

September 1993

# FINANCIAL MANAGEMENT

## Creation of Bureau of Indian Affairs' Trust Fund Special Projects Team



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

Accounting and Information  
Management Division

B-254432

September 21, 1993

The Honorable Daniel K. Inouye  
Chairman, Committee on Indian Affairs  
United States Senate

Dear Mr. Chairman:

This report responds to your request for information about the creation of the trust fund Special Projects Team<sup>1</sup> within the Bureau of Indian Affairs (BIA). You asked if BIA, in creating the Team, followed (1) Department of the Interior (DOI) guidelines, (2) appropriations act provisions to notify the House and Senate Appropriations Committees and receive their concurrence before transferring funds and staff to the Team, and (3) appropriations act provisions to submit reorganization proposals to the Joint Tribal/BIA/DOI Advisory Task Force on BIA Reorganization for consideration. You also asked if BIA was required to notify the Inter-tribal Monitoring Association (ITMA) and obtain their views on the Team proposal. Further, you requested that we identify the officials responsible for creating the Team and their present duty stations, as well as Department and BIA actions to investigate the circumstances surrounding the Team's creation and resolve the situation.

## Results in Brief

In creating the Special Projects Team, BIA did not adhere to established guidelines.

- BIA managers did not follow established Department or BIA policies and procedures when they created the Team.
- BIA managers did not follow appropriations act guidelines to notify the Appropriations Committees and the Reorganization Task Force about the reorganization. Further, BIA's fiscal year 1994 budget submission to the Appropriations Committees did not refer to the creation of the Team outside the Office of Trust Funds Management (OTFM) or the related reallocation of funds from OTFM.

None of the established guidelines required BIA to notify ITMA in advance about the decision to create a new organization. However, since ITMA was created to monitor BIA's reconciliation and trust fund improvement efforts and the Team assumed responsibilities in these areas, ITMA officials told us

<sup>1</sup>The Team was also informally referred to as the Office of Special Projects.

they believed they should have been notified that the Team would be separate from OTFM.

With respect to the Department and BIA investigations of the circumstances surrounding the Team's creation, the following actions were taken or planned.

- Department and BIA management reviewed the procedures followed in creating the Team and concluded that their policies and the appropriations act guidelines had not been followed.
- On August 2, 1993, BIA's Acting Deputy Commissioner, Indian Affairs, signed a memorandum directing that the Team's functions be returned to OTFM and that the Team's Special Assistant and Project Assistant be detailed to OTFM.
- BIA plans to report to the House and Senate Appropriations Committees on actions taken to abolish the Team.

Appendix I lists the positions of the officials involved in creating the Team and their current positions.

## Background

On August 20, 1992, following discussions between BIA and Office of Management and Budget (OMB) officials about BIA's limited progress in reconciling trust fund accounts, OMB requested that BIA designate a project manager with sole responsibility for the reconciliation project to report directly to the Deputy Commissioner, Indian Affairs. On November 23, 1992, the Deputy Commissioner signed a memorandum creating the Special Projects Team to develop, implement, and/or oversee implementation of certain trust fund management initiatives, including management of the ongoing trust fund account reconciliation project. The memorandum stated that the Team was temporary and that its operations would continue until the reconciliation project and certain trust fund improvement projects were completed. BIA staff estimated the project would last between 5 and 8 years. In forming the Team, BIA management (1) appointed a Special Assistant to lead the Team and assigned a Project Assistant, 5 detailees, and 10 temporary staff and (2) reallocated \$6.4 million from OTFM.

In its April 1993 hearing on BIA's fiscal year 1994 budget submission, the House Appropriations Committee, Subcommittee on Interior and Related Agencies, discussed BIA's creation of the Team. Following the hearing, the Reorganization Task Force and ITMA stated their objections to the Team's

creation. The Reorganization Task Force, which consists of tribal, BIA, and Department representatives, was established in December 1990, pursuant to provisions in the Department's fiscal year 1991 appropriations act. Its purpose is to provide input to the Department, BIA, and the Appropriations Committees on reorganizations of BIA functions. ITMA was initially established in September 1990 as an ad hoc advisory committee to monitor BIA's trust fund account reconciliations. In 1991, the ad hoc committee was formally established as an association representing Indian tribes, and its responsibilities were expanded to include advising BIA on trust fund management and strategic planning. In late 1992, ITMA began to function as an advisory group to the Reorganization Task Force for trust fund issues.

## Scope and Methodology

To address the questions in your request, we reviewed pertinent sections of Department and BIA policy manuals and BIA's fiscal year 1993 appropriations act. We also reviewed BIA documents related to the Team's creation. We met with Department and BIA managers to obtain their views on the guidelines followed when the Team was created and to discuss the actions they were taking to address congressional, Reorganization Task Force, and ITMA concerns about the Team's creation. We also talked with House and Senate Appropriations Committee staff to obtain their views.

We performed our work between July 16, 1993, and August 27, 1993, at the Department of the Interior and BIA headquarters in Washington, D.C., in accordance with generally accepted government auditing standards. As your office requested, we did not obtain agency comments on a draft of this report. However, at the end of field work, we discussed its contents with Department officials; Acting Deputy Commissioners, Indian Affairs; and the OTFM Director. We have incorporated their comments where appropriate.

## Department and BIA Guidelines Not Followed in Creating the Team

Interior Department and BIA policy manuals contain provisions which Department employees are to follow when implementing organizational changes. Part 101 of the Departmental Manual (DM) contains the Department's (1) overall policy for organization management and (2) guidelines for establishing organizational structures and responsibilities and for abolishing or relocating organizational components. Part 101 DM also details the documentation needed to implement organizational changes, including organization charts, functional statements, and staffing analyses. Once approved, this documentation is inserted into a Part 130 DM chapter designated for the

specific BIA component organization. Part 101 DM contains the following provisions relating to implementation of organizational changes.

- Organizational changes can only be implemented through a new or revised DM chapter or by a Secretary's Order establishing temporary authority.
- Changes to the manual are required when an organizational change is of a continuing nature. However, if the change is urgent, a Secretary's Order can be used on an interim basis, but must be followed by a Part 130 DM change.
- Changes to the manual are required for technical and administrative organizational changes involving units located outside the headquarters city (Washington, D.C.).
- Organizational changes which affect the DM must be approved by the Assistant Secretary, Policy, Management, and Budget; the supervising member of the Secretariat; and the Director of Congressional and Legislative Affairs.
- Interim organizational changes, assignments of personnel, or reprogramming of funds and other resources related to organizational changes that affect the DM cannot be implemented until a change to the manual is released or a Secretary's Order has been approved.

The Bureau of Indian Affairs Manual (BIAM) also contains guidelines for implementing organizational changes. Part 5 BIAM 2, which is applicable to all BIA headquarters and field office organizations, specifies the following:

- All BIA organizational structures are to be published in the BIAM and are not considered official until published.
- Special projects staffs established for more than 1 month but less than 1 year must be published in a Part 5 BIAM bulletin and must include functional statements and the proposed organizational staffing charts. In addition, staff groups in operation for 1 year or more are considered permanent and require a change to the DM if the change meets Department policy outlined in Part 101 DM.
- Interim implementation of organizational changes is not permitted.

In October 1992, before the Team was established, BIA's Directives Officer determined that the organization fit the criteria listed above for publication in the DM and BIAM. Specifically, the Team was (1) located in Albuquerque, New Mexico, not Washington, D.C., the headquarters city, (2) formed by detailing staff and reprogramming funds from OTFM, and (3) a special projects staff that was to continue for more than 1 year. Therefore, the Directives Officer advised BIA and Department officials that

a Part 130 DM change or Secretary's Order was needed. However, although the Special Assistant who was to be in charge of the Team prepared a draft Secretary's Order, BIA did not publish a formal change to the DM and BIAM or request that the Secretary's Order be issued as a temporary measure when the Team was created. Nor did BIA request approval from the Assistant Secretary-Policy, Management, and Budget. The Office of Management Improvement, the departmental organization responsible for reviewing organizational matters and Part 130 DM changes, was abolished on October 8, 1992.<sup>2</sup> Department officials said that this left a gap in the review process at the time the Special Projects Team was being proposed.

In mid-February 1993, the Team's Special Assistant submitted a draft functional statement and staffing chart for the Team to the Acting Deputy Commissioner, Indian Affairs, for review. On March 22, 1993, the Special Assistant prepared a memorandum for the file noting that Department officials had determined that the Team should be established by memorandum rather than DM procedures. On March 29, 1993, the Acting Deputy Commissioner approved the Team's functional statement and on April 1, 1993, the temporary Acting Deputy Commissioner signed a memorandum transmitting the functional statement and position chart for immediate classification of positions and administrative action. Thus, the Team lacked the authorization and documentation that BIA and Department guidance required.

## Appropriations Committees Not Notified

BIA's fiscal year 1993 appropriations act provides that any proposal to reorganize BIA shall not be implemented until (1) the Reorganization Task Force reviews it and recommends implementation to the Secretary and (2) the proposal has been submitted to the Appropriations Committees.

According to the staffs of the Subcommittees on Interior and Related Agencies, Senate and House Committees on Appropriations, the Committees were not notified in advance about the Team's creation. They advised us that they were concerned that (1) the Team was created outside established Department and BIA guidelines and (2) BIA's fiscal year 1994 budget submission did not disclose that the Team's funding and staff would be separate from OTFM.

The House Appropriations Committee addressed its concern in its report, Department of the Interior and Related Agencies Appropriations Bill, 1994

<sup>2</sup>At the time of our review, this departmental review function was assigned to three staff members in the Department's Office of Information Resources Management.

(Report 103-158). The report states that the Committee did not intend that funds provided for financial trust management should be used to fund the Team unless it was incorporated into and reported to the Director of OTFM. The Committee noted that it saw no convincing reason for creating a separate entity outside of OTFM and that the appropriations act's consultation provisions had not been met. The Committee requested that BIA abolish the Team and report back on the Team's status by August 13, 1993. A Senate Appropriations Committee staff member told us that the Senate Committee concurred with the House request that BIA abolish the Team and report on specific actions taken.

The Department's Director of Budget told us that the budget staff did not notify the Appropriations Committees about the Team because they were not aware that a new organization had been created and they had received no indications from BIA that the Appropriations Committees should be notified of a reprogramming. The Budget Director also told us that, as a general rule, when changes in lower level organizations such as the Team are not specifically identified as part of the organization chart in the budget, or Departmental Manual changes are not proposed, the Appropriations Committees are not generally notified.

## Reorganization Task Force and ITMA Not Consulted

As mentioned in the previous section, BIA's fiscal year 1993 appropriations act provided that BIA should consult with and obtain the views of the Reorganization Task Force and advise the Appropriations Committees of this consultation before implementing a reorganization proposal.

In a May 12, 1993, letter to the Secretary of the Interior, the Task Force stated that it was not consulted about the creation of the Team. In addition, BIA and Department officials we contacted concurred that BIA had not followed this requirement.

The appropriations act does not provide that BIA consult with ITMA. While ITMA was informed of the Team's creation, it had not been consulted and was not aware that the Team was to be separate from OTFM. ITMA was concerned about the impact that this organizational change would have on the trust fund accounts reconciliation effort, which ITMA has monitored since at least September 1990. ITMA wrote the Department on May 5, 1993, regarding its concerns.



## Investigation of Circumstances Surrounding Creation of the Team

Department and BIA officials told us that they became aware of the magnitude of the procedural problems associated with the Team's creation when the issue was raised by the House Appropriations Committee, Subcommittee on Interior and Related Agencies, during the April 21, 1993, hearing on BIA's fiscal year 1994 budget request and again at the June 22, 1993, Senate Committee on Indian Affairs hearing on S. 925, the Native American Trust Fund Management Reform Act of 1993. Subsequently, Department and BIA management reviewed the established guidelines pertaining to organizational changes within the Department and BIA and the actions taken to create the Team and concluded that the guidelines had not been followed when the Team was created.

On July 8, 1993, we met with the Acting Deputy Commissioner, Indian Affairs, who was appointed in May 1993, and Department Solicitor's Office attorneys. These officials said that they believed that Department guidelines had not been followed because the Team's creation was considered a management initiative and not a reorganization. However, our analysis showed that the Department and BIA manuals state that the guidelines apply to any organizational change, not just reorganizations. The Acting Deputy Commissioner stated that he believed that these guidelines should have been followed.

Department officials involved in the review process for establishing the Team told us that they believed that the Team was to have been a small staff within, and paid for by, the Deputy Commissioner's office. As a result, they felt that a memorandum to establish the small staff was sufficient. Department officials also told us that they were unaware of Part 5 BIAM provisions which state that special projects staffs expected to operate for over 1 year are considered permanent and that publication of the related organization structure in the Departmental Manual is required.

Department officials also stated that they did not know that the Team was to be staffed and funded from OTFM resources and thus had not taken this information into consideration when advising BIA on whether the Team should be established by memorandum. Further, they said they were unaware that the Reorganization Task Force had not been notified about the Team's creation. On August 27, 1993, the former Deputy Assistant Secretary, Indian Affairs, told us that when the former Deputy Commissioner created the Team, there was no intention of it becoming a separate office. However, he acknowledged that after that time, the Team took on the appearance of a separate office.

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The Department views the actions that managers took to create the Team as a procedural misunderstanding not requiring disciplinary action. Also, because the departmental office charged with responsibility for reviewing organizational changes had been abolished prior to the Team's creation, there was no final departmental review. For the most part, Department and BIA officials initially involved in the Team's creation are no longer in the same positions of authority due to the abolishment of the Department's Office of Management Improvement and staffing changes resulting from the new administration.

On August 2, 1993, the Acting Deputy Commissioner, Indian Affairs, notified the Special Assistant for the Special Projects Team that, effective immediately, he had returned the Team's functions to OTFM and detailed the Special Assistant and the Project Assistant to OTFM and that these officials were to report to the OTFM Director. However, this action will not be finalized until OTFM's Part 130 DM is revised and approved. With respect to the House Appropriations Committee's request that BIA notify the Committee on the status of the Team by August 13, 1993, a BIA official told us that BIA plans to report to the House and Senate Appropriations Committees on the status of the Team when they meet in conference on the Department's fiscal year 1994 appropriations.

On August 26, 1993, the OTFM Director told us that he was revising the OTFM organization chart for the Departmental Manual to include a Management Improvement Staff responsible for prior year trust fund account reconciliations. He also told us that such a staff would be useful on a continuing basis to handle future OTFM management initiatives in addition to the trust fund account reconciliations.

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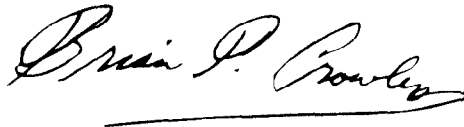
We are sending copies of this report to the Secretary of the Interior; the Assistant Secretary for Policy, Management, and Budget; the Assistant Secretary, Indian Affairs; the Acting Deputy Commissioner, Indian Affairs; the Chairmen and Ranking Minority Members of the cognizant

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Appropriations and Oversight Committees; the Director of the Office of Management and Budget; and other interested parties.

Please contact me at (202) 512-9450 if you or your staff have any questions concerning this report. Major contributors to this report are listed in appendix II.

Sincerely yours,

A handwritten signature in cursive script that reads "Brian P. Crowley". The signature is written in black ink and is positioned above a horizontal line.

Brian P. Crowley  
Director of Planning and Reporting

# Officials Involved in Creating the Special Projects Team

**Officials involved in the review and approval process**
**Current position**
**Department**

Assistant Secretary, Policy, Management, and Budget	Left Department
Principal Deputy Assistant Secretary, Policy, Management, and Budget	Same
Staff Assistant to the Principal Deputy Assistant Secretary, Policy, Management, and Budget	Chief, Drug Program Coordination Staff
Director, Office of Management Improvement <sup>a</sup>	Acting Director, Office of Construction Management
Chief, Organization and Operations Analysis, Office of Management Improvement <sup>a</sup>	Supervisory Management Analyst, Office of Information and Resources Management
Deputy Assistant Secretary, Indian Affairs	Deputy Director, Office of Policy Analysis

**BIA**

Deputy Commissioner, Indian Affairs	Left BIA
Acting Deputy Commissioner, Indian Affairs	Area Director, Portland Area Office
Assistant Director, Financial Management, Office of Management and Administration (Temporary Acting Deputy Commissioner, Indian Affairs)	Same

<sup>a</sup>This office was abolished on October 8, 1992.

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# Major Contributors to This Report

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**Accounting and  
Information  
Management Division,  
Washington, D.C.**

Gayle L. Condon, Assistant Director  
Robert W. Wagner, Jr., Audit Manager

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**Office of General  
Counsel**

Thomas H. Armstrong, Assistant General Counsel



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