NM, and The DOI Office of the Solicitor

Mr. RICHARDS. I don't know. I would have to examine it. This is the first time I have seen it.

Mr. SYNAR. Would you do that and put it in the record?

Mr. RICHARDS. I shall, Mr. Chairman. I would rather do that than do it spontaneously.

[The information follows:]



United States Department of the Interior

 OFFICE OF INSPECTOR GENERAL
 WASHINGTON, D.C. 20240

JUN 12 1991

JUN 6 1991

 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:

As requested and agreed to during my testimony before your Subcommittee on May 20, 1991, we have reviewed Exhibit 2. This consisted of (1) an undated memorandum from the Office of the Solicitor regarding trust funds invested in failed credit unions and savings and loans and (2) a Bureau of Indian Affairs-prepared listing of potential trust fund overpayments and losses as of May 1991. Our comments on this exhibit are provided for the record.

The Office of the Solicitor memorandum provides an updated status of the funds invested, lost, and recovered in the five failed financial institutions discussed on page 12 of our September 1989 audit report entitled "Selected Aspects of Indian Trust Fund Activities, Bureau of Indian Affairs." We have not verified the completeness and accuracy of the amounts discussed in the Solicitor's memorandum, and more importantly, we have not determined whether the accounts have been properly reimbursed for the recovered funds.

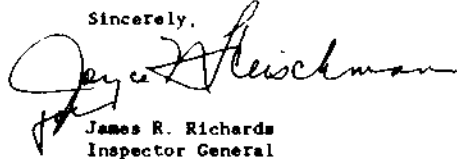
Our September 1989 report indicated that since 1975 the Bureau had invested trust funds in at least 50 financial institutions which subsequently failed. During the audit, the Bureau initiated a review of all failed financial institutions, the objective of which was to identify all trust funds that had been lost and to compute related interest on these funds. Consequently, we did not make a recommendation in our September 1989 report in regard to determining total losses from all failed banks. Neither the Solicitor's memorandum nor the Bureau-prepared listing of potential trust fund losses provides the status of this effort except for the five banks included in our September 1989 report.

We can offer no assurance that the Bureau's listings of potential trust fund overpayment and losses is complete and accurate. As noted in both our September 1989 report and the Arthur Andersen reports for fiscal year 1988 and 1989, the total amount of potential claims is not determinable by either the Bureau or the Office of the Solicitor because of the volume of Indian trust fund accounts. This problem is compounded by the fact that a claim can be filed at any level within the Bureau and does not have to be in writing.

Because of the significance of the potential liability, we have scheduled, for the coming year, an audit of Indian trust fund claims. The objective of the audit will be to review the Department's efforts to effectively and efficiently resolve claims related to the Indian trust funds. Specifically, we will determine (1) the dollar amounts of outstanding claims, (2) the amount of time required to process claims, (3) the impact processing delays have on claimants, and (4) the additional costs the Department incurs because of delays. The audit will also determine whether a reserve fund should be established in order to satisfy current, as well as future, claim liabilities.

If you have any questions or require additional information, please have your staff contact Ms. Joyce N. Fleischman, Deputy Inspector General, at 208-5745.

Sincerely,

A handwritten signature in cursive script, appearing to read "James R. Richards".

James R. Richards
Inspector General

Mr. SYNAR. As you recall, at the subcommittee's September 25—
let me ask you, Mr. Steinhoff, do you think it meets their obligations?

Mr. STEINHOFF. I would have to do the same thing.

Mr. SYNAR. We will leave the record open for you, too.

[The information follows:]



United States
General Accounting Office
Washington, DC 20548

Accounting and Financial
Management Division

B-247216

January 13, 1992

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

Dear Mr. Chairman:

This letter responds to your request for GAO's views on the Bureau of Indian Affairs' (BIA) efforts to improve its methods for detecting and handling losses of Indian trust fund monies. These efforts were discussed at your May 20, 1991, oversight hearing on BIA's management of the Indian Trust Funds.

First, regarding recovery of trust funds which had been deposited in financial institutions which later failed, we believe that BIA was remiss in investing trust funds above the insured limits of \$100,000. As a fiduciary, BIA is liable for such losses.

We have been monitoring BIA's efforts to recover funds invested in failed institutions insured by the National Credit Union Administration (NCUA) and the Federal Deposit Insurance Corporation (FDIC). The Bureau's Solicitors' Office advised us that NCUA will not cover losses in excess of the \$100,000 insurance ceiling. The three largest credit union losses are as follows:

<u>Credit union</u>	<u>Loss amount in excess of \$100,000</u>	<u>Date of loss</u>
Zionic	\$3,037,766	03/22/84
Financial	249,173	10/31/84
Center Place	635,073	07/08/85
Total	<u>\$3,922,012</u>	

The Solicitors' Office has told us that in addition to losses at these three large credit unions, BIA has also

B-247216

incurred losses on investments at non-accredited, uninsured credit unions as a result of fraud and criminal activity.


Regarding losses at banks insured by FDIC, in early January 1992, FDIC advised the Interior Solicitors' Office that it would not cover losses at failed banks in excess of insured amounts. Losses in excess of the \$100,000 insurance limit at FDIC-insured institutions totaled \$121,500. In its next budget submission, BIA plans to submit a request for appropriations of approximately \$4 million to cover both the credit union and bank losses.

We have also reviewed BIA's "Policies Regarding Notification and Reimbursement to Indian Account Holders for Losses Attributable to Bureau Errors," which was submitted to the Subcommittee on October 31, 1991. While it is a good start, we think it needs to be strengthened in three areas.

First, the policy does not address the need for systems and procedures to prevent and detect losses, nor does it instruct BIA staff on how to resolve them if they do occur. The policy relies heavily on account holders to bring losses to the Bureau's attention. While BIA should address questions on losses raised by account holders, it is BIA's responsibility to prevent, detect, and resolve losses. Second, the policy does not address what constitutes sufficient documentation to establish the existence of a loss. Finally, the policy's definition of losses does not include interest that was earned but not credited to the appropriate account. We advised your staff of these concerns in November 1991.

I appreciated the opportunity to testify before the Subcommittee at the May 20, 1991, hearing. I would be glad to discuss any questions you or your staff have pertaining to this information. I can be reached at (202) 275-9454.

Sincerely yours,



Jeffrey C. Steinhoff
Director, Civil Audits

(901551)

Mr. SYNAR. At this subcommittee's September 25, 1990, hearing, the Assistant Secretary of the Interior Lou Gallegos appeared before Secretary Lujan. He affirmed that the Department has not complied with the OIG's recommendations that it had not requested a Solicitor's opinion or had not established a policy of notifying account holders of Indian Trust Fund losses.

At the time we had the following exchange. Let me repeat it:

Mr. SIMON. You are aware that this is your third hearing to impress upon the Department the seriousness of this subcommittee's views on this matter. I want a commitment out of you under oath right now that his notification and reimbursement issue is going to be resolved soon. Do you have that commitment?

Mr. GALLEGOS. Yes, sir, you do.

Mr. Richards, you have seen the evidence of this commitment. Has it been fulfilled?

Mr. RICHARDS. To the best of my knowledge, unless somebody has got something to present today, we have not been able to find any such—

Mr. SYNAR. Mr. Richards, what is Congress to do?

Mr. RICHARDS. I am not a Congressman and I am not a chairman of the subcommittee, but I would be tearing my hair out, I think.

Mr. SYNAR. The subcommittee is holding its fourth hearing since October 1989, on the Bureau's mismanagement of the Indian Trust Fund. I know you are well aware we have worked hard and long to force the Bureau to clean up its act.

After all this time and inaction by BIA, are you convinced that the Bureau is truly receptive to doing the things that must be done to get this house in order?

Mr. RICHARDS. I think it is.

Let me tell you why I say that. The Bureau is a multifaceted monster. It is an organizational nightmare.

Mr. SYNAR. That may be the understatement of the year.

Mr. RICHARDS. I have been familiar with the Bureau of Indian Affairs and Indian programs for at least the last 30 years, having grown up in the West and worked for a western Senator and worked with the Department of the Interior.

I think the Bureau of Indian Affairs will not change until there is some political consensus that it must change. It is the favorite target of everyone who is shocked by its ineptitude and its insensitivity.

Yet, when we try to restructure it, either from a congressional sense or from an executive branch sense, there are always the nay-sayers and there never develops a political consensus for positive change.

Mr. SYNAR. But there is political consensus that we have a basic accounting for the tribes and individuals?

Mr. RICHARDS. No question about that.

Mr. SYNAR. You don't need change to do that?

Mr. RICHARDS. No question about that. The BIA is a tinder box simply waiting for a spark.

Mr. SYNAR. What you are saying is they need political pressure to perform?

Mr. RICHARDS. That is correct, and they need political consensus to change.

Mr. SYNAR. Let's review the Chief Financial Officers Act of 1990, Mr. Steinhoff. What is the Interior Department's role?

Mr. STEINHOFF. The Interior Department under that act has the ultimate responsibility for financial management for the entire department. That includes the components such as BIA.

The act says we will have a chief financial officer for each department, and that person is the individual ultimately responsible, ultimately accountable for making sure things are working well. The act talks about having a management structure in place, having trained professional accountants, having a 5-year plan to improve systems and to putting needed controls in place, and it talks about management reporting and the preparation and audit of financial statements.

It provides a framework for meaningful change. I will echo what Mr. Richards said, however, that this act has pointed to substantive change.

Substantive change is difficult to make. I think that is the challenge here.

Mr. SYNAR. Well, I want to ask you, with this reorganization, the BIA will be required to answer to the Interior CFO, correct?

Mr. STEINHOFF. Yes.

Mr. SYNAR. What about financial audits?

Mr. STEINHOFF. The act calls for a financial audit each year of each trust fund; so, it is saying here that we have a fiduciary responsibility. These are business-type banking funds. You must prepare financial statements, they must undergo an audit, and you must report each year the results of that work.

You also must prepare a management report which gives you a bottom line of how your operation stands financially.

Mr. SYNAR. And they have to report to Congress, correct?

Mr. STEINHOFF. Yes, they do.

Mr. SYNAR. That is what our role is?

Mr. RICHARDS. I am afraid it is my responsibility to do those audits, report those through the chief financial officer to Congress.

Mr. SYNAR. Now, if we do all that, Mr. Steinhoff, will we succeed in solving this longstanding financial mess?

Mr. STEINHOFF. I believe so, but it is a very big job, and there is going to have to be lots of support from the Congress. Interior and BIA are going to have to be held very closely accountable for what they are doing.

At the same time, they have to receive the support. I said before to a certain extent it is a matter of building a capacity to perform. They don't have that capacity today. They are going to have to build that.

Getting back, I think, to the question you asked Mr. Richards before, you know, whether or not I would be optimistic that this would all work, I think it gets back to having that will. And I think it gets back to the fact that to a certain extent, while I am encouraged by what folks are saying today, it is very similar to what I think I was told back in 1982 when we did a similar study and found really the same set of problems you see today.

Mr. SYNAR. It has taken, as you say, BIA 4 years to finalize the reconciliation project for request for proposals; is that not correct?

Mr. STEINHOFF. That is correct.

Mr. SYNAR. Now, before BIA finally completed that RFP with the participation of congressional staff, tribal representatives, and you all at GAO, what improvements were necessary?

Mr. STEINHOFF. I think they fell down in the four basic areas. The first was the scope of work was much better defined. The second, the contract, itself, calls for cost containment. Third, it deals with what we do when we have to adjust an account, which was Mr. Peterson's concern before.

And finally, it says in very clear terms, that you must have involvement from the tribes. This isn't a one-way street. It is their money.

Mr. SYNAR. Mr. Peterson, do you have any questions?

Mr. PETERSON. I had some questions about the contract, but—

Mr. SYNAR. We will get into the next panel, and you can ask those if you want, OK?

Let me just say to both of you, what also we have done in this subcommittee on this area has been greatly aided by both the OIG and GAO. I want to thank you both and the immense amount of work that goes into one of these projects.

I know Mr. Clinger will have some questions for the record so we will leave the record open for that.

Let me again thank all of you for being here this morning.

[The information follows:]

GAO

United States
General Accounting Office
Washington, D.C. 20548

Accounting and Financial
Management Division

B-243843.2

June 5, 1991

The Honorable William F. Clinger
Ranking Republican Member
Subcommittee on Environment, Energy
and Natural Resources
Government Operations Committee
2158 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Clinger:

Thank you for your letter of May 21, 1991. I am pleased to enclose responses to your questions following the May 20, 1991, oversight hearing on the Bureau of Indian Affairs' trust fund financial management.

The responses are submitted with the understanding that we are still under oath. In responding to your questions, we have, where appropriate, provided background information to add some perspective.

I trust that this information is helpful. I would be glad to discuss these or any additional questions you might have.

Sincerely,



Jeffrey C. Steinhoff
Director
Civil Audits

Enclosure

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1. Did GAO assist BIA in developing the terms of the reconciliation RFP?

Yes. During the fall of 1990, at the requests of Chairman Yates and Chairman Synar, we participated in meetings with BIA, the Ad Hoc Indian/Tribal Advisory Committee, and congressional staff to assist BIA in finalizing the reconciliation RFP. A number of changes were made to the RFP to clarify the scope of work, cost containment, recording of adjustments, and involvement of Indian representatives. For example:

- Language was changed to reflect that accounts would be reconciled to the extent practicable based on available documentation, rather than being reconciled to the date of inception because the latter might not be possible.
- The cost containment clause requires the contractor to provide an estimate of the level of effort and costs involved after 2 to 4 weeks of work at each location.
- As requested by the Ad Hoc Indian/Tribal Advisory Committee, language was added to the RFP to require the contractor to footnote any instances of overpayments and unaccrued and unpaid interest. Adjustments are not to be posted in BIA's official accounting records until after the accounts have been audited and certified and appropriate policy decisions can be made.

Does the current contract with Arthur Andersen & Co. meet your standards of a good contract?

To our knowledge, a contract has not actually been signed. We have not seen a contract and, therefore, cannot comment on its quality. However, we believe that the RFP is sound and that it forms the basic framework for a good contract. In this regard, the contract should contain the language agreed to by the Bureau, the Ad Hoc Indian/Tribal Advisory Committee, congressional staff, and GAO staff last fall.

2. Have you seen a draft of the BIA Phase I reconciliation project management plan or have you spoken with BIA about their reconciliation plan?

Yes. In February 1991, we were provided with a draft of BIA's project management plan. After reviewing the plan in conjunction with members of the Ad Hoc Indian/Tribal Advisory

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Committee and congressional staff, we suggested that BIA make a number of changes to address the (1) working relationships between Bureau staff, the contractor, and tribal representatives and (2) reporting of status information to tribes, GAO, and congressional committees. BIA has not made these changes. On June 4, 1991, Ad Hoc Indian/Tribal Advisory Committee representatives met with Jim Parris, the new Director of the Office of Trust Fund Management. At that meeting, Mr. Parris told the Committee representatives that he is willing to address these changes.

Is the plan well-designed?

BIA's first draft was a good start but, like the earlier version of the reconciliation RFP, it needed to be more structured and include more detail. We feel that if BIA were to make the changes suggested by both GAO and the Ad Hoc Indian/Tribal Advisory Committee, it would have a better tool for managing the reconciliation project.

3. How large a part do staff and resources play in the chronic problems with BIA's management of the Indian Trust Funds?

BIA's staffing problems are well-documented. For example, in the area of routine trust fund accounting and investment operations, Arthur Anderson & Co. pointed out in its 1988 and 1989 trust fund financial audit report that (1) BIA lacked minimum standards for key positions in the accounting process, (2) accounting supervisors were inexperienced, (3) accounting positions were understaffed, and (4) training programs were inadequate.

In the fiscal year 1991 appropriations act, BIA was given authority to hire an additional 30 staff members. This will bring the total number of Office of Trust Fund Management (OTFM) staff to about 50. BIA is in the process of filling these positions; however, through May 1991, many of the new positions remained unfilled. In filling these positions, BIA needs to consider implementation of a strategic trust fund financial management plan. In this regard, the Bureau needs to ensure that it hires qualified staff to perform trust fund accounting functions. Moreover, it is important that staffing and organizational considerations do not preclude effective implementation of a strategic trust fund financial management plan.

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BIA also has a staffing problem in the area of the reconciliation and audit project. To date, the reconciliation project has been staffed by a manager and one staff member who were also responsible for nine other trust fund management improvement projects. A trust fund accountant in each of the 12 BIA Area Offices was to be designated to assist with the reconciliation project. Currently, in 7 of the 12 Area Offices, the trust accountant positions are vacant. In 3 of the 12 Offices, these positions are held by new staff, one of whom is still in on-the-job training status. In addition, the reconciliation project director has just recently been named OTFM Director. As a result, Don Gray, who has been serving as the Director of Trust Fund Accounting, will be responsible for managing the reconciliation project. Next week, BIA will be training Arthur Andersen & Co. staff to familiarize them with BIA's systems and records in preparation for beginning the reconciliation work. It is not clear when BIA staff will be assigned or trained to support the project.

4. The bulk of the Indian Trust Funds are in the Tribal accounts--about three-quarters of the \$2 billion. Isn't that correct?

Yes.

How sophisticated are the tribes in handling their trust fund incomes?

There are different levels of sophistication in the tribal community. While we have not studied this, we have been told that some tribes are very sophisticated, and believe their accounting systems are better than BIA's. Other tribes are less sophisticated. Therefore, some tribes may be very capable of managing their own financial affairs; perhaps even more capable than the performance we have seen at BIA. But, others probably can not do the job at this time.

In your opinion, if tribes are financially competent, doesn't it make sense to give the tribes the authority to handle their own funds, and thus minimize BIA's fiduciary role?

Yes, I would agree that if a tribe is able and wants to assume the responsibility for managing its own trust funds, options should be available for it to do so.

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5. **Are there any restrictions on full disbursement of funds to IIM and tribal account holders of the money in their accounts?**

Yes. BIA controls the disbursement of funds to certain account holders. For example, BIA closely controls access to "supervised" IIM accounts. BIA supervises these accounts to protect the trust funds of minors and certain adults judged incompetent. BIA felt that, as trustee, it needed to more closely supervise the accounts of minors and incompetent adults because these individuals were incapable managing their own business affairs. In addition, certain tribal accounts, such as judgment accounts, are more closely controlled than others. BIA is required to disburse judgement award funds based on a plan approved by the Congress. By law, funds from income accounts can be withdrawn by tribes at their option. The law could be changed to allow tribes to take greater control of judgment accounts as well.

According to tribal representatives we have met with, BIA's interpretation of legal restrictions on some accounts is not consistent with tribal interpretations. We believe this area needs to be reviewed in conjunction with options for tribal management of trust funds.

What types of actions are required to be taken to pursue more direct control of the monies held in trust?

Legislation is probably needed, in some instances, to allow tribes to implement available options for managing their own funds. We would be glad to work with the subcommittee to draft specific language at the appropriate time.

6. **Mr. Steinhoff, your legal counsel at GAO provided BIA with an opinion that the federal government is not required to compensate IIM account holders for lost interest if the interest was not accrued due to the mismanagement of the trust funds by BIA. Yet, your counsel points out that the federal government is required to compensate tribal trust fund holders for lost interest. What is the congressional history behind this dichotomy?**

The legislative histories of the laws governing tribal funds and IIM accounts do not offer clear and sufficient evidence from which one might explain (1) the rationale for the different treatment of these two types of trust funds, or (2) if, indeed, the difference resulted from considered deliberation by the Congress. It appears that the law

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requiring interest on tribal funds may simply have codified a long-standing practice of the federal government, resulting from obligations under various treaties with tribes, to invest funds held on behalf of tribes. The history of the law governing IIM funds suggests that the Congress intentionally decided not to require that IIM funds earn interest; there is no indication, however, whether the Congress recognized that in this manner, individual funds would be treated differently from tribal funds.

According to our research, no distinction was made between tribal and individual funds until 1918. (See generally, White Mountain Apache Tribe of Arizona v. United States, 20 Cl. Ct. 371, 378-80 (1990).) Prior to that time, Indian funds were handled on a tribal basis. The Secretary of the Interior had long had authority under treaties with individual tribes to invest tribal funds, and did so routinely. The law requiring the United States to pay interest on tribal funds, 25 U.S.C. § 161a, has its antecedents in an 1880 law, the Act of April 1, 1880, c. 41, 21 Stat. 70. Responding to declining interest rates and defaults on bonds in which the Secretary had invested tribal funds, the Congress, in 1880, authorized an alternative to such investment; it authorized the Secretary to deposit tribal funds in the Treasury and required the payment of interest on these deposits.

In 1918, the Congress directed the Secretary to segregate the common funds of any Indian tribe, which were susceptible to segregation, and to credit an equal share to each member of the tribe. (Pub. L. No. 65-159, Sec. 28, 40 Stat. 591 (Act of May 25, 1918), which was eventually codified at 25 U.S.C. § 162a.) This was the first recognition of individual Indian monies. The Secretary was authorized to deposit the segregated funds, or IIM accounts, in banks. The law also authorized investment in United States government bonds. While the law instructed that no IIM account be deposited in a bank until the bank agreed to pay interest at a reasonable rate, it did not include any provision comparable to the 1880 law; that is, it included no provision requiring the United States to pay interest on IIM funds held in the Treasury. The Senate version of the 1918 legislation would have "authorized and directed" the Secretary to deposit IIM funds in interest-bearing bank accounts or to invest the funds in government bonds; thus requiring the Secretary to hold them in a productive manner and eliminating the option of retaining IIM funds in the Treasury at no interest. (56 Cong. Rec. 3965 (1918).) The word "directed" was removed in conference, however, without explanation. (H.R. Rep. No. 494, 65th Cong., 2d Sess. 8-9 (1918).) Thus, the dichotomy was born:

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common funds of an Indian tribe not susceptible to segregation, or tribal funds, would continue to earn interest in accordance with the 1880 law and other authorities addressing the investment of tribal funds; and segregated funds, or IIM accounts, would earn interest only if the Secretary chose to exercise his authority under the new law and deposit the funds in interest-bearing accounts or invest them in government bonds.

The Congress, in 1938, further limited the opportunities for individual Indians to earn interest on their monies. At the request of the Secretary, it repealed the 1918 law and replaced it with authority to deposit IIM accounts in banks regardless of whether the banks agreed to pay interest. (Pub. L. No. 75-714, Sec. 1, 52 Stat. 1037 (Act of June 24, 1938).) Letters from the Secretary to the President of the Senate and the Speaker of the House suggest that the Secretary probably held IIM funds in interest-bearing bank accounts until 1935. (S. Rep. No. 531, 75th Cong., 1st Sess. 1-2 (1937); H.R. Rep. No. 1192, 75th Cong., 1st Sess. 1-2 (1937).) The Secretary, explaining his request that the Congress modify the 1918 law, pointed out that in 1935 the banking laws were amended to prohibit banks from paying interest on demand deposits.¹ Describing IIM accounts as "Indian money checking accounts," he noted the inconvenience to Indians and BIA disbursing agents. Also, he argued that modifying the 1918 law "would permit the establishment in proper cases of individual Indian money active checking accounts without interest." Id.

¹The prohibition on the payment of interest and demand deposits was effectively repealed in 1980 when the Depository Institutions Deregulation and Monetary Control Act authorized banks to permit interest-bearing account owners to make transfers, by negotiable instruments, from their accounts to third parties. Pub. L. No. 96-221, Sec. 303, 94th Stat. 146 (1980), codified at 12 U.S.C. 1832(a



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
WASHINGTON, D.C. 20240



JUN 4 1991

Honorable William F. Clinger
Ranking Republican Member
Subcommittee on Environment, Energy,
and Natural Resources
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Clinger:

Enclosed are my responses to the questions contained in your May 21, 1991, letter concerning my testimony before the Subcommittee on Environment, Energy, and Natural Resources.

If you have any questions or require additional information, please have your staff contact Ms. Joyce N. Fleischman, Deputy Inspector General, at 208-5745.

Sincerely,

James R. Richards
Inspector General

Enclosure

Question 1. Please describe how the structure of BIA's accounting system has led to problems.

Answer 1. The Bureau's accounting system operates basically on a decentralized basis. Approximately 250 of the Bureau's field offices have the ability to remotely access and enter obligations, receipts, payroll, and adjusting entries into the accounting system. With such a decentralized system, it is important to have adequate system edits and strong central office review to ensure the propriety and integrity of the accounting entries. However, we found that the Bureau did not have sufficient internal edits in its accounting system and Bureau management did not provide sufficient management oversight and control to ensure the validity and accuracy of the transactions. As a result, the Bureau's accounting system did not adequately and accurately account for funds, and the accounting information reported to the Office of Management and Budget and the U.S. Treasury was unreliable.

Question 2. You state that as of June 30, 1988, the BIA could not account for \$17 million. Since you last appeared before this Subcommittee on this subject (October 26, 1989), has BIA been able to account for most of these funds? What amount is still unaccounted for?

Answer 2. The Bureau had Arthur Andersen & Co. perform a reconciliation in connection with its 1989 audit of the trust funds. In a September 14, 1990, letter to the Bureau, Arthur Andersen reported that as a result of its reconciliation of available accounting records, the unreconciled difference was reduced to \$1,239. Arthur Andersen also provided the Bureau a summary of adjustments to its accounting records. We have not reviewed the adequacy or completeness of the reconciliation or the proposed adjustments.

Question 3. Do you have any idea why BIA would not inform account holders of losses?

Answer 3. The Bureau provided no reason for not notifying account holders of losses, and the only reason we found was that the Bureau did not have a system to identify or track such losses. Therefore, there were no established procedures or time frames for notifying the account holders.

Except for the overnight interest problem, the losses identified by our audit affected Individual Indian Money account funds. These funds are not invested separately for each account holder. Instead, the funds are invested cumulatively, with the interest distributed periodically to all account holders. If the funds are lost, all accounts (approximately 300,000) would be affected.

Question 4. You discuss at length in your written testimony that the BIA has general ledger accounting problems. How is this related to their trust fund management woes, is it just another general reflection of the agency's lack of accounting sophistication?

Answer 4. The internal control weaknesses identified in our latest report significantly affect the Bureau's trust fund operations because the general ledger represents the official accounting records of the Bureau. The main cause of the inaccuracy of the trust fund financial records was the Bureau's failure to reconcile the subsidiary records of actual investments with the official general ledger accounting records.

Question 5. You have raised concerns in your testimony about the BIA's general ledger. How could fraudulent transactions have taken place? Are you aware of any specific instances of fraud with regard to the recently cited problems with the general ledger? If you uncover fraudulent acts in this area, please provide your findings for the record.

Answer 5. Our audits reported numerous accounting and internal control weaknesses which would allow fraudulent transactions to take place without being discovered. For example:

- Accounting entries were prepared and posted without adequate review. Accounting data were entered at 250 remote field locations without adequate system edits or central office review to ensure the propriety and integrity of the entries.

- Duties were not adequately segregated among personnel. At some locations, the same employees transferred assets among accounts and opened new accounts, resulting in the opportunity for intentional or unintentional misuse of resources.

- Access to the system was not limited only to authorized personnel. Individuals, including some non-Bureau employees, could enter transactions at any of the 250 locations with little or no control over the validity or accuracy of those transactions.

We have several criminal investigations which have been completed and are now pending prosecutive determinations by the United States Attorney's Office in Albuquerque, New Mexico. Due to the status of these cases, we are unable to provide specifics regarding the fraudulent methods used to victimize the Bureau's general ledger; however, we will inform you of the outcome of those investigations at the earliest opportunity.

Question 6. The BIA's general ledger problems sound very serious. How has the agency responded to your findings and recommendations regarding problems with the general ledger?

Answer 6 The Bureau's and the Department's responses to the report have been positive. There was great interest at high levels in the Office of Management and Budget and the Department, even while we were doing fieldwork on this review. Also, even before the report was issued in final form, the Bureau, in conjunction with the Department and the Office of Management and Budget, took immediate action to start the process of revising current accounting practices, purifying inaccurate records, and implementing its Financial Management Improvement Project. In this

connection, a task force consisting of accounting personnel from the Department, the Bureau of Indian Affairs, and other bureaus and offices of the Department has been appointed to address the many deficiencies and problems of the Bureau's accounting system. The goals of this task force are to:

- implement immediate controls in the administrative accounting process to ensure integrity in current fund accounting;
- achieve reconciliation of currently active appropriation account balances;
- accurately report appropriation account balances as of September 30, 1991;
- develop a regular mechanism for financial management interaction with area offices; and
- successfully convert to the Federal Financial System, the Department's standard appropriated fund accounting system, on October 1, 1991.

While these are significant first steps, they are only the beginning of a long process. However, given the commitment of the task force and the high level of support of both Departmental and Office of Management and Budget officials, we are optimistic that improvements will be made in the Bureau's financial management operation.

Question 7. Are the BIA's problems largely resource related, i.e., insufficient numbers of accounting staff and insufficient training? Please elaborate.

Answer 7. The Bureau's inability to recruit, train, and retain personnel who possess the required expertise to execute the Bureau's accounting responsibilities is a key reason for the reported deficiencies in the Bureau's accounting system. However, there were other deficiencies which we believe were more significant. For example:

- Bureau management did not provide adequate oversight or ensure that fundamental account analyses and reconciliations were performed to validate the accuracy of about 25 million accounting entries made in fiscal years 1989 and 1990.
- Access to the accounting system was virtually unchecked, and the system lacked internal control edits to identify and prohibit the processing of improper entries.

Question 8. You suggest that key to BIA getting a handle on its accounting problems is conversion to a Federal Financial System. How is the agency meeting its revised (October 1991) deadline for making the conversion?

Answer 8. As stated above, one of the goals of the Bureau's Financial Management Improvement Project is to successfully convert to the Federal Financial System on October 1, 1991. The Bureau is committed to this date. Our concern is that data entered into the system is verified as being accurate and that specific individuals are held responsible for ensuring the successful conversion. The Bureau shares these concerns and has indicated that steps have been taken to purify the data and to make individuals accountable.

Question 9. I understand that your office may have a large stake in assuring that the Indian Trust Funds have been properly reconciled and audited. Does your office have sufficient resources to conduct the certification effort?

Answer 9. Our stated position to both the House and Senate Committees on Appropriations is that our office will review, on an informal basis, the Bureau's plan to reconcile, audit, and certify tribal and Individual Indian Money accounts and to offer comments to the Bureau as appropriate. We have met with Bureau representatives on numerous occasions and will continue to do so in the future. We will also perform an audit of the process as it is ongoing and render an opinion at that time as to how the system is working. The objectives and scope of this audit have not been defined. However, the objectives will include the accuracy and completeness of the Bureau's efforts to reconcile and audit the accounts back to the earliest date possible. This audit is planned for this year and will be performed by our present staff.

Mr. SYNAR. Our next panel is Elouise Cobell, Controller for the Blackfeet Tribe, accompanied by Mary Ann Antone, Sue Lara, Mr. Lonnie Points, Mr. D. Michael Petersen, Ms. Jo Lynn Gentry, and Mr. Dan Press, and Ms. Tanya Parker of First Nations Financial Project.

Let's get all of you all to come forward. Based on the importance of this issue, we are going to leave the record open for the following 10 days to allow any tribe or individual Indian to submit whatever testimony they want. This issue is of such vital importance that it would be wrong not to keep that record open for them. I ask unanimous consent to do that.

Now, as you all saw from our first panel, it is the policy of this subcommittee in order not to prejudice past or future witnesses, to swear all of our witnesses. Do any of you have any objections to being sworn in?

If you would stand and raise your right hand.

[Witnesses sworn.]

We will submit both comments for the record in their entirety.

And at this time, we would ask you to summarize. And Ms. Cobell, why don't we let you go first.

STATEMENT OF ELOUISE COBELL, CONTROLLER, BLACKFEET TRIBE, ACCOMPANIED BY MARY ANN ANTONE, SUE LARA, LONNIE POINTS, D. MICHAEL PETERSEN, JO LYNN GENTRY, AND DAN PRESS

Ms. COBELL. Mr. Chairman, members of the committee, we are pleased to appear before you today and have the opportunity to discuss our opinions and recommendations concerning the BIA's management of Indian trust funds.

Before discussing our opinions and recommendations, we would like to provide some background regarding the evolution of the ad hoc Indian Tribal Advisory Committee. I would like to point out that we are all members of the Indian Tribal Advisory Committee.

This Indian Tribal Advisory Committee was established by the BIA to comply with the conditions outlined by Congress before approval was given to the BIA to proceed with the request for proposals for the reconciliation and audit strategy for Indian trust funds.

The 37 tribes having the largest balance in the trust funds were selected to be part of the phase I of the reconciliation project. The BIA informed these 37 tribes so that they would also serve as the ad hoc Committee on Trust Funds until a formal advisory committee was established.

The BIA requested that the 37 tribes appoint a six-member interim management work group. In the past months, this group has worked with the General Accounting Office, congressional committee staff, and the BIA to develop an RFP for the reconciliation project that is acceptable to all the tribes.

By having our tribal committee input along with GAO and congressional committee representatives, we were able to convince the BIA of two key issues, that the tribes and the individual account holders are the ultimate clients, since it is their money, and that the reconciliation had to calculate the amount tribes lost through

un- or underinvestments by the BIA, and Congress would have the opportunity to resolve these problems through legislation.

The interim management group has been successful in reporting to the 37-member ad hoc group and has had meetings with the representatives of the affected tribes at their own expense to keep them abreast of the developments and changes in the reconciliation project.

It was at these meetings that the 37 tribes decided that tribal input and oversight of the BIA's management of Indian trust funds must be accomplished by an entity selected by the affected tribes consistent with the government-to-government relationship.

The majority of the tribes have approved resolutions that support a tribal membership organization funded by the BIA but selects its own leadership and establishes its own agenda.

We have been told by Dr. Eddie Brown that he supports this approach and is prepared to fund it. With that explanation, we will go into our opinions and recommendation.

It is the Indian people whose money is on deposit with the BIA. It is not appropriated funds of the Federal Government, it is not Federal financial assistance to tribes. It is their own money. It is our opinion that the persistent vigilance of the assertive tribal governments and its members over the years has been instrumental in prodding BIA to improve its financial management systems and to correct its material weaknesses.

We also believe that the joint effort of GAO, congressional committee staff, and the ad hoc Indian Tribal Advisory Committee in monitoring the BIA's development of the RFP for reconciliation in audit services significantly improved upon the BIA's initial RFP for the reconciliation project.

BIA must include the Indian people as equal partners in the design and implementation of the new Indian Trust Fund structure. An equal partnership would ensure direct tribal participation in the decisionmaking process and allow continual tribal input into future management of their funds.

This in no way diminishes BIA's trust responsibility. The reconciliation and audit of these funds to a specific point in time by a contractor will correct the cumulative effects of the BIA's poor management up to that date, but the accuracies of those account balances from that point in time into the future is dependent upon the BIA's success in developing and implementing a comprehensive management plan staffed by competent and experienced personnel.

Our experience with the BIA during the past several months leaves many doubts in our minds about the BIA's current capabilities to correct its material weaknesses and comprehensively develop and implement an integrated financial management system. Their bandaid approach will not stop the hemorrhaging of Indian trust funds.

The present BIA funding should be more than sufficient to accomplish the fiduciary responsibilities relating to the trust fund management. However, BIA's spending of these funds haphazardly on new positions and contracted services without first addressing the CFO account requirements and developing a comprehensive financial management plan will only isolate BIA from further con-

gressional support and diminish any remaining credibility with the Indian people.

Since it is the tribe's money, it should be the tribe's representatives who should take the lead in totally redesigning the system. The BIA should provide resources, support and information.

In addition, the tribes should be authorized to establish an advisory panel composed of persons with expertise in the relevant areas to work with the tribes in overseeing the existing system and designing the new one.

The participants should have expertise in the areas of development banking, Indian law, accounting and financial management to advise the tribal membership organization on both short-term and long-term changes in the system.

We have some general recommendations on what the new system should look like. The tribes should not be forced to keep this money in the BIA system nor should the entire program be dumped in a Mellon Bank or a Security National Bank.

The new system should provide tribes with a menu that, consistent with the trust responsibility, offers them a range of options, from keeping the money in the BIA to having it put in local banks so the trust dollars will help to improve the way banks deal with tribes and individual Indians, to the option of managing their funds themselves.

New approaches of this kind will require new authorizing legislation. We encourage the relevant authorizing committees to make this a priority issue. BIA must integrate the requirements of the chief financial officer's account of 1990 and its reorganization efforts.

The CFO account provides a road map for meaningful reform to the BIA's longstanding financial management problems. One of the greatest burdens in the trust fund program is the management of the IIM accounts. These accounts are used to hold money earned from leasing, oil and gas development, and other sources for individual Indians.

The Congress and the administration must face and correct one of the main causes of the IIM's situation, the fractionated interest in which, for example, 160 acres of land may be owned by hundreds of the original allottee's heirs with each heir receiving an annual check for a few dollars. Only after the fractionated interests are eliminated can the burdens and problems in the trust fund program entirely disappear.

Mr. Chairman, this concludes our testimony. We would be very happy to answer any questions.

[The prepared statement of Ms. Cobell follows.]

**TESTIMONY
BEFORE THE SUBCOMMITTEE ON ENVIRONMENT,
ENERGY AND NATURAL RESOURCES
COMMITTEE ON GOVERNMENT OPERATIONS
U.S. HOUSE OF REPRESENTATIVES**

**SUBMITTED BY
AD HOC INDIAN TRIBAL ADVISORY COMMITTEE
ON BIA TRUST FUND MANAGEMENT**

Mr. Chairman and Members of the Committee:

We are pleased to appear before you today and have the opportunity to discuss our views and recommendations concerning the Bureau of Indian Affairs' ("BIA") management of Indian Trust Funds. Before discussing our opinions and recommendations, we would like to provide some background regarding the evolution of the ad hoc Indian/Tribal Advisory Committee on BIA Trust Fund Management.

The Indian/Tribal Advisory Committee was established by the BIA to comply with the terms and conditions outlined by Congressman Sidney R. Yates, Chairman of the Subcommittee on Appropriations for Interior and Related Agencies, in his letter to Interior Secretary Manuel Lujan, Jr., dated July 23, 1990. In its letter dated September 11, 1990, BIA invited representatives of the tribes that are to be the subjects of Phase I of the reconciliation study to a meeting held in Albuquerque, New Mexico on September 20, 1990. They are composed of thirty-seven tribes having the largest balances reflected in the BIA's accounting system, together with the tribes whose Agency locations were selected by the BIA for reconciliation of Individual Indian Money ("IIM") accounts. At this meeting, the representatives in attendance were informed by the BIA that until a formal advisory committee is established, the tribes and Agency locations included in Phase I of the reconciliation and audit of Indian Trust Funds would function as an ad hoc Indian/Tribal Advisory Committee to the BIA. At that time, BIA estimated that a formal advisory committee would be appointed by the Secretary of Interior early in 1991.

In early October 1990, several tribal representatives who had attended the Albuquerque meeting discussed the need for the tribes to unite and work together as an effective ad hoc committee in order to have meaningful and effective participation and consultation in the development stages of the reconciliation and audit process, as it was anticipated that the BIA's Request for Proposal ("RFP") for reconciliation and audit services would be finalized and advertised, and a contract awarded before a formal advisory committee was established. In mid-October, 1990, BIA transmitted draft copies of the RFPs to the tribes included in

Phase I, and asked for comments from the tribes no later than October 24, 1990.

The tribal representatives who had begun discussions relating to the ad hoc committee decided that another meeting of the affected tribes should be held in a central location to jointly review the RFP drafts, and develop a collective set of recommendations from the ad hoc committee. Twelve tribal representatives met in Denver, Colorado on October 22-23, 1990, at their own expense, to review the RFP drafts. BIA representatives attended the meeting on the second day and requested that the group in attendance designate six members as an interim management group of the ad hoc committee to facilitate the consultation process.

In November 1990 through January 1991, four meetings were held with representatives of the General Accounting Office in Washington, D.C., to review and modify the BIA's proposal drafts. In addition to BIA and interim management group representatives, Steve Richardson of your Committee's staff and Kathy Johnson of Congressman Yates' Committee staff were also in attendance. We believe that the participation of tribal representatives in the process was critical to the development of an RFP that is acceptable to the tribes. Our participation (coupled with the authority brought by GAO and the Congressional staff) helped to persuade the Bureau to acknowledge fully that it is the tribes who are the real clients at-interest of the contractor conducting the reconciliation and that therefore the tribes have the right to participate fully in the reconciliation activities affecting their tribe. The tribal representatives also helped persuade the BIA that the reconciliation had to calculate the amount tribes lost through un- or under-investment by the BIA, even if the BIA refuses to acknowledge it has a legal obligation to restore that amount.

We believe that the RFP now reflects the needs and goals of the tribes and we are hopeful that it will be a successful beginning to the Trust Fund clean-up effort. Under the agreements reached at the meetings, the Ad Hoc Committee will continue to be involved during the reconciliation process to ensure the process remains sensitive to tribal concerns. This experience confirms that tribal representatives must be full participants in all aspects of the effort to clean up the trust fund program, and must be given the resources to enable them to participate fully. It also confirms that Congress and GAO must also remain involved; the tribes need their wisdom and their clout to ensure the success of our involvement.

After the terms of the RFP were agreed to, the interim management group invited representatives of the affected tribes

to attend a meeting in Denver on January 24-25, 1991, to review the developments and changes since the Albuquerque meeting in September, 1990, and discuss the future direction of the ad hoc committee. Eighteen tribal representatives, again at their own expense, attended this meeting, together with two BIA representatives, two GAO representatives and four representatives from other tribal organizations.

The tribal representatives in attendance at this meeting concluded that tribal input and oversight of the BIA's management of Indian Trust Funds must be accomplished by an entity selected by the affected tribes, consistent with the government-to-government relationship with the United States Government, and not subject to the direction and control of the organization for which they have oversight responsibilities. They concluded that rather than a BIA-created formal advisory committee, the best mechanism was a tribal membership organization, that, while funded by the BIA, selected its own leadership and controlled its own agenda.

The interim management group transmitted a summary of the discussions held during the January meeting, together with a draft resolution supporting a tribal membership oversight organization, to the affected tribes for their information and consideration. Tribes that officially adopted the resolution were asked to transmit a copy to BIA to document their support. A majority of tribes have adopted the supporting resolution. Also, we have been told by Dr. Eddie Brown that he supports this approach and is prepared to provide funding to the proposed organization as soon as he is comfortable that the new association has the support of the tribes. (Presently, individual tribes, such as Jicarilla Apache, Blackfeet and Red Lake Chipewas, have been bearing most of the costs of the Ad Hoc Committee's activities, including telephone, photocopying, telecopying, postage and legal advice. The BIA has covered part of the travel costs but tribes have also paid some of the travel.)

This afternoon, one representative from each of the thirty-seven tribes and three IIM Agency locations has been invited to attend a meeting with BIA, at its expense, to review the status of the reconciliation and audit of Indian Trust Funds, to meet the selected contractor and to discuss the Trust Fund issues with Dr. Brown. Tomorrow, the tribal representatives will be meeting to discuss the new organization, to share each tribe's ideas, recommendations and expectations relating to the future management of Indian Trust Funds, and to compare these tribal goals and objectives with BIA's current and long range plans to restructure and correct its material weaknesses in accounting and data

processing systems, internal controls and overall financial management of Indian Trust Funds.

Throughout the history of BIA's management of Indian Trust Funds, tribal governments and individual tribal members have committed vast amounts of their own time and resources attempting to correct identified errors in Trust Fund balances. Since September, 1990, tribal representatives have been working together as part of the ad hoc Indian/Tribal Advisory Committee and providing input and oversight of BIA's efforts to reconcile and audit Trust Fund balances. The following views and recommendations of the interim management group are based upon our individual past experiences with BIA, our reviews of previously issued reports, studies and hearings relating to BIA, and most recently, our involvement with GAO and Congressional committee staff over the past seven months in monitoring BIA's activities relating to its fiduciary responsibilities for Indian Trust Funds.

INTERIM MANAGEMENT GROUP RECOMMENDATIONS

1. BIA trust responsibilities must be synthesized with the government-to-government relationship between the United States Government and the distinct, sovereign Indian nations.

It is the Indian people whose money is on deposit with BIA. It is not appropriated funds of the federal government. It is not federal financial assistance to the tribes. It is their own money, generated by the resources they currently own or once owned and were illegally taken from them.

It is our opinion that the persistent vigilance of the assertive tribal governments and its members over the years has been instrumental in prodding BIA to improve its financial management systems and to correct its material weaknesses. We also believe that the joint efforts of GAO, Congressional committee staff and the ad hoc Indian/Tribal Advisory Committee in monitoring BIA's development of the RFP for reconciliation and audit services significantly improved upon BIA's initial RFP advertised in February, 1990.

BIA must include the Indian people as equal partners in the restructuring of the new Indian Trust Fund system. An equal partnership would ensure direct tribal participation in the decision-making process, and allow continual tribal consultation in the future management of their funds. This in no way diminishes the BIA's trust responsibility. But until the tribes are authorized to be partners and to take the lead in deciding how

their money should be managed, the BIA system will never have credibility in Indian country.

BIA has the opportunity this afternoon to manifest its commitment to the Indian people for an equal partnership by recognizing and funding the advisory committee structure outlined in the supporting tribal resolutions previously transmitted to BIA.

2. The tribes must take the lead in designing a new structure and system for management of Indian Trust Funds.

Countless reports, studies and investigations have disclosed BIA's failure to properly manage Indian Trust Funds. The reconciliation and audit of these funds to a specific point in time by a contractor will correct the cumulative effects of BIA's poor management up to that date. The accuracy of the account balances from that point in time into the future is dependent upon BIA's success in developing and implementing a comprehensive management plan, directed by a disciplined control- lership function and staffed by competent and experienced person- nel.

Our experience with BIA during the past several months, and our review of the limited information that BIA has shared with us during this time, leaves many doubts in our minds about BIA's current capabilities to correct its material weaknesses and comprehensively develop and implement an integrated financial management system. In our opinion, BIA continues to follow its previous reactionary and diversionary tactics in responding to criticisms by blaming its failure on changes in personnel, lack of training and shortage of funding, and then hastily applying piecemeal, untested and ineffective measures which, at best, only delays the cure of its financial management disease. This band- aid approach will not stop the hemorrhaging of Indian Trust Funds. (For example, when check-forging problems arose in the IIM disbursement system, the BIA's immediate response was to propose to contract out the disbursement function, without giving tribes a real opportunity to consider the idea and without determining how this step might fit into the larger issues facing the Trust Fund program.)

BIA has received additional funding from Congress for the contracting of reconciliation and audit services, and the reorganization of its Trust Fund Management Division. This funding, when added to the funding BIA currently expends under the category of trust funds management, should be more than sufficient to accomplish the fiduciary responsibilities relating

to trust funds management, with prudent direction and expertise. However, BIA's spending of these funds haphazardly on new positions and contracted services, without first addressing the CFO Act requirements and without first developing a comprehensive financial management plan, will only isolate BIA from further Congressional support. It will also diminish any remaining credibility with the Indian people. We have found it very difficult to provide meaningful tribal consultation to these haphazard changes which emerge on the spur-of-the-moment and which, leave us inadequate time to thoroughly study the proposal. Also, without a comprehensive plan, there is no way to see how any of these changes fit within the bigger picture.

While some minor emergency changes are needed in the short-term, we believe that, in general, this haphazard "band-aid" approach must be stopped. Instead, there is a need to step back, review the options and then totally redesign the system. Since it is the tribes money, it should be the tribes' representatives who should take the lead in this effort. The BIA should provide resources, support and information. In addition, the tribes should be authorized to establish an advisory panel, composed of persons with expertise in the relevant areas to work with the tribes in overseeing the existing system and designing the new one. The participants should have expertise in areas of investment banking, Indian law and accounting and financial management, to advise the tribal membership organization on both short-term and long-term changes in the system.

Neither Congress nor the Administration can be expected to micro-manage Indian Trust Funds. However, without your Committee's current involvement and genuine concern, together with Congressman Yates' appropriation oversight, the Indian people would have little, if any, hope for constructive changes. Congress cannot be expected to continue this diligent effort for an indeterminable amount of time into the future. The creation of a tribal membership organization backed by the expert advisors can develop and provide to Congress a detailed plan to clean-up the system and thereby eliminate the need for the micro-management.

3. Future Directions for the Indian Trust Fund Program.

While the design of the new system must await the activities of the tribal representatives and the panel of experts, we have some general thoughts on what the new system should look like. It cannot be a monolithic system. The tribes should not be forced to keep their money in the BIA system. Nor should the entire program be "dumped" in a Mellon Bank or a

Security Pacific Bank. Instead the new system should provide tribes with a "menu" that, consistent with the trust responsibility, offers them a range of options, from keeping the money in the BIA, to having the BIA deposit it in a local bank so the trust dollars will help to improve the way banks deal with that tribe and individual Indians, to permitting the tribes to manage their funds themselves.

New approaches of this kind will require new authorizing legislation. We encourage the relevant authorizing committees to make this a priority issue. The tribal membership organization is prepared to assist in this process in whatever manner possible.

4. BIA must integrate the requirements of the Chief Financial Officers Act of 1990 in its reorganization efforts.

The CFO Act provides a road map for meaningful reform to BIA's longstanding financial management problems. BIA's management of Indian Trust Funds has not monopolized its material weaknesses in accounting and internal controls and poor financial management practices. As previously reported by the Office of Management and Budget, BIA has similar material weaknesses in its appropriated fund accounting and financial management systems.

The CFO Act requires a modern, integrated financial management structure staffed by competent and experienced personnel, which is governed by strong internal controls and written policies. The Chief Financial Officer of the agency has the ultimate authority and responsibility for all facets of financial management activities, including annual financial statements, prepared in accordance with generally accepted accounting principles, which have been independently audited.

BIA's implementation of the CFO Act during its reorganization of Indian Trust Funds management would be a first step in a consistent endeavor to correct its overall financial management problems.

5. Correcting the Underlying Cause of the IIM Problems.

One of the greatest burdens in the Trust Fund program is the management of the IIM accounts. These accounts are used to hold (usually for a short time) money earned from land leasing, oil and gas development, etc., on land owned by individual Indians. There is a question as to whether this appropriately qualifies as a trust fund function. But wherever the function is

placed, the basic point is that the Congress and Administration must face and correct the underlying cause of the IIM situation -- the fractionated interest problems in which 160 acres may be owned by hundreds of heirs of the original allottee, with each heir receiving an annual check of a few dollars. Only after the fractionated interests are eliminated, can the burdens and problems in the Trust Fund program entirely disappear.

Mr. Chairman, this concludes our testimony. We would be happy to answer any questions that you or other members of the Committee may have, or provide any additional information at this time or at some later date, as requested.

Mr. SYNAR. Ms. Cobell, that was excellent testimony and those recommendations surely will be considered by this subcommittee as we begin our report. I think you have got some good ideas there.

Ms. Parker, welcome. Pull that microphone up so everybody can hear you.

STATEMENT OF TANYA PARKER, FIRST NATIONS FINANCIAL PROJECT

Ms. PARKER. Mr. Chairman, Mr. Peterson, on behalf of First Nations Financial Project, thank you for this opportunity to present testimony on the management of Indian trust funds.

First Nations Financial Project is a nonprofit Indian economic development organization established to assist tribes achieve economic self-sufficiency and to decrease the reliance on Federal programs. We provide technical assistance in the areas of finance, business, marketing, and reservation development strategies.

In past testimony, we have emphasized the need for trust fund management to address the needs of the beneficiaries, tribes, and Indian individuals, and to ensure that tribes economies derive direct benefit from their trust dollars. These are still our concerns.

However, today our testimony will focus on options that we believe can be used to reach these goals and the need to continue the tribal participation process begun by the 37 tribes in phase I audit and reconciliation project.

Specifically, the process we support for continuing to monitor the BIA's responsibilities for tribal and individual Indian trust accounts is to allow the affected tribes to caucus, select their own leadership group who will provide tribal input, and then report back to the affected tribes.

The 37 tribes who organized and used this process for tribal participation in the RFP process has begun to show what can be accomplished to correct serious, long-standing problems. Too often, the BIA's interpretation of tribal involvement is to inform tribes of their decisions after they are made.

Many of these decisions fail or are not responsive to tribal needs. Even information on major decisions and policies are slow to reach tribes and Indian people. Prior to the first contract with Mellon Bank, there was no tribal input and the contract failed. The BIA again made the decision to contract with Security Pacific without tribal input and again the contract failed.

In the development of the current request for proposal for auditing and reconciling present fund accounts, there would still be little or no tribal involvement if the 37 tribes had not organized to form an ad hoc committee as mandated by Congress.

This congressional mandate began a process of tribal participation and decision making and policy setting for tribal trust fund management. Our organization encourages tribes to take control of their tribal trust funds, whether their decision is to take their funds out of trust or to maintain the trust relationship.

We have developed three conceptual alternative models for the management of tribally controlled trust funds. Each management model may be adapted to various levels of financial sophistication,

experience, and capability for control and management of trust funds.

The three models are the in-trust model, similar to the current system, but with an explicit trust document that defines the trust relationship, clarifies the trustees' responsibilities, and ensures the rights of the beneficiaries are carried out.

The 638 model where the tribe contracts with the development advisor to administer specific or all parts of the management of the development portfolio, and the out-of-trust model where the tribal trust funds are removed from Federal trust and the tribe has total control over investing and managing their funds.

Our previous work with tribes such as the Saginaw-Chippewa clearly shows how trust funds controlled and managed by the tribe can be used to accomplish reservation, economic, and program goals. Using the out-of-trust model developed by First Nations, the Saginaw tribe developed and implemented a trust development plan.

After gaining control of a \$10 million land claim settlement, working with First Nations, Saginaw conducted research, involved the community, and expanded the financial management capacity of the tribal council and key tribal staff.

Their decision to invest locally led to financing and constructing new housing on the reservation. This also solidified local banking and investment management relationships. Where tribes choose the option to maintain an in-trust status within the Federal Government, there is a need to ensure that the fiduciary responsibilities are carried out by the trustee and that expert consultation is made available to tribes for financial planning.

In summary, we strongly support the rights of tribes to make decisions on policies and guidelines affecting the management of their funds and the need for the BIA as trustee to carry out its responsibilities to provide communication, technical assistance, and accurate and regular reports to the tribes.

Therefore, we request support for the tribal ad hoc committee to continue the work they have begun. The process used by the 37 tribes to provide leadership and direction to the BIA could serve as a model for future tribal participation and decisionmaking.

We also request support for the five recommendations made by the ad hoc Committee Interim Management Group.

Thank you for this opportunity to present our testimony.

[The prepared statement of Ms. Parker follows.]

TESTIMONY OF FIRST NATIONS FINANCIAL PROJECT
BEFORE THE SUBCOMMITTEE ON ENVIRONMENT, ENERGY
AND NATURAL RESOURCES
COMMITTEE ON GOVERNMENT OPERATIONS

MAY 20, 1991

Mr. Chairman and Members of the Subcommittee:

On behalf of First Nations Financial Project, (FNEP), thank you for this opportunity to present testimony on the management of Indian Trust funds.

FNEP is a non-profit American Indian economic development organization established to assist tribes achieve economic self-sufficiency and to decrease their reliance on federal programs. We provide technical assistance in the areas of finance, business, marketing, and reservation development strategies.

Some positive actions have occurred since the beginning of this series of oversight hearings to review and monitor the BIA's management of the \$1.9 billion Indian Trust Funds, but there is still much to be accomplished.

In past testimony, we have emphasized the need for trust fund management to 1) address the needs of the beneficiaries, tribes and Indian individuals and 2) ensure that the tribes' economy derives direct benefit from their trust dollars. These are still our concerns. However, today our testimony will focus on some of the options we believe can be used to reach these goals; and the need to continue the tribal participation process begun by the 37 tribes in the Phase I Audit and Reconciliation project.

FNEP began asking the BIA for more tribal involvement in trust management as early as four years ago, and have continued to support efforts such as those of the 40 member tribal Ad Hoc Committee and six member work group.

Specifically, the process we support for continuing to monitor the BIA's responsibilities for tribal and individual Indian trust fund accounts is to allow the affected tribes to caucus and select their own leadership group who will provide tribal input, and report back to the affected tribes.

The 37 tribes who organized and used this process for tribal participation in the management of their trust funds showed what can be accomplished to correct serious long standing problems in an ineffective trust management system.

Too often the BIA's interpretation of tribal involvement is to inform tribes of their decisions after they are made. Many of these decisions fail or are not responsive to tribal needs. Even information of major decisions and policies are slow to reach tribes and Indian people.

- o Prior to the first contract with Mellon Bank, there was no tribal input - the contract failed.
- o The BIA again made the decision to contract with Security Pacific without tribal input and again the contract failed.
- o In the development of the current Request for Proposal for auditing and reconciling trust fund accounts, there would still be little or no tribal involvement had the 37 tribes not organized to form an AD Hoc Committee as mandated by the Congress.

This Congressional mandate began a process of tribal participation in decision making and policy setting for tribal trust fund management.

The Ad Hoc Committee's six member work group often took a strong leadership role in defining the RFP and contractor requirements that would protect the rights of the tribes and individual Indian beneficiaries. This team of six brought tribal expertise in finance, accounting, management and leadership to assure that procedures and policies developed would be responsive to the needs of the tribes and individuals involved.

In only six months after the tribal Ad Hoc committee began to organize there has been more progress made to resolve key issues than in the four years of our requests to the BIA.

The Ad Hoc Committee continues to work on critical issues such as how to deal with "lost interest" and "overpayment of interest". Their next objectives will focus on examining long term changes needed in the trust fund management system. We look forward to the implementation of changes that offer a variety of options to tribes and individuals for managing and investing their funds.

Our organization encourages tribes to take control of their tribal trust funds, whether their decision is to take their funds out of trust or to maintain the trust relationship.

We have developed three conceptual alternative models for the management of tribally-controlled trust funds.

Each management model may be adapted to varying levels of financial sophistication, experience, and capability for control and management of trust funds.

1. The In Trust Model- similar to the current system, but with an explicit trust document which defines the trust relationship to clarify the trustee's responsibilities and ensure the rights of the beneficiary are carried out.
2. The P.L. 93-638 Model- where a tribe contracts with an investment advisor to administer specific or all parts of the management of the investment portfolio.
3. The Out of Trust Model- where tribal trust funds are removed from federal trust and the tribe has total control over investing and managing their funds.

Our previous work with tribes such as the Saginaw Chippewa clearly shows how trust funds controlled and managed by a tribe can be used to accomplish reservation economic and program goals. Using the "out of trust" model developed by First Nations, the Saginaw Chippewa tribe developed and implemented an investment plan after gaining control of a \$10 million dollar land claims settlement. Working with First Nations, Saginaw conducted research, involved the community, and expanded the financial management capacity of the Tribal Council and key tribal staff. Their decision to invest locally led to financing and constructing new housing on the reservation. This also solidified local banking and investment management relationships.

The "P.L. 93-638" and the "out of trust" model gives the tribal and Indian trust fund the advantages of the laws and regulations that govern private trust management, such as the 1940 Investment Company Act and The Securities Act of 1933. Fiduciary responsibilities for investment advisors are clearly spelled out in these acts and have been tested by the courts.

For tribes who chose the option to maintain an "in trust" status within the federal government, there is a need to 1) ensure that the fiduciary responsibilities are carried out by

the trustee and 2) that expert consultation is made available to tribes for financial planning.

Tribal trust funds should be managed according to the accepted reporting and consultation standards followed by private sector investment managers. Tribes and individual Indians, as beneficiaries of the trust, have the legal right to substantial involvement in setting investment objectives for their funds and also to assure that updates are available at daily or periodic intervals. Without a proper reporting system and involvement in setting investment objectives, tribes have little or no control over their trust funds.

The BIA should assist tribes with on site technical assistance and financial consultation which could aid tribes in developing management systems to make well informed investment decisions. With this type of management in place a tribe would then be able to develop an investment portfolio which would be tied to the tribe's short, medium, and long-term cash needs. Without such systems, a tribe is operating in the dark, and cannot maximize investment opportunities.

In summary, we strongly support the right of tribes to make decisions on policy and guidelines affecting the management of their funds, and the need for the BIA, as trustee, to carry out its responsibility to provide communication, technical assistance, and accurate and regular reports to the tribes.

Therefore, we request support for the Tribal Ad Hoc Committee to continue the work they have begun. The process used by the 37 tribes to provide leadership and direction to the BIA should serve as a model for future tribal participation and decision making.

We also request support for the five recommendations made by the Ad Hoc Committee Interim Management Group.

Again, thank you for this opportunity to present testimony.

Mr. SYNAR. Thank you, Ms. Parker. First of all, let me commend you for the help you are giving the tribes. I think it is making a difference.

As I told Ms. Cobell, your recommendation will obviously be given serious consideration by this subcommittee. I think that all of you are unsatisfied with the Bureau of Indian Affairs management and supervision of the trust funds, that is pretty safe.

Ms. COBELL. Yes.

Mr. SYNAR. I think it is probably safe to say that you think the interests of the beneficiaries who you represent today have not been really adequately represented in the process; is that correct?

Ms. COBELL. That is correct.

Mr. PETERSON. Correct.

Mr. SYNAR. Why don't you tell us briefly about the experiences in helping the Bureau's efforts with respect to the request for proposals on phase I of the audit and reconciliation project for the Indian trust funds. Do you think your participation or the tribal participation helped the process?

Ms. COBELL. I think it helped it significantly. When we initially started our meetings with the Bureau and the GAO and congressional staff, it was difficult to feel that they felt we were credible.

I think that has been a problem with the Bureau in the past. They think that tribal personnel are not credible people and that we have also been excluded, so when we were involved in the meetings, we were able to get some good input and I think I would like to have Mike Petersen talk a little bit about some of our specific involvement.

Mr. SYNAR. What I am more interested in knowing, and I am going to get to Mr. Petersen on some questions, is there a lesson to be learned here from that, do you think, Ms. Cobell?

Ms. COBELL. Oh, yes, I think there is a good lesson to be learned, and that is that the Bureau cannot continue to ignore the tribes. The tribes do have competent, experienced personnel, and that we can no longer be ignored. I have heard throughout all of this testimony that these trust funds are the Indian people's money, and they have to have the input of the tribal people.

Mr. SYNAR. Mr. Petersen, GAO mentioned that all the changes to the RFP that were necessary, do you agree with Mr. Steinhoff that those changes would have failed had you all not participated?

Mr. PETERSEN. Yes, I firmly believe that without the tribal participation and persistence, and I guess expressing our frustrations and them not listening to the tribal people, would have prohibited the Bureau from making any further changes.

I am sure as you recall, they initially were going to issue an RFP in February 1990. In fact, they advertised it, to do an audit and reconciliation and were told by tribal people that that could not be done by a major CPA firm because they won't have the independence to attest to their own work.

It took a GAO opinion in April, right before your hearing in April 1990 to convince them of that. In September 1990, when the tribes got together in Albuquerque, NM, we were informed that this reconciliation would not include any calculation of imputed interest for earnings that were not generated by the funds that were on deposit.

Five days later, your committee, as I recall, got the testimony of Dr. Brown under oath that this would be included in the reconciliation process. The stop-gap measure for monitoring this time and materials contract, when we raised that in November, in a meeting with GAO, the initial reaction of the BIA was that they couldn't meet all the time, they would have to get going on this.

We were trying to assist them to recognize that it is going to take some close supervision and management of this time and materials contract to ensure that money is not squandered by the contractor, and they don't flounder around when, in fact, there may be answers readily available or some direction that is needed.

Yes, I think it has been imperative that the tribes be involved in this and continue their involvement.

Mr. SYNAR. It is not like the private sector where if you don't like your investment advisor, you simply take your business elsewhere. You don't have that option, do you?

Mr. PETERSEN. We haven't so far.

Mr. SYNAR. OK. Is it fair to say, Ms. Cobell, that you believe Congress must act to create additional options for management?

Ms. COBELL. Yes.

Mr. SYNAR. Ms. Parker, you too?

Ms. PARKER. Yes.

Mr. SYNAR. Those recommendations kind of follow those, don't they?

Ms. PARKER. Yes.

Mr. SYNAR. We need to ask Ms.—is it Sue Lara? Is that you? You are from the Jicarilla Apache. Will you answer a couple of questions for me?

Ms. LARA. Sure.

Mr. SYNAR. I understand that your tribe has established direction information linkage to the oil and gas producers doing business only on tribal land. Could you explain that for us?

Ms. LARA. OK. The Jicarilla Tribe determined that there were inadequate information filtering down to the tribe from not only MMS, but their predecessor, the USGS, and in order to fill that void, decided that at the tribal expense, they would create their own system.

They informed all oil and gas producers on the reservation that they needed to send information directly to the tribe in addition to sending it to MMS. And through processing that and creating the computer programs necessary to give us our own information analysis on those systems, we are able to now control through tribal personnel—

Mr. SYNAR. So you get a complete set of statements on production and royalties paid from each company on your land, correct?

Ms. LARA. Yes, we do.

Mr. SYNAR. Then you check those figures by statements you receive from MMS and BIA months later, correct?

Ms. LARA. Yes.

Mr. SYNAR. Now, when BIA and MMS report the production of royalty numbers for that same period, do those numbers jibe with the producer's numbers?

Ms. LARA. One thing we found is they are consistently about 3-months late, and then in addition to compensating for that factor, there is also some—

Mr. SYNAR. Are they higher or lower?

Ms. LARA. There are generally some that we can't find.

Mr. SYNAR. So you know if the numbers they are reporting to you versus the ones that the companies are higher or lower?

Ms. LARA. Generally lower.

Mr. SYNAR. Generally lower. The time lag is about 3 months?

Ms. LARA. Yes.

Mr. SYNAR. Mr. Petersen, you represent the Red Lake Band of Chippewa Indians, correct?

Mr. PETERSEN. Yes, I do.

Mr. SYNAR. Could you tell me whether the Red Lake Band had settled all its claims against the Indian Trust Fund and the BIA?

Mr. PETERSEN. I was reading through the fax you received Saturday from the Bureau of Indian Affairs. I was surprised to see that we are down to the final stage of that settlement and it is down to \$687,000.

I was appreciative to learn that today, but I somewhat dispute those figures and the closeness of the settlement.

Mr. SYNAR. When the subcommittee visited the BIA's Albuquerque Office of Trust Fund Management on March 26 of this year, we received a list of claims against the Indian Trust Fund as of that date. That list did not include any claim by your tribe, the Red Lake, so in as far as it applies to the Red Lake Band of Chippewa Indians, is that list accurate?

Mr. PETERSEN. No. I believe you brought that up in September 1990 in your hearing, and you were reminded that Red Lake was omitted from the list furnished you at that time as well.

Mr. SYNAR. Mr. Peterson, the other Mr. Peterson.

You are not related, are you?

Mr. PETERSON. We used to work in the same accounting firm, believe it or not.

Mr. PETERSEN. But please don't hold that against me.

Mr. PETERSON. I guess only—I was just curious on this contract that was let, are you folks as optimistic as the gentleman from the inspector general is that this is going to actually get done and you are going to have the final analysis given the contract that was let?

Mr. PETERSEN. As I understood it, Mr. Richards was referring to the Bureau's efforts in correcting their appropriated fund accounting and converting to the Federal financial system by October 1, 1991. I also heard testimony to the fact that the accounting for trust funds is at a higher level and should have a more—greater sense of urgency, but I am seeing a lot of effort devoted to accounting for the Bureau's funds.

We are still trying to get this ad hoc committee funded and organized and recognized by the Bureau. I think the reconciliation to the extent practicable and what can be accomplished will get it to a point in time for a certain account, but as you know, Mr. Peterson, there are some of those accounts we are going to have to go to plan B, whatever that may be, because the records are missing, unavailable, and in such a state of disarray that I don't want to mislead anyone into thinking that each one of those 300,000 accounts

or 2,000 tribal accounts that are owned by 254 tribes, I don't want to convey to anyone that we are going to correct every single balance.

I think it is the best shot we have, but of greater concern, as Red Lake experienced, we had audit reports covering 16 years done through March 1984, and the Bureau said in Federal district court that he had to review them for accuracies, and today we are still awaiting those adjustments.

We have to ensure that they are recognized by the BIA and adjustments are made and that no more erosion takes place by dumping it back into the same old system that can't handle it.

Mr. PETERSON. I don't know who can answer this, what is the size and the length of the contract? How many people do they have working on this phase I, do you know?

Mr. PETERSEN. The last we saw the RFP, it was for a major CPA firm to devote, in the standard time and materials contract, the Bureau had included an estimate of 54,600 hours per year for the next 5 years by a major CPA firm to devote to phase I and develop a strategy for phase II.

Mr. SYNAR. How much do you think that will cost, Mr. Petersen?

Mr. PETERSEN. I don't know. That sounds like full equipment for a bunch of people at national CPA rates. We don't see too many of those in northern Minnesota because we can't afford them, but it is going to cost millions of dollars.

And the thing that really concerns me is that in this reconciliation directed by the Bureau, which keeps being perceived as the client, we have to ensure that we have adequate accounting principles for these Indian trust funds education guidance and control over what they are reconstructing so that we don't end up with some more mumbo-jumbo that is disagreed to by the Indian people.

Mr. PETERSON. Mr. Chairman, this contract lasts 5 years?

Mr. PETERSEN. As I understand it, it has a termination clause at the expense of the Government, but they are looking at a 5-year contract, as I understand it, the last time we saw it.

Mr. PETERSON. It just seems to me—I think maybe this is it, if this is what they are talking about, in spite of the fact that it is going to cost millions of dollars, there are probably not enough folks here to get the job done, are there?

It doesn't seem to me that—

Mr. PETERSEN. I think no one really knows, Mr. Peterson, because of the magnitude of the errors, the time involved, I think it is an attempt to get in and analyze the problems that are confronting them in doing a reconciliation. The missing part of this is the audit, which is going to have to follow shortly behind—the accounts that can be reconciled, attested to by an independent third party, that cost is not in here.

Mr. PETERSON. Thank you, Mr. Chairman.

Mr. SYNAR. Thank you, Mr. Peterson.

Ladies and gentlemen, let me thank you for being here today. I guess perseverance and patience is all I can ask of you right now. We are pursuing this as quickly and as hard as possible. We are going to do our best to work with you on this. So may your numbers multiply and may you have the patience to work with us to get this done.

Thank you for being with us today.

Ms. COBELL. Thank you.

Mr. SYNAR. Our final panel this morning is Dr. Eddie Brown, Assistant Secretary for Indian Affairs, U.S. Department of the Interior, accompanied by Mr. Stan Speaks, Acting Commissioner of Indian Affairs; Mr. George Gover, Acting Director, Office of Trust Fund Management; and Mr. Jim Parris, Project Manager, Office of Trust Fund Management.

Gentlemen, if you would come forward. Do any of you all have objections to being sworn in?

If you would raise your right hand.

[Witnesses sworn.]

Mr. SYNAR. Dr. Brown, welcome back.

Dr. BROWN. It is a pleasure to be here.

Mr. SYNAR. We will let your entire testimony be part of the record. At this time we look forward to your comments.

STATEMENT OF DR. EDDIE F. BROWN, ASSISTANT SECRETARY OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY STAN SPEAKS, ACTING COMMISSIONER OF INDIAN AFFAIRS; GEORGE GOVER, ACTING DIRECTOR, AND JIM PARRIS, PROJECT MANAGER, OFFICE OF TRUST FUND MANAGEMENT

Dr. BROWN. Good morning, Mr. Chairman, members of the committee. I would like to just summarize briefly my testimony and present an overview of where the Trust Funds Management Program stands since our last hearing.

As you are well aware of, or should be at this time, there are three major components to the trust fund's management operations. That is daily operations, the audit and reconciliation, and the new systems development.

In addition, there is management and oversight structure over these activities that provide the leadership and accountability necessary for success. Our efforts since the last hearing have focused on both long and short-term measures that improve quality operations, the audit and reconciliation process, and the management and oversight structure.

In the area of daily operations, among the most important actions we have taken is to complete all but one automated interface that link the existing trust fund accounting, investment, and reporting systems. These interfaces will greatly facilitate regular monthly auditing and reconciliation of the accounts and reduce substantially the amount of duplicate data entry that is the source of many of our accounting errors.

In addition, we have taken actions to complete the consolidation of the trust funds accounting and investment offices into the Office of Trust Funds Management, hired new staff with all accounting positions filled by people with full accounting degrees, provided over 400 hours of training to 28 trust fund management staff members, obtained the service of an investment management advisor, implemented new disbursing procedures and initiated a new deposit and a centralized disbursement project.

In the area of audit and reconciliation, we have awarded a contract to Arthur Andersen & Co. for the audit and reconciliation of trust funds accounts.

This is a major step and we expect field audits of accounts of the 37 tribal and IIM accounts at three agencies to begin in June. In addition, we have formally requested that the inspector general's office certify the audits upon their completion.

In the area of management and oversight, we are in the selection phase of the Director of Trust Funds Management position. This position is the key for providing the daily, extensive leadership and accountability that is required for developing a trust funds management program that satisfies the Federal financial management requirements and meets the needs of account holders.

We plan to augment the resources for the Director through a core management team, a group of key specialists in the area of daily operations audit and reconciliation and new systems development. In addition, in the President's fiscal year 1992 budget presented in February is a request for \$4 million for administrative management improvements.

These funds will be used to provide immediate financial support for major BIA administrative improvement projects as they arise rather than having to wait for the next budget cycle or transfer funding from other accounts.

The two major projects currently underway are financial management and trust funds management. Now, I am very pleased with the contributions to the audit and reconciliation request for proposals provided by the tribal ad hoc committee.

I have found tribal input equally critical to the BIA's reorganization task force as well. I look forward to expanding a close relationship with the tribal and IIM account holders in regard to future direction and the shape of the Trust Fund Management Program, as well.

Mr. Chairman, this past year, while I agree that progress has been frustratingly slow at times, I have seen a commitment of human and financial resources to improving the administrative performance of the BIA that I believe is unprecedented.

This commitment is reflected not only in terms of program areas such as financial management, trust funds management, the future property management and procurement, information resource management, but also in terms of support from the Department and from the Office of Management and Budget as well.

There is no doubt in my mind that the Bureau will emerge stronger and far better able to meet its administrative responsibilities in the future. Now this concludes my summary, Mr. Chairman.

I will be happy to answer any questions from you or other members of the committee.

[The prepared statement of Dr. Brown follows:]

Statement of
 Dr. Eddie F. Brown
 Assistant Secretary - Indian Affairs
 before the
 House Environment, Energy and Natural Resources
 Subcommittee
 of the
 Committee on Government Operations

May 20, 1991

Good morning, Mr. Chairman, and members of the Committee. Accompanying me today are Mr. Stan Speaks, Acting Deputy Commissioner of Indian Affairs, Mr. George Gover, the Acting Director of the Office of Trust Funds Management and key staff from our Trust Funds Management and Accounting Offices.

Today, I am pleased to discuss with you the progress that we have made in the area of trust funds management since our September 23, 1990 hearing before this Subcommittee. Our plan has been to proceed on two levels simultaneously. In the short term, we are designing and implementing improvements to our daily operations. For the longer term we are putting in place a foundation for the more comprehensive, large-scale activities that ultimately will result in a trust funds management system that fully meets the financial management concerns of both the Federal Government and the tribal and Individual Indian Money (IIM) account holders. All of the activities to date contribute toward strengthening leadership and accountability in the trust funds management program.

Specific actions taken since the last hearing include:

OPERATING PLAN

- o The Bureau of Indian Affairs (BIA) developed a general strategic outline within which to accomplish its objectives. This outline breaks the trust funds management program into three main areas: daily operations, audit and reconciliation and new systems development. All three of these areas are brought together under the position of the Director of Trust Funds Management. In addition to the consolidated and augmented Trust Funds Management staff to conduct daily business, the Director will supervise a core management team that provides expertise in each of these areas and whose full-time task will be to design, develop and implement improvements in each area.

ORGANIZATIONAL OVERVIEW AND OPERATIONS

- o The Department of Interior approved the organizational framework

for the Office of Trust Funds Management in November of 1990. At this time 31 of the 46 positions authorized for the Office are filled by transfer or new hire. A move to new quarters with the capacity for the consolidated office is now complete. All of the new accountants hired have full degrees in accounting. The Director position has been advertised, applications have been received, and a selection will be made. Once selected, the new Director's main objective will be to develop and implement a strategic action plan. The plan will be developed in collaboration with the Department's newly established Management Improvement Oversight Committee. The plan will be a comprehensive strategy designed to address all areas of Trust Fund management including development of a new system.

STAFF TRAINING

- o In an effort to strengthen the management capabilities of the new Office of Trust Funds Management staff, over 400 hours of training have been provided for 28 individuals since the last hearing. The training has focused on enhancing the capabilities of the staff in management, computer applications, and project management. The Office of Trust Funds Management staff provided training to all 12 Area Office trust funds operations staff in the area of performing automated reconciliations for IIM accounting transactions. We anticipate this automated activity will improve the accuracy and efficiency of the reconciliation process.

INVESTMENT MANAGEMENT ADVISOR

- o The Office of Trust Funds Management has obtained the services of an investment management advisor from U.S. West through the Private Sector Council, a non-profit organization established to provide Government agencies a source from the private sector for advice on enhancing efficiency. We will meet regularly with this group over the coming year.

AUDIT AND RECONCILIATION

- o I am pleased to announce that Arthur Anderson and Company was selected by the BIA on May 10, 1991, to perform the audit and reconciliation contract for phase I of the overall project to audit and reconcile all trust fund accounts. With this selection, we are ready to commence the audit and reconciliation process of accounts back to the earliest date practicable. The contractor will meet first with the Ad Hoc Committee, and by June 10, 1991, have reconciliation teams reporting to Albuquerque for training. We plan to have field work commence June 24.

TRIBAL AD-HOC COMMITTEE

Since the last hearing, the BIA has participated in six sessions with the Tribal Ad-Hoc Committee, which represents the 40 tribes involved in the phase I audit and reconciliation process. These sessions, in which the General Accounting Office and Congressional representatives were involved, were extremely constructive in the development of the Request for Proposals (RFP) for the phase I audit and reconciliation contract award. As I have found in working closely with tribal leaders in the BIA Reorganization Task Force, tribal perspectives are absolutely necessary for the development of a shared vision for the program. BIA intends to work closely with all of the 237 tribes with tribal and IIM accountholders in the future planning and activities of the trust fund management program.

INVESTMENT INTERFACE PROJECT

The Office of Trust Funds Management has developed a new system for investment operations to automate data entry for the accounting, investment portfolio reporting and collateral reporting systems. This enhancement is dramatically decreasing the complexity of reconciliation associated with data entry to the multiple systems and reduces substantially the duplicate data entry that characterized the old system. All but the last module of this system is in full operation at this time, with the final module, the interface with the accounting system, in the final testing stage.

NEW DISBURSING PROCEDURE

The BIA, as a result of audit findings on cash management weaknesses by the General Accounting Office, the Office of the Inspector General, and Arthur Anderson and Company, has developed and implemented new procedures to be used by all disbursing sites. The new procedures, issued May 7, 1991, provide for greater separation of duties at the various Area and Agency Offices disbursing the IIM funds. The new procedures also upgrade security procedures for Treasury Department check stock and the disbursing agent signature plates at all disbursement sites.

NEW DEPOSIT PROJECTS

On October 1, 1990, the BIA initiated a new procedure requiring all deposit sites to telefax copies of the deposit tickets for trust funds to the Office of Trust Funds Management in Albuquerque on a daily basis. This procedure enables the trust funds to be invested and monitored on a current basis, and will increase the interest earning capacity of the trust funds

deposits.

CENTRALIZED DISBURSEMENT PROJECTS

- o In February, 1991, we initiated the Centralized Disbursements Project. The objectives of this project are (1) to accrue the interest float to the account owner upon whose account the check was drawn, (2) to include in each check payment envelope an Explanation of Payments (EOP), (3) to enhance the accounting for trust payments by providing a copy of the related check register, and (4) to track outstanding trust fund checks. The BIA conducted two meetings with representatives from all Area Offices and the Tribal Ad-Hoc Committee in Albuquerque to define the requirements for the RFP. After review by the BIA, tribal, and General Accounting Office officials, we plan to solicit proposals in late June. The projected implementation date is December 1, 1991.

The actions taken since the last hearing reflect our commitment to fundamentally change the way we manage the trust funds program. We have accomplished a number of short term goals that strengthen daily operations, internal controls, audit and reconciliation and cash management. We have also completed a number of the foundation actions necessary for major longer-term changes in the three basic areas of the program. With the changes we have made to date, and the changes we are making in the future, we are fundamentally improving the BIA's management of trust funds.

This concludes my prepared statement. I will be pleased to respond to any questions you may have.

Mr. SYNAR. Thank you, Dr. Brown.

Mr. Bettenberg, you came in late. Do you have any objection to being sworn in?

Mr. BETTENBERG. I have none, no.

[Witness sworn.]

Mr. SYNAR. Dr. Brown, as the subcommittee has discussed with the BIA in our last three oversight hearings, there is a proviso that was included in the fiscal year 1987 Supplemental Appropriations Act and four subsequent Interior appropriations measures prohibiting the transfer of trust funds under a management contract to any private institution until the Indian Trust Fund accounts were audited and reconciled.

Are you aware of that proviso?

Dr. BROWN. Yes, sir.

Mr. SYNAR. Dr. Brown, as of today, how many Indian Trust Fund accounts have been audited, reconciled, and certified pursuant to these provisions?

Dr. BROWN. None.

Mr. SYNAR. None in fiscal year 1987, none in fiscal year 1988, and none in fiscal year 1989, and none in fiscal year 1990, now none in fiscal year 1991. Is that correct?

Dr. BROWN. Yes.

Mr. SYNAR. Between our oversight hearing on April 24, 1990, and our oversight hearing on September 25, 1990, between just those two dates, what substantive actions if any, did the Bureau undertake to comply with these directives?

Dr. BROWN. We have taken a number of—

Mr. SYNAR. Between those two dates. Is it true that you sent a proposed plan for audit and reconciliation to the appropriations committee on June 13, 1990, but received no answer until July 23, 1990?

Dr. BROWN. That's correct.

Mr. SYNAR. Since that plan was approved, we have made some progress, have we not?

Dr. BROWN. Yes, sir.

Mr. SYNAR. All right. on Friday, September 21, 1990, you held a national meeting of the 37 largest tribes and representatives of the IIM account holders for the three agencies, correct?

Dr. BROWN. Yes.

Mr. SYNAR. What actions have been undertaken to comply with the congressional directives between our September 25, 1990, oversight hearing and today's session?

Dr. BROWN. Let me have Mr. George Gover talk specifically about that.

Mr. GOVER. In that time we did submit an action plan of short- and long-term action items to be taken to comply with congressional directives. One item, as you know, that caused a lot of concern to this committee was the contract with Security Pacific at that time.

Since that time we have terminated that contract, and there has not been the fallout that everyone expected. It terminated on its own terms. In addition, during that time period we have done an RFP for the reconciliation of the trust fund accounts.

A selection has been made for a contractor, although the formal contract has not been awarded at this time. We are currently be-

ginning our planning on when we would have the first meeting and training session with the tribal representatives that are going to be involved in this particular contract.

Mr. SYNAR. So it has really taken 5 years for you all to act positively on the directives from Congress, and after 5 years BIA just this month signed a contract for the actual work and only on phase 1 of that work.

Is that a pretty fair summary?

Mr. GOVER. That would be—that is a summary.

Mr. SYNAR. Thank you. Now, at our last oversight hearing, BIA testified under oath that the first IIM account statements from the trust fund audit and reconciliation project would be in the hands of the account holders by May 1991.

Obviously, that date has slipped. What is your current estimate of when IIM account holders will be getting their first reconciliation statements?

Mr. GOVER. We are expecting our first statements to be issued in the fall of this calendar year.

Mr. SYNAR. All right.

Now, the completion date is still May 31, 1992, right?

Mr. GOVER. Completion for all the—

Mr. SYNAR. Yes, phase 1.

Mr. GOVER. Yes, phase 1, that is our estimate at this time.

Mr. SYNAR. Now, do you think both phases of the trust account and audit and reconciliation project will be completed? When do you think they will be?

Mr. GOVER. That was strictly a target date. It was based upon our knowledge at the time, expecting to increase our knowledge as we began the actual process.

At this time I would say that we will not meet that date, but I think we will have gathered significant data with which to make some informed decisions on how we are going to proceed.

Mr. SYNAR. Both phases are supposed to be completed, by your estimates, by September 1996. Is that correct?

Mr. GOVER. Yes, sir.

Mr. SYNAR. So it will be fiscal year 1997 before the trust fund audit and reconciliation project is completed; is that right?

Mr. GOVER. That is an educated guess at this time.

Mr. SYNAR. That is fine.

Dr. Brown, where does this effort rank in terms of the BIA's priorities?

Dr. BROWN. It ranks very high, sir, it's up there along with our accounting, along with a number of other management issues within the bureau.

Mr. SYNAR. If it is a high priority, like you just stated, do all high priorities take 5 years to get to this point?

Dr. BROWN. No, sir, and I think it is important, though, to understand what happened in those 5 years that clearly a direction was set, and it is like putting in motion a large steam ship going out to ocean.

We had to stop that. We had to get it stopped. We had to turn it around, and now we are beginning to move it. I think that is important to understand the process that has taken place in that regard.

Mr. SYNAR. Mr. Peterson.

Mr. PETERSON. If you get these—well, whenever you get these balances determined, and it seems to me that this is going to happen over a period of time, I guess I am somewhat uncomfortable as to how you are going to keep them in balance. It seems to me by the time you get to 1997 you will probably have another whole problem with the accounts that were reconciled in 1992 that will be all out of whack by 1997, and it will take us another 3 years to get those under control.

Do you have some kind of plan on your accounting system so that this doesn't happen again once you do get them nailed down as you go through this process or how is that going to work?

Dr. BROWN. Mr. Gover.

Mr. GOVER. Mr. Peterson, in order to meet short-term and long-term objectives, we do have provisions where we will go into the current accounting system and make the necessary changes to it to sustain us until such time as a new trust fund accounting system or management system is put into place.

Today there has been much talk and rhetoric about the strategic plan that has been thrown about in this hearing room, and yet in all the discussions from the IG and the GAO and the OMB, this committee and such, no one has really agreed to what direction we should be going, and the first item in any strategic plan is to have a goal upon which one agrees and how we are going to get there.

In realizing that, we are taking actions to sustain the current environment so that we do not have a repeat of what has taken place in the past. We have also put provisions into the reconciliation process for using electronic imaging where we can capture those records and once it is done that account balance will be established here and forever more so we will always have that base line to which we can return.

That is a significant improvement. We say the trust funds have not been audited in the past, and I think GAO has testified to that fact. We have gone back, and found that GAO has audited trust funds in the past. They have had a number of audits of which they apparently were not aware.

We are going to go back and try to ascertain those records so we can see how they went about auditing trust funds in the past.

Mr. PETERSON. Mr. Chairman, just specifically, say that, for example, Red Lake, you came to finally figure out that they had 1.2 million more than they say they do and they agree to that, say this summer. What specifically are you doing in your accounting system to make sure that—it is fine to say you have a plan, but what are you doing?

Have you got a new computer program? What specifically—from what I have heard of your accounting system, I have no confidence in—

Mr. GOVER. Mr. Peterson, let me answer it this way. The activity in that accounting system is about \$700 million that is collected and about \$600 million that is disbursed each year.

Also, we are investing about \$2 billion. There are some deficiencies, but the thing hasn't totally collapsed. People are still getting paid. Money is moving through that system.

Mr. PETERSON. You can't tell anybody what their balance is?

Mr. GOVER. We can tell people what their balance is.

Mr. PETERSON. Not that they agree with it.

Mr. GOVER. Not everyone disagrees, either, Mr. Peterson.

Mr. PETERSON. I suppose you can find some, but—I guess—Mr. chairman, the last—what is your position in terms of saying that you can come to an agreement with different tribes or individuals or tribes as to what their balances; what is your position about turning the accounting over to them, allowing them to do the accounting and allowing them to invest this money within certain parameters and then that would be audited through their regular process.

Dr. BROWN. Let me respond to that. That is clearly, as we have held, always been an option, and we still hold it out as an option as we begin to look at new systems development, how that will operate, and so forth.

The idea that tribes operating, running their own trust funds is clearly an option, and as we continue to put new systems together, that will be looked at and involved with through tribal input.

Mr. PETERSON. Mr. Chairman, you are not against that idea?

Dr. BROWN. No, sir.

Mr. PETERSON. You would be willing to consider that as a viable option?

Dr. BROWN. Yes, that is still being looked at as an option. As I said, as we continue to move along with the new systems, we will take that into account as well as tribal input as to how that might best work to ensure that we have an effective system in place.

Mr. PETERSON. It would seem to me, Mr. Chairman, this might be one of the best options to get the kind of resources you need to get control of this thing, you may not get that out of the Congress, whereas you have got all these tribes that have this financial expertise that can do it, accomplish it, and it might actually work. So I would hope that we could look seriously at that.

Mr. SYNAR. Mr. Gover, the new standard of performance for the BIA is not "not everybody disagrees," is it?

Mr. GOVER. No, sir.

Mr. SYNAR. Thank you. Mr. Gover, is it the inspector general's and the GAO's business to do your audits and do your job?

Mr. GOVER. No, sir.

Mr. SYNAR. So when you say that these have been audited, they did it, didn't they? You didn't do it, did you?

Mr. GOVER. I do not understand the question.

Mr. SYNAR. Answering his question, you said these things have been audited. Not by you. Not periodically audited—you are not periodically auditing this. The OIG and the GAO are doing it, aren't they?

Mr. GOVER. I didn't understand Mr. Peterson's question to say that it has been audited.

Mr. SYNAR. Whether you understood the question or not, your response was that you all have been auditing, and the facts are that you are not.

Mr. GOVER. We have also been audited by Arthur Andersen, our financial statements for the past 3 years.

Mr. SYNAR. OK, on October 26, 1989, Mr. Richards, who, as you all know, testified earlier today, appeared before this subcommittee

also to report his findings concerning deficiencies in the Indian Trust Fund management.

A month before that appearance, Mr. Richard's office had issued its 32d, I think, audit report in 7 years detailing serious management failures in the BIA in the exercise of their fiduciary responsibilities in the trust fund.

Among those findings, Dr. Brown, he reported at the time that there were a series of investment losses on the Indian trust funds that had not been reimbursed to the account holders.

Those included a \$2.6 million attributed to the 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 by credit unions.

Now, Dr. Brown, the Indian trust funds, which are principally the individual Indian money funds, have been lost, and the appropriate account holders were not reimbursed for their losses plus the related interest income.

Isn't it true, Dr. Brown, what this inspector general said, and let me quote him again, "This loss is inconsistent with the fiduciary and trust responsibility of the bureau." Is that correct?

Dr. BROWN. Yes, sir.

Mr. SYNAR. Dr. Brown, the inspector general told this subcommittee that the primary reason why Indian account holders were not reimbursed for the losses they sustained as a result of BIA mismanagement is "because the Bureau does not have a formal policy to reimburse account holders for losses."

We discussed that at length at our previous hearings. Has the Bureau yet established a formal procedure to reimburse Indian Trust Fund losses on investments?

Dr. BROWN. Yes, sir, a policy has been drafted. It is currently within the Department and OMB for review. We are waiting to hear from them.

Mr. SYNAR. It is in draft form, correct?

Dr. BROWN. Yes, sir.

Mr. SYNAR. When will it be final?

Dr. BROWN. We are waiting—that has been submitted to the Department, and we are waiting to see—

Mr. SYNAR. When was it submitted? Was that last week? Could it be last week? Could it be Saturday? Give us a minute here. When was it submitted, do you know?

Dr. BROWN. My understanding is that it has been back and forth a number of times. Originally it was first submitted back in February, and that has been going back and forth.

Mr. SYNAR. Last time it was submitted was last week, wasn't it, Dr. Brown?

Dr. BROWN. That is correct, that is what I understand.

Mr. SYNAR. Now, Dr. Brown, as you know, I have introduced H.R. 1756, which is the Native American Trust Fund Equity Act of 1991, which would require the BIA to investment—the IIM account moneys require the BIA to pay imputed interest for its failure to make such investments and to authorize the Secretary to post claims of IIM imputed interest attributed to BIA's mismanagement on those investments.

Now, when the subcommittee met last, Mr. Gallegos said that the Department and the BIA had a moral responsibility to repay losses attributable to BIA mismanagement.

Dr. Brown, are you going to support H.R. 1756 and allow your moral and ethical obligations to become legal responsibilities?

Dr. BROWN. Yes, sir.

Mr. SYNAR. Dr. Brown, besides sending the subcommittee a telefax on Saturday, May 18, 1991, what steps has the Bureau taken to comply with the inspector general's recommendations regarding investment losses.

Dr. BROWN. Mr. Gover.

Mr. GOVER. Mr. Chairman, based on the recommendations of the IG, one is that we have put in place a separate custodial function within investments to begin to track those records to ensure that we have received what in actuality we had purchased. Those records would no longer have the opportunity to be lost as reported back about 8 to 10 years ago.

That was an important correction to be made. In addition, we have put in place within the Office of Trust Funds Management the capability to begin a centralized place to track those losses when losses are identified.

Previously, as you know, the trust fund management was scattered throughout the Bureau in various locations. There was no centralized location. We are now developing that capacity, as you noted, on your trip to our offices. I think that is a very important step that the Bureau has taken so they can adequately manage trust funds.

Mr. SYNAR. Dr. Brown, the inspector general has stated that the Bureau and the Department's past responses to this problem have been inadequate. Now, based on the evidence before this subcommittee, what assurances do we have that your latest efforts are anything more than just an attempt to get this subcommittee off your back?

Dr. BROWN. I think there are a number of things, sir. Just for one, looking at the focus on BIA management and the commitment not only within the Bureau level. As you well know, bureaus can have all good intentions unless supported by the Department and the administration for the resources to draw upon not only monetary but technical resources, et cetera, can be lacking, and can severely limit.

One of my strong positive points, I believe, there is that we have been able to mold together a very strong direction for the improvement of the management of the Bureau of Indian Affairs that we have developed not only in our 1992 budget to identify funds to begin the internal management and focus on the Bureau that becomes more than just putting plans together, but the idea is that we are now talking about budgets and commitment of resources.

We have formed an oversight improvement committee, cochaired by myself and a member of OMB which meets regularly. Mr. Hodson from OMB and I, as well as the Assistant Secretary, John Schrote, as well as a number of other individuals serve on that committee.

That committee will also be enlarged to include Treasury, GSA, and a number of other departments to begin to take a look to

ensure that not only are we agreeing with what the objectives are at all levels, but also that we are putting together a kind of management team that is necessary and that we can draw upon the resources necessary, and I mean departmentwide, not just within the Bureau, but departmentwide to draw upon resources for technical assistance, support or whatever is necessary. I think you can see that is impressive.

Mr. SYNAR. That all is fine. That interagency was just done last week, wasn't it?

Dr. BROWN. No, sir, it was not.

Mr. SYNAR. Formal organizing.

Dr. BROWN. It was done in January.

Mr. SYNAR. It was formally organized last week?

Dr. BROWN. No, we have met three or four times with that oversight committee.

Mr. SYNAR. The problem I am having after this period of time is every time you come up here, you talk about steps, you talk about promises, you talk about initiatives, you talk about oversight, you talk about committees. I am talking about performance. That is what I am interested in, results.

Dr. BROWN. Well, we have outlined a number of results, I think, today, in my testimony, of things we have accomplished. We have indicated our plan to move forward on that as well.

Mr. SYNAR. Have you implemented a policy to reimburse victims of the fraud and management bureau?

Dr. BROWN. No. A policy has been drafted.

Mr. SYNAR. When specifically will you have that policy for those losses? When will that draft become a reality?

Dr. BROWN. To give you a specific date other than we are working with the Department and OMB—

Mr. SYNAR. Will you seek legislation to reimburse the victim for their losses?

Dr. BROWN. We are looking at a number of options. As I talk with the administration and OMB, it is impossible for me to indicate what would be the full agreement.

Mr. SYNAR. In September 1989 the inspector general reported that the Bureau's policy was not to notify the account holders of losses. What evidence can you provide today that such a policy has been abandoned?

Mr. GOVER. Mr. Chairman, we have been in contact with our area offices and our agency offices.

Mr. SYNAR. Have you actually notified anyone?

Mr. GOVER. Yes, sir, we have.

Mr. SYNAR. How many?

Mr. GOVER. I signed a couple of memos myself within the last 6 months. We have given instructions to agencies in areas to do the same thing.

Mr. SYNAR. Will you supply that for the record?

[The information follows:]

UNITED STATES GOVERNMENT
memorandum

DATE: April 8, 1991
 REPLY TO: Acting Director, Office of Trust Funds Management
 ATTN OF:
 SUBJECT: Notification of Loss of Interest Earnings-Uintah and Ouray Tribes
 (Tribe # 687)
 TO: Phoenix Area Director
 Deputy Commissioner-Indian Affairs

This is to provide for the record information regarding a loss of interest earnings to the above noted Tribes.

The actual investment was a deposit into the ILWU Federal Credit Union, San Francisco, California on March 22, 1984 in the amount of \$89000. The investment is recorded as a term deposit, 369 days to mature March 26, 1985, at an interest rate of 11.50% on a 365-day basis.

The BIA was notified by the ILWU Credit Union on maturity that the deposit was considered to be a share deposit and as such was eligible only for dividends based on profits. The Credit Union said that profits were not sufficient to declare a dividend for that period so no earnings were included when the principal was returned to the BIA at maturity. The amount of earnings which was expected but not received was \$10,347.16.

The BIA over the last several years has made arguments to recover earnings to the Credit Union as well as the National Credit Union Administration without success. The situation was again recently reviewed by the Interior Solicitor's Office to determine whether any hope remains that we might recover earnings for all involved Tribes, and if not, what the options might be. No final determination has been made. The impact to the Tribe is as follows:

Original shortage of earnings-	\$ 10,347
Compounded earnings at an average interest rate of 8.544% through December 31, 1990-	6,242
Total	\$ 16,589

This figure increases at approximately \$3.65 per day.

The Phoenix Area Director is hereby requested to please notify the affected tribe of this situation. We emphasize that the situation is now under review, and options are to be developed regarding recovery. If any further information is desired, please contact me at (FTS) 474-3496.



RECEIVED
 BIA-54
 FINANCIAL MANAGEMENT
 APR 15 1 24 PM '91

OPTIONAL FORM NO. 10
 5010-104
 GSA FPMR (41 CFR) 101-11.6
 5010-114

UNITED STATES GOVERNMENT

memorandum

100 cc
200
220

DATE: April 8, 1991

APPLY TO: Acting Director, Office of Trust Funds Management

ATTN: OP:

SUBJECT: Correction to January 7, 1991 Memo Concerning Loss of Interest Earnings.

TO: Albuquerque Area Director
Deputy Commissioner-Indian Affairs

The January 7, 1991, memorandum referenced above contained information about loss of interest earnings to two tribes. Unfortunately, the information relating to the Ute Mountain Ute Tribe was incorrect. None of the Ute Mountain funds were involved in this situation. The Albuquerque Area Director is requested to advise the Ute Mountain Tribe, and convey our apologies for this error. If there any questions about this, please call this office.

The information relating to the Southern Ute Tribe (#750) stands as presented in the January 7 memo.



RECEIVED
MAY 6 1991
U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C.

BUREAU OF INDIAN AFFAIRS
ALBUQUERQUE OFFICE
APR 15 1991
AREA DIRECTOR'S OFFICE

RECEIVED

APR 15 1991

Finance/Accounting
Albuquerque NM 87125-6567

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

Analysis-closure of Valley First Federal	U & O 687
Amount uninsured at date of closure, Jan 14, 1983	96,843.45
Earnings if funds invested to Sept 30, 1983 at 10.88%	7,447.77
Balance at Sept 30, 1983	104,291.22
Earnings if invested during FY 1984 at 10.562%	11,013.24
Balance at Sept 30, 1984	115,306.45
If invested to Jan 31, 1985 at 10.355%	3,990.90
Balance at Jan 31, 1985	119,297.35
FDIC payment received Jan 31	25,339.09
Balance after payment	93,958.26
If invested to Sept 30, 1985 at 10.355%	6,477.37
Balance at Sept 30, 1985	100,435.63
If invested FY 86 at 8.462%	8,498.86
Balance at Sept 30, 1986	108,934.49
If invested FY 87 at 7.404%	8,065.51
Balance at Sept 30, 1987	117,000.00
If invested to Aug 2, 1988 at 7.700%	7,552.75
Balance including interest at August 2, 1988	124,552.75
"Final" (100%) FDIC Payment against claims	71,504.36
Balance at August 2, 1988 after FDIC payment	53,048.39
If invested to July 28, 1989 at 6.603%	3,467.20
Balance at July 28, 1989	56,515.60
Additional FDIC interest payment rec'd July 28, 1989	22,030.13
Balance after July 28 payment	34,485.47
If invested to Sept 30, 1989 at 8.803%	3,035.76
Balance at Sept 30, 1989	37,521.22
If invested FY 90 at 8.735%	3,277.46
Balance at Sept 30, 1990	40,798.70
Daily accumulation if invested at 8.735%	9.76

**Notes for accompanying spreadsheet—analysis of closure of
Valley First Federal Savings and Loan, El Centro, CA**

Note 1. The analysis attempts to show what could have been earned if the uninsured funds had been returned at time of closure.

Note 2. All interest rates used are the annual averages for total funds in the regular BIA investment program. FY 1990 rates were used to calculate amount of daily increase since Sept. 30, 1990.

Note 3. All payments received were from the FDIC as a result of liquidation of the assets of the failed institution. As spreadsheet shows, and the attached letter confirms, the FDIC liquidation receipts were enough to pay additional interest, so total amount recovered was more than the amount claimed.

Note 4. Shaded areas in the spreadsheet are labeled "balance", and represent what the balance would have been at that point in time if the funds were available and had been routinely invested by BIA, less actual FDIC payments against the outstanding claims.

Note 5. As soon as the funds were identified as being uninsured, a claim was filed for the total amount.

Note 6. This analysis in no way acknowledges or admits liability for the potential earnings not realized. The question of liability and reimbursement is being addressed by the Interior Solicitor's Office. At the same time, the Office of the Assistant Secretary—Indian Affairs is addressing the general policy issue of reimbursement.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

AS RECEIVER

WESTERN REGIONAL OPERATIONS

523 West Sixth Street, Suite 440

Los Angeles, California 90014

(213) 623-7065



July 10, 1989

RE: PSLIC as Receiver for Valley First Federal Savings and Loan

Dear Sir/Madame:

On January 14, 1983 the Federal Savings and Loan Insurance Corporation was appointed the Receiver for Valley First Federal Savings and Loan Association. ("Valley") pursuant to Federal Home Loan Bank Board Resolution No. 83-28, dated January 14, 1983.

The Receiver has liquidated the majority of the assets of Valley.

You previously should have received dividends totalling 100% of your allowed unsecured claim and/or uninsured deposit. The Federal Home Loan Bank Board has approved a fourth liquidating dividend representing interest that can be paid after the creditors of the unsecured status have been paid in full. The rate of interest is established in the priority of creditors set forth in Resolution No. 83-28, dated January 14, 1983. The enclosed check represents 70.8% of the total interest due at this point. The distribution, however, is actually an additional 22.7356% of your original claim amount.

The Receiver anticipates finalizing the liquidation of Valley by the end of this year, and at that time will make a final distribution of the assets.

Please call me if you have any questions at the above number, on extension 255.

Very truly yours,

PSLIC AS RECEIVER FOR
VALLEY FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION

Piero A. Casella
Distribution Coordinator

Enclosure

UNITED STATES GOVERNMENT
memorandum

DATE: March 13, 1991

TO: Director, Office of Trust Funds Management

SUBJECT: Loss of Earnings on Invested Tribal Funds for the Colorado River, Nintan and Durey, and Hoopa-Yurok Funds.

cc: Phoenix Area Director
 Sacramento Area Director
 Deputy Commissioner of Indian Affairs

This is to document for the record a situation involving the three funds noted above in which potential earnings were affected.

The funds represent uninsured deposits at the Valley First Federal Savings and Loan of El Centro, California. Duplicate deposits of these funds were made in this institution because of a keypunch error which caused an incomplete data base in the system used to prevent duplication. Valley First Federal was closed by the FSLIC on January 14, 1983. After all insured deposits were covered, \$96,843.45 of Colorado River (tribe # 603), \$96,843.45 of U & O (tribe # 687), and \$1,261.27 of Hoopa-Yurok (tribe # 575) were identified as not being insured. Claims were immediately filed for recovery of these funds from liquidation of the assets of the institution.

A payment representing 26.1650% of the claim was received by the BIA on January 31, 1983. A purported final payment, representing all outstanding principal and accrued interest to date of closing was received on August 2, 1983. The area offices were verbally notified and were requested to make appropriate tribal notifications. No formal notification was issued at that time. Subsequently, an additional payment was received on July 26, 1985, which was classified by the Federal Savings and Loan Insurance Corporation as additional interest which was paid after all unsecured creditors were paid. A copy of the FSLIC explanation letter is attached. You will note that a further final distribution was to have been made, but the Division of Trust Funds Investments was advised this week by the FDIC that no further payments will be made.

Since all principal and accrued interest to date of closure were ultimately recovered, the impact of this situation has been the loss of potential earnings while the funds remained unrecovered. An analysis spreadsheet is attached.

The Office of Trust Funds Management is now working with the Office of the Solicitor to determine legal parameters of the losses situation, and to develop procedures for recovery and reimbursement of losses, when liability is known. You will be notified of further developments. Please ensure that the tribes are specifically notified of the contents of this explanation.

UNITED STATES GOVERNMENT
memorandum

DATE: January 7, 1991

REPLY TO
 ATTN OF: Acting Director, Office of Trust Funds Management

SUBJECT: Notification of Loss of Interest Earnings-Ute Mountain and Southern Ute Tribes

TO: Albuquerque Area Director
 Deputy Commissioner-Indian Affairs

This is to provide for the record information regarding a loss of interest earnings to the above noted Tribes.

The actual investments were deposits into the ILWU Federal Credit Union, San Francisco, California on March 22, 1984 in the amounts of \$89000 for each tribe. The investments are recorded as term deposits, 369 days to mature March 26, 1985, at an interest rate of 11.50% on a 365-day basis.

The BIA was notified by the ILWU Credit Union on maturity that the deposits were considered to be share deposits and as such were eligible only for dividends based on profits. The Credit Union said that profits were not sufficient to declare a dividend for that period so no earnings were included when the principal was returned to the BIA at maturity. The amount of earnings which was expected but not received was \$10,347.16 for the Ute Mtn. Tribe, and \$10,347.17 for the Southern Ute Tribe.

The BIA over the last several years has made arguments to recover earnings to the Credit Union as well as the National Credit Union Administration without success. The situation was again recently reviewed by the Interior Solicitor's Office to determine whether any hope remains that we might recover earnings for the Tribes, and if not, what the options might be. No final determination has been made. The impact to the Tribes is as follows:

Original shortage of earnings-	\$ 10,347
Compounded earnings at an average interest rate of 8.544% through December 31, 1990-	6,242

Total	\$ 16,589

This figure increases at approximately \$3.65 per day.

The Albuquerque Area Director is hereby requested to please notify the affected tribes of this situation. We emphasize that the situation is now under review, and options are to be developed regarding recovery. If any further information is desired, please contact me at (FTS) 474-3496.

cc: Assoc Sol for Indian Affairs
 AFB: Duard Barnes
 900-Reading File
 930-Surname
 JGWELLER:1/8/91



OPTIONAL FORM NO. 10
 (REV. 1-80)
 GSA FPMR (41 CFR) 101-11.6
 5010-114

June 6, 1991

Note regarding Sacramento Area.

Area Accounting Officer advises that when the advisory memo was first received, it was decided to not ask the Superintendent at Northern California Agency to advise the Hoopa and Yurok Tribes of the memo because there was no actual loss of principal or interest, and because of the insignificant amount.

It was pointed out that the OTFM memo had specifically requested that tribes be notified. Area will forward to Agency immediately. Area requested a fax copy of the memo.

UNITED STATES GOVERNMENT

memorandum

DATE: January 7, 1991

APPLY TO
ATTN: Acting Director, Office of Trust Funds Management

SUBJECT: Notification of Loss of Interest Earnings-Ute Mountain and Southern Ute Tribes

TO: Albuquerque Area Director
Deputy Commissioner-Indian Affairs

This is to provide for the record information regarding a loss of interest earnings to the above noted Tribes.

The actual investments were deposits into the ILMU Federal Credit Union, San Francisco, California on March 22, 1984 in the amounts of \$89000 for each tribe. The investments are recorded as term deposits, 369 days to mature March 26, 1985, at an interest rate of 11.50% on a 365-day basis.

The BIA was notified by the ILMU Credit Union on maturity that the deposits were considered to be share deposits and as such were eligible only for dividends based on profits. The Credit Union said that profits were not sufficient to declare a dividend for that period so no earnings were included when the principal was returned to the BIA at maturity. The amount of earnings which was expected but not received was \$10,347.16 for the Ute Mtn. Tribe, and \$10,347.17 for the Southern Ute Tribe.

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cc: Assoc Sol for Indian Affairs
Attn: Duard Barnes
900-Reading File
930-Surnama
JCWELLER:1/8/91

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-108



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
ALBUQUERQUE AREA OFFICE
P.O. BOX 26567
ALBUQUERQUE, NEW MEXICO 87125-6567

John
19 Feb 91

IN REPLY REFER TO:

220 - Branch of Administrative
Accounting Services

RECEIVED

FEB 12 1991

FEB 11 1991

BUREAU OF INDIAN AFFAIRS
UTE MOUNTAIN AGENCY
Tonaoc, Colorado

Memorandum

To: Superintendent, Ute Mountain Ute Agency
Superintendent, Southern Ute Agency

From: Area Director

Subject: Notification of Loss of Interest Earnings -
Ute Mountain and Southern Ute Tribes

Please notify the tribes regarding the loss of interest earnings that the Bureau of Indian Affairs is unable to recover for investments made in 1985. As explained in the attached memorandum, the Bureau of Indian Affairs has attempted to recover the lost interest earnings in the past and is still in the process of having the situation reviewed for possible recovery.

Further questions should be directed to Mr. George Gover, Office of Trust Funds Management, Central Office West, at FTS 474-3496 or (505) 766-3496.

[Signature]
Acting Area Director

Attachment



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ALBUQUERQUE AREA OFFICE
P.O. BOX 26567
ALBUQUERQUE, NEW MEXICO 87125-6567

IN REPLY REFER TO:

220 - Branch of Administrative
Accounting Services

APR 30 1991

Memorandum

To: Superintendent, Ute Mountain Ute Agency

From: Area Director

Subject: Correction to February 7, 1991 Memorandum Concerning Loss of Interest Earnings

The above referenced memorandum had advised you to notify the Ute Mountain Ute tribe of the loss of interest earnings that the Bureau of Indian Affairs was unable to recover for investments made in 1985. However, you are now requested to notify the tribe that the Ute Mountain Ute's tribal trust funds were not involved in the loss of interest on investments described in the January 7, 1991 memorandum issued by the Office of Trust Funds Management. The attached memorandum explains that it was a reporting error on the part of the Office of Trust Funds Management and that they do offer their apologies.

Any questions concerning this situation should be directed to Ramona Yepa, Branch of Administrative Accounting Services, (505) 766-3164 or FTS 474-3164.


Area Director

Attachments

7 4476-

SURE/MT
<i>G. Garland</i>
<i>Garland</i>

MAR 26 1991

ACTIVE
Phoenix Area Director
Branch of Accounting Management

Loss of Earnings on Invested Tribal Funds for the Colorado River,
Utah and Gurney, and Hopa-Yurok Funds

Superintendent, Colorado River Agency
Superintendent, Utah and Gurney Agency

Trust Funds Management in Albuquerque has presented the Phoenix Area Office with the attached brief description of the proceedings that have occurred since the closure of Valley First Federal Savings and Loan of El Centro, California.

Per Office of Trust Funds Management request, please notify the tribes of the information contained in the attached explanation.


We will keep you advised of any additional information, as it becomes available to us.

Direct any inquiries you may have regarding this matter to Betty S. Garland, Phoenix Area Accounting Officer, at FTS 261-5780 or Commercial (602) 379-5780.

151 Lines J. Brown, Jr.

Attachment

DLCRES:lsh 3/26/91



APR 29 1991

Phoenix Area Director

Notification of Loss of Interest Earnings-Uintah and Ouray Tribe

Superintendent, Uintah and Ouray Agency

Attached is a memorandum received from the Office of Trust Funds Management in Albuquerque which explains the circumstances of an identified loss of interest earnings on invested trust funds of the Uintah and Ouray Tribe.

The Office of Trust Funds Management has submitted this matter to the Interior Solicitor's office for a determination and will keep us informed of any future developments.

Please notify the Uintah and Ouray Tribe and provide them with a copy of the attached memorandum.

If you have any questions concerning this matter please contact Betty Gerland, Area Accounting Officer at commercial 602-379-8780 or FTS 261-6780.

(SGD) WILSON BARBER, JR.

Attachment

*Abing
B
5/28*

Tribal Operations
(602) 669-7114

MAY 21 1991

Mr. Daniel Eddy, Jr., Chairman
Colorado River Indian Tribes
Route 1, Box 23-B
Parker, Arizona 85344

Dear Mr. Eddy:

Enclosed is a copy of a memorandum, with attachments, from the Phoenix Area Office dated March 26, 1991. A brief description is given by the Bureau of Indian Affairs, Office of Trust Funds Management, on the investment of trust funds for the Colorado River Indian Tribes in the now defunct Valley First Federal Savings and Loan of El Centro, California.

Although the principal amount was recovered, we are seeking to recover the potential interest amount the investment could have earned from January 14, 1983 to September 30, 1990. Please note the last two pages, analysis narrative explanation and numerical analysis for the Tribes.

If there are any questions, please contact Mr. Taylor at the number listed above.

Sincerely,

s/Ernest T. Moran

Superintendent

RECEIVED
DIRECTOR
FINANCIAL MANAGEMENT
MAY 23 10 17 AM '91

Enclosures

cc: PAC Tribal Govt. Services
PAC Accounting, Attn: Ms Betty Garland

RECEIVED

JUN 05 1991

BUREAU OF INDIAN AFFAIRS
DIV. TRUST FUND INVESTMENTS

Reservation Programs APR 16 1991

Mr. Luke Duncan, Chairman
Utah and Quray Tribal Business Committee

Dear Mr. Duncan:

Attached is a brief description of the proceedings that have occurred since the closure of Valley First Federal Savings and Loan of El Centre, California, which was provided by the Phoenix Area Branch of Accounting Management. If you have any questions, please contact us.

Sincerely,

Superintendent

Attachment

cc: Business Committee Members (6)

RECEIVED
JUN 05 1991
BUREAU OF INDIAN AFFAIRS
DIV. TRUST FUND INVESTMENTS

Reservation Programs

MAY 06 1991

Mr. Luke Duncan, Chairman
Uintah and Duroy Tribal Business Committee
Dear Mr. Duncan:

Attached are copies of memoranda from the Area Office and the Office of Trust Funds Management in Albuquerque, New Mexico, giving notification on loss of interest earnings on invested trust funds for the Ute Indian Tribe.

According to the Area Director's memorandum, the matter has been referred to the Interior Solicitor's Office for determination. We will keep you informed on future developments.

If you have any questions, please contact us.

Sincerely,

Superintendent

Attachments

MNatchees:05/03/91

MAY 1 1 1991

Judy Knight-Frank, Chairperson
Ute Mountain Ute Tribe
General Delivery
Towaoc, CO 81334

Dear Ms. Knight-Frank:

In our February 22, 1991 memorandum we informed you of a loss of interest earnings on a Tribal investment in the amount of \$10,347.16. According to the enclosed copies of memorandum from the Area Director and the Acting Director, Office of Trust Funds Management, the reported loss was a reporting error on the part of the Office of Trust Funds Management. The Ute Mountain Ute's Tribal Trust Funds were not involved in the loss of interest on investments described in the January 7, 1991 memorandum issued by the Office of Trust Funds Management.

The Office of Trust Funds Management convey their apologies for the error. If you have any questions, please contact Ramona Yapa, Branch of Administrative Accounting Services, (505) 766 3164.

Sincerely,

/S/ Arthur L. Blazer,

ACTING Superintendent

Enclosures

CLLAMEMAN:jc:05/14/91

File: Investments
10102-T1

Doc: Invest

L. Hoffmann

Branch of Operations

FEB 22 1991

Judy Knight Frank, Chairperson
Ute Mountain Ute Tribe
General Delivery
Towaoc, Colorado 81334

Dear Chairperson Knight Frank,

Enclosed for your information are copies of memorandum from the Acting Area Director dated February 11, 1991 and the Acting Director, Office of Trust Funds Management regarding a loss of interest earnings on Tribal Investment. According to the memorandum the amounts of earnings which was expected but not received was \$10,347.16 for the Ute Mountain Ute Tribe.

If you need further information, please contact Mr. George Gever, Office of Trust Funds Management, Central Office West, at (505) 766-3466.

/s/ Toby Tolins

ACTING Superintendent

FEB 26 1991

Mr. Leonard C. Burch, Chairman
Southern Ute Tribe
P.O. Box 737
Ignacio, CO 81137

Dear Mr. Burch:

Enclosed is a copy of correspondence received from the Office of Trust Management through the Area Office regarding, "Notification of Loss of Interest Earnings - Ute Mountain and Southern Ute Tribes". Any questions the tribe may have may be directed to Mr. George Gover, Office of Trust Funds Management, Central Office West, at telephone no. (505)766-3496.

Sincerely,

[Signature]

Superintendent

Enclosure

102-T1 supt
Chrono

ESCandelaria:mb:02/26/91

BUREAU OF INDIAN AFFAIRS
SACRAMENTO AREA OFFICE
2800 Cottage Way
Sacramento, CA 95825

RECEIVED
JUN 13 1991
BUREAU OF INDIAN AFFAIRS
DIV. TRUST FUND INVESTMENTS

JUN 10 1991

Yurok Transition Team
519 3rd Street, Suite 21
Eureka, California 95521

Dear Yurok Transition Team:

Enclosed is a memorandum, with attachments, from the Director, Office of Trust Funds Management regarding closure of Valley First Federal (1/83), recovery of invested funds, and loss of potential earnings pending recovery of these funds.

The Federal Savings and Loan Insurance Corporation (FSLIC) closed the Valley First Federal Savings and Loan in January 1983. At this time Hoopa/Yurok funds were invested with this institution. Although the total invested funds plus interest (\$1,261.67) was recovered by August 1988, and additional interest (\$262.38) was received in July 1989, there remains the situation of the loss of potential earnings during the recovery period.

The Office of Trust Funds Management is working with the Office of the Solicitor to determine legality of the recovery of potential losses and reimbursement of these losses. You will be notified as this process progresses.

Sincerely,

/s/ Michael R. Smith

ACTING Area Director

Enclosures

cc: Chief, Division of Trust Funds Investments

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

AS RECEIVER

WESTERN REGIONAL OPERATIONS

523 West Sixth Street, Suite 440

Los Angeles, California 90014

(213) 623-7055



July 10, 1989

RE: FSLIC as Receiver for Valley First Federal Savings and Loan

Dear Sir/Madame:

On January 14, 1983 the Federal Savings and Loan Insurance Corporation was appointed the Receiver for Valley First Federal Savings and Loan Association, ("Valley") pursuant to Federal Home Loan Bank Board Resolution No. 83-28, dated January 14, 1983.

The Receiver has liquidated the majority of the assets of Valley.

You previously should have received dividends totalling 100% of your allowed unsecured claim and/or uninsured deposit. The Federal Home Loan Bank Board has approved a fourth liquidating dividend representing interest that can be paid after the creditors of the unsecured status have been paid in full. The rate of interest is established in the priority of creditors set forth in Resolution No. 83-28, dated January 14, 1983. The enclosed check represents 70.8% of the total interest due at this point. The distribution, however, is actually an additional 22.7356% of your original claim amount.

The Receiver anticipates finalizing the liquidation of Valley by the end of this year, and at that time will make a final distribution of the assets.

Please call me if you have any questions at the above number, on extension 255.

Very truly yours,

FSLIC AS RECEIVER FOR
VALLEY FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION

A handwritten signature in cursive script, appearing to read "Piera A. Casella".

Piera A. Casella
Distribution Coordinator

Enclosure

Notes for accompanying spreadsheet—analysis of closure of Valley First Federal Savings and Loan, El Centro, CA

Note 1. The analysis attempts to show what could have been earned if the uninsured funds had been returned at time of closure.

Note 2. All interest rates used are the annual averages for total funds in the regular BIA investment program. FY 1990 rates were used to calculate amount of daily increase since Sept. 30, 1990.

Note 3. All payments received were from the FDIC as a result of liquidation of the assets of the failed institution. As spreadsheet shows, and the attached letter confirms, the FDIC liquidation receipts were enough to pay additional interest, so total amount recovered was more than the amount claimed.

Note 4. Shaded areas in the spreadsheet are labeled "balance", and represent what the balance would have been at that point in time if the funds were available and had been routinely invested by BIA, less actual FDIC payments against the outstanding claims.

Note 5. As soon as the funds were identified as being uninsured, a claim was filed for the total amount.

Note 6. This analysis in no way acknowledges or admits liability for the potential earnings not realized. The question of liability and reimbursement is being addressed by the Interior Solicitor's Office. At the same time, the Office of the Assistant Secretary— Indian Affairs is addressing the general policy issue of reimbursement.

Analysis—closure of Valley First Federal	Colo River 603	U & O 687	Hoopa—Yurok 575
Amount uninsured at date of closure, Jan 14, 1983	96,843.45	96,843.45	1,261.27
Earnings if funds invested to Sept 30, 1983 at 10.88%	7,447.77	7,447.77	97.00
Balance at Sept 30, 1983	104,291.22	104,291.22	1,358.27
Earnings if invested during FY 1984 at 10.562%	11,015.24	11,015.24	143.46
Balance at Sept 30, 1984	115,306.45	115,306.45	1,501.73
If invested to Jan 31, 1985 at 10.355%	3,990.90	3,990.90	51.98
Balance at Jan 31, 1985	119,297.35	119,297.35	1,553.71
FDIC payment received Jan 31	25,339.09	25,339.09	330.01
Balance after payment	93,958.26	93,958.26	1,223.69
If invested to Sept 30, 1985 at 10.355%	6,477.37	6,477.37	84.36
Balance at Sept 30, 1985	100,435.63	100,435.63	1,308.05
If invested FY 86 at 8.462%	8,498.86	8,498.86	110.69
Balance at Sept 30, 1986	108,934.49	108,934.49	1,418.74
If invested FY 87 at 7.404%	8,065.51	8,065.51	105.04
Balance at Sept 30, 1987	117,000.00	117,000.00	1,523.78
If invested to Aug 2, 1988 at 7.700%	7,552.75	7,552.75	98.37
Balance including interest at August 2, 1988	124,552.75	124,552.75	1,622.15
Final (100%) FDIC Payment against claims	71,504.36	71,504.36	931.26
Balance at August 2, 1988 after FDIC payment	53,048.39	53,048.39	690.89
If invested to July 28, 1989 at 8.803%	3,467.20	3,467.20	45.16
Balance at July 28, 1989	56,515.60	56,515.60	736.05
Additional FDIC interest payment rec'd July 28, 1989	22,030.13	22,030.13	262.38
Balance after July 28 payment	34,485.47	34,485.47	473.67
If invested to Sept 30, 1989 at 8.803%	3,035.76	3,035.76	41.70
Balance at Sept 30, 1989	37,521.22	37,521.22	515.36
If invested FY 90 at 8.735%	3,277.48	3,277.48	45.02
Balance at Sept 30, 1990	40,798.70	40,798.70	560.38
Daily accumulation if invested at 8.735%	9.76	9.76	0.13

Mr. SYNAR. At the subcommittee's hearing on October 26, 1989, and on April 24, 1990, and on September 25, 1990, I asked you, Dr. Brown, whether the Bureau established a policy to notify account holders for their losses. At those three hearings, the same answer was uttered. The answer was "no."

In September 1990, Mr. Gallegos, representing Secretary Lujan, affirmed the Department's moral responsibilities in that area and promised the Bureau was working on establishing a policy of notifying account holders.

Today, tell me, Dr. Brown, when did the BIA begin work on fulfilling Mr. Gallegos's promise? Did it begin in January, but actually start taking place last week?

Dr. BROWN. No. I think it began after the last hearing here.

Mr. SYNAR. When did it actually start going? Last week?

Dr. BROWN. There was an original draft around January or February—

Mr. SYNAR. When did it finally—results, performance? Last week?

Mr. GOVER. Mr. Chairman, since I was party to that, we had put it into final, in January, it was getting ready to be released. The GAO decision came out that knocked everything into a cocked hat. We had to go back and begin that review again, because of the GAO decision.

Mr. SYNAR. The GAO decision was in March, Mr. Gover. How could that knock it into the dirt in January and February? It doesn't derail because of something that happened in March.

Mr. GOVER. Mr. Chairman, the Solicitor's office has their own timeframes and agenda. We do pursue that aggressively. Within the Department, we have no control of how they do their day-to-day work.

Mr. SYNAR. Mr. Brown, under your management, if the audit of the accounts revealed the money was owed by an account holder to the trust fund, isn't it safe to assume the Department would notify the account holder and attempt to recover the money rather quickly?

Dr. BROWN. Yes, sir.

Mr. SYNAR. Isn't that what happened on the Red Lake Band of the Chippewa Indians, the BIA found a mistake in the Red Lake Indian trust accounting, operations account, which the BIA decided was an error in favor of the Federal Government? In response, the BIA unilaterally acted to remove the money from the Red Lake's Indian trust operating account.

Recently, after this subcommittee's third oversight hearing on the Indian Trust Fund management during which you were questioned on the specifics of the Red Lake Band's case against the BIA, the \$362,000 was transferred to the Red Lake Band. While that payment does not settle the Red Lakes' claim against the BIA, it does return the principal sum at issue that the BIA had taken away under its control.

Dr. Brown, I am going to ask you once again, can you give this subcommittee any good reason why the same standard should not apply in the reverse situation? In other words, why would the Department of the Interior not notify account holders when you find BIA owes them money?

Dr. BROWN. No, sir.

Mr. SYNAR. OK. I gather then the Bureau has still not made any attempt to reimburse account holders for their losses, even though it is not against your policy?

Dr. BROWN. At this point in time, no, we have not.

Mr. SYNAR. Dr. Brown, 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. I answered prematurely on the first question on reimbursement—what attempts have been made.

Mr. Parris.

Mr. PARRIS. The most significant event, where the Bureau did take action to reimburse account owners of interest, for instance, and not been funded was as a result of an effort in 1986, there were some interest, \$2 million worth of interest, that had not been funded properly. We did get authorizing legislation from Congress and did subsequently distribute those funds.

Mr. SYNAR. There has been one in February, correct, and no others? Isn't that correct, there was one in February 1988?

Mr. PARRIS. That is it.

Mr. SYNAR. Let's go to the other question, Dr. Brown. How many claims are currently pending against the Department of trust fund losses attributed to erroneous accounting, fraud, or failed financial institutions?

Mr. GOVER. We have a listing. It has not been filed. It is a working document composed of correspondence we had with the Solicitor's offices, contacting all their locations.

In addition, we, on a periodic basis, contact our area and agency offices to give us a listing where claims have been made.

Mr. SYNAR. Let's go through that. You provide this subcommittee with four conflicting lists on outstanding claims pending against the Department. There are 24 pending claims on one of these lists, but it does not itemize the losses of the failed financial institutions because BIA apparently has failed to notify any account holders.

Not surprisingly, one of those lists includes the Red Lake Band of Chippewa Indians, and it is excluded on the other two. Instead, on the list, the BIA personally handed me on March 22 in your Albuquerque office, the Minneapolis area office is listed as having no outstanding claims.

In a telefax of just last Saturday, the Bureau put Red Lake back on its list of potential losses.

Now, remembering what you heard this morning, please tell the subcommittee which list is correct, the two that included the claims with the Red Lake Band or the other two, which acknowledge no such claim.

Mr. GOVER. The latest list is the correct list.

Mr. SYNAR. The Saturday list?

Mr. GOVER. Yes, sir.

Mr. SYNAR. The simple fact is that after 18 months the BIA has yet to supply this subcommittee with a full accounting of a current number and description of current claims on the trust fund; have you?

Mr. GOVER. Mr. Chairman, that—again, that is a working list or a living list. All we are doing is identifying where there may be potential claims. We are not validating these claims. These are claims that have been brought to our attention. They move on and off this list. We were trying to develop a comprehensive list to begin to track those losses, so that we can provide accurate—

Mr. SYNAR. You realize one of the things we asked you for in the previous hearings is how long each claim had been outstanding. That is not in these lists, is it?

Mr. GOVER. No, sir.

Mr. SYNAR. You did promise me that, didn't you?

Mr. GOVER. Yes, sir.

Mr. SYNAR. Dr. Brown, in all candor, I am very disappointed once again. It has been more than a year since the inspector general reported those losses and made some very simple, prudent recommendations to reform this aspect of the Indian trust management. It is incomprehensible to this subcommittee that the Department and BIA have allowed this gross mismanagement to continue. It is this kind of dereliction of duty that, if it occurred in any other Federal program, would have long ago had civil and criminal action filed against it.

Here we are in the fourth hearing to impress upon you the seriousness of this matter, and I am not sure we are getting anywhere.

But we are finally getting somewhere, because in the 11th hour it arrived in our office on Saturday, when all of us were here with baited breath waiting. I want to assure you that we are going to scrutinize every one of these until we get this down.

Dr. Brown, in our previous three oversight hearings, the subcommittee expressed concern on the BIA's management of the Security Pacific National Bank contract; is that not correct?

Dr. BROWN. Yes, sir.

Mr. SYNAR. For us, two of the most frustrating aspects of the Security Pacific fiasco were BIA's inability to obtain timely performance from the contractor and the seemingly endless number of contract modifications and extensions, which were requested by the contractor and granted by you all at the BIA.

Dr. Brown, do you agree that these facets of the BIA management of the Security Pacific were less than admirable?

Dr. BROWN. From my review of the situation, I found there were a lot of concerns and issues, but, yes, there were many that could not be supported.

Mr. SYNAR. I want to ask unanimous consent to enter in the record exhibit 3. This is a document which includes excerpts from the request for proposals for the trust fund audit and reconciliation project that resulted in a contract award of May 10, 1991. A relevant part of this exhibit concerns the milestone dates for performance contained on page 3 of the exhibit.

[The information follows:]

SOLICITATION, OFFER AND AWARD CERTIFIED FOR NATIONAL DEFENSE UNDER DODS REG 2 AND OIA DMS REG 1 HAYWARD P.M.C. OF **PAGES**

7 CONTRACT NO. 8 SOLICITATION NO. 9 DATE OF SOLICITATION'S DATE ISSUED 10 ADVANTAGE 11 REGULATION/INCREASE NO.

12 RFP BIA X51-91-200 13 NEED/ATED (RFP) 14 02-01-91 15 1-24-91

16 FROM: Bureau of Indian Affairs
Branch of Contract and Grant Operations
1951 Connelley Avenue, N.W.
Washington, D.C. 20245 MS-339A-S-3

SOLICITATION

17 Sealed offers in original and copies for forwarding the bidding or services if the Schedule will be received at the place specified in Item 8, or if handwritten, in the depository listed in Room 339 - South Interior Building until 10 AM local time March 13, 1991 (Date)

18 CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section 1, Provision No. 52.214-7 or 52.215.10. All offers are subject to all terms and conditions contained in this solicitation.

19 FOR INFORMATION CALL: A. NAME PERCY S. HAYKEY B. TELEPHONE NO. (include area code) INDIRECT CALL
(202) 208-7809

11 TABLE OF CONTENTS					
(A) SEC.	DESCRIPTION	(B) PAGE(S)	(C) SEC.	DESCRIPTION	(D) PAGE(S)
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A	SOLICITATION/CONTRACT FORM	1	I	CONTRACT CLAUSES	62
B	SUPPLIES OR SERVICES AND PRICES/COSTS	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH		
C	DESCRIPTION/SPEC WORK STATEMENT	2, 3	J	LIST OF ATTACHMENTS	59
D	PACKAGING AND MARKING	3	PART IV - REPRESENTATIONS AND INSTRUCTIONS		
E	INSPECTION AND ACCEPTANCE	3	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	28
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G	CONTRACT ADMINISTRATION DATA	3	M	EVALUATION FACTORS FOR AWARD	1
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NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees if I offer I accepted within _____ calendar days (or calendar days unless a different period is specified by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered in the designated quantity or within the time specified in the schedule.

13 DISCOUNT FOR PROMPT PAYMENT 14 CALENDAR DAYS 15 CALENDAR DAYS 16 CALENDAR DAYS 17 CALENDAR DAYS

14. ACKNOWLEDGMENT OF AMENDMENTS	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
(The offeror acknowledges receipt of amendments to the SOLICITATION for offers and returns the number, name and date)				

15A. NAME AND ADDRESS OF OFFEROR: CODE _____ FACILITY _____ 16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)

17E. TELEPHONE NO. (include area code) 18C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE. ENTER SUCH ADDRESS IN SCHEDULES 17. SIGNATURE _____ 18. OFFER DATE _____

19. ACCEPTED AS TO ITEMS NUMBERED _____ 20. AMOUNT _____ 21. ACCOUNTING AND APPROPRIATION _____

22. SUBMIT INVOICES TO ADDRESS SHOWN IN ITEM _____ 23. NEGOTIATED PURSUANT TO 10 U.S.C. 2304(b) (1) 41 U.S.C. 202(b) (1)

24. ADMINISTERED BY (If other than (1)(b)) CODE _____ 25. PAYMENT WILL BE MADE BY _____ CODE _____

26. NAME OF CONTRACTING OFFICER (Type or print) _____ 27. UNITED STATES OF AMERICA _____ 28. AWARD DATE _____

Signature of Contracting Officer _____
 IMPORTANT - Award will be made on this Form, or on Standard Form 28, or by other authorized official written notice.
 HSB 780-01-107-000 53-102 STANDARD FORM 28 (REV. 10-85) Prescribed by GSA FAR (48 CFR) 53.201-2
 PREVIOUS EDITION NOT USABLE A GPO : 1984 O - 421-526 (25)

CONTINUATION SHEET		RFP BIA K51-91-300		NAME OF OFFEROR OR CONTRACTOR	
ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
YEAR 1					
1	Partner (One)	520	Hrs		
2	Manager (One)	2,080	Hrs		
3	Senior Accountant (Four)	8,320	Hrs		
4	Staff Accountants (Twenty-one)	43,680	Hrs		
5 a)	Per Diem in Albuquerque, NM		Days		
b)	Per Diem in Fort Duchesne, UT		Days		
c)	Per Diem in Hoquiam, WA		Days		
d)	Per Diem in Poplar, MT		Days		
e)	Per Diem and Car Rental Budget for visits to tribes	-----			\$30,000.00
6	Rental Car		Weeks		
7	Other Costs (Specify)				
TOTAL COSTS PROPOSED FOR YEAR 1					0

Management, who will make the final determination as to the disposition of any contested adjustments.

F. TIME CONSIDERATIONS & 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.....	February 21, 1991
Proposal Due Date.....	March 13, 1991
Contract Award.....	May, 1991
Initiation of Reconciliations.....	May, 1991
Reconciliations Completed-Phase I)May, 1992
Projection of Plan for Phase II .	NLT February 28, 1992
Exit Conference in Washington, D.C.	To Be arranged by C.O.

G. Availability of Funds

FY 1991 funds are available to begin work on Phase I, which is planned as a twelve month effort to be incrementally funded with FY 1992 funding. The Government may exercise options for contract performance up to five years.

H. Report Review, Timing & Number of Copies

The firm will be required to submit to the relevant Agency (for IIM) and Area (for Tribal) Office copies of the 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, regardless of whether they 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 designated Agency/Area Office, who will forward the statements with any attachments to the account owners.

Mr. SYNAR. Dr. Brown, as you will note on that page 3 of the exhibit, this RFP allows the contracting officer to waive any or all of the contract's time considerations and requirements within 24 hours prior to the date listed for performance. With all due respect to Arthur Andersen, Dr. Brown, what assurances can you give this subcommittee that the milestones set in this agreement will be met?

Let me go through it again. Page 3, the contracting officer may waive any or all of the contract's time considerations and requirements within 24 hours prior to the date listed for performance. Given your history here, what kind of assurance can you give this subcommittee that these milestones set out will be met?

Dr. BROWN. Can we have Mr. Parris respond?

Mr. PARRIS. There are a lot of factors that will impact this contract. We knew when we wrote the final version of the requirements that they called for periodic reports by the contractor and close monitoring by the Bureau of Indian Affairs. In the first 4 to 6 weeks, we expect the contractor to give us their best feeling about what they are up against as far as the state that they are finding it in the field offices where they are working and the conditions of the records, the matter of assistance that they are going to be provided by the Bureau that they are experiencing.

We are going to have to—

Mr. SYNAR. This could be a 5-year contract, couldn't it, Jim?

Mr. PARRIS. Well, that is what we are shooting for, to get it done within that time period.

Mr. SYNAR. Let's go to paragraph 3—excuse me, the paragraph on page 3 of the exhibit entitled "Availability of Funds." It contains very interesting language, too, "Fiscal year 1991 funds are available to begin work on phase one, which is planned as a 12-month effort to be incrementally funded with fiscal year 1992 funding. Government may exercise options for contract performance up to five years."

What does that last sentence mean, Dr. Brown? Does that mean the Government retains the option of extending phase 1 of the trust fund audit and reconciliation program from 1 to 5 years?

Dr. BROWN. No.

Mr. SYNAR. Mr. Gover.

Mr. GOVER. That is a standard contract clause.

Mr. SYNAR. It does give the extension from 1 to 5 years, does it not?

Mr. GOVER. This contract has two parts to it—phase 1 and phase 2. So to complete the contract is saying that we need availability of funds. We cannot spend funds until Congress appropriates the funds, especially on service contracts. You can only expend funds for the year for which the service is being performed.

Mr. SYNAR. Mr. Peterson, any questions?

Mr. PETERSON. I just am curious, in 4 to 6 weeks, you are going to have some kind of an idea of how big a mess this is?

Mr. PARRIS. There are various checkpoints in this. There are weekly written reports required of the contractor. There are going to be monthly meetings with the partners. Within the 4 to 6 weeks we are going to have a report, an initial feedback from the contrac-

tor on their experience up to that point, where they think the procedures appear to be reasonable.

We also have built in at the end of phase 1 a report summarizing their experience during that first phase, before we proceed with the project in phase 2.

Mr. PETERSON. That could be 5 years from now.

When is this 4 to 6 weeks going to be? When is that going to be, like in June or what?

Mr. PARRIS. The field work will begin June 24. The clock will start at that time.

Mr. PETERSON. It will be in August probably before you get—

Mr. PARRIS. Probably.

Mr. PETERSON. Mr. Chairman, who can have access to this information, these weekly reports and this report that comes out? Is the ad hoc group going to have access to that? Can we have access to that?

Mr. GOVER. Mr. Peterson, also to answer the chairman's question earlier, one of the steps we are taking is to provide better contract management, so we don't end up in the same situation as we did with Security Pacific; we have developed this working relationship with the tribal ad hoc committee. Not that it is always a hand-in-glove type of relationship, because at times we have different interests.

But there is an awareness, and we are working together. We hope to work with them on an ongoing, day-to-day type basis, and develop the data, so they can make their own interpretations of that data and what their expected outcomes of that data will be. I think that is very, very important.

In addition, we have developed a working relationship with the GAO staff that has been assigned to us, again, as a result of these hearings and also with the assistance of Chairman Yates of the Appropriations Committee.

We also have staff being assigned to us from OMB. In addition, the inspector general has assigned us staff to oversee this effort. As opposed to what happened previously, where it was all done off in one corner by a select group of people, a whole new management staff will be put in place, a whole new organization has been put in place.

Mr. SYNAR. Mr. Gover, to all—with all due respect, that is a good summary of that. You take that and you are trying to tell us this is one of your successes. We have forced these people on you because you are not doing your job. I mean, the inspector general and the GAO, that is not what we hired them to do. Assigning four oversight committee hearings is not what we do for a living. You hold this out as a success; I think it is an example of constant failure that it has taken this many different people to come together to get you to do the basic job you were intended to do.

Don't sit there and hold that you have a better management team today because of the following things. The reason you have any management at all is all these other agencies, which weren't supposed to be running your agency, are now running your agency.

I am sorry, Mr. Peterson.

Mr. PETERSON. The only question I have, do you have an idea of how much it is going to cost, his phase 1?

Mr. GOVER. This initial 5-year contract is a little over \$13 million.

Mr. PETERSON. Thank you, Mr. Chairman.

Mr. SYNAR. Dr. Brown, you heard the GAO testify this morning that the BIA had serious training and staffing needs that were not being met. At our last hearing on September 25, I asked Mr. Gallegos, representing the Secretary, whether staffing and training were priorities, and he said "yes."

Will you tell this subcommittee that you have enough personnel?

Dr. BROWN. Personnel in regards to trust funds?

Mr. SYNAR. Yes.

Dr. BROWN. Over the last year we have added to the number with recruiting. Last year we did not have enough personnel. This year we are moving to fill those positions and are in the process of having the majority of those filled. We will continue to do that.

Once those are staffed and carrying out the responsibilities, we feel at that point we should have sufficient staffing. However, if we get in and find that there are some other problems and concerns, that is why we put in the 1992 budget those management improvement dollars to allow us to quickly move and add any that might be necessary to address the situation.

Mr. SYNAR. I have before me a BIA document concerning trust accounts at the field level. A document was prepared for meetings on May 7 and 8, 1991. It indicates that the trust account position at Aberdeen is vacant and that Aberdeen is, "critically understaffed."

Dr. Brown, Aberdeen plays a significant role in the Indian Trust Fund. How can you manage the trust fund properly without accountants at Aberdeen?

Dr. BROWN. You can't, sir.

Mr. SYNAR. In my hometown of Muskogee, OK, a trust account position is vacant. In Navaho, the position has been vacant for a month. In Phoenix and Sacramento, the position is vacant. Dr. Brown, when are you going to really do something about this personnel and stop promising me that something is going to be done? How can you do the job if they are not there?

Dr. BROWN. Let's respond to the vacancy positions.

Mr. SYNAR. OK. Let's go through them.

Aberdeen.

Mr. GOVER. Mr. Chairman, these vacancies occurred because of promotions of these individuals.

Mr. SYNAR. The point is, you can't do your job unless those positions are filled, can you?

Mr. GOVER. That is correct. We need to go back and fill those positions and recruit competent people who were in before—

Mr. SYNAR. How long will it take to get one at Aberdeen?

Mr. GOVER. It usually takes about 90 days.

Mr. SYNAR. Muskogee.

Mr. GOVER. The same.

Mr. SYNAR. Ninety days.

Navaho.

Mr. GOVER. The same.

Mr. SYNAR. Phoenix.

Mr. GOVER. It would be the same. Phoenix has gone through about two trust accountants in the last 6 months.

Mr. SYNAR. That would be 180 days or 90 days?
Sacramento.

Mr. GOVER. It would be the same.

Mr. SYNAR. OK.

Mr. GOVER. Mr. Chairman, we are additionally looking at those positions and hoping to retain qualified people. Based upon what we are working on during this past year, an organizational analysis, we are trying to put additional resources into those positions, so we can retain these people.

Mr. SYNAR. Dr. Brown, since 1982 more than 30 audits have been performed by the inspector general of the Department of Interior and public accounting firms hired by the BIA. Each one of those reports has noted serious accounting and financial management problems and noted weak internal controls throughout the BIA.

Furthermore, with its first report under the Federal Managers Financial Integrity Act of 1983, each year the Department of the Interior has continued to report on serious, long-standing financial management problems at the BIA. In its most recent report, the Department of the Interior characterized the entire Bureau as having a material internal control weakness.

In fact, Dr. Brown, the BIA's accounting controls historically have been so weak that Arthur Andersen & Co.'s fiscal years 1989 and 1988 audits were unable to confirm cash balances for individual Indian or tribal accounts. They highlighted major inadequacies in accounting records and related systems, and found numerous accounting errors.

Moreover, the report identified 16 material accounting system and internal control weaknesses.

Finally, in 1989, reacting to the long-term nature of BIA's mismanagement of the Indian Trust Fund and the BIA over persistent management failures, you are aware that OMB designated BIA as a high-risk agency, requiring priority attention. At that time OMB asked BIA to prepare a strategic plan for corrective action on these problems.

Dr. Brown, has the BIA prepared a strategic plan?

Dr. BROWN. For the trust funds? No, we do not have a strategic plan based on the plan we are pursuing. What we have are projects listed in long- and short-term goals. We do not see being able to develop a strategic plan of how all of this comes together until we are able to bring our director and the directors of each of the other three components I talked about forming as a group. That then would develop a strategic plan. A strategic plan in that sense has not been developed.

What we have—

Mr. SYNAR. All you have is an outline?

Dr. BROWN. We have a general strategic outline, yes, sir.

Mr. SYNAR. An outline doesn't feed the bulldog.

Dr. BROWN. It gets us into places we have not even begun to do preliminary thinking about, how you even begin to structure this organization.

Mr. SYNAR. Dr. Brown, not steps, not initiatives, not anything but performance. That is what I am looking for, performance.

Simply parroting back to Congress a laundry list of deficiencies and then providing a noncoordinated plan for corrective action is not a strategic plan that OMB and this subcommittee want, is it?

Dr. BROWN. No. Nor have we ever stated it as such.

Mr. SYNAR. What are you doing to ensure the balance of the 300,000 Indian Trust Fund accounts remain accurate once the accounts are reconciled?

Mr. GOVER. Mr. Chairman, we have put into place an automated reconciliation program, so that our trust funds accountants at the area offices can begin to reconcile on a monthly basis the inputs from the IRM system into the general ledger.

In addition, we have put into place at this point an automated system that ties the various systems together with an automated interface into the general ledger accounting system.

We have made the trust fund management accounting positions a high priority, making sure they are adequately staffed and adequately funded so we can retain qualified people. We put an organization into place—we put a policy analysis group into place that provides oversight for that, to make sure that those procedures that we sent to the field are being adhered to.

Mr. SYNAR. OK.

Dr. Brown, when will the BIA start conducting periodic and timely reconciliations of all Indian Trust Fund accounts to assure accuracy of those accounts?

Dr. BROWN. Reconciliation is scheduled to begin on June 24.

Mr. SYNAR. Is that right?

Dr. BROWN. They are supposed to be meeting with the contractor, in early June for some training. They are actually supposed to appear in the field on June 24, I believe.

Mr. SYNAR. When will you be able to determine the accurate cash balances?

Mr. PARRIS. Well, the reconciliation effort is going to be reconciling all of the cash deposit disbursement investment activity on these accounts. As mentioned earlier, there may be records that are going to be unavailable at times. We can't anticipate at this time that we are going to have 100 percent reconciliation. Unless you can do that and have audited financial statements, we are not going to be in a position to be 100 percent sure that there are balances in all of these accounts.

Mr. SYNAR. When? When?

Mr. PARRIS. We will go into this reconciliation project within the next 5 years. It is going to take going through these accounts.

Mr. SYNAR. I want to see if I have got this right. Is the new answer to that, when no one disagrees?

When will the BIA, Dr. Brown, be able to assure the account holders and Congress it has consistently and prudently invested trust funds and will be paying interest to the account holders?

Dr. BROWN. I think we have some of that capability to begin right now. Clearly, until we institute a new system and get that all laid out and to address all the concerns identified by the inspector general and GAO, I think we are going to be working on that. We can do a certain amount of that now.

Mr. SYNAR. Isn't it true that the last time the BIA distributed interest earned on oil and gas royalty collections to the allottees and tribal accounts was 1985?

Dr. BROWN. Yes, I am told so.

Mr. SYNAR. You don't expect us to have another 6 year gap for the interest payments, do you?

Mr. PARRIS. No. The interest related to the oil and gas royalties is going to be distributed as a result of the petition.

Mr. SYNAR. When?

Mr. PARRIS. We at this time are in the final—

Mr. SYNAR. When? When?

Mr. PARRIS. By October.

Mr. SYNAR. Of this year?

Mr. PARRIS. Correct.

Mr. SYNAR. Have you consulted the tribes on this matter?

Mr. PARRIS. This particular situation involves mainly allottees' accounts.

Mr. SYNAR. When will the BIA be able to prepare and supply account holders with meaningful periodic statements of their account balances?

Mr. PARRIS. We are sending monthly statements of oil and gas income to the account holders now. It is the installation of payments, I believe, that you are referring to that would go actually with the check. We are now in the process of—

Mr. SYNAR. When?

Mr. PARRIS. We are looking at January 1992.

Mr. SYNAR. 1992. All right. That means that the RFP was issued in July and the contract was awarded, would be awarded in December 1991?

Mr. PARRIS. The RFP for the centralization of disbursements?

Mr. SYNAR. Yes.

Mr. PARRIS. We are expecting to have that out within the next 60 days.

Mr. SYNAR. Have you consulted the tribes?

Mr. PARRIS. We have met with some representatives.

Mr. SYNAR. They are shaking heads back there, Jim. They are saying "no."

Mr. PARRIS. They attended meetings in Albuquerque.

Mr. GOVER. If I may clarify that, we did put together a working group in developing those requirements.

Mr. SYNAR. Those tribes were involved in that working group?

Mr. GOVER. Yes, they were. There were representatives from the ad hoc committee. One of the provisions from that was, once that RFP has been finalized, we would send it back to all the tribes for their review and comment. That process has not taken place.

Mr. SYNAR. That is what I wanted to hear. It took three questions to get it, but I got it.

Mr. GOVER. If I may add, that particular contract is also going to resolve another problem we have. There has been much talk today about not knowing our cash balances. The primary reason for that is that we bank with the Treasury Department. The Treasury Department will not give us, and cannot independently confirm, what our cash balances are. We do not even get a monthly check state-

ment back of what checks have been issued and what checks have been cashed.

I think, if you visit in Albuquerque, you will see what a long and cumbersome process it is to go back and research from the Treasury.

Mr. SYNAR. The Treasury does it every month, within 14 days, for every Social Security recipient. Why can't they do it for you?

Mr. GOVER. For reasons of when I am not aware they would not provide that service to us.

Mr. SYNAR. When will the BIA have a consistent written policy and procedures for the trust fund management accounting, Dr. Brown?

Mr. PARRIS. It will be developed as a result of the new trust fund management system.

Mr. SYNAR. When?

Mr. PARRIS. Within the next 2 to 3 years.

Mr. SYNAR. Within the next 2 to 3 years? You want to get it down even closer than that, Jim?

What about adequate staffing and supervision? When will the BIA increase the number of full-time staff to perform the tasks necessary to correct long-standing deficiencies?

Mr. BROWN. We are in the process of filling those positions.

Mr. GOVER. We should have people on board within 60 days.

Mr. SYNAR. All right.

Dr. BROWN, will you supply this subcommittee with a draft of a strategic plan for correcting the long-standing financial deficiencies of the Indian Trust Fund?

Dr. BROWN. Not within the next couple of months.

Mr. SYNAR. What is a couple of months? Is that 3 months? Four months?

Dr. BROWN. We will have—as I said, based upon the hiring of a Director, he will then serve in the organization that we have. It will be based on his leadership and the—

Mr. SYNAR. Dr. Brown, I am going to ask you the most serious question in this hearing. Listen very carefully, and I want everybody to listen to it in your Department.

Will you provide a draft plan by no later than June 1 of this year? I want a plan on my desk on June 1 of this year.

Dr. BROWN. Sir—

Mr. SYNAR. We have been waiting 10 years, Dr. Brown. No extensions, no excuses. June 1, will you provide it for this subcommittee?

Dr. BROWN. We will make every effort.

Mr. SYNAR. Dr. Brown—

Dr. BROWN. Let me say this however. I think it is only fair that I be able to respond if I am going to commit to a date.

Mr. SYNAR. OK.

Dr. BROWN. We are talking, as was discussed here with the tribes and tribal representatives, of tribal input and tribal involvement. That takes time, if you work with the groups. We are prepared to do that and committed to do that, and to putting together a strategic plan.

To say we are going to go into a closet and do it immediately, I cannot—

Mr. SYNAR. You bought yourself some grace with that amendment, but not much.

On that same date, Dr. Brown, will you also supply this subcommittee with a complete policy and procedures for notification and compensation of losses for the Indian trust funds attributable to BIA mismanagement?

Dr. BROWN. Could you repeat that?

Mr. SYNAR. On that same date, June 1, or at that point after you have consulted with the tribes and maybe a little longer, will you supply the subcommittee with complete policies and procedures for notification and compensation for losses of the Indian trust funds attributable to BIA mismanagement?

Dr. BROWN. Yes, at the time of the strategic plan, we will supply that.

Mr. SYNAR. Finally, on that date or a little bit longer—and I am not talking about 3 months—will you provide this subcommittee with a complete and accurate listing of all claims currently pending against the Indian Trust Fund? Again, we want to know how much is claimed, how long the claim has been pending, and when that claim arose. So far, your responses to that very simple question have been utterly unsatisfactory.

What we have now is more time to respond with greater precision. Will you provide that?

Dr. BROWN. Yes, sir.

Mr. SYNAR. All right.

Mr. Peterson.

Mr. PETERSON. You are doing fine, Mr. Chairman.

Mr. SYNAR. Let me close with this. Dr. Brown, the simple missing ingredient correcting this long-standing mismanagement problem at BIA are two words: Leadership and accountability.

What I want to see from you is a concrete expression of how the Department of the Interior and the BIA are going to take the lead to make this job get done. I don't want you to tell me that you are going to shift the responsibility somewhere else—for example, Treasury. And I don't want to hear from you that you have an outline.

I want a strategic plan after the 10 years we have been waiting. I don't want to hear that you don't know how many claims are pending against the trust funds or that you have no policy for reimbursing people injured by your mismanagement.

Think of this exercise as an opportunity to exhibit your personal leadership, an occasion to perform, an occasion and last chance to be accountable. Even OMB recognizes there is a crisis at the Indian Trust Fund. To solve that problem, someone—you, Dr. Brown—have to be accountable to the individual Indians, to the tribes, to the Congress, and most importantly, to the taxpayers.

You, Dr. Brown, are supposed to be that person; don't you agree?

Dr. BROWN. Yes, sir.

Mr. SYNAR. That concludes this hearing.

[Whereupon, at 1:10 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240




JUL 9 1991

Honorable William F. Clinger
Ranking Republican Member
Subcommittee on Environment, Energy
and Natural Resources
Government Operations Committee
2158 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Clinger:

Enclosed pursuant to your request are responses to the questions you submitted. If I can be of any further assistance, please let me know.

Sincerely,


Assistant Secretary - Indian Affairs

Enclosures

RESPONSE TO QUESTIONS FROM THE HONORABLE WILLIAM F. CLINGER
REGARDING BIA'S TRUST FUNDS MANAGEMENT

QUESTION 1:

Dr. Brown, for the record when did BIA realize that multiple transfers were not going to be accepted by congress?

Up until that point did you believe that multiple transfers were an acceptable approach?

If there was ever a doubt, why didn't BIA approach the Appropriations Committee?

RESPONSE:

The reconciliation plan submitted to the Appropriation's Committee on June 13, 1990, recognized that multiple transfers were not acceptable to Congress. It was hoped that a compromise could be worked out which would have allowed the implementation of the Security Pacific Bank Contract, but there was never any doubt that reconciling all accounts prior to any transfer of funds was required before the contract could be implemented. Our communications with the Committee were in the form of proposed plans to accomplish both the reconciliation and the contract award.

QUESTION 2:

In the past, Arthur Andersen & Co. reported that BIA's problems stem from: out-of-date accounting policy and procedural manuals, inadequate training programs, a lack of experienced accounting supervisors, and understaffed accounting operations.

What has BIA done to correct these problems?

- 1) out-of-date policy and procedural manuals?
- 2) inadequate training programs?
- 3) a lack of experienced accounting supervisors?
- 4) understaffed accounting operations?

RESPONSE:

Progress has been made in addressing the needs outlined by the Arthur Andersen & Co. audit reports. Existing policies and procedures have been reviewed, and clarifying directives have been issued to the field. A complete update of manuals has been delayed as BIA attempted to contract out a significant portion of the handling of trust funds. It is now recognized that the FFS is not capable of handling the subsidiary accounting for trust funds, and it is necessary that the BIA develop or procure a system for the handling of all aspects of the financial management of trust funds. In the meantime, the Office of Trust Funds Management has initiated

some short term system enhancements such as an automated bid-award process for the certificate of deposit investment activity, and an automated interface which eliminates the need for multiple data entry into the different systems involved in the investment processing. A task group has been formed to begin to review the regulations concerning IIM funds. It is too early to estimate when this process will be completed.

Several training presentations have been made to field staff handling trust funds. These have covered the basic accounting procedures as well as changes to accounting procedures, in addition to improved reconciliation processes and procedures. A national meeting of trust fund accounting staff from the Areas was held by the Office of Trust Funds Management in May 1991, to discuss the new directions and changes in procedures. Training has been provided to each newly hired Area Trust Funds Accountant as he/she comes on board. Training has also been provided to tribal and BIA staff in the investment program operation in several of the areas. This will continue throughout all areas. More formal training programs will be developed in the near future.

New trust funds accountant positions have been established at each of the 12 Areas to concentrate on the accounting for the collection and handling of trust funds. Additional accounting positions have been established within the Office of Trust Funds Management to provide policy level oversight to field accounting operations. Some positions previously filled by accounting technicians are now being filled by professional accountants. These actions will have a significant impact on BIA's ability to manage the trust funds.

QUESTION 3:

I understand you have contracted with Arthur Andersen & Co. to conduct the reconciliation. What other parties assisted you in developing the RFP for the reconciliation project and the terms of the current contract?

How much is the Arthur Andersen & Co. contract?

How long is the contract with Arthur Andersen & Co.?

If the contract goes only partially into Phase II of the reconciliation effort, could not BIA be "over a barrel" when negotiating the final contract terms for the remainder of Phase II of the reconciliation effort?

Please explain how the Federal Government's interest will be protected in Arthur Andersen & Co.'s reconciliation contract.

RESPONSE:

Arthur Andersen & Co. was selected on May 10, 1991, to be the contractor for the initial reconciliation effort for the 37 largest tribal accounts and the IIM accounts at three agencies. The RFP was developed in consultation with the Tribal Ad Hoc Committee, GAO, OMB and Congressional staff. A total of \$1.1 million has been made available for obligation for the remainder of Fiscal Year 1991. It is anticipated that it will require about \$2 million for each additional fiscal year up to the end of the 60-month contract period.

After Phase I is completed, the reconciliation success will be assessed and a determination made as to the practicability of continuing as originally envisioned. Rather than being "over a barrel", it is felt that both Arthur Andersen & Co. and the BIA will be in a much better position to finalize the contract terms. All prices have been competitively set as options for each of the five years.

The BIA as contracting entity always has the responsibility to protect the government's interest in administering contracts. All legal remedies are available, up to and including contract cancellation. BIA's interest will be maintained through aggressive contract monitoring and administration. A special project team has been established and is working full time to coordinate and monitor this contract.

QUESTION 4:

We have heard a lot about trust fund losses, whether they be tribal or IIM accounts. Many individuals have argued that we need to reimburse account holders for those losses. However, there is another side to the mismanagement issue. What is the BIA's policy regarding cases where the BIA has made overpayments?

As a matter of equity to the American taxpayers, how will the BIA address overpayments?

How much money are we roughly talking about for overpayments? For underpayments, interest losses, and other losses?

RESPONSE:

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 may not be in account owners possession and therefore

available for repayment. We will address this issue on a case-by-case basis, but an attempt will be made to collect overpayments in every case.

Major questions of liability need to be answered before a definite total amount for all categories including underpayments, interest losses, and other losses can be calculated, but the total amount over a period of years could be substituted. The reconciliation contract will tell us how much.

QUESTION 5:

Dr. Brown, what are your views and the Department of the Interior's views regarding reimbursing for IIM account holders for lost interest?

Would you please provide for the record when you and the Department have developed an opinion?

RESPONSE:

The BIA has received a Comptroller General Decision dated April, 1991, which states that the government has no requirement to invest IIM funds, and so has no liability to reimburse for interest losses. Even if BIA were liable, there is no reserve fund with which to make reimbursement.

QUESTION 6:

The General Accounting Office was critical of your failure not to fill the Director of the Office of Trust Fund Management. Why has it taken a year to fill the Director (of OTFM) position?

RESPONSE:

Initially, an SES position had to be secured, the position advertised, applications filed and evaluated, and a selection made. While this took a considerable period of time, the conclusion was that the applicants weren't sufficiently well qualified to make a selection. Additional time was taken to tighten up the requirements, a re-advertisement was made, applications received and evaluations made. This time a proposed selection has been made and submitted by the Department for clearance by the Office of Personnel Management. We hope to receive final approval soon.

QUESTION 7:

According to GAO, you acknowledge the need for a strategic management plan, but you are not going to move forward with a strategic management plan until the Director position is

filled. Why is it important to have the Director position filled before developing the strategic management plan?

RESPONSE:

The BIA is developing a management improvement plan, in consultation with Tribal representatives, to address the immediate needs. It is felt that the implementation of these actions will go a long way toward correcting major technical deficiencies. A strategic plan, on the other hand, will be an expression of the leadership expected from the permanent director who is being hired to bring new vision to the overall trust management within BIA. One of the major reasons for creating the position of the Director of the Office of Trust Funds Management at the Senior Executive level was to provide for a level of leadership, authority and competence which had not been directed specifically to the trust funds issues in the past. It is believed that this person should be allowed the opportunity, along with the responsibility to develop his/her own strategic plan under the general policy direction of the Deputy Commissioner.

QUESTION 8:

As you know, this Subcommittee and the Appropriations Committee have been supportive of there being a dialogue between BIA and the tribes. For the record, please explain what initiatives has the BIA taken to reach out to the tribes to get their input.

Specifically, did BIA initiate, help organize, or only react to the information of the Ad Hoc Tribal Committee?

RESPONSE:

It was generally agreed among the BIA, OMB, GAO and congressional offices that consultation was absolutely necessary to the success of the reconciliation effort. The BIA helped organize the Ad Hoc Committee, and has now entered into a formal agreement with the Inter-Tribal Monitoring Association on Indian Trust Funds on joint activities.

In addition, the Office of Trust Funds Management initiated an Investment Seminar to be presented in the Areas, in an attempt to bring more information directly to tribes. Seminars have been presented in six of the Areas, with the rest to follow this fiscal year. It is anticipated that these will need to continue as tribal leadership changes. BIA has also responded to requests to meet with tribes or organizations privately to discuss their investments.

QUESTION 9:

Are you willing to make tribes an equal partner in the decision-making process by continuing to consult with the tribes on matters impacting the Indian Trust Funds?

RESPONSE:

The BIA endorsed the formation of the Inter-Tribal Monitoring Association on Indian Trust Funds. We signed a Memorandum of Understanding with this group on June 18, which sets out the many areas on which we plan to work with Tribal representatives (see Exhibit A). This was in recognition of the need for on-going consultation with fund owners. We are committed to consulting with the Tribes on the management of Indian Trust Funds.

QUESTION 10:

Looking at the years of mismanagement of the Indian Trust Funds and the general "vote of no confidence" from the tribes, how would the agency react if a tribe requested to close out their trust fund accounts with BIA?

Has BIA ever been approached by any tribes asking to have all of their trust accounts closed because the tribes believe that they can do a better job of handling their accounts in the private sector?

If so, what has been BIA's response?

What legislative authority is needed to provide this greater degree of self-determination?

RESPONSE:

Several tribes have in fact withdrawn some or all of their unrestricted funds for the purpose of handling their own investments. A New Mexico tribe has taken part of their funds out of trust to invest, but left the majority with BIA. An Arizona tribe withdraws all funds as received for the purpose of local management. In the case of unrestricted funds, tribes are fully able to withdraw them for purposes of tribal management, if they desire. It is believed that the main reason for the withdrawals which have been made was the hope or expectation of being able to receive higher earnings through investments not allowed in the BIA program.

In the case of restricted accounts, mostly the remainder of judgement awards after per capita payouts, many times withdrawal is prohibited by the terms of the distribution plans developed by the

-7-

tribes themselves. In the last several years, only one tribe from Montana has made an issue of wanting their funds withdrawn for their own investing. Either a change in their own plan would need to be approved by the Congress, or general authorizing legislation would need to be enacted which would authorize such changes to tribal distribution plans.

We would endorse such approaches if they reflected tribal self-determination.

QUESTION 11:

How have you responded to the I.G.'s findings and recommendations concerning the problems with your general ledger?

RESPONSE:

The BIA has received from the Department of Interior significant manpower and funding resources to address the problems surfaced by the Inspector General. A team of highly competent professionals has been detailed to Albuquerque, New Mexico to work with BIA permanent staff in making necessary changes. This team will remain until they are assured that the system is fully operational. Additional appropriations to make administrative improvements have been requested in the 1992 budget.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE BUREAU OF INDIAN AFFAIRS AND THE
INTER-TRIBAL MONITORING ASSOCIATION ON INDIAN TRUST FUNDS

I. Background

The Bureau of Indian Affairs and some 40 of the tribes with tribal or individual Indian Money (IIM) trust fund accounts have worked since the fall of 1990 on developing technical parameters for a major, multi-year reconciliation (reconstruction) and audit of tribal and IIM trust fund accounts. 37 of these tribes are included in "phase one" of the BIA's reconciliation (reconstruction) and audit effort. The nature of the project, as well as developing long-range options or strategic planning for the future of the trust funds program requires these and other affected tribes to play an integral role in the development and implementation of the reconciliation (reconstruction) and audit process.

These phase one tribes, along with BIA staff and Congressional and General Accounting Office representatives were members of an initial Trust Funds Ad Hoc Group. These 37 phase one tribes were initially selected by the Bureau to serve on the initial Ad Hoc Group on the basis of the holdings of those tribes and their members in the trust funds accounts administered by the Bureau. Based on the approval of their tribal governments, the tribal representatives of this Ad Hoc Group have subsequently constituted themselves in a formal manner as the Inter-Tribal Monitoring Association on Indian Trust Funds (the Association).

The reconciliation (reconstruction) and audit project; the correction of daily operational weaknesses in the trust fund management process; and the design of such new trust funds management systems as may be required are components of a major Departmental multi-year effort to improve substantially the administration of the BIA's trust funds management program. A critical element in the successful completion of the effort is the cooperative activities of the tribal and IIM account holders affected by this reform.

The tribes comprising the Association have indicated their willingness to undertake such cooperative efforts, and have already expended substantial effort, professional staff time, and money in this collaborative process. These tribes' contributions to development of the final RFPO and contract for the actual phase one work are recognized by the Bureau. Building on this past cooperative effort, the Bureau and the Association agree to an approach to promote further Tribal/BIA consultation, planning, and coordination in order to ensure a trust funds management program that fully meets federal and tribal financial requirements. This Memorandum of Understanding is intended to provide the vehicle for expanded and continuous cooperative planning and review activities between the BIA and the Association.

The BIA, recognizing the substantial sums already expended by tribes of the Association in working with the BIA, and in fulfilling the pledge of the Assistant Secretary - Indian Affairs to work in a federal-tribal partnership on the remaining aspects of this multi-year effort of the Department, undertakes in this Memorandum of Understanding with the Association to set forth the projected scope of these cooperative activities in this and future years of this effort.

The Association, recognizing the political nature of the federal-tribal relationship, has designated one of its member tribes to serve as the administrative agent for the Association for purposes of receiving funds from the BIA to defray the costs of the Association's activities and efforts in carrying out its responsibilities in accordance with the scope of understanding set forth below. The initial funding agreement for the Association's activities is set forth in a separate Memorandum of Agreement between the Assistant Secretary - Indian Affairs and the tribe designated as the administrative agent for the Association.

II. Scope of Understanding

The Bureau of Indian Affairs and the Association hereby express their mutual understanding that they will work cooperatively as set out below.

A. The BIA and the Association will jointly:

1. Develop shared perspectives on a strategic planning approach and issues resolution on trust fund management, including short- and long-term requirements, priorities and time frames;
2. Designate working groups, subcommittees, or such other arrangements as may be appropriate to fulfill the purposes of this Memorandum of Understanding;
3. Prepare and present a training program for the representatives of the 40 tribes that are participating in the Phase I study; and
4. Address any issues that arise in regard to the tasks set out in this MOU.

B. The Association will:

1. Develop a concept paper that sets out the account holders' perspectives on the future directions for the investment and management of Indian trust funds, which paper will be considered in the development of the long-term strategic plan;
2. Communicate information provided by the BIA to all tribal governments with trust fund accounts, consult with all tribal governments with trust fund accounts and develop a mechanism for the participation of IIM account holders in the trust fund management reform process;
3.
 - a. Receive one or more copies of all reports, contract modifications, and other deliverables, consistent with adherence to the Privacy Act and any appropriate requirements for confidentiality of tribal and individual financial information, submitted by the Phase I contractor to the Bureau of Indian Affairs.
 - b. Upon the invitation of a tribe, participate in all decisions on when it is no longer cost-effective for the Phase I contractor to continue to try to reconcile a particular tribes account and in the development of alternatives when reconciliation of an account is found not to be cost-effective.

- c. Participate in development of guidelines for IIM accounts regarding when reconciliations are considered not to be cost-effective.
 - d. Provide comments regarding application of accounting principles, development of reporting standards, and report formats for the Phase I study.
 - e. Participate in the preparation of the approach and communication materials used with the Tribes and IIM account holders for explaining the meaning of the findings of over- or under-payment.
4. Review and have input into all aspects of the Management Plan for the Phase I study and short- and long-term strategic plans to be developed by the BIA;
 5. Receive and provide input on significant proposed changes or revisions in the operation of the BIA Trust Fund Program; and
 6. Participate in tribe-specific or IIM account-specific issues only in cases where the tribe or IIM account holder agrees to such participation.
- C. The BIA shall:
1. Obtain Association participation in all of the matters provided for in Section B above;
 2. Obtain input from the Association on all of the matters specified in Section B and provide written responses to the Association that indicate whether or not the BIA accepted the Association's input, and if not the reasons it did not do so; and
 3. Develop a short- and long-term strategic plan for the Trust Fund Program.

This Memorandum of Understanding is entered into this 18th day of Jan., 1991.


Deputy Assistant Secretary
Indian Affairs


Chairman, Inter-Tribal Monitoring
Association on Indian Trust Funds



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



SEP 25 1991

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:

This letter will update you on activities since the May 20, 1991, hearing to improve the Bureau of Indian Affairs' (BIA) management of Indian Trust Funds. I believe we have made solid progress towards addressing many of the concerns raised in the Subcommittee's series of hearings on Indian trust funds management.

As a first step, I elevated oversight for the trust funds management improvement project from the BIA to my immediate office. I did this to ensure that proper attention and sufficient resources would be dedicated to the job. Second, the Trust Funds Improvement Program has been made the highest priority of a top level oversight structure established by Secretary Lujan and Office of Management and Budget (OMB) Director Damman--the BIA Management Improvement Oversight Committee. The Committee, meeting about monthly, assesses the status and progress in the BIA management improvement arena, and provides the comprehensive, coordinated guidance and resources necessary for this effort. This unprecedented level of attention to the BIA trust funds management issue signals a commitment to provide the expertise and the resources necessary to solve these problems permanently.

We successfully filled the position of Director, Office of Trust Funds Management with an individual highly knowledgeable of BIA trust funds operations, Jim Parris. We are proceeding to fill the balance of the Office of Trust Funds Management staff positions, and currently have 41 of the present 46 positions filled on either a permanent or temporary basis. I sent my Deputy, Bill Bettenberg, to

Albuquerque with a team of Departmental and OMB specialists, where they assessed activities and examined additional opportunities for improvement to trust fund operations.

We expanded and formalized the consultative process with the group of tribal representatives affected under Phase I of the Reconciliation Project, and arranged for the group to collaborate with us in seeking improvement suggestions for trust funds management. On June 18, 1991, we signed with the Inter-Tribal Monitoring Association on Indian Trust Funds (the Association) a Memorandum of Understanding (Enclosure 1) setting out the nature of joint participation by the Association in the trust funds improvement effort, and also arranged grant funds to defray certain allowable Association expenses. To date, I or representatives of my immediate office have met personally with the Association on at least 5 separate occasions, and I can report that discussions were held in a very frank and open manner. We have also had numerous telephone contacts. We successfully fashioned and documented agreements on many issues critical to the tribes and individual Indian account owners with regard to the reconciliation effort (Enclosures 2 and 3).

I expect that additional issues will arise between the Association and the BIA, but I believe the consultative process we have established provides a sound vehicle for addressing issues as they are raised.

The Request for Proposal (RFP) for Audit and Certification is being prepared. We will consult with Association representatives, and work with the General Accounting Office (GAO) and the OMB to ensure the adequacy of the RFP for the audit and certification of trust funds accounts.

We can measure steady progress on the Reconciliation project. In June we formed a reconciliation project management team composed of experienced personnel from internal resources within the Office of Trust Funds Management. Subsequently, we conducted prerequisite reconciliation orientation and training sessions for contractor and BIA employees, Association representatives, and other interested parties. In late July, the Association and BIA collaborated to train representatives of the tribes involved in the Phase I reconciliation work. Trust fund account records for the Phase I effort have been gathered and centrally located, and work is commencing to capture all the records in a computer-based laser imaging facility. Several field visits were made to the three Agency Offices involved in Phase I reconciliations. Entrance conferences were also conducted in July and August for individual Indian account holders at these Agency Offices, a pre-condition to the actual start of reconciliation work by Arthur Andersen & Co. The final entrance conference for the initial 6 tribes piloting the reconciliation effort was completed on September 17, 1991. Association

representatives have participated in several entrance conference planning meetings, and all 9 entrance conferences.

In the May 20 hearing, you asked for a complete and accurate listing of all claims currently pending against the Indian trust fund. Enclosure 4 contains complete listings of all known claims lodged against the Indian trust fund as of August 27, 1991, i.e., claims filed with the Interior Solicitor's office, and known and audited losses involving financial institutions. The Solicitor's Office is reviewing the 6 cases involving \$1.570 million filed with that Office. The BIA is exchanging correspondence with federal insurer agencies in attempts to obtain favorable responses for the repayment of some \$6.023 million to trust fund account owners for the institutional losses. In addition, the Solicitor is clarifying the legal situation relating to each of the losses and determining if all administrative remedies for recovery have been exhausted; this effort is still in process. In presenting this information, the Interior Department is not admitting fault or assuming liability for payment of these amounts, pending completion of all the required reviews.

In addition to the claims specifically filed, there exists both trust fund underpayments and overpayments to tribal and individual Indian account owners. These represent potential claims or recoveries, but are unverified and unaudited amounts which will be investigated during the on-going reconciliation and audit and certification of trust fund accounts. In the past, you have correctly noted that you were supplied with incomplete or changing lists. Clearly, it is important to recognize that the claims list undoubtedly will change in the future, particularly as results of the reconciliation effort become known.

We have prepared a draft comprehensive policy and procedures document for trust fund losses. The BIA's "Policies Regarding Notification and Reimbursement to Indian Trust Fund Account Holders for Losses Attributable to Bureau Errors" is presently with the Association, OMB, and GAO for review and comment before we promulgate it in a BIA Manual. Association comments are due back September 30, and we expect to publish this policy in mid-October. We will also be drafting a companion policy on notification and resolution of trust fund overpayments consistent with procedures under the Debt Collection Act.

Our press to develop a comprehensive Strategic Plan for Trust Funds Management Improvement has been, frankly, moderated by the Association and the GAO's views concerning this effort. We prepared an initial draft comprehensive Interim Management Plan in late June. Upon circulation of that document in early July, we learned of the Association and GAO's reservations about the scope of the document. The Association has repeatedly counseled, and the GAO has expressed a similar view, that BIA should proceed with due deliberation in developing trust fund improvement plans. The Association

proposed, and we have agreed, that the Trust Funds Management Improvement Program be divided into short term and long term efforts.

Based on input from the Association and GAO, we concluded that four distinct planning documents were necessary to guide our improvement efforts: a *Reconciliation Project Management Plan*; a short term action plan--BIA's *Interim Management Plan*; an outline to guide our strategic planning effort--the *Strategic Planning Framework*; and finally, a *Strategic Plan for Indian Trust Funds Improvement*.

We first concentrated on the *Reconciliation Project Management Plan*; a copy of that plan is included as Enclosure 5.

In the short term, say for the next 6 - 8 months, the BIA will take action to correct the glaring immediate problems, but avoid committing BIA to a long term direction for trust funds management. We expect to publish the short term action plan--BIA's *Interim Management Plan*--for these improvements in October. This document will set out fixes to immediate problems; i.e., those we perceive to be short term corrections that do not compromise implementation of future recommendations by the Association or BIA management decisions on the long term direction for the trust funds management operation.

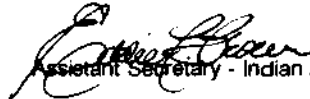
For the longer term improvement effort, the Association proposes that it take the lead to identify alternative tribal management approaches to BIA's trust fund management operations, and indeed in the June 18 Memorandum of Understanding agreed to prepare and publish late this year or early next year a concept paper on alternative Indian trust fund approaches. Having agreed with the Association and GAO that the Strategic Plan should be undertaken in a deliberate fashion, we will be pleased to receive and consider their concept paper.

We are currently outlining our vision of what should be addressed in the *Strategic Plan for Trust Funds Management Improvement*. Accordingly, a *Strategic Planning Framework* is being developed drawing on input from representatives of the GAO, who shared material on similar efforts in other agencies and Departments, and from our consultations with Association representatives. That document is with the Association, OMB and GAO for review and comment, and we hope to receive comments back from the Association on September 30. We believe this approach will result in publication of a comprehensive *Strategic Plan for Indian Trust Funds Management* in early 1992, depending on the date of receipt of the Association's concept paper.

We are anxious to continue to improve BIA's Trust Funds Management operation. To that end, the BIA will continue short term improvement efforts, using the vehicle of our short term action plan. I firmly believe a Strategic Plan using the approach outlined in BIA's **Strategic Planning Framework** will better assure that the improvements we bring will truly and permanently correct management of Indian trust funds in a manner supportable by the tribes.

We will forward to the Subcommittee copies of the completed "Policies Regarding Notification and Reimbursement to Indian Trust Fund Account Holders for Losses Attributable to Bureau Errors", the companion policy on overpayments, the Interim Management Plan, and a copy of BIA's **Strategic Planning Framework** following receipt and consideration of the Association's comments.

Sincerely,



Craig A. Green
Assistant Secretary - Indian Affairs

5 Enclosures

MEMORANDUM OF UNDERSTANDING
BETWEEN THE BUREAU OF INDIAN AFFAIRS AND THE
INTER-TRIBAL MONITORING ASSOCIATION ON INDIAN TRUST FUNDS

I. Background

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These phase one tribes, along with BIA staff and Congressional and General Accounting Office representatives were members of an initial Trust Funds Ad Hoc Group. These 37 phase one tribes were initially selected by the Bureau to serve on the initial Ad Hoc Group on the basis of the holdings of those tribes and their members in the trust funds accounts administered by the Bureau. Based on the approval of their tribal governments, the tribal representatives of this Ad Hoc Group have subsequently constituted themselves in a formal manner as the Inter-Tribal Monitoring Association on Indian Trust Funds (the Association).

The reconciliation (reconstruction) and audit project; the correction of daily operational weaknesses in the trust fund management process; and the design of such new trust funds management systems as may be required are components of a major Departmental multi-year effort to improve substantially the administration of the BIA's trust funds management program. A critical element in the successful completion of the effort is the cooperative activities of the tribal and IIM account holders affected by this reform.

The tribes comprising the Association have indicated their willingness to undertake such cooperative efforts, and have already expended substantial effort, professional staff time, and money in this collaborative process. These tribes' contributions to development of the final RFPO and contract for the actual phase one work are recognized by the Bureau. Building on this past cooperative effort, the Bureau and the Association agree to an approach to promote further Tribal/BIA consultation, planning, and coordination in order to ensure a trust funds management program that fully meets federal and tribal financial requirements. This Memorandum of Understanding is intended to provide the vehicle for expanded and continuous cooperative planning and review activities between the BIA and the Association.

The BIA, recognizing the substantial sums already expended by tribes of the Association in working with the BIA, and in fulfilling the pledge of the Assistant Secretary - Indian Affairs to work in a federal-tribal partnership on the remaining aspects of this multi-year effort of the Department, undertakes in this Memorandum of Understanding with the Association to set forth the projected scope of these cooperative activities in this and future years of this effort.

The Association, recognizing the political nature of the federal-tribal relationship, has designated one of its member tribes to serve as the administrative agent for the Association for purposes of receiving funds from the BIA to defray the costs of the Association's activities and efforts in carrying out its responsibilities in accordance with the scope of understanding set forth below. The initial funding agreement for the Association's activities is set forth in a separate Memorandum of Agreement between the Assistant Secretary - Indian Affairs and the tribe designated as the administrative agent for the Association.

II. Scope of Understanding

The Bureau of Indian Affairs and the Association hereby express their mutual understanding that they will work cooperatively as set out below.

A. The BIA and the Association will jointly:

1. Develop shared perspectives on a strategic planning approach and issues resolution on trust fund management, including short- and long-term requirements, priorities and time frames;
2. Designate working groups, subcommittees, or such other arrangements as may be appropriate to fulfill the purposes of this Memorandum of Understanding;
3. Prepare and present a training program for the representatives of the 40 tribes that are participating in the Phase I study; and
4. Address any issues that arise in regard to the tasks set out in this MDU.

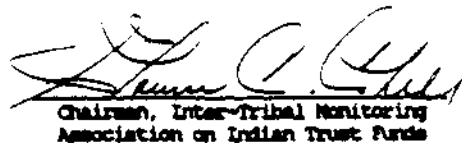
B. The Association will:

1. Develop a concept paper that sets out the account holders' perspectives on the future directions for the investment and management of Indian trust funds, which paper will be considered in the development of the long-term strategic plan;
2. Communicate information provided by the BIA to all tribal governments with trust fund accounts, consult with all tribal governments with trust fund accounts and develop a mechanism for the participation of IIM account holders in the trust fund management reform process;
3. a. Receive one or more copies of all reports, contract modifications, and other deliverables, consistent with adherence to the Privacy Act and any appropriate requirements for confidentiality of tribal and individual financial information, submitted by the Phase I contractor to the Bureau of Indian Affairs.
- b. Upon the invitation of a tribe, participate in all decisions on when it is no longer cost-effective for the Phase I contractor to continue to try to reconcile a particular tribes account and in the development of alternatives when reconciliation of an account is found not to be cost-effective.

- c. Participate in development of guidelines for IIM accounts regarding when reconciliations are considered not to be cost-effective.
 - d. Provide comments regarding application of accounting principles, development of reporting standards, and report formats for the Phase I study.
 - e. Participate in the preparation of the approach and communication materials used with the Tribes and IIM account holders for explaining the meaning of the findings of over- or under-payment.
4. Review and have input into all aspects of the Management Plan for the Phase I study and short- and long-term strategic plans to be developed by the BIA;
 5. Receive and provide input on significant proposed changes or revisions in the operation of the BIA Trust Fund Program; and
 6. Participate in tribe-specific or IIM account-specific issues only in cases where the tribe or IIM account holder agrees to such participation.
- c. The BIA shall:
1. Obtain Association participation in all of the matters provided for in Section B above;
 2. Obtain input from the Association on all of the matters specified in Section B and provide written responses to the Association that indicate whether or not the BIA accepted the Association's input, and if not the reasons it did not do so; and
 3. Develop a short- and long-term strategic plan for the Trust Fund Program.

This Memorandum of Understanding is entered into this 18th day of Jan, 1991.


 Deputy Assistant Secretary
 Indian Affairs


 Chairman, Inter-Tribal Monitoring
 Association on Indian Trust Funds



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



JUL 19 1991

BY FACSIMILE

Elouise C. Cobell, Chairperson
Intertribal Monitoring Association
on Indian Trust Funds
P.O. Box 850
Browning, Montana 59417

Dear Ms. Cobell:

We appreciate your Association's letter of July 10, 1991. In that letter, the Association provided a list of those Phase I reconciliation issues that it believed were resolved during earlier meetings, but that the Bureau of Indian Affairs (BIA) was unable to confirm as being resolved when we met on July 1 - 2, 1991. Our responses are keyed to the numbered issues in the Association's letter.

1. Underinvestment.

Your position is that BIA must identify "underinvestments" as well as "uninvestments" of Indian trust funds, resulting from BIA's negligence or failure to carry out trust responsibilities.

We agree to the extent that we can reach mutual agreement on the specific definitions of "underinvestment". The Association's letter asked that the contractor apply the same standard it would apply for private trust accounts. Rather than an industry or generic standard for such terms as "underinvestment", our understanding is that accepted practice is to rely on the instructions within the specific trust agreements. Our mutual challenge, as I see it, is to examine the range of investment situations where investment negligence or failure to carry out trust responsibilities may have occurred, and then develop operational definitions for them. With such definitions, we all would understand with substantial precision what will be considered to be potential "underinvestments", and BIA will be in a position to provide definitive guidance to its reconciliation and audit contractors so that they can identify such situations on the report for each account holder. It should be noted that this is not currently in the scope of work for the contract.

Enclosure 2

We wish to develop these specific operational definitions in a fair and open manner. In order to accomplish this, we propose that a small work group consisting of representatives of the Association, the BIA, and Arthur Andersen & Company meet to work out the needed operational definitions. The results of that work should then be forwarded to the Association and the BIA management for final review and acceptance. We would suggest that such meetings be scheduled during August or, at the latest, September.

We also appreciate your acknowledgement that the underinvestment examination is not intended to second guess BIA's exercise of discretion when making investment decisions.

2. Netting of Over and Under Payments.

Your position is that BIA reports must show separately the amounts overpaid and amounts underpaid, without netting in any manner.

We have agreed to furnish the details of the actual account reconstruction, reflecting amounts overpaid and amounts underpaid, without netting, both in the reports to the account holders and to the Congress. Following certification, we will need to evaluate the data presented to determine whether any amounts are owed to or due from account holders. That may well require netting, but would not affect the reconciliation, audit and certification reports presented to account holders. These netted amounts are what we would anticipate reimbursing or collecting to resolve the findings of incorrect balances following audit and certification.

3. Collection of Overpayments.

Your position is that BIA will make no effort to collect principal or interest that BIA overpaid to a tribal or Individual Indian Money (IIM) account holder until Congress has determined how it wants to deal with over and under payments.

The BIA does not plan to initiate action to collect principle or interest that the BIA overpaid to a tribal or IIM account holder at the conclusion of the account reconciliation phase of this effort. The completion of the audit and certification of an account and the subsequent evaluation identified in item 2 above is the point when an obligation to commence either reimbursement or collection action will be properly known and documented to BIA. At that point, BIA actions relative to overpayment collection would be dictated by the Debt Collection Act and guided by statute of limitations considerations.

Every effort will be made to reimburse account holders within a reasonable time frame, consistent with available funds and the Budget Enforcement Act.

4. Report Formats.

The Association wishes BIA to use an account reporting format that was prepared by the ad hoc group for reporting results of the reconciliations. As previously agreed, BIA will incorporate the Association-generated formats into the reconciliation report layout. Based on a telephone conversation between Jim Parris, Director, Office of Trust Funds Management and Sue Lara of the Association, it is our understanding that these relate to footnote contents. We also understand that the footnote content details are being reconciled by BIA and Association representatives this week.

5. IIM Account Issues.

a. Cut-off Date for Closed Accounts.

The Association desires further discussion concerning reconciliations of closed or pre-merged accounts.

We agree that further discussion with the Association regarding reconciliations for these type accounts would be beneficial.

b. Lost Checks.

The Association desires a meeting, which would include Treasury representatives, relative to the federal government's inability to provide a list of IIM checks that were sent but not cashed.

We agree that a meeting with Treasury on this issue would be helpful, and will proceed to coordinate such a meeting among representatives of the Association, the Department of Treasury, the Office of Management and Budget, and the BIA.

Centralized Disbursement.

Your position is that a draft Request for Proposal (RFP) for Centralized Disbursement, as proposed by BIA, is not an appropriate vehicle for soliciting ideas about a concept that is still in the analysis stage, and you request BIA to set out the specific process BIA intends to follow before issuing an RFP. You also request that BIA respond in writing to your written comments that BIA not proceed with the RFP.

Rather than a draft RFP, BIA will develop and circulate for your consideration and comment an analytic paper on the subject of centralized disbursement. This, and other accounting issues, will be thoroughly addressed in the Interim Management Plan. In addition, we will respond, in writing, to your previous written comments on this topic.

Sincerely,


Deputy Assistant Secretary -
Indian Affairs

cc:

Daniel S. Press
Van Ness, Feldman & Curtis
1050 Thomas Jefferson Street, N.W.
Washington, D.C. 20007



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 30 1991

BY FACSIMILE

Elouise C. Cobell, Chairperson
Intertribal Monitoring Association
On Indian Trust Funds
P.O. Box 850
Browning, Montana 59417

Dear Ms. Cobell:

I am writing to you concerning the tentative resolutions reached at the July 25 - 26, 1991 session in Denver. I appreciate your and the Association's willingness to address the unresolved issues earlier rather than later. I believe the sense of cooperation displayed in the July 25 evening session is essential to our shared goal of an improved Indian Trust Funds Management operation.

Concluding that session, the parties agreed to take the list of resolved issues back to Interior management and Association officials to obtain final approval.

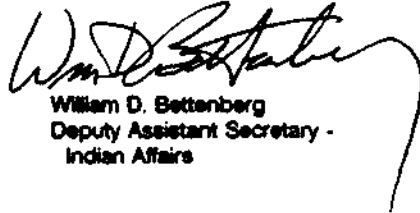
Upon return to Washington, D.C., we met with the representatives of the General Accounting Office (GAO), and also discussed the resolved issues with a representative of the Office of Management and Budget. I believe the GAO rework of the resolved issues accurately documents, and also helps clarify the resolutions reached on these issues, and I am pleased to confirm that the GAO document represents the Department and BIA's understandings on these matters. A copy of the GAO document is attached as Enclosure 1.

I believe the language in the GAO document will provide the Association appropriate assurances regarding the resolved issues, and it will also provide adequate operational definitions upon which BIA can instruct its reconciliation contractor, Arthur Andersen & Co.

Enclosure 3

Again, thank you for your assistance in the successful resolution of these matters.

Sincerely,



William D. Bettenberg
Deputy Assistant Secretary -
Indian Affairs

Enclosure

GAO CLARIFICATION ON AGREEMENT'S
ON BIA TRUST FUND RECONCILIATION
AT DENVER MEETING ON JULY 26, 1991

1. Calculation of interest. Arthur Andersen & Co. will calculate the difference between actual interest paid for money in cash holding accounts (or other unallotted, temporary cash accounts) and the annual interest rate as set out on page 4 of the reconciliation contract for periods prior to 1970. Arthur Andersen & Co. will use interest rates on attachment A for periods after 1970. Applicable provisions on page 4 of the reconciliation contract will be revised to reflect statutory interest rates, compounded as follows:

Tribal: Semiannually using 4% rate through June 30, 1970. From July 1, 1970 forward, interest must be calculated using the annual rate provided by the Branch of Investments for the Tribal Trust Funds.

IIM: Monthly using the applicable semi-annual interest factor from 1938 through May 31, 1989. From June 1, 1989 forward, the actual interest factor used for those IIM funds that were invested would be used.

At the end of the contract's assessment period, after Arthur Andersen & Co. has collected sufficient data on the six tribes and IIM accounts at one agency location, representatives of the Interior Department, BIA, the Association, Arthur Andersen & Co., and GAO will meet to decide how to interpret the data. For example, data presented will include: differences in average annual interest rates and actual interest rates paid by BIA, typical processing times and actual processing times, receipt and deposit timeframes, statutory guidelines, availability of trust investment instructions, etc. for purposes of developing procedures for calculating unaccrued interest.

1

Enclosure 1

As agreed to at the Denver meeting, Arthur Andersen & Co. will use the revised worksheet (attachment B) to capture data necessary for calculating interest.

2. **Timing of Deposits.** With regard to payments received by BIA on behalf of the tribes and individual Indians, when the date of actual receipt is not shown in BIA records, Arthur Andersen & Co. will show the payment issue date on the worksheet next to the deposit date. (A payment issue date might be determined from a SF-215 deposit ticket for a federal payee or from records of account holders.) If no record of a payment issue date or record of an actual date of receipt by BIA can be found, only the date of deposit will be recorded on the worksheet.

3. **Accounts to be Reconciled.** BIA will direct Arthur Andersen & Co. to reconcile, during Phase I, all tribal and IIM accounts whether open or closed, regardless of when they were closed and regardless of the account balance. IIM accounts to be reconciled will be identified by tracing every deposit transaction to the appropriate IIM statement, as well as the distribution of allocated payments. Arthur Andersen & Co. should take appropriate steps to ensure that any changes in BIA's allocation tables for payment distribution did not result in inadvertent deletion of accounts. To the extent that Arthur Andersen & Co. uses sampling techniques to determine proper distribution of allocated payments, the samples and methodology used will be clearly documented. In the case of tribal accounts, reconciliation will be based on a list compiled from GAO audit reports, Treasury Financial Statements, and BIA financial records. A list of accounts to be reconstructed will be presented to each tribe prior to their Entrance Conference for confirmation purposes. Tribal accounts will be reconciled to the

earliest date practicable, by tracing individual transactions for each account to the appropriate tribal statements.

4. **Missing Payments from Payor.** As part of the reconciliation effort, Arthur Andersen & Co. will not specifically look for instances where payors (lessees, etc.) have failed to make payments due BIA account holders. However, to the extent that Arthur Andersen & Co. does note missing payments during the reconciliation (for example, through testing payment allocation formulas or by means of data provided by account holders), Arthur Andersen & Co. will record these missing payments on its worksheets during the reconciliation.

5. **Disbursements.** To the extent records are available, Arthur Andersen & Co. will verify that checks were drafted to the account holder. However, Arthur Andersen & Co. will not identify whether the recipient (the party who cashed the check) was the account holder of record.

The parties will meet with Treasury Department officials to try to resolve the outstanding check issue and to get documentation on checks that were not cashed.

6. **Collection of Overpayments.** Except for collection actions already in process, the BIA will not resolve any overpayments until accounts have been reconciled and audited and certified and reported to the cognizant congressional committees, and the account holders have been notified by BIA of the possible overpayments and afforded opportunities, consistent with the Debt Collection Act, to review and provide input into the reconciliation and audit conclusions reported by Arthur Andersen & Co.

7. **Scope Issues.** It is recognized by the parties involved that there are some trust fund issues that go beyond the scope of this reconciliation effort. For example, updates of realty records are necessary to ensure a proper basis for many income payments. BIA needs to collect data on the currency of ownership records in the various Area Offices, and recommend a way to address these updates in the reconciliation process. Another example would be BIA's nonreceipt of payments on behalf of account holders (see item 4.). Representatives of the Interior Department, the BIA, the Association, tribes and individual Indian account holders Arthur Andersen & Co., and GAO will identify and highlight other problem areas for appropriate action.

8. **Contract Modifications.** Arthur Andersen & Co. will report its assessment of the level of effort and cost associated with performing work in the contract and any additional tasks clarified in the above paragraphs after about 4-6 weeks of beginning field work. Parties will determine the feasibility and cost effectiveness of performing work specified in the contract, modifying the contract to include additional tasks, or reducing the scope of work by identifying thresholds. Any changes in the contract that might result from this determination will be presented to the Office of Management and Budget and the cognizant congressional committees for consideration and advice.

9. **Joint Working Group.** It is agreed that future issues and concerns, including those listed above, and matters outlined in the Memorandum of Understanding between the BIA and the Association, will be addressed in joint meetings including representatives of the Interior Department, the BIA, the Association, Arthur Andersen & Co., and GAO. It is further agreed that these parties comprise a joint working group on the Indian Trust Funds Reconciliation Project.

OFFICE OF TRUST FUNDS MANAGEMENT

Indian Trust Funds
Annual rate of return by fiscal years

FY Ending Date	Tribal Fund
6-30-70	6.50%
6-30-71	5.75%
6-30-72	5.93%
6-30-73	7.04%
6-30-74	8.48%
6-30-75	9.19%
6-30-76	6.64%
9-30-77	6.43%
9-30-78	7.67%
9-30-79	10.41%
9-30-80	12.04%
9-30-81	14.74%
9-30-82	14.48%
9-30-83	10.88%
9-30-84	10.54%
9-30-85	10.17%
9-30-86	8.33%
9-30-87	7.31%
9-30-88	7.53%
9-30-89	8.98%
9-30-90	8.72%

-Data derived from investment annual reports.

-No data found prior to above dates.

Bureau of Indian Affairs
 Tribal Appropriations/Activity Number
 Transaction and Invested Balance History
 For the Period: _____ to _____

Date of Receipt	Date of Transaction	Document Number	Transaction Amount	Dr.	Cr.	Balance Available For Investment	Amount Invested By BIA	Cash Pool	End of Day Cash Pool Balance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Footnotes:

1. The date of check, money order, etc. whenever identifiable on the collection voucher (bill for collection)
2. This is the effective date of the transaction (date of deposit confirmed by Federal depository or disbursement confirmed by Treasury)
3. This is the identification number stated on the source document.
4. Dollar amount of transaction.
5. This amount is derived from the net of the previous available balance and the current transaction.
6. Includes CD's, Treasury Notes, Treasury Bills, GNMA's and certain other government agency issues.
7. This is the cash that was not placed in the investment instruments defined in Footnote 6 but may have earned Treasury interest prescribed by Public Law or through the Treasury overnight investment process authorized by 25 USC 161a as amended October 4, 1984.
8. The net of the day's cash pool transactions.

Bureau of Indian Affairs
 Tribal Appropriation/Activity Number
 Pro-Forma Interest Earnings Analysis

Fiscal Years	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Average Annual Cash Pool Balances	Composite Annual Interest Rate	Pro-Forma Interest Based on Composite Annual Interest Rates	Actual Interest Paid on Overnight Treasury Deposits	Actual Interest Paid Greater Than Pro-Forma Interest	Actual Interest Paid (less) Than Pro-Forma Interest	

1. Federal Government Fiscal Year (ends September 30 for years beginning in 1978, ends June 30 for years prior to 1978)
2. Sum of daily end-of-day cash pool balances from Transaction and Invested balance History (TIBH) worksheet divided by 365.
3. Annual rate of return on specific investment securities (Footnote 8 TIBH worksheet) - See attached summary of investment performance.
4. This is the pro-forma calculated interest based on composite rates for comparison to actual earnings.
5. Actual interest paid on "cash pools", i.e. overnight investment of trust funds report.
6. Self-explanatory
7. Self-explanatory

BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT
INDIAN TRUST FUNDS
CLAIMS REPORT
AS OF AUGUST 27, 1991

SUMMARY OF CLAIMS CATEGORIES

CATEGORY 1. Claims Filed With the Solicitor's Office	\$ 1,570,275.21
CATEGORY 2. Losses Involving Financial Institutions	\$ 6,022,889.80
	<hr/>
TOTAL BOTH CATEGORIES	<u>\$ 7,593,165.01</u>

Sources of data: DOI Office of the Solicitor
 BIA Office of Trust Funds Management

BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT
INDIAN TRUST FUNDS

CATEGORY #1. CLAIMS FILED WITH THE SOLICITOR'S OFFICE

Area	Fund	Account Owner	Amount	Description	Date Loss Occurred	Age Days
1. Albuquerque	Tribal	Taos Pueblo	\$250,350.00	Per Capita distribution overpayment in 1986 & 1989. Tribe has requested overpayment be restored. Field Solicitor's opinion requested 7/25/90	07-02-90	418
2. Billings	IBM	Ardia Robinson	\$ 24,500.00	Claim filed with the DOI Board of Indian Appeals for funds restricted by the Superintendent of Fort Peck Agency, Poplar, MT	05-18-83	3008
3. Eastern	Tribal	Penobscot Nation	\$570,000.00	Claim filed with U.S. Claims Court for loss of principal and interest from the permanent portion of the Maine Indian Claims Settlement Act.	10-24-90	612
4. Minneapolis	Tribal	Red Lake	\$687,000.00	Claim #388-82L, Mismanagement of Funds. Case in final stages of Settlement.	07-83	2290
5. Muskogee	IBM	Josephine Bowen Estate	\$ 1,823.15	Royalty Payments disbursed after Acct. Owner's death. Checks cashed by Niece. Solicitor assisting BIA in collecting from Niece	07-21-87	1612
6. Sacramento	IBM	Larry Olinger	\$ 36,602.06	Plaintiff in this action alleges breach of trust on the part of the BIA. Inc. allowing the IRS to collect taxes imposed on interest from leasehold-revenue investments. Discovery is in progress.	01-09-89	689

TOTAL FOR CATEGORY #1: \$1,570,275.21

BUREAU OF INDIAN AFFAIRS
 OFFICE OF TRUST FUNDS MANAGEMENT
 INDIAN TRUST FUNDS

CATEGORY #2 LOSSES INVOLVING FINANCIAL INSTITUTIONS

Area	Fund	Account Owner	Amount	Description	Date Loss Occurred	Age Days
1. Investment Losses due to failed financial institutions, insurance determinations, and fraud			\$6,022,889.80	See Attachment A	Various	

Total for Category #2: \$6,022,889.80

BUREAU OF INDIAN AFFAIRS
OFFICE OF TRUST FUNDS MANAGEMENT
DIVISION OF TRUST FUNDS INVESTMENTS

ATTACHMENT A
PAGE: 1 OF 8
AUGUST 1991

BIA BANK #	NAME	DATE CLOSED	BALANCE AT TIME OF CLOSURE			COLLECTIONS SINCE CLOSURE			UNCOLLECTED BALANCE AT DATE OF CLOSURE			FOOT NOTE
			PRINCIPAL	ACCUMULATED INTEREST	TOTAL DUE	PRINCIPAL	INTEREST	TOTAL	PRINCIPAL	INTEREST	TOTAL	
306	ZIONIC POA, BRIMSTON, MO	03/22/84	3,086,263.47	0.00	3,086,263.47	2,848,496.78	0.00	2,848,496.78	5,037,766.77	0.00	5,037,766.77	1
129	FINANCIAL SVCS, IBERP, MO	10/31/84	2,009,608.00	227,444.47	2,227,444.47	1,978,278.00	0.00	1,978,278.00	21,729.28	227,444.47	249,173.67	2
141	CENTER PLACE, IBERP, MO	07/08/85	3,009,889.00	7,166.67	3,087,166.67	2,372,893.38	0.00	2,372,893.38	627,906.78	7,166.67	635,073.37	3
309	11140, SAN FRANCISCO, CA		1,178,000.00	132,502.55	1,310,502.55	1,178,000.00	0.00	1,178,000.00	0.00	132,502.55	132,502.55	4
301	DEK PARK CORP, ST, MO	04/27/84	7,750,205.68	349,561.46	8,099,767.06	6,252,453.13	0.00	6,252,453.13	1,497,752.47	349,561.46	1,847,313.95	5
	SUB TOTAL		19,814,449.87	716,675.15	19,731,144.22	13,829,313.93	0.00	13,829,313.93	5,185,195.14	716,675.15	5,901,870.29	
SAVINGS & LOANS												
398	DEK SVCS, SAN DIEGO, CA	07/18/84	926,889.00	19,760.74	943,769.74	908,397.39	0.00	908,397.39	17,682.61	19,760.74	37,343.35	6
146	MILWAUKEE SVCS, WAUKESHA, WI	04/04/84	191,000.00		191,000.00	168,814.52	0.00	168,814.52	82,185.48	0.00	82,185.48	7
672	LIBERTY FED., BAYNE, WI	10/07/88	1,852,401.78	89,373.49	1,941,975.19	1,852,481.78	88,842.81	1,941,324.59	0.00	1,310.68	1,310.68	8
	SUB TOTAL		2,169,691.78	109,334.23	2,279,725.95	2,009,613.61	88,842.81	2,098,456.42	99,788.08	21,271.42	121,059.51	
	GRAND TOTAL		21,183,879.77	826,009.38	22,009,889.15	15,808,927.54	88,842.81	15,898,770.35	5,284,943.23	737,946.57	6,022,809.80	

*The interest in this column represents interest calculated to date of closure.

FOOTNOTES

1. ZJUNIC. No interest accruals calculated at time of closure due to many variable interest rates. Twenty-eight (28) Certificates of Deposit (CD's) involved. No dividends declared by institution in the first quarter of 1984. Seven liquidation payments received totalling \$2,048,496.70, but no other immediate liquidation payments likely.
 2. FINANCIAL. Most recent liquidation payment made on 5-12-86. National Credit Union Association indicates this was last payment.
 3. CENTER PLACE. Involuntary liquidation on 7-8-85. Most recent payment of \$49,319.59 received 6-6-89.
 4. ILWU. Credit Union did not close. Board of Directors chose not to declare dividends. Only principal amount was returned to BIA.
 5. OAK PARK. All recoveries have been through court action.
 6. SUN SAVINGS. Most recent payment of \$13,489.00 received 3-8-91. Doubtful of any further liquidation of assets.
 7. MAINLAND. Most recent payment of \$10,207.77 received 3-8-91. Doubtful of any further liquidation of assets.
 8. LIBERTY. Most recent payment of \$104.66 received 2-25-91. Pending further liquidation.
- ** All Credit Union accounts listed are being reviewed by the Field Solicitors Office.

**RECONCILIATION PROJECT MANAGEMENT PLAN
BUREAU OF INDIAN AFFAIRS**

TRUST FUNDS MANAGEMENT IMPROVEMENT PROGRAM

September 1991

U.S. Department of the Interior
Bureau of Indian Affairs

Enclosure 5

BIA Reconciliation Project Management Plan

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BIA Reconciliation Project Management Plan

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INTRODUCTION

Historical Perspective - Formation of Indian Trust Funds.

One of the most basic trustee responsibilities of the Bureau of Indian Affairs (BIA), as agent for the Secretary of the Interior, is the management of and accounting for funds held in trust for the benefit of Indian tribes and individual Indians. This fiduciary responsibility dates back more than 150 years when the first trust funds were established through treaties between the United States and individual Indian tribes.

In 1783, as a forerunner of the trade and intercourse laws to come later, Congress provided that title to Indian land outside of state jurisdiction could be obtained only under the authority of Congress and any purchase or cessions made without such authority were declared null and void. This legal restriction is the basis of the current federal trust responsibility for Indian land.

Indian sovereignty has been recognized since the founding of the United States Government. Since many Indian Tribes were regarded as independent groups, they were dealt with by the federal government through the machinery used for foreign relations, the war department, and diplomacy - including treaty making. Agreements between the Federal government and the various Indian Tribes therefore took the form of treaties. During the course of the nation's history and the U. S. Government's varying policy toward Indian Tribes, this relationship has retained its original sovereign characteristics.

Treaties, Laws and Agreements

The responsibility, or trusteeship, for the holding of funds by the United States for the benefit of individual Indians and Indian Tribes was first and most importantly established by treaties. Treaty making with tribes ceased in 1871. However, Congress, acting within the scope of its constitutional powers, controlled and managed Tribal and individual Indian funds through legislation. There are also agreements involving fund management between Tribes and the Federal government by which a particular Indian trust fund is established. The holding and management of trust funds has also been a long standing policy of the Federal government.

Trustee

The Secretary of the Interior has been designated by Congress as the trustee of the funds held by the federal government for Indian Tribes and individuals. The Secretary has delegated the authority for management of the Indian Trust Funds--including accounting, investing and financial reporting--to the Assistant Secretary - Indian Affairs. This authority has been re-delegated to the BIA and is exercised by the Office of Trust Funds Management and personnel at the Area and Agency Office levels.

The Bureau of Indian Affairs has traditionally been the executive office that performs the trustee management functions relating to Indian trust funds. It originated in 1824 as the Office of Indian Affairs within the War Department. The Office operated informally until 1832 when the first Commissioner of Indian Affairs was appointed by Congress. The Office was transferred to the Department of the Interior

BIA Reconciliation Project Management Plan

in 1849. In 1947 the Office officially became the Bureau of Indian Affairs. Indian agencies were the focal point of all relations with Tribes and individual Indians until 1947 when area offices were established to exercise supervisory control over agencies. This is the basic organizational structure that exists today.

History of the Bureau of Indian Affairs Accounting Systems

Before 1951, accounting in the BIA was executed at each agency. The accounting was accomplished in ledgers and journals that were handwritten with quill and fountain pens. The BIA accounting systems treated Tribal funds almost identical to appropriated funds. Starting in about 1932 the U.S. Treasury began keeping separate appropriations on their books for each Tribal principal and interest account. Up to 1932 most of the Tribal funds had been accounted for in the IIM accounts maintained on handwritten ledgers at each agency.

In 1951 an accounting system designed by BIA and approved by the General Accounting Office was installed at Area Offices. All fund types were integrated in the system and the Area Offices did not have a distinct IIM or Tribal accounting staff. Neither did the Area Offices maintain IIM accounts, only general ledger controls. The IIM accounts continued to be kept at each Agency Office on ten register NCR accounting machines and cards.

In 1965 the BIA started centralizing its accounting functions in Albuquerque, NM on a mainframe computer. The conversion to the computer system was complete by January 1967. However, a duplicate set of Tribal funds 'control accounts' were maintained at Agency Offices on NCR ten register accounting machines, as a quality control check of the automated system. The mainframe centralization did not cover the Agency's IIM accounting operations. The Agencies continued to keep the individual accounts as in the past.

In 1968 a new automated accounting system was developed and implemented, and modified in 1974. The basic accounting for Tribal and IIM funds remained the same and was conducted at the same locations as before the new system in 1968 or the revised system introduced in 1974. In addition, in 1973 the U.S. Treasury discontinued maintaining Tribal accounts in a separate appropriation for each Tribe and consolidated all such funds into a single Tribal account. The subsidiary detail for each Tribal account was maintained at BIA on the automated system and the control cards described above. The control cards were discontinued in 1987 due to the inconsistency and inaccuracy of the data in the cards.

In the early 1970's an automated IIM subsidiary accounting system was developed and begun to be installed in BIA. The accounts were not all converted to the automated system Bureau-wide until 1985.

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Current Situation

The composition of the trust funds has not changed significantly over the years. Funds held in trust include payments required by treaty or in satisfaction of judgments against the United States, and income earned by tribes or individual Indians from agriculture, timber, mineral, or oil and gas leases. As of September 30, 1990, the portfolio of tribal and individual Indian trust fund monies included approximately 300,000 accounts valued at approximately \$2 billion.

Concerns about the management and accountability of Indian trust funds has been a long-standing issue as far back as the 18th century. Tribes and individual Indians have long been concerned about the accuracy of BIA's accounting for trust fund receipts and disbursements and the effectiveness of BIA's investment practices.

Reviews conducted over the past ten years by the General Accounting Office, the Department of the Interior's Inspector General, and independent accounting firms have identified serious financial management problems permeating every aspect of BIA's management of the trust funds. Many of the same problems have been identified each year.

Since 1983, two different public accounting firms have reported serious internal control problems in BIA's trust fund operations. The most recent review conducted by contract with Arthur Andersen & Company expressed a qualified opinion on BIA's trust fund statements due to an inability to confirm cash balances, major inadequacies in accounting records and related systems, and accounting errors.

The seriousness of the problems identified over the past ten years and the fiduciary responsibility vested in the Secretary of the Interior to properly manage the trust funds, requires a comprehensive effort at reforming all aspects of the BIA trust fund system.

Account Reconstruction. An initial, but critical step to correct trust funds management deficiencies is the successful reconstruction of trust fund accounts. This is being accomplished through a major reconciliation, audit and certification program to reconstruct the tribal and individual Indian monies (IIM) accounts to the earliest date practicable. This work, being undertaken by contract, is expected to take approximately five years. More definitive time projections are anticipated in the spring of 1992 based on the results of Phase I of the Reconciliation Project, where 87% of the tribal funds on deposit and the IIM accounts at three agencies which represent about 17% of the IIM money on deposit, will be reconstructed by means of an account reconciliation contract with Arthur Andersen & Co.,

RECONCILIATION AND AUDIT AND CERTIFICATION PROJECT GOALS

The Office of Trust Funds Management (OTFM) began the reconciliation effort under the Reconciliation and Audit and Certification Project on May 10, 1991, when it awarded a reconciliation contract to Arthur Andersen & Company, an independent accounting firm. A separate contractor will independently audit and certify the reconciliation process and results. The entire Reconciliation and Audit and Certification project is expected to span 5 years – through FY 1996 – due to the extensive work necessary to accurately account for and report on Individual Indian and Tribal trust funds. During the five year period, OTFM will work with the contractors to gain a thorough technical and operational understanding of the account reconciliation and audit process.

The project will encompass all trust fund accounts. As of September 30, 1990, the OTFM was responsible for 288,000 individual Indian accounts valued at \$486 million and approximately \$1.5 billion for 300 Tribes in 1,800 separate accounts.

The project consists of the following four activities:

- o Reconciliation – involves the collection of account records, determination of the necessary source documents, and account reconstruction.
- o Audit and Certification – consists of auditing and certifying the accounts reconstructed in the reconciliation. The approach is for a different contractor to conduct the independent audit and certification of the reconciliation effort in order to verify account balances.
- o Maintenance and Continuing Reconciliation – requires the OTFM to establish policies and procedures to account for and report on trust funds account balances once the contractors have reconciled, audited and certified trust accounts.

The goal of Reconciliation is to reconstruct the accounting records and the account balances in the Tribal and individual Indian Monies (IIM) accounts as accurately as possible back to the earliest possible date practicable, using available accounting records and transaction data. The Reconciliation and Audit and Certification Project has as its objectives the following:

- o To establish a Quality Assurance staff to provide, first, management of the trust fund account reconciliation contract effort, and second, management of the trust fund account audit contract;
- o To reconcile Tribal and IIM account balances to the earliest date practicable and maintain them in a reconciled state;

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- o To develop and implement standard procedures for continuing reconciliations of Tribal and IIM trust accounts;
- o To ensure that standard procedures and controls are in place to maintain the integrity of reconciled and audited accounts.

RECONCILIATION PROJECT SUMMARYBackground

Over the years numerous audit reports by the U.S. General Accounting Office (GAO), Interior's Office of Inspector General (OIG), and independent public accountants have detailed problems involving weaknesses in BIA's control and oversight of Indian trust funds. In 1988 and again in 1989 and 1990 legislation was enacted that required the BIA to reconcile Tribal and individual Indian accounts as accurately as possible back to the earliest date practicable. In 1990, after OTFM was created, a Request for Proposal (RFP) to reconcile all Indian trust funds was developed and advertised. The RFP was developed in coordination with a trust funds ad hoc group comprised of tribes that owned over 87% of the total Tribal trust funds, the GAO, Interior OIG, and the Office of Management and Budget (OMB). Tribal representatives have since constituted themselves as the Inter-Tribal Monitoring Association on Indian Trust Funds (the Association). In May 1991, as the result of the RFP, the BIA awarded a contract to a major independent accounting firm, Arthur Andersen & Co, to perform the required reconciliation. The reconciliation project will be conducted in two phases over an estimated five year period.

Summary of Statement of Work

In summary the contract requires the following:

- o All Tribal judgment award accounts will be reconciled to the date of inception of the account, to the extent practicable, through the most current month-end at the time the reconciliations are being performed.
- o Tribal income accounts will be reconciled to the date of inception, to the extent practicable, through the most current month-end at the time the reconciliation work is being performed.
- o Individual Indian money accounts will be reconciled to inception of the account, to the extent practicable, to the most current month-end at the time the reconciliations are being performed.
- o All investment activity for each Tribe and the IIM fund will be reconciled with source documentation to assure that the transactions are recorded properly in the BIA accounting records:
 - Identify uninvested funds to extent practicable;
 - Identify period of time funds were uninvested;
 - Calculate estimated interest lost.

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- o Record and report all underpayments and overpayments to Tribes and individual Indians.
- o Furnish a reconciled account statement to each IIM and tribal account owner

Assessment Period

The Reconciliation Contract required Arthur Andersen & Co to provide assessments within four weeks after initiation of field work at each IIM site and for each group of tribal accounts as to the level of effort and estimated costs involved in the reconciliation. However, because of additional assessment activities identified, the assessment period has been extended through October 1991. The contractor will take into consideration, as a minimum, the following factors in this assessment:

Assessments Under the Contract

- o Availability of records.
 - Number of accounts.
 - Number of distributions to be fully traced.
 - Number of distributions to be statistically sampled.
 - Number of transactions of less than a dollar.
- o Time assessment.
 - for reconciliation procedures
 - for manual database creation
 - for imaging documents
- o Time control methods contingent on
 - starting point of audit
 - statistical sampling plan
 - stratification of accounts and transaction

Additional Assessment Activity

- o Feasibility of collecting lost interest data.
- o Feasibility of collecting check dates on deposits.
- o Feasibility of reconstructing all IIM accounts at an agency.

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- o Feasibility of verifying that checks are drafted to the account owner.
- o Timing of reconciliations of tribal accounts maintained in Albuquerque, New Mexico, and reconciliations of related tribal accounts maintained in Area/Agency Offices.
- o Assessment of reliability of ownership records.
- o Assessment of the extent of previous control balances for selected accounts.

At the end of the assessment period, about 4 weeks after field work commences, representatives of the Department of the Interior, BIA, the Association, GAO, and Arthur Andersen & Co will meet and evaluate the meaningfulness of certain of the information and data collected by Arthur Andersen & Co, and how it may be used. It must also be pointed out that the dates reflected within this Plan are based on contract-established deliverables and timeframes; it is likely that certain dates will be adjusted during the late October Assessment Meeting among BIA, the Association, GAO, and Arthur Andersen & Co.

Trust Fund Accounts to be Reconciled in Phase I

Phase I, which commenced June 1, 1991 and will conclude May 31, 1992, will include:

- o reconciling tribal trust fund accounts belonging to the tribes whose total cash and investments (\$1.3 billion) rank by dollar value in the top 37 accounts out of the trust fund accounts owned by approximately 300 Indian entities and maintained by the Bureau, including both judgment and proceeds of labor accounts; and,
- o reconciling individual Indian Monies (IIM) accounts at the Uintah & Ouray Agency (Fort Duchesne, Utah), Olympic Peninsula Agency (Hoquiam, Washington), and Fort Peck Agency (Poplar, Montana). The 17,572 accounts valued at \$66.9 million at these three Agencies are summarized below:

Agency	# of Accounts	\$ in Millions
Uintah & Ouray	4,432	25.3
Fort Peck	9,182	9.4
Olympic Peninsula	3,958	32.2

Reconciliation will require the collection of account records from Area and Agency Offices across the United States, determination of the necessary source documents for comparison to the subsidiary general ledger balances, document imaging and storing (an electronic system of document filing, storage and retrieval on optical disk), and actual reconstruction of each account.

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Trust Fund Accounts to be Reconciled in Phase II

This Phase of the reconciliation effort will address the Tribal and IIM reconciliation for all accounts maintained by the Bureau not addressed in Phase I. Phase II will require the Phase I contractor to prepare a work plan that will indicate the time, sequence and projected costs associated with reconciling the remaining IIM and Tribal accounts (approximately 270,000 and 1,300, respectively). The work plan is to be submitted to the Bureau no later than February 28, 1992. During Phase II, the Reconciliation and Audit Project Management Team will follow the same oversight, management, training and liaison efforts for this activity as in Phase I; changes will be made as necessary to carry out the task. Due to the enormous number of IIM and Tribal accounts to be reconciled, Phase II is expected to span 4 years, through FY 1996.

RECONCILIATION PROJECT MANAGEMENT PLAN

The following is BIA's management plan to ensure the effective reconciliation, audit and accounting for trust funds belonging to Indian Tribes and individuals. The plan addresses pertinent background and policy issues, information on the type, number and value of Indian trust funds, the role of the Contracting Officer and the Contracting Officer's Representative, the role of designated tribal representatives, BIA project support functions and staffing, contractor oversight, contractor reporting to BIA, audit and certification plans and timetables, and policies and procedures to ensure that balances remain accurate once the accounts are reconciled. At present, this Plan necessarily focuses on Phase I work, as a stated purpose of the Phase I effort is to learn where the reconciliation of Indian trust funds accounts will lead during Phase II. Accordingly, it is anticipated that this Plan will be updated in the spring of 1992 to incorporate the results of Phase I reconciliations.

BIA Trust Funds Management OverviewFiduciary Responsibility

In carrying out its management and oversight of the Indian Trust Funds, the BIA has a fiduciary responsibility to ensure that the trust accounts are properly maintained and invested in accordance with applicable laws, and that accurate and complete reports are periodically provided to fund owners. These reports must contain detailed information on all account activity which occurred during the reporting period.

The Federal trust responsibility is a very important limitation upon executive authority and discretion to administer Indian property. Decisions of the Supreme Court reviewing the legality of administrative conduct in managing Indian property have held officials of the United States to "moral obligations of the highest responsibility and trust" and "the most exacting fiduciary standards" and to be "bound by every moral and equitable consideration to discharge its trust with good faith and fairness."

Types of Indian Trust Funds

There are primary two categories of Indian trust funds being addressed under the reconciliation and audit and certification project -- funds belonging to Indian Tribes and funds belonging to individual Indians. Tribal funds are further categorized into: judgement awards from Indian Claims Commission cases (many for the cession of lands); proceeds for the surface use of tribal lands (i.e. grazing, farming, etc.); proceeds for the extraction of oil, gas and minerals; and, proceeds from timber harvest. The major portion (70%) of the current balance of Tribal funds consist of judgement awards.

The balances that have accumulated in the accounts belonging to individual Indians have come from per capita distributions of: judgement awards; land use agreements; oil, gas, and mineral extraction; and, timber harvests.

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Value of the Indian Trust Funds

The total of the Indian trust funds on deposit in the U.S. Treasury is approximately two billion dollars. As of September 30, 1990 the Bureau's accounting system recorded nearly 300 Tribes with 1,800 accounts with a balance of \$1,495,891,506, and 288,033 Individual Indian Monies accounts with a total balance of \$486,157,806. (Other Indian funds and irrigation and power funds which BIA also manages amounted to \$87,618,472. These monies will be addressed in a separate special project.)

Significant Accounting Policies

Cash Basis of Accounting. The Bureau uses the cash basis of accounting for the Indian Trust Funds. When the accounting system was designed in the late 1960's the investment program was minuscule with most of the interest earnings derived from semiannual interest payments by the U.S. Treasury. Therefore, accrual accounting capability for interest earnings, as required by generally accepted accounting principles (GAAP), was never provided. Likewise, income, other than interest earnings, is also recorded when collected.

However, financial statements being prepared in conjunction with this project will have to take cognizance of accruals, and likewise reports will have to be annotated indicating any deviations from the accounting standards established by GAO in Title 2 of the Policy and Procedures Manual for Guidance of Federal Agencies.

Investment Authority

25 USC 162a (1938) authorizes the Secretary of the Interior to deposit Tribal and individual funds in banks and to invest those funds in any public debt obligations of the United States, and in any bonds, notes or other obligations which are unconditionally guaranteed as to both interest and principal by the United States. All deposits, including accrued interest, are required to be covered by appropriate insurance or collateralized.

Investment Interest Earnings Distribution

- o Individual Indian Monies - All IIM funds are invested on a pool basis and interest is computed using the average daily balance method and is distributed on a monthly basis. This method was initiated in June 1989. Prior to that date, the interest was distributed using the month-end-balance method, which relied upon account balances at the end of each month as a basis for distributing interest. The month-end-balance method was discontinued to eliminate inequities.
- o Tribal Trust Funds - Tribal funds are invested on an individual fund basis. Interest is earned in two ways: (1) directly from investment securities in which the Tribal funds are placed, such as certificates of deposit at financial institutions or U. S. Government Agency securities, or (2) when the funds are not otherwise invested, the Bureau places the fund in a Treasury overnight investment ("overnighters"), which earns a rate comparable to Treasury bill rates. The interest on the Treasury overnighter investments is distributed using the average daily balance method.

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- o Historical Note - Before 1963, the interest earned on tribal funds was 4% per annum simple interest paid by the U.S. Treasury as authorized by 25 USC 161a. Until 1967, Area Offices locally invested and accounted for tribal trust fund investments. In about 1967 the centralized investment program that exists today began to evolve.

Reconciliation Methodology

Statement Database

The account reconciliation process will commence with the creation of an electronic account statement database. A database will be created for all tribal accounts and for each Agency's group of Individual Indian Money (IIM) accounts. The databases will include transaction histories of all accounts, including IIM special deposits. The transaction histories will be downloaded to the statement databases from the IIM and Finance System automated accounting systems and manually encoded from manual account records.

IIM Upstream Reconciliation Approach

The contractor will utilize an upstream reconciliation approach for the IIM accounts by tracing all transactions from the original source documents into the account statement database. The tracing process will start with the most recent years and work chronologically backwards. Each transaction on a source document will be annotated, using a standardized legend, to indicate whether it was matched to the statement database. After the reconciliation the source document will be scanned into BIA's optical imaging media for a permanent record. The reconciled source document will be annotated by a stamped legend that it has been imaged. Lease distributions will be verified to the official land title records. Interest postings will also be verified and interest will be calculated on under and overpayments. Reconciliation of the IIM system and the automated Finance System will include a summary system level reconciliation of the general ledger account activity using a dBase IV program.

Tribal Downstream Reconciliation Approach

The tribal source documents will be imaged prior to commencement of the reconciliation process and annotated by a stamped legend that they have been imaged. The contractor will utilize a downstream reconciliation approach for tribal accounts by tracing each transaction in the account statement database to the imaged source documents using windows software. An annotation scheme for the reconciled imaged documents will be added to the image database. Reconciliation of the Finance System investment general ledger data to the MoneyMax system will be performed by the contractor in the same manner as in the 1989 and 1990 financial audits. Also, for information purposes, proforma interest calculations will be performed on amounts in cash accounts that were not invested by BIA in bank certificates of deposit and Treasury securities.

Availability and Use of Tribal and IIM Accounts

The responsibility for records availability rests with the BIA. Since May 1990, the Reconciliation and Audit Project Management Team has been searching for and gathering all available accounting records for both IIM and tribal accounts in order to provide the contractor with all available records.

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Where records are not available, or other appropriate documentation can not be found, the contractor will indicate which accounts could not be reconciled due to a lack of accounting records.

Entrance Conference

Entrance conferences will be held with all Tribal representatives and individual Indians prior to beginning actual reconciliation of the accounts. For Phase I, conferences were held in July and August 1991 at the three Agencies scheduled to begin reconciliation work. Planning sessions for each entrance conference were conducted with Tribal representatives, allottee groups, BIA Area/Agency personnel, and the Association.

Entrance conferences will be held with each of the tribes in Phase I to discuss the purpose and scope of the reconciliation project and to obtain tribal input. The BIA will work closely with each Tribe's representative and, as appropriate, the Association to plan the entrance conference to meet the needs of each tribe.

Table 1 on pages 15 and 16, details the schedule of Entrance Conferences.

Table 2 on page 17 lists the tribes with trust funds accounts included in Phase I of the Reconciliation contract effort.

Exit Conference

At the completion of each Agency's reconciliation, there will be an exit conference conducted with each Agency Superintendent and IIM account holders. Copies of restated IIM accounts and explanations of any recommended adjustments will be forwarded to the affected IIM account owner, and access to any supporting documentation related to adjustments offered. Each account holder will be given the opportunity to respond to the findings of the contractor. If requested, the contractor will meet with the account owner and the Agency Superintendent or other appropriate BIA official, and, if requested, a member of the Association, to discuss any adjustments.

At the completion of the reconciliation of each tribe's group of accounts, the contractor will conduct an exit conference with the Tribe, coordinated through the Reconciliation and Audit Project Management Team and, at the Tribe's request, the Association. At the conference, the contractor will discuss and explain account adjustments for the Tribe's group of accounts.

On the written approval of the affected tribal or individual Indian account holders, representatives of the Inter-Tribal Monitoring Association on Indian Trust Funds may attend the Exit Conference.

Reconciliation of Variances Between MoneyMax and Finance System

This project encompasses completion of the reconciliation of the \$17 million variance between BIA's MoneyMax program and the BIA Finance System as reported by the Office of the Inspector General in its September 1989 audit of Trust Funds.

Subsequently, Arthur Andersen & CO reconciled the \$17 million variance down to \$1,239. The reconciliation revealed only account posting errors by the Office of Trust Funds Management (OTFM) staff; no fraud or embezzlement occurred. In order to correct the \$17 million variance and the incorrect

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account balances, the Bureau has posted all recommended adjusting entries to the correct accounts as advised by Arthur Andersen & Co. The account posting necessary for correcting the majority of the \$17 million variance for this activity was completed September 30, 1990. During the reconciliation and audit of the IIM and Tribal accounts, the contractor will pursue the remaining variance between the systems which results from transactions posted prior to 1990.

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TABLE 1
Entrance Conference Schedule

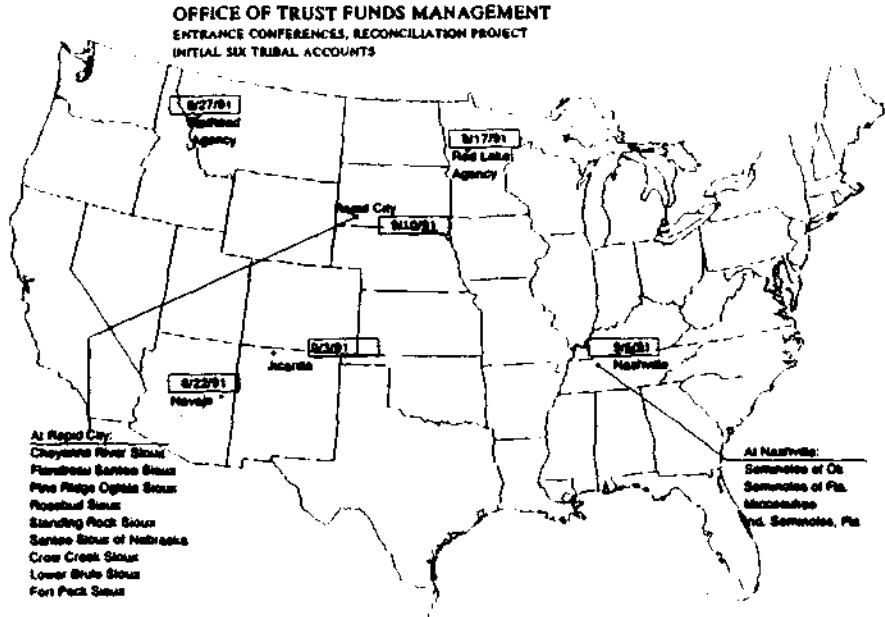
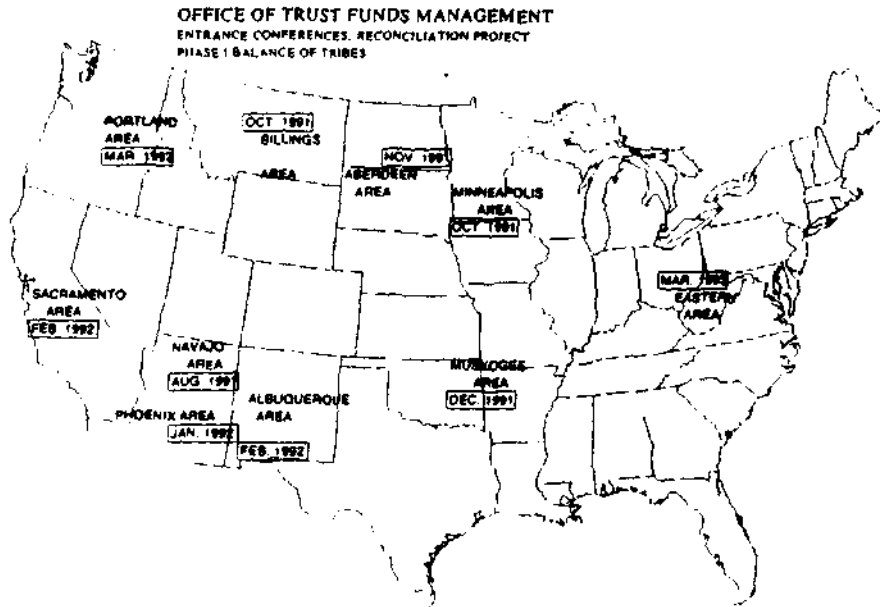


TABLE 1 (Continued)
Entrance Conference Schedule



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Table 2
Tribes Whose Accounts Are Included in Phase I of the Reconciliation Project

- | | |
|---|---|
| 1. Seminole (Florida and Oklahoma)
Seminoles of Florida
Seminoles of Oklahoma
Miccosukee of Florida
Independent Seminoles of Florida | 12. Flathead
13. 3 Affiliated - Fort Berthold
14. Sisseton and Wahpeton
15. Ottawa-Chippewa
Grand Traverse Band-Chippewa
Sault Ste. Marie Chippewa
Bay Mills Chippewa |
| 2. Pembina Chippewa
White Earth, Minnesota
Chippewa Cree of Rocky Boy
Turtle Mountain Chippewa
Pembina Descendants
Little Shell Tribe | 16. Hoopa
Hoopa Tribe
Yurok Tribe |
| 3. Sioux
Cheyenne River Sioux
Flandreau Santee Sioux
Pine Ridge Oglala Sioux
Rosebud Sioux
Standing Rock Sioux
Santee Sioux of Nebraska
Crow Creek Sioux
Lower Brule Sioux
Fort Peck Sioux | 17. Pueblo of Acoma
18. Jicarilla Apache
19. Red Lake Band of Chippewa
20. Hopi
21. Pima
22. Te Moak Band-Western Shoshone
23. Uintah & Ouray
24. Mescalero Apache
25. Pueblo of Laguna
26. Southern Ute
27. Navajo
28. Creek Nation
29. Osage Nation
30. White Earth I.R.
31. Lac Courte Oreilles
32. Choctaw
33. Papago of Sells Agency
34. Salt River
35. Ute Mountain
36. Seneca Nation
37. Fort Peck |
| 4. Pembina Descendants
5. Passamoquoddy
6. Penobscot
7. Confederated Tribes of Colville
8. Yakima Nation
9. Warm Springs
10. Crow of Montana
11. Turtle Mtn Chippewa (Award only) | |

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Management Organization for the Reconciliation Contract

To ensure project management and oversight, BIA has established a Reconciliation and Audit Project Management Team (Team) in Albuquerque, New Mexico to provide oversight and management of the entire project. The Team will provide contract oversight, management support, and training for this project, as well as liaison activities between the contractors and BIA's Area and Agency offices, tribal representatives, and the Inter-Tribal Monitoring Association for Indian Trust Funds. The Project Team's staff consists of experienced accountants, auditors, and financial analysts.

At BIA's Area and Agency offices, staff will be responsible for providing experienced personnel to assist the contractors reconciliation, audit and certification teams and to ensure availability of adequate work space and support services. Each BIA Area Director will designate one Area Reconciliation Coordinator to work with the contractors and OTFM staff on this project. The Area offices will assist in organizing meetings between Tribes and individual Indians and the contractor and the Reconciliation Project Team.

Contracting Officer

The Contracting Officer for the reconciliation contract with Arthur Andersen & Co is Mr. Peter S. Markey, Branch of Contract and Grant Operations, Bureau of Indian Affairs, Washington, D.C.. The Contracting Officer is certified and appointed as a warranted official contracting agent for the BIA by the Deputy Commissioner of Indian Affairs. The Contracting Officer, solely, has the authority to award, administer, and terminate contracts and make related findings and determinations with regard to this contract.

Contracting Officer's Representative

The Contracting Officer's Representative (COR) for the reconciliation contract is Mr. Donald M. Gray, Office of Trust Funds Management, Bureau of Indian Affairs, Albuquerque, NM. The COR, who is formally designated by the Contracting Officer, assists the Contracting Officer in administering the contract by performing the following duties:

- o Assures that the BIA's contract objectives are achieved;
- o Notifies the Contracting Officer of any problems;
- o Provides technical program interpretations of the contract statement of work;
- o Maintains a record of all matters pertaining to the contract;
- o Conducts contract performance reviews by periodic site visits and/or other reviews;
- o Reviews invoices, progress reports and final reports;
- o Certifies satisfactory work performance and recommendations for payment.

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Contractor Direction and Contract Changes

The Contracting Officer is the only individual that has the authority to commit the Government in any manner that may affect the price, time, requirements or conditions of the contract. The COR is the only individual, other than the Contracting Officer, authorized to provide formal technical program interpretations to the contractor regarding the statement of work, including methods and approaches on task performance.

BIA Structure for Reconciliation Project

BIA General Organization

- o Central Office - The Bureau's Office of Trust Funds Management, reporting to the Deputy Commissioner of Indian Affairs, was created in January 1990. The office establishes policies, procedures and processes for managing the billing, collection, investment and disbursement of the Indian Trust Fund assets and performs the related accounting and financial reporting. It is located at 505 Marquette N.W. Suite 700, Albuquerque, New Mexico.
- o Area Offices - The 12 Area Offices provide administrative and operational support for Agency offices. The Area Offices are headed by a line officer that reports to the Deputy Commissioner of Indian Affairs. The Area Offices are a key communication link between the BIA's Office of Trust Funds Management and the Agency Offices. The Area Offices through the Area trust fund accountant ensure compliance with trust funds policies, procedures and processes.
- o Agency Offices - The Bureau's 93 Agency and other field Offices maintain direct contact with the Tribes and individual Indians located throughout the United States. Generally, Agency Offices are physically located near the Tribes they serve. The Agency Office plays a significant role in trust funds management as the origination point of the billing, collection, investment and disbursement transactions.

BIA Responsibilities for Reconciliation Project

- o The Office of Trust Funds Management is responsible for the overall project and contract management.
- o Area Offices are responsible for providing the necessary experienced and professional personnel to assist the contractor's reconciliation teams and to ensure adequate work space and support services are available as needed. The Area Offices also assist in the organizing of meetings among Tribes and individual Indians with contractor and BIA

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project management personnel. BIA Area Directors are required to designate employees to act as Reconciliation Coordinators (RC) at their Area Offices. These RCs coordinate with Agency Offices, arrange for work space, and serve as a clearing point for any requests for data, records, etc. for work in the field.

- o Agency Offices are required to provide the necessary access to supporting documentation required in the reconciliation effort. A list of contact points for each Area and Agency Office has been provided by the Area, and is included at page 22 as Table 3.

Reconciliation and Audit Project Management Team

A Reconciliation and Audit Project Management Team has been established within the Office of Trust Funds Management. An organization chart for the Team is depicted on page 23 in Table 4. The Team provides the professional expertise to perform the day-to-day management of the reconciliation and audit contracts. The Team also will provide oversight of the continued reconciliation of accounts once they have been reconstructed by the contractor. The oversight for continued reconciliation will include establishing policies and procedures, training BIA personnel on the reconciliation process and implementing monitoring processes to assure that the reconciliations are completed within prescribed time lines.

The Team will be staffed with the number and quality of personnel necessary to go on-site and perform the survey and reconciliation assistance to the contractor, if necessary, in such cases as new personnel, absence of personnel, or any other circumstance that interrupts the reconciliation routine.

Professional and experienced staff have been assigned to the reconciliation and audit project and will be the core staff of the Reconciliation, Audit and Certification Project Management Team. The core staff are all professional accountants, auditors, and financial analysts with many year of experience with the BIA and the various accounting systems and processes used to account for the Tribal and individual Indian money that will be audited. The Team is supported by experienced clerical staff.

- o Project Management. A senior accountant serves as Project Leader. Another senior accountant will act as records manager and systems analyst. A Financial Analyst within the project group assists with workload backlogs and special projects. Two secretaries will provide support and administrative services to the Team.
- o Liaison. Two Team members will provide liaison services to the Tribes, individual Indians and their representatives such as the Association, and legal representatives. The liaison service will keep all trust funds owners and/or their representatives informed of the purpose and progress of the contract effort, answer questions, resolve conflicts, interpret report results, and obtain guidance and counsel from the fund owners. In the execution of these duties the Liaison Staff will perform the following representative tasks:
 - Develop, establish and maintain a communication process.

BIA Reconciliation Project Management Plan

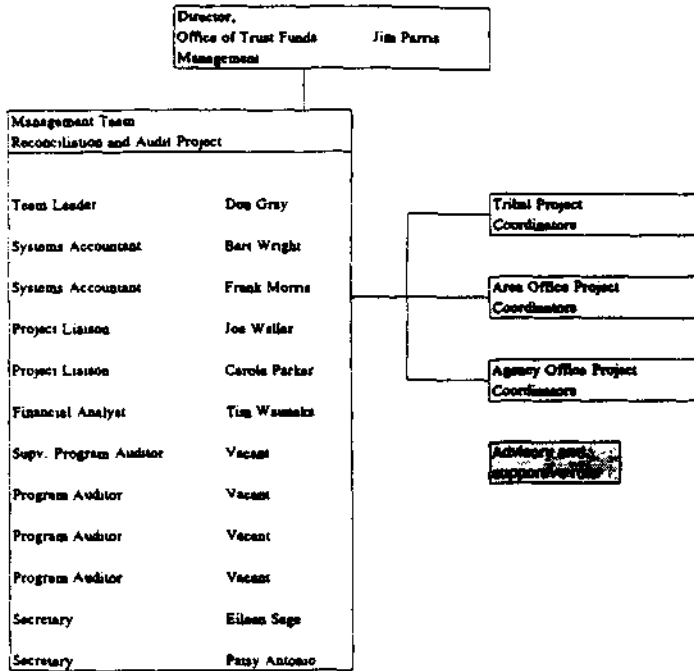
- Establish a mechanism for tracking and monitoring the resolution of issues, problems, complaints and requests for information.
- o Reconciliation. Four professional accountants/auditors will oversee, and as necessary, perform the continued reconciliation effort at Areas/Agencies after individual accounts have been reconciled by the contractor. This staff will also be responsible for internal reviews at the income collection and account maintenance locations to assure compliance with OMB Circular A-123 (Internal Controls) and other regulatory controls.

BIA Reconciliation Project Management Plan**TABLE 3****Area/Agency Contact Points for the Reconciliation Effort**

AREAS	CONTACT PERSON	TELEPHONE/FAX
Aboriginal	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Administrative	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Business	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Education	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Health	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Industry	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Labour	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Legal	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Media	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Non-Profit	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Other	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Public Works	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Regulatory	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Science	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Transportation	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Utilities	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114
Waste	John Dyer	Cell 403-224-1114 FAX 403-224-1114 FAX 403-224-1114

TABLE 4

Reconciliation and Audit Project Management Team



Management team established by memorandum signed June 25, 1991, by Eddie Brown, Assistant Secretary-Indian Affairs, and Dave Matbeson, Deputy Commissioner of Indian Affairs.

BIA Reconciliation Project Management Plan

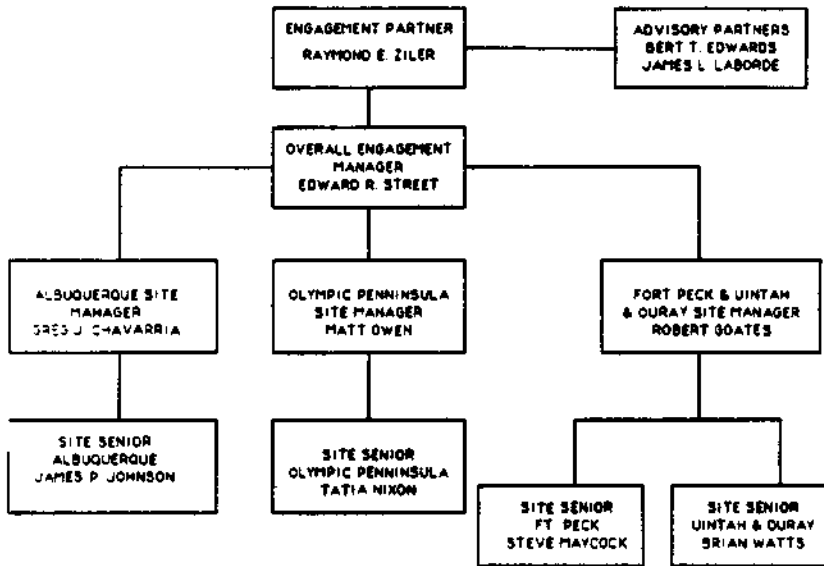
Contractor**Arthur Andersen & Co Organization for Reconciliation Project**

The organization structure for Arthur Andersen & Co relative to the reconciliation contract effort is depicted on page 25 in Table 5.

Arthur Andersen & Co, a large, nationally recognized independent public accounting firm, was awarded the reconciliation contract on May 10, 1991. The *Work Program* prepared by Arthur Andersen & Co in its proposal and response to BIA's Request for Proposal provides a detailed project process description. Recognizing that certain procedures outlined in the original document are being amended as the reconciliation effort gets underway, the *Work Program* still is an excellent basic outline for the reconciliation project and is valuable for contract monitoring and program assessment. It is therefore incorporated in BIA's Reconciliation Project Management Plan, and is included beginning on page 26.

TABLE 6

Arthur Andersen & Co Project Management Organization Chart



IA Reconciliation Project Management Plan

Arthur Andersen & Co Work Program

Work Program

Client: Bureau of Indian Affairs
 Section of Work: General and Job Administration (Central Office) Audit Date: 0000/1997
 Job Code: ND-2240 Area Code:

Program Based on Presumed or Anticipated Conditions*		Work Center
<p>Include here or in substantiated memoranda a brief summary of the (A) nature of the accounts; (B) client's accounting structure and internal control techniques; and (C) audit objectives to be accomplished.</p>	<p>General and Job Administration (Central Office)</p> <p>The overall engagement manager on the project will be responsible for coordinating all areas of work, with field locations and central office units. The overall manager will also be responsible for monitoring and reporting progress to central office Bureau Management, and ensuring that the work is progressing in accordance with the work plan and the terms of the contract. This program highlights the more significant administrative matters, each of which is discussed in the contract and Request For Proposal.</p> <p>With an engagement of this magnitude, it will be important to have open communication between team managers and support, and the overall project manager, to resolve problems as they occur. This will be accomplished through the following weekly meeting structure:</p> <ol style="list-style-type: none"> Inquiries should be made to the overall project manager in Albuquerque by direct phone contact, by fax, or via our firm-wide digital voice exchange system 1-800-FIRM-DVX. <p>The DVX System will be checked daily to field questions from all teams.</p> <ol style="list-style-type: none"> Questions/Issues will also be documented using standard issue forms so we may process the more significant issues to Bureau Management with our weekly status reports. Standard issue forms will include the following: <p>Person Raised Issue Date Issue Raised Person Raised With Issue Description Resolution Person Responding Date</p> <p>Objectives:</p> <ul style="list-style-type: none"> Reconcile (Reconstruct) all Individual Indian Money accounts to the extent possible using original supporting documents for the following agency locations: <ul style="list-style-type: none"> Utah and Oury Pi. Peak Olympic Peninsula Reconcile (Reconstruct) all Tribal trust accounts held by the "top 37" Tribes included in the contract. 	<p>Work Center</p> <p>BY: MC</p>

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BIA Reconciliation Project Management Plan

Work Program

Agency: Bureau of Indian Affairs
 Section of Work: General and Job Administration (Central Office) Audit Date: 06/30/1991
 Job Code: OND-82141 Area Code: _____

Program Based on Presumed or Anticipated Conditions *		Web Comments	
Comments	Includes here or in supplemental memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control techniques, and (C) audit objectives to be accomplished	Task Assigned to (BY)	BY
	<ul style="list-style-type: none"> • Reconcile investment balances and transactions to individual Tribal Trust accounts and the ID# pooled accounts. • Determine and reconcile the general effect of any over- and under-invested accounts. • Reconcile subsidiary detail systems of account balances (ID# Systems) to the general ledger control accounts (Finance Systems). <p>Procedures:</p> <ol style="list-style-type: none"> 1. Review awarded contract documents, statement of work and work plan to our proposal to obtain a full understanding of the overall project objectives and required scope under the contract to meet these objectives. 2. Coordinate work with field team managers and subcontractors to ensure adequate staffing has been arranged and Agency contacts have been made. 3. Prepare training manuals and ensure that all field locations receive training manuals prior to the scheduled training to be held at the Central Office West in Albuquerque. Follow-up is an outline of training material content. <p>(NOTE) Bureau assistance and approval will be obtained, particularly in the design of standard report formats to be used for reconciled ID# accounts and Tribal Trust accounts.</p> <p>Training Material Content:</p> <p>Section I General Client Information</p> <ul style="list-style-type: none"> • Bureau of Indian Affairs Background information • History of the Bureau • Organization structure • Description of operations at each level • Prior years audited financial statements and compliance reports • 1988 • 1989 • 1990 • Prior years summary of procedures performed and coverages obtained in connection with the prior years audits • List of all prior reconciliation work performed by OIG, Arthur Andersen, Bureau personnel and others. <p>Section II Tribal Trust Reconciliation</p> <ul style="list-style-type: none"> • Sample Tribal Trust account statement in the format to be reported to the Tribe with sample adjustments and disclosures <p>* If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (indicate location) and state the general reasons for such changes.</p>		

WFO: J. J. Smith/4/89/777 From AUSA

BIA Reconciliation Project Management Plan

Work Program

Dept: Bureau of Indian Affairs
 Job Title: WORK: General and Job Administration (Central Office)
 Audit Date: XX/XX/1991
 Job Code: ND-824-01
 Area Code:

Program Based on Presentation of Anticipated Constituents*				Web Content	
Format	Include here or in supplemental memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control techniques, and (C) audit objectives to be accomplished.	Page No. of 1991	Page No. of 1992	PT	Met
<p>Section III (IM) Reconciliations</p> <ul style="list-style-type: none"> Sample of Summary and Detail of Trust Funds report for an appropriation under a Tribe's accounts Sample documents to support the transactions in the apportion statement Sample general ledger cards for four periods prior to the Finance System implementation <p>Section III (IM) Reconciliations</p> <ul style="list-style-type: none"> Sample final IM statements to adjust for errors Sample documents supporting receipt and disbursement transactions reflected in the apportion statement BF 349 (Interfund Transfers) SF 1166 (Disbursement authorizations) SF213 (Fiscal vouchers) SF1081 (Receipts - MDAS) Sample lease documents to demonstrate detail involved in disbursement Lease Agreements Title plant record of ownership for an allotment included in the lease Calculation of disbursements performed for a payment under the lease agreement calculated using Lease Disburse Program in IRMS system Calculation of disbursement of lease revenues performed manually <p>Section IV (IRMS vs. Finance System) Reconciliations</p> <ul style="list-style-type: none"> Sample reconciliation reviewed in connection with prior audits (the Billing's Arts example will be used, as it appears to be the most complete) Sample documents supporting variances and resulting disposition of such variances Proposed adjustments to the appropriate system and the effect on individual accounts, if the entry is proposed to the IRMS System Documentation of users manual for the dBase IV system designed by the Bureau to assist in the reconciliation process <p>Section V (Leasehold) Reconciliations</p> <ul style="list-style-type: none"> Sample MoneyMan (Leasehold Data) vs. Finance System reconciliations for specific Tribes, and the IM pool, performed in connection with the 1989 and 1990 Financial Statements Audits Sample Finance System Reports (General Ledger Detail) demonstrating unrecorded transactions and balances 					

* If program is changed as a result of conditions found in the field describe the change in an attached memorandum (include reasons) and state the general reasons for such changes.

BIA Reconciliation Project Management Plan

Work Program

Office: Bureau of Indian Affairs
 Department: General and Job Administration (Central Office)
 Audit Date: 10/06/1991
 I.D. Code: ND-41410 Area Code:

Program Based on Presumed or Articulated Conditions*		Ass. Conditions	
Phase	Description	Start Date	End Date
Phase I	<p>Include here or in supplemental memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control techniques, and (C) audit objectives to be accomplished.</p> <ul style="list-style-type: none"> • Sample MoneyMax System Reports (Inventory Outstanding; Journal of Transactions); documenting investment transactions and balances • Sample supporting documents for specific items on both systems • Account Distribution Sheets • Deposit Tickets • DMRS (Deposit Message Retrieval System) Reports • Remittance Advice for Government Securities (Principal and Interest Payouts) • Summary of 1989 and 1990 reconciliation results and resulting journal entries 		
	<p>1. Arrange for general office training to be held in Albuquerque during the first two weeks of the contract to begin 30 days after the contract award.</p> <p>2. Coordinate with field managers, and arrange for site reviews within two to three weeks of commencement of field work in order to assess the level of effort and cost of completing Phase I of the contract.</p> <p>3. Obtain written approval from the COR to proceed based on the estimates provided within four weeks of commencement of field work.</p> <p>4. Prepare weekly status reports to be provided to the COR (within a week following the work completed for previous week) that include at least:</p> <ul style="list-style-type: none"> • costs incurred during the previous week by work site • costs incurred to date by work site • updates of estimated time and cost to complete work in process by work site • description of problem areas being encountered <p>5. Arrange for monthly status meeting with field managers and seniors in order to be fully informed of progress and issues (run hand, in addition to locally reviewing status reports from the field).</p> <p>6. Arrange for monthly status meetings of the overall partner, manager and seniors with the COR in Albuquerque to discuss the status and progress of the overall project.</p> <p>7. Arrange for quarterly meetings of the overall partner and manager in Washington, D.C., with the contracting officer, representatives of Congress and the General Accounting Office to discuss progress and projections, as well as concerns of Bureau upper management.</p> <p>8. Ensure that team managers and seniors have held appropriate entrance and closing meetings with Bureau personnel, Tribal members and individual account holders as appropriate.</p>		

*If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (locate location) and state the general reasons for such changes.

BIA Reconciliation Project Management Plan

Work Program

Client: Bureau of Indian Affairs
 Section of Work: General and Job Administration (Field Level) Audit Date: XX/XX/1991
 ICD Code: IND-824-01 Area Code: _____

Program Based on Prerequisite or Anticipated Conditions*		Date Completed	
Element	Include here or in supplemental memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control techniques, and (C) audit objectives to be accomplished.	Plan (Start/End of audit)	Actual (Start/End of audit)
<p>General and Job Administration (Field Level)</p> <p>Background</p> <p>Job administration for a project of this magnitude will require significant direct supervision and real time involvement by the senior and manager to ensure the efficiency and productivity of the staff. Progress should be closely monitored in order to provide the Bureau with accurate and timely information relating to problem areas, projections for meeting interim target dates, and completion of the project.</p> <p>Weekly status reports of progress and time incurred will be required to be submitted to the overall project manager in Albuquerque from senior and manager at the field locations, in order to keep the client fully informed of our progress and to obtain assistance from the Central office (Office of Trust Funds Management) to resolve any obstacles, as they arise.</p> <p>Objectives:</p> <ul style="list-style-type: none"> • Reconcile (Reconstruct) all IDB accounts to the extent possible using original supporting documents for the following Agency office locations at Phase I <ul style="list-style-type: none"> • Utsah and Durty • Ft. Peck • Olympic Peninsula <p>Procedures:</p> <ol style="list-style-type: none"> 1. Review awarded contract documents and statements of work and workplan as our proposal to obtain a full understanding of the overall project objectives, and required scopes under the contract to meet these objectives. 2. Arrange for staffing of personnel to meet the requirements of the work assigned to your office location. 3. Arrange through the overall project manager to attend appropriate training sessions and planning meetings in Albuquerque to be held prior to commencement of fieldwork. 4. Review relevant audit work performed at the specific Agency Office locations during the September 30, 1990, 1989 and 1988 audits and related management activities. 5. Ensure that all engagement team members, senior and staff review training materials provided by the overall project manager in Albuquerque prior to scheduled training sessions. <p>NOTE: Review efforts should be concentrated on the areas of work to which each staff is assigned, however each staff person, senior and manager should become</p>			

*If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (include location) and state the general reasons for such changes.

BIA Reconciliation Project Management Plan

Work Program

Office: Bureau of Indian Affairs
 Section: General and Job Administration -Field Level
 Audit Date: 10/20/1991
 Title Code: OIG-42401
 Area Code:

Program Based on Prerequisites or Anticipated Conditions*		Page	Number
1	<p>Include here or in supplemental memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control weaknesses, and (C) audit objectives to be accomplished.</p> <p>familiar with all areas of the project. This is important for open communication, and to avoid duplications of effort among the various tasks.</p> <p>6. Arrange for weekly status meetings and manager reviews of progress to ensure adequate progress is being accomplished in all areas of the work.</p> <p>7. Prepare weekly status reports using the standard format provided to report progress made and hours incurred through the end of the week.</p> <p>NOTE: Status reports are due in Albuquerque no later than Wednesday of the following week being reported on.</p> <p>8. Arrange for weekly reports from the team performing summary level system reconciliations (IM vs. Finance System) to be provided to the team performing individual account holder reconciliations of all system found affecting individual accounts.</p> <p>9. As IM account reconciliations are completed, ensure that all worksheets properly support the end result and are in a reviewable, readable format.</p> <p>10. Ensure that appropriate levels of Bureau Management at the field (income and at the Central Office (Office of Trust Funds Management)) are consulted with the work performed and the resulting adjustments to the accounts.</p> <p>11. Arrange for appropriate closing meetings with account holders and appropriate Bureau representatives.</p> <p>12. Prepare required reports as follows:</p> <ol style="list-style-type: none"> a. Restated IM account statements. b. Summary schedules of each IM statement listing all proposed adjusting entries and net effect of those entries by year. <p>NOTE 1: Reports are to be submitted in draft form to the COR prior to finalization. Twenty copies of all finalized reports are to be prepared and submitted no later than 60 days after completion of the reconciliations.</p> <p>NOTE 2: Reconciliation reports are to be prepared using dBase IV software provided by the Bureau and IBM compatible PC hardware that meets minimum prescribed criteria defined in the RFP.</p> <p>*If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (indicate location) and state the parties responsible for such changes.</p>		

ISSUED BY: [illegible] DATE: 10/20/1991

BIA Reconciliation Project Management Plan

Work Program

Title: Bureau of Indian Affairs
 Subject: TFM Account Reconciliations
 Audit Date: 10/00/1991
 Objectives: TND-4244
 Area Code:

Program Based on Presumed or Anticipated Conditions:		Work Covered	
IS Title	Include here or in supplemental memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control techniques, and (C) audit objectives to be accomplished.	From (to)	Pages (of)
IS No.	IS Description	BY	DATE
	<p>TFM Account Reconciliations</p> <p>Background:</p> <p>This section of the work program addresses reconciliation of Individual accounts and Special Deposit accounts. Our scope for the reconciliations are very broad, as it is the Bureau's desire to reconstruct all account activity and reconcile all transactions to supporting documents for all accounts with the exception of those permitted to be unilaterally adjusted by the COB. The reconciliation scope will depend on the availability of documents, thus, it is imperative to assess the availability and condition of documents in the field location prior to entering the field.</p> <p>Our procedures are designed under the assumption that the majority of the supporting documents will be available, and historical statements can be provided for individual account holders. Bureau assistance will be needed in gathering documents.</p> <p>We intend to initially image and index documents as quickly as possible to assess the completeness and quality of documentation. Imaging and indexing will be performed while account histories are being downloaded from the Bureau's computer system to our PC's.</p> <p>Objectives:</p> <ul style="list-style-type: none"> Reconcile all account activity for each individual account to supporting documents, to the extent such documents are available. Ensure all transactions reported in the individual account holders statements are properly supported and imaged into PC format and permanently stored. Ensure all revenues received by the Bureau on behalf of Individual account holders were properly posted to Individual accounts (reported). Ensure interest was properly calculated and allocated to Individual accounts based on investment returns and monthly average balances. <p>Procedures:</p> <p>NOTE: Many of the steps involve tracing transactions to supporting documents. To the extent possible, we will utilize SEAVIEW, a microcomputer imaging software that will allow quick access to supporting documents once the loading process is complete.</p> <ol style="list-style-type: none"> Obtain (BIA system) trial balances of all accounts for the Agency Office being reviewed as of September 30, for as many years as available. These reports will be used as control reports to ensure all accounts are reviewed for all years available. <p>NOTE: Reports should segregate accounts by type, as a different level of effort will be required for each type of accounts. Various types of accounts are summarized as follows:</p>		
	<p>If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (showcase location) and state the general reasons for such changes.</p>		

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BIA Reconciliation Project Management Plan

Work Program

Office: Bureau of Indian Affairs
 Section: IDA Account Reconciliations
 Audit Date: 06/30/1991
 TO Code: IND-824-01
 Area Code:

Summary	Program (Based on Presumed or Anticipated Conditions)	How Often to be Done	Who	Where	When
<p>1. Obtain IDA account histories for all accounts and manual cards for time periods prior to initiation of the IDA system.</p> <p>2. To the extent possible, types of account histories should be developed and converted for use on spreadsheet Excel.</p> <ul style="list-style-type: none"> Manual cards should be input onto Microsoft Excel spread sheets to complete the account history for all account holders. <p>3. Make the necessary arrangements to accomplish the imaging and indexing of all supporting documents and relevant system reports.</p> <p>4. Once the imaging process is complete, begin the detail pricing of transactions to supporting documents for an account holder's account statement using the following procedure:</p>	<p>include here or in supplemental memorandums a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control techniques, and (C) audit objectives to be accomplished.</p> <ul style="list-style-type: none"> • Automatic Payments ("Automatics") (A11, A12, A13) — Payments out of the account are automatic which revenue is received on behalf of the account holder. • Regular Allowances (B21, B22) — An allowance payment of a set amount is made monthly or semi-monthly to the account holder or designee. • Programmed Funds (N31, N32) — Either part or all of the funds are programmed (i.e., subject to contractual agreements). • Overdrafts and payments in error (N41, N42) — There are overdraft accounts and accounts that have reversed payments in error. • Debits (N51, N54) — These are accounts held through which payments are made on debt obligations to Tribes and the Federal Government. • Controlled Accounts (N61-N67) — These accounts are controlled for the account holder by the Bureau, for reasons such as to benefit a minor or noncustodial parent Indian, considered requiring assistance in managing their money. • Estates (N71-N74) — Estate accounts pending probate. • Other Holds (N81-N83) — primarily unlocated account holders. • Indians Residing in Other Than Jurisdiction of Registry (N91-N92) — Funds are typically transferred between Agency Offices by check or journal voucher to pay these types of account holders. <p>In addition to classifications by the classification set above, certain IDA accounts are "agreement accounts" held for minors and the only activity, aside from the original payment toward under per capita allocations, is interest allocations.</p>				

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BIA Reconciliation Project Management Plan

Work Program

BUREAU: Bureau of Indian Affairs
 TITLE OF WORK: IBT Account Reconciliations Audit Date: 10/30/1991
 OBJECT CODE: 20-0-40-401 Area Code: _____

Program Based on Presumed or Anticipated Conditions*		How Often to be Done	Priority	Comments
<p>Includes name or in supplemental memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal controls techniques, and (C) audit objectives to be accomplished.</p>				
<p>F Individual Account Transactions:</p> <p>A Receipts (Leases)</p> <ol style="list-style-type: none"> 1. Call up the appropriate journal vouchers and lease distribution report supporting the individual payments to the account holder using agreement of date and amount. 2. Call up the special deposit account from which the transfer was made, noting agreement of date and total amount of the transfer. 3. Call up the bill for collection noting agreement of date and amount to the receipt in the special deposit account, also note agreement of amounts received under the lease on bill for collection to the lease distribution report. 4. Call up check copy or EFT confirmation to verify total receipt agrees to the bill for collection. 5. Note: in the case where a special deposit account is not used (i.e., deposit is directly into the individual's account) the transaction from the individual's account should be traced directly to a Bill for Collection and wire transfer or check copy or deposit slip if available. <p>B Receipts (Minerals Lease)</p> <ol style="list-style-type: none"> 1. Call up lease distribution report from Minerals Management Service and trace to posting from individual's account noting agreement of amount and date. <p>C Receipts (Interest)</p> <ol style="list-style-type: none"> 1. Reconcile interest posted to individual's account and determine the yield applied. 2. Verify the propriety of the yield, as calculated by comparing the calculated rate to the memorandum issued by the Central Office indicating rates to apply, based on pooled investment returns. <p>D Receipts (Per Capita)</p> <ol style="list-style-type: none"> 1. Call up per capita distribution reports, noting agreement of amount allocated to each tribal chapter. 2. Trace total from per capita distribution reports to special deposit accounts noting agreement of total transfer amount and date. 3. Call up BPS-49 unaffiliated transfer distribution noting agreement of transfer amount from Tribal Trust Fund to special deposit account for distribution. <p>E Receipts (Other Sources)</p> <ol style="list-style-type: none"> 1. Call up supporting documents by reference noting agreement of amount, date and proper allocations to the account holder. <p>*If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (indicate location) and state the general reasons for such changes.</p>				

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BIA Reconciliation Project Management Plan

Work Program

Client: Bureau of Indian Affairs
 Section of Work: IDM Account Reconciliations Audit Date: XX/XX/1991
 Job Code: 57D-424-01 Area Code: _____

Task/Step					New Content	
DP	Purpose	Prog	Seq	Time	Est	Time
				<p>Program Based on Procedures of Anticipated Conditions*</p> <p>Includes items of an supplemental memorandum a brief summary of the (A) nature of the Accounts, (B) client's accounting procedures and internal control weaknesses, and (C) work performed to be accomplished.</p> <p>F. Disbursements</p> <ol style="list-style-type: none"> 1. Call up individual's account file request for withdrawal, if the account is a controlled interest. 2. Agree disbursement amounts from the statement to the approved request for withdrawal from the individual or guardian also over signature of approval from Agency Office Superintendent. 3. Call up various copies of checks if available, and agree payee, amount, date and address to the account holder statement. 4. In the case of "Auto-Debiting" accounts, perform Step 3, and also check against the approved SF1166 disbursement run authorizing the issuance of checks. <p>G. Special Deposit Accounts/Lease Allowances:</p> <p>NOTE: Although the receipt and disbursement activity will be used for the main part through individual listing of receipt and disbursements, it has been noted in connection with the 1988, 1989 and 1990 Trust Fund Planned Statement audit, that certain balances in special deposit accounts remain unallocated. This is due in part to an accumulation of interest that does not follow the distribution of principal to state courts. This issue will be addressed through the following procedure:</p> <ol style="list-style-type: none"> A. Call up Special Deposit Account balances using Microsoft Excel and perform the following: <ol style="list-style-type: none"> 1. Trace receipt amounts to bills for collections and wire transfer amounts under deposit tickets to the extent not accomplished in step 1). 2. Trace disbursement amounts to journal vouchers (to the extent not accomplished in step 1). 3. Reconcile interest for each period between the date of receipt, and the date of disbursement and determine whether or not interest was properly distributed with the principal. 4. Determine differences, and the effect on individual accounts using the same distribution rates as included on the Lease Distributions reports on annual calculations. B. Test Lease Distributions Calculations as follows: <p>NOTE: Receipt transactions will often consist of one receipt accepted by the Bureau with the funds distributed to one or more individual savings holders. It is not uncommon for one such receipt to belong to 50 or more different individual account holders. To the extent approved in advance by the OIG, automated sampling will be used to test distribution calculations to more than 50 account holders.</p> <p>*If program is changed as a result of conditions found in the field describe the changes in an attached Memorandum (indicate location) and sign the general reports for such changes.</p>		

GAEC 10 Form AF-4 (Rev. 1/77) GPO: 1984-0-254

BIA Reconciliation Project Management Plan

Work Program

Office: Bureau of Indian Affairs
 Section of Work: IIM Account Reconciliations
 Audit Date: 10/06/1991
 Job Code: IHD-82401
 Area Code:

Program Based on Presumed or Assessed Conditions*		Work Completed	
OBJECTIVE	DESCRIPTION	Percent Completed	By
1. Call up Lease Distributions or manual calculation sheets for the journal vouchers of the special deposit account listed. (The accounts will typically relate to one particular lease, or leases).			
2. Trace the ownership factors in the Title Plant record of ownership by aliases.			
<p>NOTE: A coverage of the factor will probably need to be done, as the lease distribute system covers the ownership fraction to a common denominator.</p> <p>3. Randomize the distribution using the following method:</p> <p>A. For distributions to less than 50 account holders, create a spreadsheet of ownership percentages using Microsoft Excel and apply percentages against revenues received to randomize the distribution amount.</p> <p>B. For distributions to more than 50 account holders select a sample of account holders using a compliance interval of 95% and an estimated error rate of 3%. (Approval must be obtained in advance from the COR for this sampling application.)</p> <p>1. Perform procedure 3a for the sample selected.</p> <p>NOTE: These spreadsheets will be useful for more than one distribution, as the same lease will likely be multi-year or the same property will be leased year to year, and the ownership percentages may not change for several years.</p> <p>III. Alternative Procedures:</p> <p>NOTE: Due to the time period involved in this project, and the procedure for maintaining records through the years, it is likely that much of the support for transactions in the early years of the account systems will not be available. For those time periods certain alternative procedures can be performed and documented that will provide some comfort as to the propriety of the account balances. The following procedures will be performed, pending COR approval, for those time periods.</p> <p>A. Review account histories for pattern of revenues and distributions.</p> <p>1. If patterns are coming to light periods where activity was properly traced, then document the relationship, and that activity appears reasonable. (Note that ultimate conclusions will be the responsibility of the Bureau.)</p> <p>2. For unusual fluctuations, particularly in distributions or apparent shortage in revenues, discuss the possible causes with Bureau personnel. If outside factors considered, obtain verifications of such contributing factors as appropriate.</p> <p>3. If the above procedures do not resolve questionable transactions, obtain Bureau approval to confirm the transactions with the individual account holders or to discontinue additional verification procedures.</p> <p>*If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (specify location and state the general reasons for such changes.</p>			

10/10/91 10:44 AM by 3775/PLD/USA

BIA Reconciliation Project Management Plan

Work Program

Agency: Bureau of Indian Affairs
 Section: IDM Account Reconciliations Audit Date: 06/06/99
 Job Code: ND-62-01 Area Code: _____

Program Based on Presumed or Anticipated Conditions*		NO. OF PAGES	DATE
<p>Include here or in supplemental memoranda a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control weaknesses, and (C) audit objectives to be accomplished.</p>			
<p>IV. Updated Revenue Testing</p> <p>The work steps previously described will allow us to review all IDM accounts since inception on a transaction by transaction basis. To ensure that all cash received at the agency was posted to the appropriate accounts, it will be necessary to perform upstream cash receipt testing (i.e. from supporting documents to individual/special deposit accounts). This type of test is not specifically mentioned in the request for proposal, but we believe it is appropriate to ensure that activities are not unrecorded (i.e. cash was received but never posted to cash or to the individual accounts). The following summary of procedures will therefore be performed. The work may be performed on a sample basis if approved by the Bureau, as the majority of the receipts will have been tested previously.</p> <p>A. Obtain cash receipts logs for all years available for the particular Agency location.</p> <p>B. For the days selected under the approved sampling method, call up bills for collection indicating receipt of funds and accounts posted to.</p> <p>C. Trace IDM payments to special deposit accounts on individual accounts as appropriate.</p> <p>Other</p> <p>A. Summarize adjustment to each account based on the test work performed using the individual's statement on Microsoft Excel.</p> <p>B. Calculate the interest effect of the errors (round using the effective date of the errors and the savings factors applicable to those time periods).</p> <p>C. Clearly indicate on the draft and final statements, which transactions could not be reconciled and the extent of alternative procedures performed to obtain comfort with final transactions. (Prior to performing any alternative procedures we will indicate to the Bureau which transactions are unreported and propose alternative procedures).</p> <p>D. Communication of Results</p> <p>1. Arrange with the COR the appropriate settings for delivery of and discussion of findings with account holder (Each IDM account holder must be provided with copies of reconciled statements as a satisfactory of related required adjustments and access to supporting documentation to adjustments).</p> <p>2. After appropriate findings/communication make arrangements to issue final reports. Any disputes concerning proper accounting treatment will be decided by the COR.</p>			

*If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (include location) and state the general reasons for such changes

11/02 11:51 AM 11/02 11:51 AM

BIA Reconciliation Project Management Plan

Work Program

Client: Bureau of Indian Affairs
 Section of Work: IRMS system vs. Finance System Reconciliation Audit Date: 10/30/1991
 Job Code: STD-824-01 Area Code: _____

Program (based on Presumes or Anticipated Conditions)		When Completed	
Summary		Part of the IRMS system	By
<p>include title of an administrative memorandum a brief summary of the (A) nature of the accounts, (B) major accounting procedural and internal control techniques, and (C) major objectives of the reconciliation.</p> <p>IRMS system vs. Finance System Reconciliation</p> <p>Background:</p> <p>This section of the workprogram addresses the reconciliation of the IRMS System (labour subsidiary detail) to the Finance System (general ledger control accounts) for the Utah and Chusky, Fort Peck and Olympic Peninsula Agencies.</p> <p>The differences between these two systems has been analyzed for each Agency Office in connection with the 1988, 1989 and 1990 financial and compliance audits. The variance has fluctuated significantly from year to year due to inconsistent reconciliation procedures across the Bureau.</p> <p>The Bureau has taken significant actions toward correcting the problems including the development of a dBASE IV system designed to automate the reconciliation process to a certain extent. We have reviewed reconciliations from the system for the Billings Area and the Navajo Area. and we found:</p> <ol style="list-style-type: none"> 1. The database being used does provide a useful tool to reconcile the two systems. 2. Many of the differences identified by the system are due to differences in JOURNAL numbers entered, differences in date, etc. Thus these types of issues will need to be eliminated as reconciling items if the accounts are to be brought into agreement. 3. Some differences entered into the database were cumulative "plug" figures. These items will require additional procedure to resolve, if they exist at the Agency Office being reconciled. 4. The system required an additional post of ADPM, thus errors can and likely will occur in building the database. <p>As discussed in the request for proposal, the three agencies in Phase I of the contract have been reconciled through the following dates: UED Agency - January 1989, Ft. Peck Agency - February 1990, and Olympic Peninsula Agency - July, 1988. To the extent possible, we will utilize these reconciliations.</p> <p>It will be important to note that errors found in connection with the reconciliations that affect the IRMS system, could affect individual accounts being reconciled, due any accounts affected by such errors should be maintained and cross referenced to account holders' reconciliations.</p> <p>Objectives:</p> <ol style="list-style-type: none"> 1. To ensure that entries posted to the Finance System and IRMS System at a summary level were proper based on source documents. 2. To resolve differences and post correcting entries to the Finance System Agency accounts, under to individual account holders' accounts if the IRMS System is affected. <p>** program is changed as a result of conditions found in the field describe the changes in an attached memorandum (initiated location) and state the general reasons for such changes.</p>			

10/30/91 10:44 AM Rev. 10/27/90 NLSA

BIA Reconciliation Project Management Plan

Work Program

Office: Bureau of Indian Affairs
 Section of Work: IRMS system vs Finance System Reconciliation
 Audit Date: 10/20/1991
 Location: ND-42401
 Area Code:

Program Based on Presumed or Anticipated Conditions*		Work Cont. acc.
Comments	Include here or in supporting memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control techniques, and (C) audit objectives to be accomplished	Page of (up or over)
<p>II Summary Results/Adjustments</p> <p>A Prepare an Agency summary reconciliation documenting adjustments to each system. (Standard format to be provided by A/B/Program).</p> <p>B Provide explanations of adjustments needed for use of review by the Bureau.</p> <p>C Reconcile all entries by account holder that affect the IRMS System, and cross reference to each individual's account reconciliation to document that corrections have been considered in all levels of reporting.</p> <p>D Document the effects of all entries found in reconciliation with individual accounts and special deposit account reconciliations, if not related to summary level documentation errors summarized in C.</p> <p>NOTE: Once system differences are resolved, any corrections to one system will be proposed to both.</p> <p>E Discuss reconciliation results with Bureau management at the agency level as well as the Central Office level.</p>		

*If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (indicate location) and state the general reasons for such changes

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BIA Reconciliation Project Management Plan

Work Program

PROJECT: Bureau of Indian Affairs	APPROVED: _____	APPROVAL DATE: _____
PROJECT AREA: Tribal Trust Reconciliation	APPROVED: _____	APPROVAL DATE: _____
PROJECT NUMBER: _____	APPROVED: _____	APPROVAL DATE: _____
Program Based on Presumed or Anticipated Conditions*		
DESCRIPTION:	INCLUDE HERE or in supplemental memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control techniques, and (C) audit objectives to be accomplished.	FORM NO. 101-101-01

Tribal Trust Reconciliations:

Background:

Phase I of the contract requires that the "top 37" of 254 Tribes' accounts be reconciled to supporting documents from the earliest date possible. The work in this area will be conducted similarly to the IBM reconciliations, utilizing SEAVIEW macro-computer imaging software and Microsoft Windows and Excel.

Unlike the IRMS systems procedures, the majority of Tribal Trust Receipts are not collected by the individual Area Offices, and those that are, passed directly to Tribal accounts at the Area location. The majority of receipts are collected via wire transfers directly to the U.S. Treasury and passed by the Central Office in Albuquerque, NM.

The work is to consist of reconciliations of the account statements described above from inception to the present. Upon the completion of the reconciliation of the trust funds for these thirty seven Tribes, we will make an oral presentation to the contracting officer at 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 discuss the results of the reconciliation reports for each Agency Office location for the relevant Tribal accounts and IBM accounts.

In connection with the 1988, 1989 and 1990 financial statement audits, we have accomplished significant transaction testing, much of which involved the "top 37" Tribes. We will utilize the work performed in the past three years, to document testing of specific tribal activity. The same transaction was not used to be tested again.

Objectives:

1. To ensure all receipt and disbursement activity recorded on the "top 37" Tribal Trust accounts is properly reflected and supported.
2. To ensure all receipts and disbursements made for which documentation is available, were properly recorded to the appropriate tribal trust account.
3. To ensure interest was properly passed for investments held by each Tribe, as reported to the Finance System.

Procedures:

1. Obtain and compile transaction detail:
 - A. Obtain Summary and Detail Trust Funds reports for each tribal account held by the "top 37" Tribes for all time periods available since inception of the Fund.
 - B. Obtain copies of all manual general ledger cards for the "top 37" Tribes for time period prior to installation of the Finance System.
 - C. To the extent possible, tapes of account activity should be downloaded and converted for use on Microsoft Excel.

*If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (include location) and state the general reasons for such changes.

10-2011-10-24 Rev 377 Printed in USA

BIA Reconciliation Project Management Plan

Work Program

Office: Bureau of Indian Affairs
 Title: Tribal Trust Reconciliations
 Audit Date: 10/01/01
 Project Code: ND-11-000 Area Code:

Program Based on Presumed or Anticipated Conditions*		Account No.
Account No.	Include here or in management memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control objectives, and (C) audit objectives to be accomplished.	

- NOTE: Manual cards should be view onto Microsoft Excel spreadsheet to complete the history of account activity for all Tribal Trust Accounts being reviewed.
- D. Make the necessary arrangements to accomplish the imaging and indexing of all supporting documents and retrieval system reports.
- E. Prepare pre-formatted spreadsheets of appropriation activity and balances in the format of the final financial statements for each grant. This will improve the review and the reconciliation statement preparation through standardization.
- F. Obtain and review all audit reports for audits conducted by the Office of Inspector General, General Accounting Office, or independent accounting firm on any of the 37 tribes' accounts, in order to determine what work has been performed on the accounts and to avoid duplication of effort.
- G. Review prior year audit workpapers for any work performed on the accounts attached for the reconciliation project. The any work performed will be used in connection with our reconciliation of the accounts to avoid duplication of effort.
- H. Arrange for an advance team to visit each of the 37 Tribes and Area Offices where accounts are assigned prior to the scheduled reconciliation work in order to review the available documents and ensure the Area Office is prepared for commencement of the actual audit work. The advance team will also discuss specific issues, problems, and concerns of the Tribes and Area officials.

- I. Individual Account Transactions.
- Once the imaging process is complete, begin the actual tracing of transactions to supporting documents for an individual Tribal Trust statement using the following procedure:
 - A. Receipts.
 - 1. Using Microsoft Excel and Windows, and SEAVIEW Microcomputer Imaging software, call up receipt documents supporting transactions in the account statement, note agreement of date and amount. Various documents are as follows:

Reference	Description of Transaction	Supporting Document
BB	Sanford Transfer	SP549
MB	Managers Management Document	SP181
CT	Cash Collection	SP215 Deposit Slip
AW	Government Income	Audited Departmental Statement and balance of check from Federal Reserve Bank, or supporting memos, if by check.

*If program is changed as a result of conditions found in the field describe the change in an attached memorandum indicate location and state the general reasons for such changes

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BIA Reconciliation Project Management Plan

Work Program

Office: Bureau of Indian Affairs
 Section of Work: Tribal Trust Reconciliation Audit Date: NOV 2011
 Job Code: ND-424-1 Area Code: _____

Program Based on Presumed or Anticipated Conditions*		WORK OBJECTIVE
<p>1. Field Receipts</p> <p>Include here in a supplemental memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedure and internal control techniques, and (C) audit objectives to be accomplished.</p>	<p>2. Certain field receipts may be processed through the OMS system in conjunction with lease collections. For those types of receipts, BPS-69 will be the source document for the transfer between fields. (The original receipt will be tested in conjunction with OMS data testing.)</p> <p>3. Interest income is posted on a cash basis for each tribe based on specifically identified agreements with the statement of ownership investments, reviewed on a grant basis. Investment interest income will be tested on transaction by transaction basis as a typical receipt, by tracing to investment reports which will be separately listed and reconciled if necessary. We will work with the Bureau and Winner and Associates to develop/revise reports which reflect investment activity.</p> <p>4. Productively test investment returns for each tribe to determine yields obtained in comparison to combined Tribal returns, and industry averages on a year to year basis as an additional test for reasonableness.</p> <p>B. Disbursements:</p> <p>1. Call up disbursement documents (requests for withdrawals) and note agreements of date, amount and disbursement was properly authorized and was in compliance with the approved Tribal Plan (in the case of judgment awards).</p> <p>2. Call up carbon check copies, or wire transfer request to verify disbursements were properly made to the Tribe.</p> <p>C. Upstream Revenue Testing:</p> <p>The work steps previously described will allow us to review all Tribal accounts since inception on a transaction by transaction basis. To ensure that all cash received at the Area or Central office locations was posted to the appropriate accounts, it will be necessary to perform upstream cash receipt testing (i.e. from supporting documents to Tribal accounts). This type of test is not specifically mentioned in the request for proposal, but we believe it is appropriate to ensure that accounts are not understated (i.e. cash was received but never posted to cash or to the individual accounts). The following summary of procedures will therefore be performed. This work will be performed on a sample basis to be approved by the Bureau, as the majority of the receipts will already have been tested.</p> <p>A. Select a statistical sample of deposit tickets (SF 215's) after discussion with and approval by the COR, and trace amounts to postings in the Tribal Trust account statements.</p> <p>B. Select a sample of wire transfer notices from Federal Reserve Reports of Advice of Credit for payments and support, and trace to Tribal account postings.</p>	<p>1. Type of test</p> <p>2. Date of test</p> <p>3. Auditor's name</p> <p>4. Initials</p>

* If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (indicate location) and state the general reasons for such changes.

11/15/11 10:44 AM

BIA Reconciliation Project Management Plan

Work Program

Office: Bureau of Indian Affairs
 Location: Tribal Trust Reconciliations
 Audit Date: 06/01/1991
 Project: INB-41241
 Area Code:

Program Based on Presumed or Anticipated Conditions*

OBJECTIVE	DESCRIPTION	DATE	STATUS
1. Review summary of trust fund reports for periods of revenues and disbursements.	include here or in supporting memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control techniques, and (C) audit objectives to be accomplished.		

IV Alternative Procedures

NOTE: Due to the time period involved in this project and the procedures for maintaining records through the years, it is likely that the support for certain transactions in the early years of the account histories will not be available. For those time periods where alternative procedures can be performed and documented that will provide some comfort as the propriety of the account balances. The following procedures will be performed, pending COR approval, for these time periods:

- A. Review summary of trust fund reports for periods of revenues and disbursements.
 - 1. If patterns are visible to time periods where activity was properly tested, then document that the relationship and activity appears reasonable. (Note ultimate conclusions will be the responsibility of the Bureau.)
 - 2. For unusual fluctuations, particularly in disbursement or apparent shortage in revenue, discuss the possible reasons with Bureau and with COR approval; Tribal personnel. If outside factors contributed, obtain verification of such contributing factors as appropriate.
 - 3. If the above procedures do not resolve questionable transactions, attempt to confirm the transactions with the individual Tribes.

Other

- A. Summarize adjustment to each account based on the test work performed using the Individuals' Statements on Microsoft Excel.
- B. Calculate the interest effect of the errors found using the effective dates of the errors and the interest factors applicable to those time periods. Bureau provided interest rates for time periods subsequent to July 1, 1966 and 4% for periods prior to July 1, 1966 will be used for the calculations.
- C. Clearly indicate on the draft and final statements, which transactions could not be supported, and the extent of alternative procedure performed to obtain comfort with those transactions. (Unsupported transactions and potential alternative procedures will be discussed with the COR before being performed.)
- D. **Communication of Results**
 - 1. Arrange for exit conference with Tribal officials and Bureau management to discuss the results of the test work and the adjustments issued.
 - 2. In addition to the required reports to be furnished to the Bureau, each Tribe must be presented with copies of the reconciled statements, a summary of related required adjustments, access to supporting documentation related to the adjustments, access to supporting documentation related to the adjustments and the opportunity to respond to our findings.

If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (indicate location) and state the general reasons for such changes.

BIA Reconciliation Project Management Plan

Work Program

Client: Bureau of Indian Affairs
 Section: 2074 Tribal Trust Reconciliations Audit Date: 09/06/2011
 Project: ND-42140 Area Code:

Program Based on Presumed or Anticipated Conditions ¹		Version	Created	By
01	Amend Phase: 02 (T/F)	1.0	09/06/2011	SP
02				
<p>Include here or in supplemental memorandum a brief summary of the (A) nature of the accounts, (B) client's accounting procedures and internal control techniques, and (C) audit objectives to be accomplished.</p> <p>3. Any dispute concerning proper accounting treatment will be decided by the COB.</p> <p>VI. Prepare required reports for each Tribe as follows:</p> <p>A. Balance sheets for each fiscal year based upon the reconstructed Tribal financial activity.</p> <p>B. Summary schedules of any recommended adjusting entries by Tribal account and appropriation number with brief explanations of the reasons for the adjustments.</p> <p>NOTE 1: Reports are to be submitted in draft form to the COB prior to finalization. Tertiary copies of all finalized reports are to be prepared and submitted no later than 60 days after completion of the reconciliations.</p> <p>NOTE 2: Reconciliation reports are to be prepared using dBase IV software provided by the Bureau and IBM compatible PC hardware that meets minimum prescribed criteria defined in the RFP.</p>				

If program is changed as a result of conditions found in the field describe the changes in an attached memorandum (indicate location) and state the general reasons for such changes.

11/01/00 BIA Rev 1177 Form 10-USA

BIA Reconciliation Project Management Plan

Interest Calculation

Attachment 3 to this Plan provides further details on the calculation of interest in cash holding accounts (or other unallotted, temporary cash accounts) during the reconciliation of tribal and individual Indian accounts. In summary, for tribal accounts, Arthur Andersen & Co will use the following schedule of annual rates of return for purposes of calculating tribal interest.

OFFICE OF TRUST FUNDS MANAGEMENT	
Indian Trust Funds	
Annual rate of return by fiscal year	
FY Ending Date	Tribal Fund
6-30-70	6.90%
6-30-71	5.76%
6-30-72	5.83%
6-30-73	7.04%
6-30-74	8.46%
6-30-75	9.19%
6-30-76	8.64%
6-30-77	8.43%
9-30-78	7.67%
9-30-79	10.41%
9-30-80	12.04%
9-30-81	14.74%
6-30-82	14.46%
6-30-83	10.88%
9-30-84	10.54%
6-30-85	10.17%
9-30-86	8.36%
9-30-87	7.42%
9-30-88	7.60%
9-30-89	8.90%
6-30-90	8.78%

- Data derived from investment annual reports.

- No data listed prior to above dates.

- These figures do not include overnight interest yields.

- Transition quarter FY 1976 (July-Sept 1976) rates not included. This calculation will be provided at a later date.

The above annualized rates include Treasury Overnighter interest rates, which must be adjusted out for the proforma interest analysis.

For individual Indian monies accounts, Arthur Andersen & Co will use the applicable semi-annual interest factor from 1938 through May 31, 1989. From June 1, 1989 forward, the actual interest factor used for those IIM funds that were invested will be used.

Data collected during tribal and individual Indian account reconciliations will be captured on the worksheets displayed in Tables 6 and 7, on pages 50 and 51.

BIA Reconciliation Project Management Plan

Table 6
Transaction and Invested Balance History

Bureau of Indian Affairs
Tribal Appropriation/Activity Number
Transaction and Invested Balance History
For the Period _____ to _____

Date of Receipt	Date of Transaction	Document Number	Transaction Amount Dr. Cr	Balance Available For Investment	Amount Invested By BIA	Cash Pool	End of Day Cash Pool Balance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Footnotes:

1. The date of check, money order, etc. whenever identifiable on the collection voucher (bill for collection)
2. This is the effective date of the transaction (date of deposit confirmed by Federal depository of disbursements confirmed by Treasury)
3. This is the identification number stated on the source document.
4. Dollar amount of transaction
5. This amount is derived from the net of the previous available balance and the current transaction.
6. Includes CD's, Treasury Notes, Treasury Bills, GNSIA's and certain other government agency issues
7. This is the cash that was not placed in the investment instruments defined in Footnote 6 but they have earned Treasury interest prescribed by Public Law or through the Treasury overnight investment process authorized by 25 USC 1616 as amended October 5, 1994
8. The net of the day's cash pool transactions.

BIA Reconciliation Project Management Plan

Table 7

Pro-Forma Interest Earnings Analysis

Bureau of Indian Affairs
Tribal Appropriation/Activity Number
Pro-Forma Interest Earnings Analysis

Fiscal Year	Average Annual Cash Pool Balances	Composite Annual Interest Rate	Pro-Forma Interest Based on Composite Annual Interest Rate	Actual Interest Paid on Overnight Treasury Deposits	Actual Interest Paid Greater Than Pro-Forma Interest	Actual Interest Paid (less) Than Pro-Forma Interest
(1)	(2)	(3)	(4)	(5)	(6)	(7)

1. Federal Government Fiscal Year (ends September 30 for years beginning in 1976, ends June 30 for years prior to 1976)
2. Sum of daily end-of-day cash pool balances from Transaction and Invested Balance History (TIBH) worksheet divided by 365.
3. Annual rate of return on specific investment accounts (Footnote 8 TIBH worksheet) - See attached summary of investment performance
4. This is the pro-forma calculated interest based on composite rate for comparison to actual earnings
5. Actual interest paid on "cash pools", i.e. overnight investments of trust funds report
6. Self-explanatory
7. Self-explanatory

BIA Reconciliation Project Management Plan

Cooperating Parties

Cooperating parties to the reconciliation project management team, such as the Inter-Tribal Monitoring Association on Indian Trust Funds; the US General Accounting Office; the Office of Management and Budget; Congressional committees; the Department of the Interior staff offices; and the Department of the Interior Office of Inspector General, may communicate contract scope and performance methodology changes only through the Contracting Officer or the Contracting Officer's Representative (COR). The BIA extends to the cooperating parties the opportunity to meet with the contractor to discuss scope and methodology matters. However, since only the Contracting Officer and the COR may formally effect changes to the contract, all such meetings must be arranged through and be conducted in the presence of the Contracting Officer or the COR. The COR will arrange with the Contractor and insure that all pertinent parties are notified of the time, place and purpose of requested meetings.

Tribal Involvement and Coordination

The nature of the reconciliation project, like the development of long-range options, or performance of strategic planning for the future of the Indian trust funds management program, requires tribes to play an integral role in the development and implementation of the reconciliation (reconstruction) and audit process. In recognition of this Tribal role, the Assistant Secretary - Indian Affairs has established the policy of working in a government-to-government relationship with affected Tribes. Towards this end, BIA and the Association's predecessor organization, an ad hoc group from the tribes with Phase I tribal accounts, began work in the fall of 1990 on the development of the technical parameters for the reconciliation and audit of Indian trust funds. This effort culminated into the reconciliation contract with Arthur Andersen & CO that was awarded in May 1991. The following describes the various tribal projects and individuals that BIA and the contractor will cooperate with during the reconciliation projects life.

- o Tribal Reconciliation and Audit Coordinators. Each of the Phase I Tribes (including those with allottees in Phase I) have been invited to designate a representative and alternate to work with BIA and the contractor during the reconciliation and audit of their Tribal accounts and the IIM accounts of their Tribal members. These representatives will perform the following functions:

Ensure that proper Tribal leaders and individual Indian representatives are invited to all scheduled meetings.

Work with BIA and the contractor to locate records from Tribal and individual Indian sources.

Work on over/under payment strategies with BIA.

Communicate Tribal/individual Indian concerns and questions concerning the reconciliation project to the Contracting Officers Representative.

Work with BIA and the contractor to interpret reconciliation results to Tribe and individual Indians.

Communicate project purpose and scope to Tribal governing body members and individual Tribal members.

BIA Reconciliation Project Management Plan

Work with BIA on communication techniques with individual account owners to ensure they are informed of the project purpose and scope and means by which the account owners can communicate questions, concerns and information to BIA and the Reconciliation, Audit and Certification Team.

Participate in decisions relating to the cost effectiveness of continued reconciliation efforts on Tribal and individual accounts.

- o Entrance Conferences Will Be Held With Tribal Representatives and Individual Indians prior to initiation of reconciliation work at the three Agencies in Phase I. Planning sessions for each entrance conference will be conducted with Tribal representatives, allottee groups, BIA Area/Agency personnel, and the Association.
- o Entrance Conferences Will Be Held With Each of the Tribes in Phase I to discuss the purpose and scope of the reconciliation project and to obtain Tribal input. As stated above the BIA will work closely with each Tribe's Coordinator and the Association to plan the entrance conference by Tribe.
- o A Training Course for Representatives of the Phase I Tribes Was Developed and Conducted by the Association and BIA on July 25 - 26, 1991. This meeting gave the Contractor and the Tribes a chance to discuss together the procedures to be used during the course of the Project, and to allow for a clear understanding of the level of contact expected between the Tribes, the IIM account owners, the BIA and the Contractor prior to initiation of the field work.

Inter-Tribal Monitoring Association on Indian Trust Funds.

Representatives from tribes owning the majority of tribal funds managed by BIA were initially invited by BIA to serve on an ad hoc group. Based on the approval of their tribal governments, many of the tribal representatives of this ad hoc group have subsequently constituted themselves in a formal manner as the Inter-Tribal Monitoring Association on Indian Trust Funds (Association). A Memorandum of Understanding (MOU) between the BIA and the Association was signed June 18, 1991. The scope of the understanding is detailed in the MOU, a copy of which is found at Attachment 1. The following are the specific items that relate to this project:

- o Prepare and present a training program for the representatives of the Tribes that are participating in the Phase I study (conducted July 25 - 26, 1991).
- o Communicate information provided by the BIA to all Tribal governments with trust fund accounts, consult with all Tribal governments with trust fund accounts and develop a mechanism for the participation of IIM account holders in the trust fund management reform process.
- o Receive one or more copies of all reports, contract modification proposals, and other deliverables submitted by the Phase I contractor to the BIA, subject to Tribal or individual Indian Privacy Act and proprietary financial information rules.

BIA Reconciliation Project Management Plan

- o Participate, as invited by Tribes, in all decisions on when it is no longer cost-effective for the Phase I contractor to continue to reconcile a particular Tribes accounts.
- o Participate in development of guidelines for IIM accounts regarding when reconciliations are considered not to be cost-effective.
- o Participate in the preparation of the approach and communication materials used with the Tribes and IIM accounts holders for explaining the meaning of the findings of over or under payments.

In addition Association representatives may, upon written permission of the affected tribal or individual Indian account holders, participate in Exit Conferences or other sessions where the account holders receive specific explanations of the findings of the reconciliation from the contractor or BIA representatives.

Contractor Oversight

BIA's contractor oversight method will include weekly, monthly and quarterly meetings and reports to ensure that reconciliation work is progressing, important issues are effectively resolved, and that account holders' representatives are assured that the best practicable results are being achieved. The Contracting Officer's Representative (COR) will also conduct on-site workpaper reviews and conferences with contractor site staff to ensure contract compliance. The COR will also consult with BIA agency staff and tribal representatives on the audit progress from their perspective.

In addition to the above, the project tasks will be detailed and monitored using project management software. The following is a description of Phase I's scheduled meetings and reports under the contract.

- o One Time Projection. The contractor is required to meet with the Contracting Officer's Representative within two to four weeks of the initiation of field work at each site for IIM, or the initiation of work on any one Tribe's group of accounts to provide an assessment of (1) the level of effort involved with the reconciliation of the relevant accounts, and (2) a projection of the expected costs for that site for IIM or group of accounts for the Tribe(s). This meeting is meant to be a check point in the work plan to evaluate whether the resources, approach, timeliness, and costs appear to be adequate to cover the Phase I workplan.
- o Weekly Progress Reports. The contractor is required to submit to the COR a weekly progress report. The COR will further submit a copy of the narrative portion of these reports, with additional written comments, to the Contracting Officer, the Office of the Assistant Secretary - Indian Affairs, GAO, OIG and, as appropriate the Association, by the end of the week the reports are received by the COTR. This report is intended to document the Contractor's progress in meeting the target dates projected in the GAANT and PERT charts for the Project, and to assist in identifying any problems encountered. They will be due the end of the week following the

BIA Reconciliation Project Management Plan

- report week, and must summarize the progress at each work site and fund group (i.e., Tribal or IIM).
- o Monthly Conference. The COR and the Contractor's Partner, Manager and senior staff on the project will meet monthly. This is meant to assure at least a monthly face-to-face meeting with the contractor to monitor the progress and discuss any problem areas identified by either the Contractor or the BIA.
 - o Quarterly Meetings. Project Oversight Committee meetings between Office of Trust Fund Management Reconciliation and Audit Project Manager, Contracting Officer, Contractor, and Representatives from the Association will occur quarterly. This group will receive a briefing from the Contractor on the progress to date with a written report summarizing accounts reconciled by year to date for each Agency (IIM) and for each Tribe addressed. The group will review and resolve any problems identified during the course of the project.
 - o On-site Review of Contractor's Workpapers by the COR and BIA project management staff can occur at any time, but will be accomplished at least quarterly. This is intended to give the COR the ability to see if the procedures used by the Contractor are being applied adequately.
 - o A Review of a Preliminary Drafts of Reconciled Account Reports will be conducted by the Contractor, Tribes, Indian Account Owners, and by the COR and staff. This will allow the COR to assure that the Contractor is preparing the reports as intended by the Contract, and to give the account owners an opportunity to comment on any proposed adjustments and/or problems with the reconciled statements prior to issuance.
 - o Exit Conference between COR, Account Owners and Contractor. The Exit Conference will be scheduled upon Completion of the Final Draft of Reconciled Statements. This formal meeting is intended to allow a final opportunity with the account owners to review the final product, any adjustments recommended, interest receivable/payable projected, etc. related to the accounts and should include the tentative final report, the management letter, access to workpapers, source documents, any adjustments recommended, projected interest recoverable/payable, etc., related to the accounts.
 - o Other Contacts. In addition to the meetings and reports covered above, there will be other types of contacts, such as telephone calls and unscheduled meetings on an "as-required" basis during the course of this Project.
 - o On-Site Staff. Experienced Audit and Reconciliation Management Team or other BIA accounting staff will be on site at each of the three IIM reconciliation sites for a minimum of the first 30 days of reconciliation work, and longer as necessary.
 - o Core Group. A Core Group of BIA staff from the Office of Trust Funds Management and designated Area/Agency Trust Accountants and Project Coordinators with experience in IIM systems and BIA's trust fund accounting system is designated to serve as trouble-shooters to quickly provide guidance, interpretations, and training to the audit personnel either by phone or by traveling to the audit site within the next work day to provide face-to-face consultation.

BIA Reconciliation Project Management Plan

- o **Oversight.** Oversight will be provided by the Office of the Assistant Secretary - Indian Affairs and the Management Improvement Oversight Committee (MIOC), established by Secretary Lujan and OMB Director Darman in April 1991. The MIOC is co-chaired by the Assistant Secretary - Indian Affairs and the Director, Division of Financial Management, OMB. It also includes Interior's Assistant Secretary - Policy, Management and Budget, OMB's Associate Deputy Director for Management, and BIA's Deputy Commissioner of Indian Affairs. A Deputy Assistant Secretary - Indian Affairs serves as Executive Director of the MIOC and provides management planning, trouble-shooting assistance, and day-to-day oversight to the Trust Funds Management Improvement Program.

BIA Reconciliation Project Management Plan

ASSURING THE INTEGRITY OF RECONCILED/AUDITED ACCOUNTS

Reconciled/audited accounts will be maintained current by the following processes:

- o Daily reconciliation of transactions from the source documents to the automated systems to assure they were accepted and balanced;
- o Monthly reconciliation of automated system balances, i.e., IIM subsidiary system general ledgers to the Finance System general ledgers, MoneyMax to the Finance System, and Finance System to the Treasury reports;
- o Annual audits of all Indian trust fund groups of accounts by an independent public accounting firm.

The Office of Trust Fund Management will provide oversight to ensure that the responsible BIA personnel perform the required reconciliations.

Post Reconciliation and Monitoring of Reconstructed Accounts

The maintenance of the Indian trust fund accounts in a reconciled state is essential to BIA's basic trust funds management responsibilities. As a general overall approach, reconciliation procedures will be written and implemented through formal training programs. Also, staffing and computer hardware/software requirements to execute the reconciliation procedures will be determined and made available. Special attention will be given to ensuring reconciliation of cash accounting and any other type transactions potentially subject to internal control failures or fraudulent acts. More specifically, for each type of trust fund, the BIA will use the following procedures to effect the maintenance of accounts on a current basis:

IIM Reconciliation

- o The IIM system data input points will perform a batch total verification on a daily basis that the transactions entered were accepted by the system.
- o The IRMS IIM subsidiary account subsystem control account totals will be reconciled with the BIA Finance System general ledger controls on a monthly basis using the dBase IV reconciliation program developed and implemented bureau wide by the Office of Trust Funds Management (OTFM).
- o The Area Offices will be required to submit to OTFM a standard BIA form showing the results of the IRMS/Finance System reconciliation, including adjustment action taken, within 15 days after the month end close of the two systems.

BIA Reconciliation Project Management Plan

- o Reconciliation statements not received by the 20th day after month end close of the tw systems will be followed up on by the OTFM. The OTFM will arrange to have the reconciliation completed by the 25th day after month end close.
- o Monthly reconciliation between the Treasury financial statements and the BIA Finance System.
- o Individual account accuracy will be ensured by the following:
 - Annual financial and compliance audit by a Independent Public Accounting Firm.
 - Periodic statistical sampling of accounts in each Area by the OTFM.
 - Complete reconstruction of minor award fund accounts prior to payment to account owners based on the award fund distribution plan.
 - Complete audit under the direction and monitoring of OTFM of all estate accounts prior to their distribution and closing. This would include an audit of the distribution documentation and the posting of the transaction

Tribal Reconciliation

- o Daily verification by the OTFM of the disbursement transactions entered to the Finance System, to the source documents.
- o Daily monitoring by the OTFM of tribal trust fund receipts to ensure the amounts depos in the US Treasury equal the amounts entered into the BIA Finance System.
- o Monthly reconciliation between the total amount of tribal trust funds in the Treasury and the BIA Finance System.
- o Annual review of individual accounts by the OTFM using statistical sampling procedure.
- o Annual financial and compliance audit by an Independent Public Accounting firm.
- o Compliance review by a quality assurance entity within the OTFM of all award fund distributions.

AUDIT AND CERTIFICATION OF THE RECONCILED ACCOUNTS

A contract will be issued with an independent public accounting firm to audit and certify balances and render an opinion on the results of the reconciliation work by Authur Andersen & CO. Each tribal account and each Agency group of IIM accounts will be audited in accordance with generally accepted auditing standards published by the American Institute of Certified Public Accountants and the U.S. General Accounting Office, and an opinion issued by the Independent Public Accountant as to compliance. The contract will be awarded early in the spring of 1992, during the Phase I Reconciliations, in order that audit work can be performed within 60 to 90 days after the reconciliation work on each account is completed.

BIA Reconciliation Project Management Plan

KEY PROJECT MILESTONES AND ACTIVITY CALENDAR

The following is a list of Key Project Milestones in process or to be taken in management of the Bureau of Indian Affairs' Trust Funds Reconciliation Project. These Key Milestones are being used for periodic follow-up and tracking.

KEY MILESTONES	SCHEDULED COMPLETION
o Contract Award to Arthur Andersen & Co	May 10, 1991
o Contractor, BIA, and Association Orientation and Training	June 28, 1991
o Inventory of BIA Account Records at Area/Agency Offices	July 3, 1991
o Agency Office On-Site Planning Meetings	July 11, 1991
o Installation of Document Imaging Systems	July 19, 1991
o Tribal Coordinators Briefing	July 26, 1991
o Commence IIM Entrance Conferences	July 30, 1991
o Initiate IIM Reconciliations	August 1, 1991
o Contractor's Monthly Status Report	August 7, 1991
o Complete IIM Entrance Conferences	August 9, 1991
o Commence Entrance Conferences for 6 Initial Tribes	August 22, 1991
o Contractor's Monthly Status Report	September 9, 1991
o Complete Entrance Conferences for 6 Initial Tribes	September 17, 1991
o Commence Entrance Conferences for Balance of Phase I Tribes	October 2, 1991
o Contractor's Monthly Status Report	October 7, 1991
o Quarterly Meeting & Joint Data Assessment Meeting	October 23, 1991
o IIM Materiality Review	October 23, 1991
o Contractor's Monthly Status Report	November 7, 1991
o Issue Audit Contract RFP	November 10, 1991
o Contractor's Monthly Status Report	December 6, 1991
o Contractor's Monthly Status Report	January 7, 1992
o Quarterly Meeting	January 10, 1992
o Contractor's Monthly Status Report	February 7, 1992
o Phase II Assessment	February 28, 1992
o Complete Entrance Conferences for Balance of Phase I Tribes	March 2, 1992
o Contractor's Monthly Status Report	March 6, 1992
o Contractor's Monthly Status Report	April 7, 1992
o Quarterly Meeting	April 10, 1992
o Contract Award for Audit RFP	April 17, 1992
o Contractor's Monthly Status Report	May 7, 1992
o Phase I Reconciliation Complete	May 31, 1992

Dates reflected above will be adjusted based on discussions and decisions during the October 1991 Assessment Meeting involving BIA, the Association, GAO, and Arthur Andersen & Co.

Details of reconciliation project activities, as of September 1991, are portrayed in Attachment 2.

BIA Reconciliation Project Management Plan

ATTACHMENT 1 - Memorandum of Understanding Between the Bureau of Indian Affairs and the Inter-Tribal Monitoring Association on Indian Trust Funds

MEMORANDUM OF UNDERSTANDING
BETWEEN THE BUREAU OF INDIAN AFFAIRS AND THE
INTER-TRIBAL MONITORING ASSOCIATION ON INDIAN TRUST FUNDS

I. Background

The Bureau of Indian Affairs and some 40 of the tribes with tribal or individual Indian Money (IIM) trust fund accounts have worked since the fall of 1990 on developing technical parameters for a major, multi-year reconciliation (reconstruction) and audit of tribal and IIM trust fund accounts. 37 of these tribes are included in "phase one" of the BIA's reconciliation (reconstruction) and audit effort. The nature of the project, as well as developing long-range options or strategic planning for the future of the trust funds program requires these and other affected tribes to play an integral role in the development and implementation of the reconciliation (reconstruction) and audit process.

These phase one tribes, along with BIA staff and Congressional and General Accounting Office representatives were members of an initial Trust Funds Ad Hoc Group. These 37 phase one tribes were initially selected by the Bureau to serve on the initial Ad Hoc Group on the basis of the holdings of those tribes and their members in the trust funds accounts administered by the Bureau. Based on the approval of their tribal governments, the tribal representatives of this Ad Hoc Group have subsequently constituted themselves in a formal manner as the Inter-Tribal Monitoring Association on Indian Trust Funds (the Association).

The reconciliation (reconstruction) and audit project; the correction of daily operational weaknesses in the trust fund management process; and the design of such new trust funds management systems as may be required are components of a major Departmental multi-year effort to improve substantially the administration of the BIA's trust funds management program. A critical element in the successful completion of the effort is the cooperative activities of the tribal and IIM account holders affected by this reform.

The tribes comprising the Association have indicated their willingness to undertake such cooperative efforts, and have already expended substantial effort, professional staff time, and money in this collaborative process. These tribes' contributions to development of the final RFPO and contract for the actual phase one work are recognized by the Bureau. Building on this past cooperative effort, the Bureau and the Association agree to an approach to promote further Tribal/BIA consultation, planning, and coordination in order to ensure a trust funds management program that fully meets federal and tribal financial requirements. This Memorandum of Understanding is intended to provide the vehicle for expanded and continuous cooperative planning and review activities between the BIA and the Association.

The BIA, recognizing the substantial sums already expended by tribes of the Association in working with the BIA, and in fulfilling the pledge of the Assistant Secretary - Indian Affairs to work in a federal-tribal partnership on the remaining aspects of this multi-year effort of the Department, undertakes in this Memorandum of Understanding with the Association to set forth the projected scope of these cooperative activities in this and future years of this effort.

The Association, recognizing the political nature of the federal-tribal relationship, has designated one of its member tribes to serve as the administrative agent for the Association for purposes of receiving funds from the BIA to defray the costs of the Association's activities and efforts in carrying out its responsibilities in accordance with the scope of understanding set forth below. The initial funding agreement for the Association's activities is set forth in a separate Memorandum of Agreement between the Assistant Secretary - Indian Affairs and the tribe designated as the administrative agent for the Association.

II. Scope of Understanding

The Bureau of Indian Affairs and the Association hereby express their mutual understanding that they will work cooperatively as set out below.

A. The BIA and the Association will jointly:

1. Develop shared perspectives on a strategic planning approach and issues resolution on trust fund management, including short- and long-term requirements, priorities and time frames;
2. Designate working groups, subcommittees, or such other arrangements as may be appropriate to fulfill the purposes of this Memorandum of Understanding;
3. Prepare and present a training program for the representatives of the 40 tribes that are participating in the Phase I study; and
4. Address any issues that arise in regard to the tasks set out in this MOU.

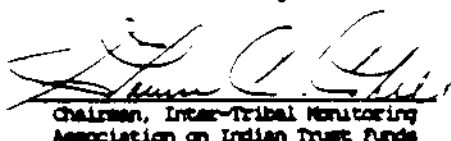
B. The Association will:

1. Develop a concept paper that sets out the account holders' perspectives on the future directions for the investment and management of Indian trust funds, which paper will be considered in the development of the long-term strategic plan;
2. Communicate information provided by the BIA to all tribal governments with trust fund accounts, consult with all tribal governments with trust fund accounts and develop a mechanism for the participation of IIM account holders in the trust fund management reform process;
3.
 - a. Receive one or more copies of all reports, contract modifications, and other deliverables, consistent with adherence to the Privacy Act and any appropriate requirements for confidentiality of tribal and individual financial information, submitted by the Phase I contractor to the Bureau of Indian Affairs.
 - b. Upon the invitation of a tribe, participate in all decisions on when it is no longer cost-effective for the Phase I contractor to continue to try to reconcile a particular tribes account and in the development of alternatives when reconciliation of an account is found not to be cost-effective.

- c. Participate in development of guidelines for IIM accounts regarding when reconciliations are considered not to be cost-effective.
 - d. Provide comments regarding application of accounting principles, development of reporting standards, and report formats for the Phase I study.
 - e. Participate in the preparation of the approach and communication materials used with the Tribes and IIM account holders for explaining the meaning of the findings of over- or under-payment.
4. Review and have input into all aspects of the Management Plan for the Phase I study and short- and long-term strategic plans to be developed by the BIA;
 5. Receive and provide input on significant proposed changes or revisions in the operation of the BIA Trust Fund Program; and
 6. Participate in tribe-specific or IIM account-specific issues only in cases where the tribe or IIM account holder agrees to such participation.
3. The BIA shall:
1. Obtain Association participation in all of the matters provided for in Section 8 above;
 2. Obtain input from the Association on all of the matters specified in Section 8 and provide written responses to the Association that indicate whether or not the BIA accepted the Association's input, and if not the reasons it did not do so; and
 3. Develop a short- and long-term strategic plan for the Trust Fund Program.

This Memorandum of Understanding is entered into this 18th day of Jan, 1991.


Deputy Assistant Secretary
Indian Affairs


Chairman, Inter-Tribal Monitoring
Association on Indian Trust Funds

BIA Reconciliation Project Management Plan

ATTACHMENT 2 - Reconciliation Project Activity Schedule

JULY 1991

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1 -----Dr. Wright, Robert Coates, A Stephen Raycock----- traveling to Fort Pack Agency to examine records AASCO. In DC	2 -----Dr. Wright, Robert Coates, A Stephen Raycock----- traveling to Fort Pack Agency to examine records AASCO. In DC	3 -----Dr. Wright, Robert Coates, A Stephen Raycock----- traveling to Fort Pack Agency to examine records AASCO. In DC	4 HOLIDAY	5	6
7 27 Tribal Regs identified. USD Int. Prog. & SIC (IEIA & AASCO.) AASCO. Start preparatory work @ J IH sites. SPP for audit start	8 Olympic Peninsula Agency Entrance Planning Mtg. (IEIA & AASCO.)	9 Olympic Peninsula Agency Entrance Planning Mtg. (IEIA & AASCO.)	10	11 Cert Pack Agency Ent. Planning Mtg @ Billings (IEIA & AASCO.)	12 Complete System Config. 3 Remote sites ----- Draft Audit RFP available for review	13
14 15 Document on under/overpayment	16 Ship systems to 3 remote sites	17	18	19	20 1a Complete ABQ system in- stallation Complete stand-alone system.	20
21	22	23	24 ITWA Meeting - Denver	25 -----J Tribal Coordinator arising----- Cert Ofc - Denver Complete system & 3 remote networks.	26	27
28	29 Unitech & Quay Agency Entrance Conference (IEIA, AASCO., Assoc.) Commence IH Entrance Conference	30 Unitech & Quay Agency Entrance Conference remaining 2 remote networks.	31 Complete sign off on remaining 2 remote networks.			

AUGUST 1991

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1 11M Reconciliation Begins Utah & Garry Agency Reconciliation Begins. Commence of Tribal Entrance Conference for A00, F50, P00, G00, H00, & M00.	2	
4	5 6 Fort Tach Agency JIM Entrance Conference (31A, AASCO., & Assoc.)		7 Contractor's Monthly Status Meeting - AMQ Fort Tach Agency Reconciliation begins.	8 Olympic Peninsula JIM Entrance Conference (BIA, AASCO., & Assoc.)	9 Olympic Peninsula A00 Reconciliation begins. Complete JIM Entrance Conferences	10
11	12	13	14	15	16	17
18	19	20	21	22 Nevada - Tribal Entrance Conference in The Marian Berg Bldg. 12th Floor Conference Room @ 18:00am. (BIA, AASCO., & Assoc.)	23	24
25	26 27 Washoe - Tribal Entrance Conference in Pahio, NV, Tribal Office at 18:00am. (BIA, AASCO., & Assoc.)		28	29 Commence Entrance Conference for 31a Initial Tribes.	30	31

Revised 9/20/91

SEPTEMBER 1991

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2 HOLIDAY LABOR DAY	3 Jicarilla - Tribal Entrance Conference in Western Bank Bldg, 1st Floor Conference Room at 10:00am. (BIA, AASCO., & ASSOC.)	4	5 Seminoe - Tribal Entrance Conference in Soudville, Spartan Motel at 9:00am. (BIA, AASCO., & ASSOC.)	6	7
8	9 Contractor's Monthly Status Meeting - ABQ	10 Sioux - Tribal Entrance Conference in Rapid City, SD at 10:00am. (BIA, AASCO., & ASSOC.)	11	12	13	14
15	16	17 Red Lake Chippewa - Tribal Entrance Conference @ 10:30am in the Tribe's Office. (BIA, AASCO., & ASSOC.)	18	19	20	21
22	23	24 Complete Entrance Conference for 6 tribes Tribes.	25	26	27	28
29	30 Federal Government Fiscal-Year-End					

OCTOBER 1991

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1 Commence Entrance Conf. for Balance of Phase I Tribes.	2 Commence of Billings, and Minneapolis Area Tribal Entrance Conf.	3	4	5	
6	7 Cutterline's Monthly State Meeting - 4:00	8	9 Issue audit contract BPP	10	11	12
13	14 HOLIDAY Columbus Day	15	16	17	18	19
20	21	22	23 23 Quarterly Meeting #1 in Washington, D.C. IIM Materiality Review	24	25	26
27	28	29	30	31		

NOVEMBER 1991

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
3	4	5	6	7 Contractor's Monthly Status Meeting - ABO	8 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	9
10	11 MOLIBAY Telephone Day	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28 MOLIBAY Phone Meeting	29	30

Revised 9/23/91

DECEMBER 1991

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2 Clearance of Tribal Entrance Conference for Muskege Area.	3	4	5	6 Council of 9 Members Special Meeting 9:00	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25 HOLIDAY Christmas	26	27	28
29	30	31				

JANUARY 1992

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
5			1 HOLIDAY New Year's Day	2 Commence of Tribal Entrance Conference for Phuanis Area.	3	4
6		7 Contractor's Monthly Status Meeting - AMG	8	9	10 Quarterly Meeting 4/2 in Washington, D.C.	11
12	13	14	15	16	17 Contract Award for Adult YFP	18
19	20 HOLIDAY Martin Luther, Jr.'s Birthday	21	22	23	24	25
26	27	28	29	30	31	

Revised 9/21/91

FEBRUARY 1992

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
2	3 Commence of (trial) Entrance Conference for Sacramento and Albuquerque Area.	4	5	6	7 Contractor's Monthly Status Meeting - AHO	8
9	10	11	12	13	14	15
16	17 SOLIDARITY George Washington's Birthday	18	19	20	21	22
23	24	25	26	27	28 P. PHASE II ASSESSMENT	29

Approved: 02/19/92

MARCH 1992

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2 Commence of Tribal Entrance Conference for Portland and Eastern Areas.	3	4	5	6 Constitution's Authority Status Meeting - AGO	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

APRIL 1992

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
5	6	7 Contractor's Monthly Status Meeting - AOC	8	9	10 Quarterly Meeting #1 10. WASHINGTON, D.C.	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

MAY 1992

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1	2
3	4	5	6	7 Contractor's Monthly Status Meeting - ABQ	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24/31 Capitol of Phase I Section 11- 101104	25 HOLIDAY Memorial Day	26	27	28	29	30

Page 1 of 1

BIA Reconciliation Project Management Plan

ATTACHMENT 3 - Letters to Inter Tribal Monitoring Association on Indian Trust Funds, Confirming Resolved Reconciliation Issues



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 30 1991

BY FACSIMILE

Elouise C. Cobell, Chairperson
Intertribal Monitoring Association
On Indian Trust Funds
P O. Box 850
Browning, Montana 59417

Dear Ms. Cobell:

I am writing to you concerning the tentative resolutions reached at the July 25 - 26, 1991 session in Denver. I appreciate your and the Association's willingness to address the unresolved issues earlier rather than later. I believe the sense of cooperation displayed in the July 25 evening session is essential to our shared goal of an improved Indian Trust Funds Management operation.

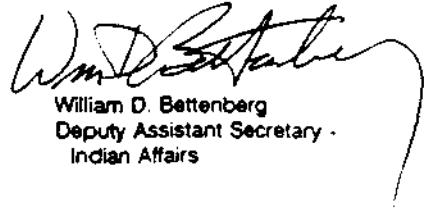
Concluding that session, the parties agreed to take the list of resolved issues back to Interior management and Association officials to obtain final approval.

Upon return to Washington, D.C., we met with the representatives of the General Accounting Office (GAO), and also discussed the resolved issues with a representative of the Office of Management and Budget. I believe the GAO rework of the resolved issues accurately documents, and also helps clarify the resolutions reached on these issues, and I am pleased to confirm that the GAO document represents the Department and BIA's understandings on these matters. A copy of the GAO document is attached as Enclosure 1.

I believe the language in the GAO document will provide the Association appropriate assurances regarding the resolved issues, and it will also provide adequate operational definitions upon which BIA can instruct its reconciliation contractor, Arthur Andersen & Co.

Again, thank you for your assistance in the successful resolution of these matters.

Sincerely,



William D. Bettenberg
Deputy Assistant Secretary -
Indian Affairs

Enclosure

GAO CLARIFICATION ON AGREEMENTS
ON BIA TRUST FUND RECONCILIATION
AT DENVER MEETING ON JULY 26, 1991

1. Calculation of interest. Arthur Andersen & Co. will calculate the difference between actual interest paid for money in cash holding accounts (or other unallotted, temporary cash accounts) and the annual interest rate as set out on page 4 of the reconciliation contract for periods prior to 1970. Arthur Andersen & Co. will use interest rates on attachment A for periods after 1970. Applicable provisions on page 4 of the reconciliation contract will be revised to reflect statutory interest rates, compounded as follows:

Tribal: Semiannually using 4% rate through June 30, 1970. From July 1, 1970 forward, interest must be calculated using the annual rate provided by the Branch of Investments for the Tribal Trust Funds.

IIM: Monthly using the applicable semi-annual interest factor from 1938 through May 31, 1989. From June 1, 1989 forward, the actual interest factor used for those IIM funds that were invested would be used.

At the end of the contract's assessment period, after Arthur Andersen & Co. has collected sufficient data on the six tribes and IIM accounts at one agency location, representatives of the Interior Department, BIA, the Association, Arthur Andersen & Co., and GAO will meet to decide how to interpret the data. For example, data presented will include: differences in average annual interest rates and actual interest rates paid by BIA, typical processing times and actual processing times, receipt and deposit timeframes, statutory guidelines, availability of trust investment instructions, etc. for purposes of developing procedures for calculating unaccrued interest.

1

Enclosure 1

As agreed to at the Denver meeting, Arthur Andersen & Co. will use the revised worksheet (attachment B) to capture data necessary for calculating interest.

2. **Timing of Deposits.** With regard to payments received by BIA on behalf of the tribes and individual Indians, when the date of actual receipt is not shown in BIA records, Arthur Andersen & Co. will show the payment issue date on the worksheet next to the deposit date. (A payment issue date might be determined from a SF-215 deposit ticket for a federal payee or from records of account holders.) If no record of a payment issue date or record of an actual date of receipt by BIA can be found, only the date of deposit will be recorded on the worksheet.

3. **Accounts to be Reconciled.** BIA will direct Arthur Andersen & Co. to reconcile, during Phase I, all tribal and IIM accounts whether open or closed, regardless of when they were closed and regardless of the account balance. IIM accounts to be reconciled will be identified by tracing every deposit transaction to the appropriate IIM statement, as well as the distribution of allocated payments. Arthur Andersen & Co. should take appropriate steps to ensure that any changes in BIA's allocation tables for payment distribution did not result in inadvertent deletion of accounts. To the extent that Arthur Andersen & Co. uses sampling techniques to determine proper distribution of allocated payments, the samples and methodology used will be clearly documented. In the case of tribal accounts, reconciliation will be based on a list compiled from GAO audit reports, Treasury Financial Statements, and BIA financial records. A list of accounts to be reconstructed will be presented to each tribe prior to their Entrance Conference for confirmation purposes. Tribal accounts will be reconciled to the

earliest date practicable, by tracing individual transactions for each account to the appropriate tribal statements.

4. **Missing Payments from Payor.** As part of the reconciliation effort, Arthur Andersen & Co. will not specifically look for instances where payors (lessees, etc.) have failed to make payments due BIA account holders. However, to the extent that Arthur Andersen & Co. does note missing payments during the reconciliation (for example, through testing payment allocation formulas or by means of data provided by account holders), Arthur Andersen & Co. will record these missing payments on its worksheets during the reconciliation.

5. **Disbursements.** To the extent records are available, Arthur Andersen & Co. will verify that checks were drafted to the account holder. However, Arthur Andersen & Co. will not identify whether the recipient (the party who cashed the check) was the account holder of record.

The parties will meet with Treasury Department officials to try to resolve the outstanding check issue and to get documentation on checks that were not cashed.

6. **Collection of Overpayments.** Except for collection actions already in process, the BIA will not resolve any overpayments until accounts have been reconciled and audited and certified and reported to the cognizant congressional committees, and the account holders have been notified by BIA of the possible overpayments and afforded opportunities, consistent with the Debt Collection Act, to review and provide input into the reconciliation and audit conclusions reported by Arthur Andersen & Co.

7. **Scope Issues.** It is recognized by the parties involved that there are some trust fund issues that go beyond the scope of this reconciliation effort. For example, updates of realty records are necessary to ensure a proper basis for many income payments. BIA needs to collect data on the currency of ownership records in the various Area Offices, and recommend a way to address these updates in the reconciliation process. Another example would be BIA's nonreceipt of payments on behalf of account holders (see item 4.). Representatives of the Interior Department, the BIA, the Association, tribes and individual Indian account holders Arthur Andersen & Co., and GAO will identify and highlight other problem areas for appropriate action.

8. **Contract Modifications.** Arthur Andersen & Co. will report its assessment of the level of effort and cost associated with performing work in the contract and any additional tasks clarified in the above paragraphs after about 4-6 weeks of beginning field work. Parties will determine the feasibility and cost effectiveness of performing work specified in the contract, modifying the contract to include additional tasks, or reducing the scope of work by identifying thresholds. Any changes in the contract that might result from this determination will be presented to the Office of Management and Budget and the cognitant congressional committees for consideration and advice.

9. **Joint Working Group.** It is agreed that future issues and concerns, including those listed above, and matters outlined in the Memorandum of Understanding between the BIA and the Association, will be addressed in joint meetings including representatives of the Interior Department, the BIA, the Association, Arthur Andersen & Co., and GAO. It is further agreed that these parties comprise a joint working group on the Indian Trust Funds Reconciliation Project.

OFFICE OF TRUST FUNDS MANAGEMENT

Indian Trust Funds
Annual rate of return by fiscal years

FY Ending Date	Tribal Fund
6-30-70	6.50%
6-30-71	5.75%
6-30-72	5.93%
6-30-73	7.04%
6-30-74	8.48%
6-30-75	9.19%
6-30-76	6.64%
9-30-77	6.43%
9-30-78	7.67%
9-30-79	10.41%
9-30-80	12.04%
9-30-81	14.74%
9-30-82	14.48%
9-30-83	10.88%
9-30-84	10.54%
9-30-85	10.17%
9-30-86	8.33%
9-30-87	7.31%
9-30-88	7.53%
9-30-89	8.98%
9-30-90	8.72%

-Data derived from investment annual reports.

-No data found prior to above dates.

Bureau of Indian Affairs
 Tribal Appropriations/Activity Number
 Transaction and Invested Balance History
 For the Period _____ to _____

Date of Receipt	Date of Transaction	Document Number	Transaction Amount		Balance Available For Investment	Amount Invested By BIA	End of Day Cash Pool Balance
			Dr.	Cr.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Footnotes:

1. The date of check, money order, etc. whenever identifiable on the collection voucher (full for collection)
2. This is the effective date of the transaction (date of deposit confirmed by Federal depository or disbursement confirmed by Treasury)
3. This is the identification number stated on the source document.
4. Dollar amount of transaction.
5. This amount is derived from the net of the previous available balance and the current transaction.
6. Includes CD's, Treasury Notes, Treasury Bills, GMMAs and certain other government agency issues.
7. This is the cash that was not placed in the investment instruments defined in Footnote 6 but may have earned Treasury interest prescribed by Public Law or through the Treasury overnighter investment process authorized by 25 USC 161a as amended October 4, 1984.
8. The net of the day's cash pool transactions.

Bureau of Indian Affairs
Tribal Appropriation/Activity Number
Pro-Forma Interest Earnings Analysis

Fiscal Year	Average Annual Cash Pool Balances	Composite Annual Interest Rate	Pro-Forma Interest Based on Composite Annual Interest Rates	Actual Interest Paid on Overnight Treasury Deposits	Actual Interest Paid Greater Than Pro-Forma Interest	Actual Interest Paid (less) Than Pro-Forma Interest
(1)	(2)	(3)	(4)	(5)	(6)	(7)

1. Federal Government Fiscal Year (ends September 30 for years beginning in 1978, ends June 30 for years prior to 1978)

2. Sum of daily end-of-day cash pool balances from Transaction and Invested Balance History (TIBH) worksheet divided by 365.

3. Annual rate of return on specific investment securities (Footnote 6 TIBH worksheet) - See attached summary of investment performance

4. This is the pro-forma calculated interest based on composite rates for comparison to actual earnings

5. Actual interest paid on "cash pools", i.e. overnight investment of trust funds report

6. Self-explanatory

7. Self-explanatory



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D C 20240

JUL 19 1991

BY FACSIMILE

Elouise C. Cobell, Chairperson
Intertribal Monitoring Association
on Indian Trust Funds
P.O. Box 850
Browning, Montana 59417

Dear Ms. Cobell:

We appreciate your Association's letter of July 10, 1991. In that letter, the Association provided a list of those Phase I reconciliation issues that it believed were resolved during earlier meetings, but that the Bureau of Indian Affairs (BIA) was unable to confirm as being resolved when we met on July 1 - 2, 1991. Our responses are keyed to the numbered issues in the Association's letter.

1. Underinvestment.

Your position is that BIA must identify "underinvestments" as well as "uninvestments" of Indian trust funds, resulting from BIA's negligence or failure to carry out trust responsibilities.

We agree to the extent that we can reach mutual agreement on the specific definitions of "underinvestment". The Association's letter asked that the contractor apply the same standard it would apply for private trust accounts. Rather than an industry or generic standard for such terms as "underinvestment", our understanding is that accepted practice is to rely on the instructions within the specific trust agreements. Our mutual challenge, as I see it, is to examine the range of investment situations where investment negligence or failure to carry out trust responsibilities may have occurred, and then develop operational definitions for them. With such definitions, we all would understand with substantial precision what will be considered to be potential "underinvestments", and BIA will be in a position to provide definitive guidance to its reconciliation and audit contractors so that they can identify such situations on the report for each account holder. It should be noted that this is not currently in the scope of work for the contract.

We wish to develop these specific operational definitions in a fair and open manner. In order to accomplish this, we propose that a small work group consisting of representatives of the Association, the BIA, and Arthur Andersen & Company meet to work out the needed operational definitions. The results of that work should then be forwarded to the Association and the BIA management for final review and acceptance. We would suggest that such meetings be scheduled during August or, at the latest, September.

We also appreciate your acknowledgement that the underinvestment examination is not intended to second guess BIA's exercise of discretion when making investment decisions.

2. Netting of Over and Under Payments.

Your position is that BIA reports must show separately the amounts overpaid and amounts underpaid, without netting in any manner.

We have agreed to furnish the details of the actual account reconstruction, reflecting amounts overpaid and amounts underpaid, without netting, both in the reports to the account holders and to the Congress. Following certification, we will need to evaluate the data presented to determine whether any amounts are owed to or due from account holders. That may well require netting, but would not affect the reconciliation, audit and certification reports presented to account holders. These netted amounts are what we would anticipate reimbursing or collecting to resolve the findings of incorrect balances following audit and certification.

3. Collection of Overpayments.

Your position is that BIA will make no effort to collect principal or interest that BIA overpaid to a tribal or Individual Indian Money (IIM) account holder until Congress has determined how it wants to deal with over and under payments.

The BIA does not plan to initiate action to collect principle or interest that the BIA overpaid to a tribal or IIM account holder at the conclusion of the account reconciliation phase of this effort. The completion of the audit and certification of an account and the subsequent evaluation identified in item 2 above is the point when an obligation to commence either reimbursement or collection action will be properly known and documented to BIA. At that point, BIA actions relative to overpayment collection would be dictated by the Debt Collection Act and guided by statute of limitations considerations.

Every effort will be made to reimburse account holders within a reasonable time frame, consistent with available funds and the Budget Enforcement Act.

4. Report Formats.

The Association wishes BIA to use an account reporting format that was prepared by the ad hoc group for reporting results of the reconciliations. As previously agreed, BIA will incorporate the Association-generated formats into the reconciliation report layout. Based on a telephone conversation between Jim Parris, Director, Office of Trust Funds Management and Sue Lara of the Association, it is our understanding that these relate to footnote contents. We also understand that the footnote content details are being reconciled by BIA and Association representatives this week.

5. IIM Account Issues.

a. Cut-off Date for Closed Accounts.

The Association desires further discussion concerning reconciliations of closed or pre-merged accounts.

We agree that further discussion with the Association regarding reconciliations for these type accounts would be beneficial.

b. Lost Checks.

The Association desires a meeting, which would include Treasury representatives, relative to the federal government's inability to provide a list of IIM checks that were sent but not cashed.

We agree that a meeting with Treasury on this issue would be helpful, and will proceed to coordinate such a meeting among representatives of the Association, the Department of Treasury, the Office of Management and Budget, and the BIA.

Centralized Disbursement.

Your position is that a draft Request for Proposal (RFP) for Centralized Disbursement, as proposed by BIA, is not an appropriate vehicle for soliciting ideas about a concept that is still in the analysis stage, and you request BIA to set out the specific process BIA intends to follow before issuing an RFP. You also request that BIA respond in writing to your written comments that BIA not proceed with the RFP.

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Rather than a draft RFP, BIA will develop and circulate for your consideration and comment an analytic paper on the subject of centralized disbursement. This, and other accounting issues, will be thoroughly addressed in the Interim Management Plan. In addition, we will respond, in writing, to your previous written comments on this topic.

Sincerely,


Deputy Assistant Secretary -
Indian Affairs

cc:

Daniel S. Press
Van Ness, Feldman & Curtis
1050 Thomas Jefferson Street, N.W.
Washington, D.C. 20007



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 31 1991

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:

In my September 25, 1991, letter to you I indicated that we would forward to the Subcommittee a copy of the Bureau of Indian Affairs' (BIA) completed "Policies Regarding Notification and Reimbursement to Indian Trust Fund Account Holders for Losses Attributable to Bureau Errors", following an opportunity for review of a draft by several parties. We have received and considered comments on the draft from the Inter-Tribal Monitoring Association on Indian Trust Funds, the Office of Management and Budget, and the General Accounting Office. Enclosure 1 constitutes BIA's policy on trust fund losses and account holder notification, approved and being promulgated in a BIA Manual.

Sincerely,


Assistant Secretary, Indian Affairs

Enclosure



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



OCT 16 1991

Memorandum

To: Assistant Secretary - Indian Affairs

From: Deputy Commissioner - Indian Affairs *David J. Mathews*

Subject: Policies Regarding Notification and Reimbursement to Indian Trust Fund Account Holders for Losses Attributable to Bureau Errors

I request your approval of a new policy relating to notification and reimbursement to Indian trust fund account holders for losses attributable to errors on the part of Bureau of Indian Affairs (BIA) or other Department of the Interior (DOI) surface management agencies.

As you know, a loss policy has been under review for some time. A breakthrough on release of this policy occurred late in July, when at a meeting on the Reconciliation Project representatives of the BIA, Arthur Andersen & Co, the Department, the Inter-Tribal Monitoring Association on Indian Trust Funds, and the General Accounting Office fashioned agreements to a number of unresolved issues impacting notification and loss reimbursement for trust fund account holders.

Comments on this policy have been received, considered, and as appropriate incorporated into the document from a number of interested external groups. This includes the Inter-Tribal Monitoring Association on Indian Trust Funds, the Office of Management and Budget, and the General Accounting Office. It is my conclusion that we are now ready to release BIA's new policy on notification and losses.

Attachment 1 has been prepared to highlight the major features of the new policy. Upon your approval these policies (plus the appropriate BIA promulgation language) will be published in the BIA Manual and distributed BIA-wide. I am told that this

Enclosure 1

process will entail about three weeks from the date of your approval. Upon your signature, I will direct the appropriate staff to incorporate the loss and notification policy into the BIA Manual.

I recommend that you indicate your concurrence by signing at the designated point on this memorandum.

Attachment


APPROVED _____ DATE _____

Assistant Secretary - Indian Affairs

**POLICIES REGARDING NOTIFICATION AND REIMBURSEMENT TO INDIAN
TRUST FUND ACCOUNT HOLDERS FOR
LOSSES ATTRIBUTABLE TO BUREAU ERRORS**

Policy Statements.

Notification. It is the policy of the Bureau of Indian Affairs (BIA) to notify Tribal, Alaska Native and individual Indian trust fund account holders of losses to their respective accounts attributable to BIA or other federal government agency errors.

Reimbursement. It is the policy of the BIA to reimburse Tribal, Alaska Native and individual Indian trust fund account holders for losses to their respective accounts attributable to BIA or other federal government agency errors as provided in the implementing framework described below.

Definition of Trust Funds Loss.

A trust funds loss is defined as, in the case of Tribal and Alaska Native Corporation accounts, an amount (principal and/or interest) that has been lost as a result of an error by the Bureau of Indian Affairs or another federal government agency. In the case of Individual Indian Monies (IIM) account holders, a trust funds loss is defined as an amount (principal but not interest) that has been lost as a result of an error by the BIA or another government agency. Because the law regarding the investment of IIM does not require the payment of interest on IIM accounts, the BIA is not liable to IIM account owners for loss of interest. See Attachment 1, Comptroller General Decision Number B-243029, dated March 25, 1991.

The loss may result from any one of the following:

1. Mathematical mistakes;
2. Mistakes in the application of accounting principles;
3. Oversight of facts that existed at the time the transactions were recorded by the relevant Bureau accounting office;
4. Misuse of facts that existed at the time the transactions were recorded by the relevant Bureau accounting office;
5. A change from an accounting principle that is not generally accepted to one that is generally accepted.

Notification and Loss Documentation Procedures.

When it is determined that a tribal or IIM account holder has or may have incurred a loss of funds held in trust by the BIA, the BIA's Office of Trust Funds Management in Albuquerque, New Mexico must be notified within 24 hours by telephone or telefax of the identification of the loss by the relevant Agency or Area Office. Similarly, in the case of a loss determined to have occurred within the immediate operations of the Office of Trust Funds Management, the relevant Area or Agency Office will be notified within 24 hours by telephone or telefax of the loss, by the Office of Trust Funds Management. The Office of Trust Funds Management will follow the relevant procedures detailed below in notifying the cognizant Agency or Area Office.

Notification and loss documentation procedures are equally applicable in the event a possible loss is identified or originated by a tribal or IIM account holder. However, in the event of a telephonic or written contact regarding a possible loss originated by an account holder, the servicing Area or Agency Office will arrange a meeting or personal contact with the affected account holder to develop the specifics and necessary documentation of the possible loss.

The relevant Area Accounting Office shall, for tribal losses as defined above that cannot be corrected within the month the loss occurred, be required to compute the interest (earned or unearned) related to the loss and submit both the principal and interest amounts to the Office of Trust Funds Management as described below. The Office of Trust Funds Management is available to provide specific guidance to the relevant Area or Agency accounting staff regarding the calculation of lost interest, including the definition of pertinent rates and time periods to be used.

For IIM account holder losses, the relevant Area Accounting Office shall submit the principal amount to the Office of Trust Funds Management as described below.

The cognizant Agency or Area Office, must, as soon as possible but not later than 10 working days of the discovery (1) forward a written notice of the basic facts surrounding the matter with a status of the action being taken to gather the relevant documentation and projected time frames for accumulation of that data, or alternatively, (2) forward copies of all relevant documentation supporting the computation of the loss, and related background information, to:

Chief, Policy, Analysis & Evaluation
Office of Trust Funds Management
505 Marquette, N.W., Suite 700
Albuquerque, New Mexico 87103

The Office of Trust Funds Management will review the documentation, and, as soon as possible but not later than 10 working days of receipt of the documentation, forward to the originating Area Office a written notice of concurrence with the classification of the computed amount as a loss, or alternatively, what action is being taken and the estimated time frames that the action will require. If, however, the Office of Trust Funds Management determines the amounts to not be properly identified as a loss, that Office will forward, in writing, the reasons for non-acceptance of the loss classification. This communication will also include instructions as to the proper accounting treatment and disposition of the transaction.

The cognizant Area Office is then responsible for written notification to the relevant Agency Office of the determination by the Office of Trust Funds Management, with copies to the Office of Trust Funds Management.

As soon as possible, but not later than 10 working days of receipt of written notification by the Office of Trust Funds Management of concurrence with the loss classification and amount, the originating Area or Agency Office must notify the account holder in writing, and furnish a copy to the Office of Trust Funds Management. The notification should include: (1) the amount (if known), (2) any relevant background information explaining the circumstances and facts concerning how the loss occurred, (3) any action being taken to reimburse the loss; and (4) the name, telephone number and office location where an account owner may make inquiries.

Reimbursement of Losses.

Comptroller General of the United States procedures authorizing the use of appropriated funds, where available, shall be utilized where applicable to reimburse tribal and IIM account owner(s) for losses.

Every effort will be made to reimburse account holders within a reasonable period of time, consistent with available funds.

The Office of Trust Funds Management will prepare an annual estimate of loss reimbursement requirements for the ensuing budget year and forward that estimate by May 1 (with an update of the estimate furnished on August 1) each year to the BIA's Division of Program Development and Implementation for consideration in formulation of BIA's annual budgets.

Trust fund losses will be reported in writing by the Office of Trust Funds Management to the Deputy Commissioner of Indian Affairs and the Division of Program Development and Implementation monthly, and also summarized and submitted to the Deputy Commissioner of Indian Affairs and the Division of Program Development and Implementation in a Fiscal Year Report of Verified Trust Fund Losses for each fiscal year, by December 31 each year.

Responsibilities.

It is the responsibility of all BIA line and staff officials to execute this policy in carrying out the BIA's Indian trust responsibilities to Tribes, Alaska Natives and individual Indian members.

Variation from these procedures and time frames will be permitted only in extenuating circumstances or unique situations involving, for example, a requirement for additional policy research and review at the Department of the Interior level, receipt of documents, or legal review by the Department's Office of the Solicitor. Those instances must be documented by the Office of Trust Funds Management, which will keep an annotated log of all reported losses and their ultimate disposition. Such variations shall be documented and submitted to the Director, Office of Trust Funds Management.

Noncompliance with the procedures set forth in this policy shall be identified and reported to this Office for appropriate action.



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

Decision

Matter of: Liability of Bureau of Indian Affairs for
Interest on Individual Indian Monies

File: B-243029

Date: March 25, 1991

Digest

Because the law regarding the investment of Individual Indian Monies (IIM) does not require the payment of interest on IIM accounts, the Bureau of Indian Affairs (Bureau) is not liable to IIM account owners for loss of interest, even that resulting from the Bureau's failure to manage IIM investments properly. The Bureau and tribal representatives should seek legislative settlement of any such claims.

DECISION

The Acting Deputy Commissioner of Indian Affairs has requested an advance decision on the propriety of paying Individual Indian Monies (IIM) account owners interest income that would have accrued to their accounts but did not because of the Bureau's management of those accounts. In 1930, the Bureau, acting under authority of 25 U.S.C. § 162a (section 162a),^{1/} initiated its practice of investing IIM funds. Bureau management and accounting practices, however, may have resulted on occasion in IIM account owners losing interest income. Nevertheless, judicial precedent is unequivocal that because section 162a does not require the payment of interest on IIM accounts, the government is not liable to account owners for any loss of interest.

^{1/} Section 162a authorizes the Secretary of the Interior to deposit funds held in trust for the benefit of individual Indians, as well as tribal funds, in banks that will pay a reasonable rate of interest on the deposits, and, if he deems it to be in the best interest of the Indians, to invest such funds in any public-debt obligations of the United States and in bonds, notes or other obligations that are unconditionally guaranteed by the United States.

BACKGROUND

In 1989, the Bureau, trustee of Indian funds held by the United States,^{2/} determined that it could manage the funds more efficiently and at less cost to the government by procuring certain financial services from the private sector. See B-226146, Mar. 13, 1990. The Congress has instructed the Bureau to reconcile all Indian accounts before transferring any funds to a private bank. Pub. L. No. 101-512, 104 Stat. 1913, 1923-30 (1990); Pub. L. No. 101-121, 103 Stat. 701, 714 (1989). See also B-226146, Mar. 20, 1990. Representatives of a number of Indian tribes have suggested that the Bureau, as part of the reconciliation effort, should calculate and identify on financial statements for each IIM account the interest that IIM account owners may have lost over the years as a result of the Bureau's management and accounting practices.

According to the Bureau's Office of Trust Funds Management, the Bureau, at the end of fiscal year 1990, maintained approximately 288,000 IIM accounts. Office of Trust Funds Management, "Investment of Indian Trust Funds, Fiscal Year 1990" 3. IIM accounts were originally intended for legally incompetent adults and minors without guardians. Department of Interior, Office of Inspector General Report No. 49-117, "Selected Aspects of Indian Trust Fund Activities, Bureau of Indian Affairs" 21 (Sept. 29, 1989). Today, the Bureau also maintains IIM accounts for adults receiving income from a trust resource, such as oil and gas royalties. (For example, the Minerals Management Service, after collecting oil and gas royalties, pays the Bureau, who deposits the amount in the appropriate IIM account.) Office of Trust Funds Management report at 4. The Inspector General has described the Bureau's IIM operation as a "large quasi-banking system." Inspector General report at 7.

According to Bureau officials, the Bureau, in 1938, decided that all IIM funds would be invested and directed its Agency Offices to do so in a manner consistent with section 162a. Since 1966, the Bureau's Branch of Investment in Albuquerque has pooled all IIM accounts for investment purposes. The Bureau allocates interest earned on the investment pool to individual accounts. See generally, Office of Trust Funds

^{2/} The Secretary of the Interior, responsible for the management of Indian affairs (see 43 U.S.C. § 1457; 25 U.S.C. §§ 1a, 2), has delegated authority for management of Indian trust funds to the Assistant Secretary for Indian Affairs, who carries out this responsibility through the Bureau.

Management report, *supra*; Inspector General report, *supra*. Tribal representatives suggest that there are many instances where the Bureau has failed, either because of neglect or by decision, to invest some IIM funds, and has deprived account owners of the possibility of cumulative earnings on interest income by failing to record interest income properly or to credit an account owner with interest earned. For example, the Bureau has not calculated interest on oil and gas royalties since November 1955, although such funds are invested as part of the IIM pool of funds; the Bureau awaits the development and implementation of a system that will allow accurate calculation and distribution of such interest. Meanwhile, account owners lose the opportunity to invest this interest.

The Inspector General recently concluded that because of inaccurate financial records, poor accounting processes, and inadequate management and controls, the Bureau's investment decisions are not credible, and criticized the Bureau for failure to recognize investment losses, among other things. The Inspector General discussed one instance where the Bureau lost at least \$3.9 million in IIM principal as a result of investing in financial institutions that failed. Inspector General report at 32. The Inspector General computed interest of \$3.8 million that would have been earned on the unrecovered funds as of April 30, 1989. *Id.* The Inspector General mentioned other instances of losses of funds and unearned interest income as well. He pointed out that "sometimes the Bureau was responsible for the losses . . . , and other times the losses were beyond the Bureau's control." *Id.* at 14. The Inspector General noted that in situations such as this, the Department's Solicitor has determined that the Bureau is not liable for lost interest; the Inspector General, citing the Bureau's fiduciary responsibility, concluded that "decisions must be made regarding the Bureau's liability." *Id.*

Arthur Andersen and Company, in its May 1990 report of its audit of Indian trust funds, noted instances of misposting of receipts and untimely interest distributions, and found, also, that the Bureau has not identified the ultimate account owners of some IIM balances. Arthur Andersen & Co., "Tribal and Individual Indian Monies Trust Funds: Financial Statements as of September 30, 1989 and 1990" 8, 15 (May 11, 1990).

Neither the Bureau, tribal representatives nor IIM account owners are in a position at this time to calculate with any degree of certainty estimated loss of interest, or even to identify, for example, those accounts or parts of accounts that were not invested, over what period of time the Bureau may have failed to invest particular IIM funds, or when interest income may not have been posted properly. Nevertheless, in response to the tribes' queries, the Bureau

has agreed to instruct the accountants undertaking the reconciliation to calculate possible lost interest, see the Bureau's Request for Proposals, part I, para. 8, Dec. 20, 1990; the success of this effort will depend, of course, on the existence and availability of account records and other historical evidence.

The Bureau's Acting Deputy Commissioner, in the meantime, asks whether the Bureau, as a general matter, is liable to IIM account owners for lost interest, and, if so, how the Bureau should properly record such liability. He notes that in a 1986 decision, we concluded that the United States is not liable for interest on IIM accounts. 65 Comp. Gen. 533, 540 (1986).

DISCUSSION

Liability for Loss of Interest

Federal courts have long held that the United States is not liable for interest unless it has consented to the payment of interest. In a 1986 decision, the Supreme Court explained the derivation of the rule. Library of Congress v. Shaw, 478 U.S. 310, 314-17 (1986). English common-law courts viewed interest as a penalty separate from damages on the substantive claim, and thus created a separate cause of action for the recovery of interest. Because under United States law, the federal government, as sovereign, is immune from suit in the absence of its consent, American courts, adopting the English common law view concerning the recovery of interest, concluded that a claimant against the government cannot recover interest unless the government has waived its immunity from suit in this regard. Id. "(A)bsent a statute expressly providing for the payment of interest, separate from a general waiver of immunity to suit, the United States is immune from an award of interest as damages." White Mountain Apache Tribe of Arizona v. United States, 20 Cl. Ct. 371, 379 (1990). Courts construe waivers of sovereign immunity strictly in favor of the United States:

"[T]here can be no consent by implication or by use of ambiguous language. Nor can an intent on the part of the framers of a statute . . . to permit the recovery of interest suffice where the intent is not translated into affirmative statutory . . . terms."

United States v. New York Rayon Importing Co., 329 U.S. 634, 659 (1947).

Judicial precedent is unrelenting in its application of this rule to IIM funds. Courts have consistently held that section 162a does not constitute a waiver of sovereign

immunity because, quite simply, it does not require the payment of interest. See, e.g., Rogers v. United States, 577 F.2d 1550, 1558 (Fed. Cir. 1988) ("There is no contract, treaty or Act of Congress . . . that expressly, or even by implication, provides for the payment of interest. . . ."); United States v. Gila River Pima - Maricopa Indian Community, 566 F.2d 209, 216 (CC. Ct. 1978) ("No statute exists requiring interest to be paid on 'Individual Indian Money' (IIM) accounts. . . ."); White Mountain Apache Tribe of Arizona, 20 Cl. Ct. at 388 ("The statute does not expressly mandate . . . payment of interest . . .").

With regard to IIM accounts, section 162a states:

"the secretary is . . . authorized . . . to deposit in banks . . . the funds held in trust for the benefit of individual Indians: Provided, that no individual Indian money shall be deposited in any bank until the bank shall have agreed to pay interest thereon at a reasonable rate . . . : Provided further, that the Secretary . . . , if he deems it advisable and for the best interest of the Indians, may invest the trust funds of any . . . individual Indian in any public-debt obligations of the United States and in any bonds, notes, or other obligations which are unconditionally guaranteed . . . by the United States." (Emphasis added.)

Compare with 25 U.S.C. § 161a, as originally enacted, which constituted a waiver of immunity with regard to tribal funds: "All funds . . . held in trust by the United States . . . to the credit of Indian tribes . . . shall bear interest at the rate of 4 per centum per annum." (Emphasis added.)/ See, e.g., Cheyenne-Arapaho Tribes of Indians of Oklahoma v. United States, 512 F.2d 1390 (Cl. Ct. 1975); Manchester Band of Pomo Indians v. United States, 363 F. Supp. 1238, 1243-48 (N.D. Cal. 1973).

In White Mountain Apache Tribe of Arizona, the Claims Court examined judicial precedent and found no way around the rule against payment of interest. Ten years earlier, the court noted, the Court of Claims had suggested that the Bureau's obligation under section 162a, if any, to invest IIM funds in a productive manner had not been addressed fully, and thus deserved further consideration. Navajo Tribe of Indians v.

3/ Section 161a was revised in 1984 to require the Secretary of the Treasury, at the request of the Secretary of the Interior, to invest tribal funds in public debt securities bearing interest at rates determined by the Treasury Secretary.

United States, 624 F.2d 981, 994-95 (Ct. Cl. 1980). After reviewing decisions following Navajo Tribe, the court in White Mountain Apache Tribe concluded that while section 162a DOES NOT DIRECT the payment of interest, it does "waive the government's immunity to suit." White Mountain Apache Tribe of Arizona at 382-83, citing Mitchell v. United States, 684 F.2d 765, 274 (Ct. Cl. 1981). The court said that section 162a "establishes and circumscribes the Secretary of the Interior's authority to invest funds," and that "[e]xercise of that authority within the parameters established by [section 162a] calls for the production of money;" nevertheless, the court found, the case law interpreting section 162a "fails to come to grips with the impediment to recovery," *i.e.*, that "(t)he statute does not expressly mandate (the) payment of interest." White Mountain Apache Tribe of Arizona at 384. The court concluded, "[g]iven the substantial jurisprudence from the Supreme Court and the Court of Claims insisting that the proponent of interest as damages demonstrate the sovereign's express waiver of immunity . . . , [section 162a] cannot be construed as an express waiver." *Id.* Regardless of whatever duty might be imposed by section 162a on the Bureau, interest, as lost investment yield, is the measure of any breach of that duty, and the case law is unequivocal that a "waiver of immunity to pay interest must be separate from the waiver of immunity enabling a suit for damages." *Id.*

We addressed this issue in our decision at 65 Comp. Gen. 533. In that case, the Bureau had improperly withdrawn funds from the IIM account of Ms. Linda Slockish. Ms. Slockish asked that the Bureau, in addition to refunding the amount withdrawn, pay her interest that would have accrued from the date of withdrawal to the date of refund had the monies remained in her account and been invested. Although we concluded that the Bureau, in withdrawing the money from the account, had breached its trust responsibilities to Ms. Slockish, we held, nonetheless, that the Bureau did not owe her interest. *Id.* at 539. We stated:

"In view of the longstanding practice of both the courts and this Office not to award interest unless it is clearly authorized by treaty, statutes or contracts, we will follow the rulings of the United States Claims Court. In this regard, we deem it crucial that the United States is not specifically required to pay interest on IIM accounts."

Id. at 540. We noted that it makes no difference whether interest is characterized as "damages, loss, earned increment, just compensation, discount, offset, penalty or any other term." *Id.* at 539-40.

After a thorough and considered analysis of section 162a and case law interpreting it, we find no basis upon which to modify our 1986 conclusion. Federal courts have made clear that the failure of Indians' claims for interest on IIM funds lies in the wording of section 162a, i.e., section 162a does not require the payment of interest. As the Court of Claims explained in a 1975 decision, an award of interest against the government cannot be made, "in no matter how high the purpose or how benevolent the motive, . . . unless the requirements of the no-interest rule have been met." United States v. Mesquero Apache Tribe, 518 F.2d 1309, 1323 (Ct. Cl. 1975). Thus, in the absence of a judicial remedy, the Bureau and tribal representatives should seek legislative settlement of any claims arising from the reconciliation effort. The statutory impediment can be redressed only by the Congress through the legislative process.

Recording Interest Liability

The Bureau should not record as an obligation of the United States any interest liability until the Congress has agreed to accept such liability. We have no objection however, to the Bureau requiring the accountants undertaking the reconciliation to calculate possible lost interest and to identify it, for informational purposes, in the financial statements they prepare to report their findings to the Bureau and the account owners.

Milton J. Fowler

ACTS Comptroller General
of the United States