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General Accounting Office
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Accounting and Information
Management Division

B-256953

April 25, 1994

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

Dear Mr. Chairman:

As you are aware, the House Appropriations Committee, Subcommittee on Interior and Related Agencies, has asked us to monitor the status of the Bureau of Indian Affairs' (BIA) trust fund reconciliation and certification project and its efforts to correct long-standing trust fund management weaknesses. This letter responds to your request that we keep you informed of BIA's efforts in these areas.

On April 12, 1994, we testified before the House Appropriations Committee, Subcommittee on Interior and Related Agencies, on the status of BIA's efforts to reconcile Indian trust fund accounts and implement management improvements. That testimony (GAO/T-AIMD-94-99), which is enclosed, summarizes the status and our assessment of BIA's efforts. It also contains recommendations for fundamental changes we believe are essential to ensuring effective management of the Indian trust funds.

In summary, we testified that BIA is continuing its efforts to reconcile Indian trust fund accounts and obtain an independent certification on the results. After 3 years, BIA's reconciliation contractor has nearly completed work on the first of eight major tribal and systems reconciliation tasks and a certification contractor is on board. However, while BIA has taken some initial steps toward needed improvements, overall progress has been slow and BIA has not yet addressed many critical, long-standing trust fund management problems that have impeded BIA's ability to maintain proper control and accountability over trust fund accounts.

As we have testified and reported to you in the past, BIA's financial management problems permeate virtually every one of its principal accounting systems. 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. Tribes and individual Indians continue to express concern about the accuracy of BIA's accounting for trust receipts and disbursements and the effectiveness of BIA's investment practices.

In his December 1993 Federal Managers' Financial Integrity Act report, the Secretary of the Interior listed BIA programs, including its trust fund financial management systems and controls, as one of Interior's two high-risk areas. The report stated that due to the lack of effective internal controls and reliable systems and the fact that the trust funds have never been reconciled, the account balances lack credibility. Past audits and our current work on BIA's trust funds management continue to show (1) the lack of a strategic plan to guide trust fund management in the future, (2) inadequate staffing and training, (3) a lack of consistent, written trust fund management policies and procedures, including policies and procedures to prevent and detect losses, and (4) inadequate systems for ensuring reliable accounting and reporting.

Our testimony included a number of recommendations aimed at ensuring better control and accountability over the Indian trust funds. Specifically, we recommended that the Secretary of the Interior direct the Bureau of Land Management, the Minerals Management Service, and BIA to develop a comprehensive strategic plan for Indian Trust Fund Management. Also, we continue to believe, as recommended in our May 1991¹ testimony before your Subcommittee and our June 1992² report

¹"Bureau of Indian Affairs' Efforts to Reconcile, Audit, and Manage the Indian Trust Funds" before the House Committee on Government Operations, Subcommittee on Environment, Energy, and Natural Resources, (GAO/T-AFMD-91-6, May 20, 1991).

²Financial Management: BIA Has Made Limited Progress in Reconciling Trust Accounts and Developing a Strategic Plan, (GAO/AFMD-92-38, June 18, 1992).

to you, that BIA should develop a strategic financial management plan for improving Indian trust fund operations.

In addition, we recommended that the Secretary of the Interior direct the Assistant Secretary for Indian Affairs to

- Develop reconciliation procedures which provide reasonable assurance that earned revenues were billed and collected and use this information to develop an accounts receivable system. BIA's current reconciliation approach, which includes reconciling receipts to leases, does not provide such assurance nor does BIA have an accounts receivable system.
- Expeditiously implement three recently approved Office of Trust Funds Management (OTFM) initiatives: (1) an OTFM staffing and organization plan, (2) a plan to lease an interim trust fund general ledger and investment system until a comprehensive systems plan can be developed, and (3) authorization for investment advisor and custodial services. Prior to Interior's approval on April 4, 1994, OTFM's staffing and organization plan, which was supported by the results of a workload and staffing analysis recommended in our June 1992 report, had been on hold for 2 years. Our June 1992 report also recommended that BIA review its current systems to determine whether systems modifications will most efficiently bring about needed improvements or whether alternatives should be considered, including cross-servicing arrangements, contracting for ADP services, or new systems design and development. While BIA has not yet performed a systems study, it is important that it contract for an interim tribal general ledger and investment system, until a comprehensive systems plan is developed. It is also important that BIA obtain investment advisor and custodial services. Tribes have long been concerned that BIA is not prudently investing their funds.
- Place a priority on developing trust fund management policies and procedures. BIA currently has no effort underway to develop trust fund financial management policies and procedures, and it has not yet finalized its draft policies and procedures on how to prevent or detect and resolve losses to account holders. In January 1994, we

issued our official comments to BIA³ to assist OTFM in finalizing this draft. A copy of our January 1994 comments to BIA is enclosed. We believe our suggestions for finalizing the draft will significantly improve BIA's policies and procedures for preventing or identifying and resolving losses until BIA has adequate systems and controls in place. However, as discussed in our testimony, BIA has not yet addressed our suggestions on its draft loss policy. It also stated that BIA has not yet provided the \$3 million appropriated for fiscal year 1994 to OTFM for repayment of losses to account holders.

On April 15, 1994, we met with your Subcommittee staff to discuss the status of BIA's trust fund reconciliation and management improvement efforts. If you would like to further discuss these matters or the status of our current work for your Subcommittee to identify trust fund management improvement options, I can be reached at (202) 512-3406.

Sincerely yours,



George H. Stalcup
Associate Director,
Financial Integrity Issues

Enclosures - 2

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³BIA's Trust Fund Loss Policy (GAO/AIMD-94-59R, January 14, 1994).

GAO**Testimony**

Before the Committee on Appropriations
Subcommittee on Interior and Related Agencies
House of Representatives

For Release on Delivery
Expected at
10:00 a.m.
Tuesday
April 12, 1994

**FINANCIAL
MANAGEMENT****Status of BIA's Efforts to
Reconcile Indian Trust Fund
Accounts and Implement
Management Improvements**

Statement of George H. Stalcup
Associate Director, Financial Integrity Issues
Accounting and Information Management Division





Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to be here today to discuss our work on the Bureau of Indian Affairs' (BIA) trust fund management. My statement today summarizes the status and our assessment of BIA's efforts to reconcile trust fund accounts and make needed trust fund management improvements. We are also making recommendations for fundamental changes we believe are essential to ensuring effective management of the Indian trust funds.

In summary, BIA is continuing its efforts to reconcile Indian trust fund accounts and obtain an independent certification on the results of the reconciliation. After 3 years, BIA's reconciliation contractor has nearly completed work on the first of eight major tribal reconciliation tasks and a certification contractor is on board. Additional actions needed to improve trust fund financial management were discussed in detail in our April 1991¹ and April 1992² testimonies and our June 1992 report³ to the Subcommittee. While BIA has taken some initial steps toward needed improvements, overall progress has been slow and BIA has not yet addressed many critical, long-standing trust fund management problems that have impeded BIA's ability to maintain proper control and accountability over trust fund accounts.

As we have testified in the past, BIA's financial management problems permeate virtually every one of its principal accounting systems. 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. Tribes and individual Indians continue to express concern about the accuracy of BIA's accounting for trust receipts and disbursements and the effectiveness of BIA's investment practices.

In its December 1993 Federal Managers' Financial Integrity Act report, Interior listed BIA programs, including its trust fund financial management systems and controls, as one of Interior's two high-risk areas. The report stated that due to the lack of

¹"Bureau of Indian Affairs' Efforts to Reconcile and Audit the Indian Trust Funds," before the House Committee on Appropriations, Subcommittee on Interior and Related Agencies (GAO/T-AFMD-91-2, April 11, 1991).

²"Financial Management: BIA Has Made Limited Progress in Reconciling Indian Trust Fund Accounts and Developing a Strategic Plan," before the House Committee on Appropriations, Subcommittee on Interior and Related Agencies (GAO/T-AFMD-92-6, April 2, 1992).

³Financial Management: BIA Has Made Limited Progress in Reconciling Trust Fund Accounts and Developing a Strategic Plan (GAO/AFMD-92-38, June 18, 1992).

effective internal controls and reliable systems and the fact that the trust funds have never been reconciled, the account balances lack credibility. Past audits and our current work on BIA's trust funds management continue to show (1) the lack of a strategic plan to guide trust fund management in the future, (2) inadequate staffing and training, (3) a lack of consistent, written trust fund management policies and procedures, and (4) inadequate systems for ensuring reliable accounting and reporting.

As a result of these findings, we are making a number of recommendations today aimed at ensuring better control and accountability over the Indian trust funds. In addition, in prior testimonies and our June 1992 report, we recommended that BIA develop a strategic financial management plan for improving Indian trust fund operations. We continue to believe that such a plan is needed.

BACKGROUND

The Secretary of the Interior is authorized by law to manage Tribal and Individual Indian Monies (IIM) Trust Funds. BIA, through its Office of Trust Funds Management (OTFM), is responsible for carrying out the government's fiduciary responsibility for ensuring that proper control and accountability are maintained over each trust account. The OTFM, located in Albuquerque, New Mexico, oversees trust fund operations at BIA's 12 Area Offices and 83 Agency Offices.

In fiscal year 1993, OTFM was responsible for managing and accounting for a reported \$2.1 billion in Indian trust funds, including \$1.7 billion for about 1,800 tribal accounts and \$390 million for nearly 327,000 IIM accounts. Fiscal year 1993 reported receipts totaled about \$870 million and disbursements totaled over \$526 million. The balances in the trust fund accounts have accumulated primarily from payments of claims; oil, gas, and coal royalties; land use agreements; and investment income.

BIA uses three major systems for trust fund accounting. They are (1) the Finance System, which is currently used to perform both tribal and general ledger trust fund accounting, (2) an investment system, which generates summaries of investment securities held on behalf of each tribe, and (3) the Integrated Resources Management System (IRMS), which provides subsidiary accounting for IIM accounts. In addition to IIM accounting information, the IRMS system has four other components, including (1) a Land Ownership data file, (2) a Lease master file, (3) a People file with account holder names, addresses, account numbers, and census data, and (4) subsidiary programs to distribute oil and gas royalties, which are also referred to as the Royalty Distribution and Reporting System.

OBJECTIVES, SCOPE, AND METHODOLOGY

Mr. Chairman, on August 20, 1990, you and Mr. Regula asked us to monitor and review BIA's multi-year effort to contract for and conduct trust fund account reconciliations and the certification of that effort. You also asked us to monitor and review BIA's efforts to correct its long-standing trust fund management problems. As I stated earlier, we testified before this Subcommittee on BIA's initial efforts to reconcile trust accounts and its interim plans for trust fund management improvements in April 1991 and again in April 1992, and we issued a report on BIA's progress in reconciling trust accounts and developing an overall strategic plan in June 1992.

We have continued to monitor and review BIA's efforts to reconcile and certify trust fund account balances and take needed corrective actions. Specifically, we have

- reviewed contract requirements, work plans, and status reports and monitored progress against agreed-upon milestones;
- met with BIA, OTFM, and contractor officials to discuss statuses, issues needing resolution, and plans for remaining work; and
- met with Inter-Tribal Monitoring Association and tribal representatives to determine if the reconciliation and certification procedures were meeting their needs.

We conducted our current work between March 1, 1993 and April 7, 1994 at BIA's headquarters in Washington, DC; its Office of Trust Funds Management in Albuquerque, New Mexico; and its Agency Offices at Hopi, Flathead, and Yakama. Our work was performed in accordance with generally accepted government auditing standards.

TRUST FUND RECONCILIATIONS AND THEIR CERTIFICATION

Until BIA's trust fund reconciliation project began in May 1991, BIA had never attempted to reconcile the Indian trust fund accounts. As a result, BIA has been unable to ensure that trust fund account balances are accurate. The objective of BIA's trust fund reconciliation project is to identify, to the extent practicable, correct account balances for the tribal and IIM accounts by using source documents to reconstruct trust account transactions so that account holders are provided as accurate an accounting as possible. In May 1991, BIA awarded a contract valued at \$12 million over a 5-year period to a major independent public accounting firm. Between May 1991 and March 1994, BIA modified the reconciliation contract 17 times, increasing total cost estimates to \$14.5 million. The modifications and cost increases were primarily a result of procedures BIA added to verify transactions

to original source documents, such as leases, because of account holder concerns that only verifying that transactions were recorded into the trust fund accounts would not ensure their accuracy against the source documents. As of March 31, 1994, BIA had obligated about \$11.4 million for the reconciliation contract. BIA's reconciliation contractor estimates that the reconciliation work will continue through September 1996.

In January 1992, BIA's reconciliation contractor, after an initial assessment period, provided BIA, congressional staff, and tribes and IIM account holders with a preliminary assessment of the feasibility of reconciling accounts to the earliest date practicable. In March 1992, the contractor reported that tribal accounts could probably be reconciled for periods where records are available. The contractor also reported that, due to the lack of supporting documentation and the level of effort and associated cost to review millions of transaction documents, it was not feasible to reconcile IIM accounts. Based on the contractor's report, BIA decided to proceed with tribal account reconciliations starting with 1992 and going back to 1973. BIA also decided to perform reconciliations between its investment and general ledger systems, between its general ledger system and U.S. Treasury balances, and between its IRMS system and Treasury balances. However, BIA decided to suspend the reconciliation of IIM accounts. In January 1993, BIA created a Work Group to study IIM account reconciliation alternatives. As of March 31, 1994, the IIM Work Group had developed alternatives and policy questions for presentation to Interior and BIA management. The Work Group also plans to obtain IIM account holder input as a basis for selecting IIM reconciliation approaches or alternatives.

The objective of the certification project, which began in October 1993, with a contract award of \$1.2 million to a second major independent public accounting firm, is to obtain independent verification of the reconciliation procedures and results. The certification work is to include a review of completed and in-process reconciliation work for consistency with contract requirements. In late March 1994, BIA's certification contractor officials told us that they had just requested a contract modification for \$235,000 to cover additional time required to obtain access to reconciliation work papers, documents, and reports to support its certification work in fiscal year 1994. Contractor officials also told us that they anticipate that a second modification for about \$1.2 million will be needed to cover work to be performed in fiscal year 1995. BIA has not yet reviewed or approved these modifications. If approved, the modifications will increase the certification contract funding to \$2.6 million. As of March 31, 1994, BIA had obligated about \$1.2 million for the certification contract. Completion of the certification work will depend primarily on when the reconciliation work is completed.

Newly Approved Staffing, System,
and Investment Initiatives

In March and April 1994, Interior management approved OTFM proposals for three trust fund management improvement initiatives: (1) an OTFM staffing and reorganization plan, (2) a plan to lease an interim trust fund general ledger and investment system until a comprehensive systems plan can be developed, and (3) authorization for investment advisor services. The staffing and reorganization plan was based on the results of a workload and staffing analysis recommended in our June 1992 report and concurred on by this Subcommittee. I would now like to highlight these new initiatives.

Staffing and reorganization. OTFM's staffing and reorganization plan, with the Appropriations Committees' approval of Interior's related reprogramming request, would allow OTFM to increase its staff from 50 filled positions at the end of February 1994 to 107 positions. OTFM also plans to fill the critical Accounting and Investment Division Chief positions, establish a core investment staff, and provide staffing for many trust fund management functions which are currently unstaffed. Prior to its approval on April 4, 1994, BIA's staffing and organization plan had been on hold for 2 years. Now that it has been approved, it is critical that BIA move quickly to implement the plan and provide staff for many critical, currently unstaffed functions.

BIA has other fundamental staffing problems which have not yet been addressed. Many of these problems were reported by an independent public accounting firm based on its fiscal years 1988, 1989, and 1990 financial statement audits, including the lack of minimum standards for key positions in the accounting process, inexperienced supervisors throughout BIA, and inadequate training. OTFM has taken steps to establish standards for key positions. However, there has been no similar effort at BIA's field office level. To ensure proper performance of trust management functions, we continue to stress the need for BIA to hire qualified staff to fill critical vacancies and ensure that its existing staff receive appropriate training.

Interim trust fund general ledger and investment system. In our June 1992 report, we recommended that BIA review its systems to determine whether modifications would bring about needed improvements or whether other alternatives should be considered, such as contracting for ADP services. In March 1994, Interior approved a BIA plan to lease an interim trust fund general ledger and investment system and OTFM began preparing a request for proposals. OTFM hopes to have a contractor selected by September 30, 1994, and a system in place by April 1995. The planned system is to provide timely reports to management, periodic statements to account holders,

and the capability to project investment yields to support investment decisions.

Investment advisor services. To address account holder concerns about BIA's ability to maximize returns on investment of trust fund balances, OTFM plans to contract for investment advisor and custodian services. Investment advisor services would include an analysis of investment portfolios to determine the best methods of investment. Custodian services would include settling trades, safekeeping of investment securities, and tracking investments between BIA and investment institutions. OTFM has begun to obtain account holder input on this initiative.

The above actions represent important initial steps in addressing staffing, systems, and investment problems within BIA. Expedient implementation of these initiatives is critical for BIA to begin achieving its goals of trust fund management improvement.

Distribution of Funds

In the past, BIA has been criticized for delays in disbursing interest earned on oil and gas royalties to tribes and for delays in restoring losses to account holders that resulted from Treasury's mass check cancellation program. In March 1993, OTFM distributed interest on Minerals Management Service (MMS) oil and gas collections totaling about \$684 million, which had not been distributed to account holders since 1985, to all but the Navajo Tribe. Navajo funds will be distributed pending approval by Navajo legal counsel, which is still reviewing OTFM's methodology for interest calculations.

In addition, as of March 31, 1994, OTFM had restored \$67,000 to tribes and \$278,251 to IIM account holders. These monies had been lost as a result of Treasury's mass check cancellation program under the limited payability provisions of Public Law 100-86, the Competitive Equality Banking Act of 1987. OTFM has also created a \$500,000 fund to cover potential future claims from account holders.

PROBLEMS THAT STILL NEED TO BE ADDRESSED

Despite the initial improvement steps discussed above, we have a number of concerns related to trust fund reconciliations and needed management improvements. Problems which we believe still need to be addressed include limitations in the reconciliation scope and the need to correct serious, long-standing trust fund management problems. These problems include the continuing lack of a strategic plan to guide trust fund management improvement efforts; inadequate numbers of staff and a need for skilled accounting and investment staff; a lack of consistent, written trust fund

management policies and procedures; inadequate systems, and a lack of internal controls to prevent losses.

Limitations in Reconciliation Scope

We have identified two major areas of concern regarding the scope of the trust fund reconciliation and certification projects. First, while the "fill the gap" procedures provide greater assurance that account balances are accurate than the original reconciliation approach, we are concerned that the special procedures will not provide adequate assurance that all revenues have been billed, collected, and properly recorded and distributed. This is because BIA's reconciliation contractor is validating receipt documents to their respective leases rather than working from the leases to ensure all revenues were billed and collected. To do so, the contractor would need to identify billable items in the leases and determine if the revenues had been billed and collected. In addition to providing better assurance that account holders received the income they are owed, this approach could form the basis for establishing an accounts receivable system, which BIA does not currently have.

Second, we are concerned that even if IIM accounts are included in the reconciliation effort and agreements are reached on IIM account balances, IIM accounting will continue to be problematic, in part because of accounting complexities related to fractionated ownerships. Under BIA's current practices, fractionated ownerships, which result from inheritances, will continue to complicate accounting and reconciliation efforts because of the increasing number of accounts BIA will need to maintain. As discussed in our February 1992⁴ and June 1992 reports, maintaining these accounts, some with transactions involving only a fraction of a penny, is very costly.

Need for a Strategic Plan for Trust Fund Management Improvement

BIA has not yet developed a comprehensive plan for improving trust fund management. In addition, Interior does not have a comprehensive strategic plan for carrying out the Secretary's trust responsibilities which are implemented through the Bureau of Land Management (BLM), MMS, and BIA. In several previous testimonies, and in our June 1992 report, we emphasized the need for such a plan. We stated that Interior and BIA needed to reevaluate key program objectives and rethink the basic concepts underlying trust funds management, including the Secretary's fiduciary responsibility and the wishes of tribes and Indians under self-

⁴Indian Programs: Profile of Land Ownership at 12 Reservations (GAO/RCED-92-96BR, February 10, 1992).

determination initiatives. In response to recommendations made in our testimony before this Subcommittee in April 1991, BIA's former Assistant Secretary stated that corrective action would include development of a comprehensive strategic plan for trust fund financial management improvement, but a plan has still not been prepared. Until such a plan is in place and the three Interior agencies improve their coordination on lease management and royalty collections and accounting, Indian trust fund operations will continue to experience serious financial management problems. A strategic plan is essential to providing a framework for addressing BIA's fundamental trust fund management problems.

Improper Accounting Practices

BIA's trust fund accounting continues to be unreliable because of improper accounting practices due to the lack of consistent, written trust fund policies and procedures. We have previously reported this problem to the Subcommittee. Because it lacked consistent, written policies, we found that BIA's 12 Area Offices and its 83 Agency Offices follow different, and often improper, accounting practices. For example, BIA's field offices follow different procedures to post receipts and calculate and distribute revenue to account holders. Some lease income distributions are accounted for as transfers, while others are posted as collections. This distorts transaction activity data and account balances and hinders reconciliation efforts.

The unreconciled accounts are only a symptom and not a cause of BIA's trust fund financial management problems. Even if BIA were to fully reconcile trust fund accounts, new discrepancies will undoubtedly continue to arise because of BIA's improper accounting practices. Until BIA resolves these problems, it will continue to revisit the issue of unreconciled accounts.

Inadequate Systems

Despite numerous modifications, each of BIA's three major trust fund accounting systems is inadequate because they do not provide reliable data or useful reports. For example, BIA's systems are not capable of routinely providing useful management reports. We found that BIA must research data from each of its three major systems just to compile year-end balances for tribes, IIM accounts, and trust fund totals. We also found that BIA's IRMS system cannot provide reports on the total number of IIM accounts, transactions, or balances by management categories such as automatic payments or controlled accounts. In addition, because data is not maintained in sufficient detail in BIA's system to distinguish tribal accounts from other accounts, BIA and its reconciliation contractor are having difficulty reconciling tribal account data to Treasury balances.

Our June 1992 report recommended that the Secretary direct the Assistant Secretary for Indian Affairs to review BIA's current systems to determine whether systems modifications would be the most efficient means of bringing about needed improvements or whether alternatives should be considered, such as cross-servicing arrangements, contracting for ADP services, or designing and developing new systems. However, BIA has not yet performed such a review. Further, it does not have the in-house trust systems and information resource management capabilities to do so. While BIA's interim plan to lease a trust fund general ledger and investment system is a step in the right direction, the data processed by the new system will continue to be unreliable if BIA does not also correct its improper accounting practices and establish consistent, written policies and procedures. In addition, the interim plan does not address problems with BIA's IRMS system, which handles IIM accounting, lease information used for billing purposes, and royalty income distributions. Until problems with BIA's trust fund accounting practices and systems are addressed, data generated by the new, leased system will still be unreliable.

Controls Do Not Protect Against Losses

In 1991, as a result of congressional oversight hearings, BIA was asked to develop policies and procedures to prevent or detect and correct losses occurring to Indian trust fund accounts. In January 1994, we issued⁵ our official comments to BIA to assist OTFM in finalizing its draft Policy and Procedures on Indian Trust Fund Account Losses. We believe our suggestions for finalizing BIA's draft will provide significant improvements to BIA's procedures for preventing or identifying and resolving losses until BIA has adequate systems and controls in place. BIA has not yet addressed our suggestions on its draft loss policy. In addition, BIA has not placed a priority on developing overall trust fund management policies and procedures. Lack of consistent, written trust fund management policies and procedures continues to be a serious material internal control weakness.

As of February 28, 1994, BIA had reduced the amount of losses owed to account holders from about \$11 million to \$7 million. BIA received a total of \$6 million in fiscal years 1993 and 1994 appropriations to repay losses to account holders. OTFM has repaid \$2.9 million in losses from the fiscal year 1993 appropriation and has made \$1.1 million in adjustments which further reduced the loss balance. BIA has not yet provided the \$3 million appropriated for fiscal year 1994 to OTFM for repayment of losses to account holders.

⁵BIA's Trust Fund Loss Policy (GAO/AIMD-94-59R, January 14, 1994).

CONCLUSIONS

Interior and BIA have not ensured that proper control and accountability are maintained over each Indian trust account. We believe that BIA's reconciliation and certification effort is an important step. However, current procedures do not provide adequate assurance that all revenues are collected and BIA has not yet developed an approach to reconciling IIM accounts. In addition, as we and others have pointed out numerous times in the past, it is critical that BIA also address its long-standing trust fund management problems which continue to impede management of leased assets, revenue collection, accurate accounting and reporting, and prudent investments. This will require that Interior and BIA reevaluate key program objectives and rethink the basic concepts underlying trust funds management, including the Secretary's fiduciary responsibility and the wishes of tribes and Indians under self-determination initiatives. To date, Interior and BIA have not reevaluated trust funds management, and they have not developed a strategic plan for improving trust fund-related operations. Meanwhile, BIA continues to operate in an environment that precludes it from maintaining the control and accountability necessary to properly carry out its trust responsibilities, including use of unreliable systems, the lack of an accounts receivable system, an inadequate number of trained accounting staff, and the lack of policies and procedures to guide trust fund management.

RECOMMENDATIONS

We recommend that the Secretary of the Interior direct the Assistant Secretary for Indian Affairs to improve BIA's trust fund reconciliation and certification effort by

- developing reconciliation procedures which provide reasonable assurance that earned revenues were billed and collected, such as using leases to identify billable amounts and then tracing these amounts to receipts;
- using billing data identified from leases under BIA's revised reconciliation procedures on revenue collections as a basis for developing an accounts receivable system; and
- obtaining account holder comments on alternatives to reconciling IIM accounts for the purpose of selecting the most viable alternative.

We also recommend that the Secretary of the Interior direct the Assistant Secretary for Indian Affairs to implement OTFM's approved plans for staffing and organization, an interim trust fund system, and investment services by

- expediting OTFM's hiring process,

- expeditiously issuing OTFM's solicitations to potential vendors for trust fund system proposals so that a vendor is selected by September 30, 1994, as planned, and
- obtaining account holder input on investment advisors that BIA plans to select.

In our April 1991 testimony, we recommended that the Secretary of the Interior direct the Assistant Secretary for Indian Affairs to develop policies and procedures to ensure that balances remain accurate once the accounts are reconciled. BIA has not yet developed trust fund management policies and procedures and we continue to believe that they are critical. We further recommend that the Secretary of the Interior direct BIA to initiate efforts to develop complete and consistent, written trust fund management policies and procedures and place a priority on their issuance.

In our May 1991 and April 1992 testimonies, we recommended that BIA develop a strategic financial management plan for improving Indian trust fund operations. Our June 1992 report further recommended that BIA assess the mission of the Office of Trust Funds Management and conduct a review of the entire trust fund operation, including functions performed by other organizations, in order to determine how and by whom Indian trust funds can best be managed. We continue to believe that such a plan is fundamental to needed improvements. We further recommend that the Secretary of the Interior direct BLM, MMS, and BIA to develop a comprehensive strategic plan for Indian Trust Fund Management, including lease management and enforcement, royalty collection and accounting, development of policies and procedures, and systems and information resource management planning.

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

STATUS OF BIA'S MAJOR RECONCILIATION
CERTIFICATION TASKS

BIA's trust fund reconciliation project and the related certification work are being managed by eight major tasks, which cover detailed transaction reconciliations; additional audit procedures covering analytical procedures and internal control reviews for selected tribes, an analysis of receipts to leases, and an analysis of tribal accounts handled by BIA's IRMS system which is used for IIM accounting; and reconciliations of balances between BIA's investment and general ledger systems and between BIA's tribal and IIM system data and Treasury balances. In addition, BIA has begun to develop alternatives for reconciling IIM accounts. Information on the major reconciliation tasks and their status follows.

Reconciliation of Treasury Tribal Award and Income Accounts. This segment of the reconciliation includes reconstructing all posted transactions by tracing them to source documents, such as deposit tickets, disbursement vouchers, and journal vouchers. As of February 15, 1994, BIA's contractor reported that the reconciliation of about 89 percent of BIA's 218,292 identified non-investment, tribal award and income account transactions⁶ totaling about \$14.6 million for fiscal years 1973 through 1992 had been completed. As of March 31, 1994, BIA's reconciliation contractor had forwarded 786 exceptions, along with recommended resolutions, to BIA for review and approval. BIA does not plan to reconcile the remaining 11 percent of the transactions because the reconciliation of 89 percent of these accounts identified a probable error rate of only .01 percent. BIA's certification contractor plans to sample the reconciled transactions and review all exceptions and proposed adjustments to the tribal accounts. The remaining reconciliation work involves resolution of the identified exceptions.

An issue which could impact the completion date is the potential need for BIA's reconciliation contractor to reverify the posting dates for about 31,000 transactions related to Minerals Management Service (MMS) royalty collections for BIA. BIA originally instructed its contractor to use the MMS receipt date, but is now considering whether it would be more appropriate to use the date BIA received the royalty payments from MMS because BIA cannot invest the monies until they are in a BIA account. If the BIA receipt date is used, the reconciliation contractor will have to reverify the 31,000 transactions.

⁶These transactions include receipts from judgment awards resulting from claims and income from land use agreements, such as lease income and grazing receipts.

Investment Analysis. This task includes certain analytical procedures and a yield analysis. The objectives of the investment analysis are to ensure that (1) all tribal funds were invested, (2) investment balances are properly reflected for each account, (3) interest earnings were properly posted, and (4) any uninvested funds are identified so that unearned interest can be calculated. BIA's certification contractor plans to test the reconciliation contractor's investment analysis formula and to also test the proposed adjustments. The target dates for completing the reconciliation and certification work are yet to be determined.

The Special Procedures Review for Five Tribes.⁷ This effort includes performing agreed-upon audit procedures at each of the 5 tribes on a pilot basis to address additional internal control issues. BIA is preparing a Memoranda of Understanding (MOU) for each tribe to cover the agreed-upon procedures. Our review of the three approved MOUs showed that their agreed upon procedures cover timeliness of payments and deposits, internal control reviews, and analyses of processes and reconciliation results. Examples of pilot work to be done for the individual tribes include analyzing timeliness of payments and deposits and a review of special deposit accounts.

BIA's reconciliation contractor began special procedures work for the five tribes in July 1993, and has completed field work for the Yakama Nation and the Hopi Tribe. Results of the reviews were provided to the tribes but, as of March 31, 1994, they had not commented on the contractor's preliminary findings. Work for the Confederated Salish and Kootenai Tribes is targeted for completion in late April 1994. BIA and its reconciliation contractor have not established target dates for completing work for the remaining two tribes.

BIA's certification contractor plans to review and reconstruct the reconciliation work at all five tribes as the work is completed. BIA plans to use the results of the pilot work at the five tribes to determine whether additional reconciliation work should be performed for the remaining tribes.

Reconciliations of Tribal IIM and Special Deposit Accounts. This initiative includes a reconciliation of the five pilot tribes' funds, which have flowed through special deposit accounts and have

⁷The five tribes agreeing to participate in the pilot procedures are (1) the Assiniboine and Sioux Tribes of Fort Peck, Montana; (2) the Confederated Salish-Kootenai of Flathead, Montana; (3) the Confederated Tribes of the Yakama Nation, Washington; (4) the Hopi Tribe of Arizona, and (5) the Three Affiliated Tribes of Fort Berthold, North Dakota.



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

Accounting and Information
Management Division

B-247216

January 14, 1994

Mr. Wyman Babby
Acting Deputy Commissioner
of Indian Affairs
Department of the Interior

Dear Mr. Babby:

At the request of the Chairman, Subcommittee on Environment, Energy, and Natural Resources, House Committee on Government Operations, and the Chairman, Subcommittee on Interior and Related Agencies, House Committee on Appropriations, we are reviewing the Bureau of Indian Affairs' (BIA) efforts to reconcile its trust fund accounts and develop a strategic plan for trust fund management improvements. Since our work to date has included a review of BIA's draft policy and procedures on Indian Trust Fund Account Losses, your staff asked us to comment on the September 24, 1993, draft policy and procedures. The purpose of this letter is to provide our detailed comments and suggestions.

OVERVIEW

In January 1992, we reported¹ that BIA's October 1991 draft loss policy was a good start, but that we believed it could be strengthened in three areas. First, the policy did not address the need for systems and procedures to prevent and detect losses, nor did it instruct BIA staff on how to resolve them if they do occur. Second, the policy did not address what constitutes sufficient documentation to establish the existence of a loss. Finally, the policy's definition of losses did not include interest that was earned but not credited to the appropriate account. While the

¹Letter to the Chairman, Subcommittee on Environment, Energy, and Natural Resources, House Committee on Government Operations, "BIA Reconciliation Monitoring" (GAO/AFMD-92-36R, January 13, 1992).

September 24, 1993, draft policy is an improvement, in terms of definitions and time frames, it does not fully address the above concerns.

Although the draft policy and procedures assigns managerial responsibilities to specified agency officials, it does not articulate the steps to detect, prevent, and resolve losses. We recognize that BIA's current trust fund systems do not provide a mechanism to help BIA identify losses. However, until a new system is available, BIA could implement appropriate management procedures to provide reasonable assurance that losses are prevented, or if they do occur, that the losses are promptly identified and resolved.

One area in which BIA could implement a manual process is accounts receivable. BIA does not currently have an automated accounts receivable system. As a result, it cannot identify partial payments, determine which accounts are uncollected, or determine the total trust fund accounts receivable balance. BIA could instruct field office billing clerks to develop a manual follow-up process using dated files to help track when collections are due. Billing clerks could then use the daily collections activity reports and compare them against the dated files to determine if all payments are being remitted in a timely manner.

With regard to the two remaining concerns, the appropriate sections of the draft policy and procedures could be expanded to (1) explain the documentation necessary to establish a loss and (2) include interest earned but not credited to the appropriate Individual Indian Money (IIM) account. These and other detailed comments on BIA's September 24, 1993, draft policy on Indian Trust Fund Account Losses are discussed below. Our suggestions for minor technical clarifications are presented in the enclosure.

TERMS AND DEFINITIONS

Section 1 of the draft policy sets out general policies and responsibilities and definitions for losses. This section does a better job of defining losses than earlier drafts. However, we are concerned that (1) IIM interest earned is not included as a reimbursable loss, (2) errors, such as failure to invest IIM funds, are considered losses, (3) interest is not owed account holders unless a disbursement is delayed for

30 days or more, and (4) non-reimbursable losses which result from actions beyond BIA's control are not defined.

Reimbursable Trust Fund Losses

Section 1.5 covers Reimbursable Trust Fund Losses. This section states that both principal and/or accrued interest is reimbursable for losses to Tribal and Alaska Native Entity Accounts, but that only the principal is reimbursable for losses to IIM accounts. The policy refers to Comptroller General Decision No. B-243029, dated March 25, 1991, as support for BIA's decision that interest to IIM is not reimbursable. However, this is a misinterpretation of the decision. The decision addresses the government's sovereign immunity from interest liability unless payment of interest is provided for in law. In this regard, 25 U.S.C. 162a states that the government shall invest and pay interest on tribal funds and that it may invest IIM funds. Therefore, the government is required to invest tribal funds and is liable for the lost opportunity to earn interest where tribal funds are not invested.

In the case of IIM accounts, the government is not required to invest IIM funds and, therefore, is not liable for lost opportunity where IIM funds are not invested. However, where IIM funds are invested and interest is earned, that interest belongs to the account holder; BIA is liable for failure to properly credit the interest to the account.² BIA recognized, in the last sentence of Section 1.5B in its February 26, 1993, draft of the loss policy, that it should reimburse IIM account holders for the interest that was earned on investments but not credited to their accounts. This provision addressed our earlier comment that BIA had neglected to recognize this obligation. This sentence was deleted from the September 24, 1993, draft. However, we believe the sentence should be restored.

²See 68 Comp. Gen. 600, 603 (1989).

Both Interior Solicitor³ and Comptroller General⁴ decisions have supported the position that interest which is earned on IIM funds which were invested should be credited to the IIM account holder.

Definition of Loss

We concur with the definition of loss added to Section 1.6, as follows.

"Only those losses attributable to Bureau error shall be governed by this part. A loss attributable to Bureau error is defined as 'that amount which, except for an erroneous payment, deposit, and/or disbursement to and/or from a trust fund account holder's account, would have been credited to and/or debited to and/or from the trust fund account holder's account, absent such error by the Bureau.'"

Section 1.6A includes "failure to invest IIM" as an error. Under 25 U.S.C. 162a, BIA is not required to invest IIM and, therefore, this is not a loss that BIA is liable for. BIA is liable only for failure to properly credit interest actually earned on IIM accounts. Therefore, we suggest that BIA revise this section to address "failure to properly credit interest earned on IIM accounts."

We agree with the changes to Section 1.6B, which now reads, "(f)ailure to fully recover funds which were invested beyond the scope of statutory authority, or without full collateral or insured principal and interest as mandated by 25 U.S.C. 162a." This change is an improvement from the February 26, 1993, draft policy because it more clearly recognizes BIA's responsibility to recover losses due to investments over insured levels.

Section 1.6D defines delay as 30 days or more between the time funds are withdrawn from Treasury and the time they are

³BIA.IA.0339, Opinion Regarding Trust Fund Losses, May 2, 1990.

⁴See footnote 2.

disbursed to the account holder. It is not clear why a 30-day period is needed to issue a check to an account holder or why the account holder would not be owed interest for such a long period. Normal banking procedures take no more than 3 to 5 business days for checks to be issued and received by account holders. Therefore, we suggest that BIA consider reducing the 30-day period.

The rewrite of Section 1.6F, which covers loss of interest due to failure to invest trust funds, is much clearer than the earlier version. However, we suggest that BIA make the language specific to the "failure to invest tribal funds," since BIA is liable for lost opportunity on tribal funds, but not for lost opportunity on IIM funds.

Non-Reimbursable Trust Fund Losses

Section 1.7 states that "Trust fund losses which result from conditions and actions beyond the jurisdiction and/or control of the Bureau of Indian Affairs, provided the Bureau has acted in good faith in the exercise and discharge of its fiduciary duties and obligations as a prudent fiduciary shall be considered to be non-reimbursable." We believe the phrase "as a prudent fiduciary" is redundant and could be eliminated. Further, the policy does not define the conditions beyond BIA's control. As a result, we cannot comment on whether "such conditions and actions" would be reimbursable. We suggest that BIA identify examples of conditions outside its control in the loss policy.

NOTIFICATION AND DOCUMENTATION

Section 2 identifies officials responsible for notification of losses and time frames for notification and calculation of losses. This section, however, does not fully explain the process for (1) identifying errors, losses, or overpayments, (2) notifying the appropriate officials and account holders of losses in a timely manner, (3) documenting the existence and amounts of losses, and (4) resolving losses. Section 1.4B assigns to a Loss Claims Officer the responsibility for gathering documentation of a loss, but neither it nor Section 2 offers any guidance as to the type or quality of documentation that would be needed to establish a loss.

We previously reported⁵ that BIA's loss policy did not address the need for systems and procedures to prevent and detect losses or instruct BIA staff on how to resolve errors if they occurred. We also reported that BIA needs a systematic control process to provide reasonable assurance that errors are prevented and to identify and correct losses, if they occur. In addition, we stated that the loss policy did not describe BIA's policies and procedures for providing reasonable assurance that overpayments are prevented and for identifying and resolving overpayments, should they occur.

Absent a systematic process for preventing losses or identifying them, if they occur, it is not clear how the losses would come to the attention of BIA's Area and Agency Office staff unless they were notified by an account holder. As discussed above, until a new trust fund accounting system is in place, BIA could implement appropriate management procedures to provide reasonable assurance that losses are prevented, or if they do occur, that losses are promptly identified and resolved.

Section 2 was revised to cover a "potential loss and overpayment" in addition to a "loss," which is defined as a Bureau "error" in Section 1.6. However, potential loss and overpayment are not defined. In addition, this section does not describe the documentation necessary to establish either the existence or amount of a loss, potential loss, overpayment, or error. The section only indicates that losses will be identified as they come to the attention of Agency and Area Office staff. We suggest that BIA describe the documentation necessary to establish that a loss has occurred and that it define, in addition to loss, potential loss, error, and overpayment in the policy.

Time Frames for Notification and Documentation

Sections 2.2A and 2.2B establish next day time frames for chain of command notifications of losses from Agency Offices to Area Offices and to the Office of Trust Funds Management (OTFM). However, the type of documentation needed for notification is not described. We suggest that BIA identify

⁵See footnote 1.

the types of documentation needed for notification and calculation of losses in the appropriate categories of Section 2.

The time frames set forth in Section 2.3 for various types of accounts and notifications are confusing and inconsistent. For example:

- Section 2.3 establishes a 30-day period for the cognizant Area Office Director to compute the "Amount of Error and/or Loss/Overpayment" and forward the computation to OTFM.
- Section 2.3A (1) requires the Area Office Director to notify OTFM within 15 days of losses or overpayments for Tribal and Alaska Native Accounts, which cannot be corrected in the months in which they occurred.
- Section 2.3A (2) provides no specific time frame for computing or reporting losses on IIM accounts.
- Section 2.3A (3) states that within 15 working days of the discovery of the loss or potential loss, the cognizant Area Office Director shall forward to OTFM all copies of background materials and documentation supporting the loss calculation.

Section 2.3A (3) suggests that the Area Office Director would forward all documentation used for the loss calculation to OTFM within 15 days, but Section 2.3 allows the Area Office Director 30 days for calculating the amount of the loss. Also, no date is specified for providing documentation for IIM accounts. We suggest that BIA reconsider the stated time frames and also include a time frame for reporting and calculating IIM losses in the policy.

Further, the reason for the difference in time frames in Section 2 for notifying Agency Offices and account holders is not apparent. For example, Section 2.7 allows an Area Office Director 1 working day to notify the relevant Agency Office Superintendent of OTFM's decision, but Section 2.8 allows 15 days for the Area Office Director to provide written notification to the account holder.

In addition, while Section 2.8 lists the type of information, including background information explaining the circumstances concerning how the loss occurred, that is to be provided with notifications to account holders, it is not clear whether actual supporting documentation will be provided, or made available upon request, to the account holder. BIA may want to consider giving an account holder the opportunity to review and comment on BIA's documentation for a loss before making a final decision. If BIA decides to do this, we suggest that BIA revise the loss policy accordingly.

Known Amount of Loss/Error/Overpayment

This section recognized that accrued interest shall be computed for tribal and Alaska Native account losses. Section 2.3A (2) states that no loss of interest on IIM accounts will be recorded as obligations of the United States. As stated above, the language regarding IIM accounts is incorrect. This section should be corrected to state that where IIM funds were invested and interest was earned, the interest is an obligation of the United States to the account holder.

Pending Decisions Due to Ongoing Analysis

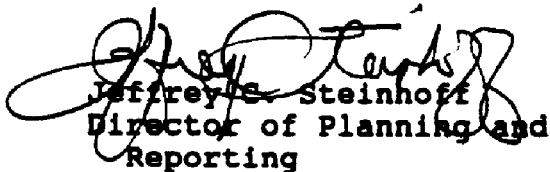
Section 2.6B calls for adequate documentation for determining that losses have occurred to be furnished to OTFM within 60 days. However, it is not clear why furnishing this documentation should take 60 days, what constitutes adequate documentation, or when the analysis is to be completed. Further, the time frame of 60 days appears to be inconsistent with Section 2.3, which calls for such documentation to be provided within 30 days.

In addition, this section does not include procedures for account holders to respond to and comment on BIA's decisions, such as determining the existence of a loss, amount of loss, and proposed resolution. As stated above, BIA may want to provide documentation of its calculations to the account holder. This would enable the account holder to review the documentation and provide comments to BIA before it makes a final determination. If BIA concurs with our suggestion regarding provision of documentation on loss calculations to account holders, we suggest this section be revised accordingly.

B-247216

Thank you for the opportunity to comment on BIA's draft policy for Indian Trust Fund Account Losses. Should you have any questions about our comments, please contact Gayle Condon, Assistant Director, Civil Audits, at (202) 512-9577 or Tom Armstrong, Assistant General Counsel, at (202) 512-5644. We appreciate the opportunity to provide input as new trust fund policies and procedures are being developed as well as the continuing cooperation of your staff as we conduct our review.

Sincerely yours,


Jeffrey S. Steinhoff
Director of Planning and
Reporting

ENCLOSURE

ENCLOSURE

MINOR TECHNICAL CLARIFICATIONS

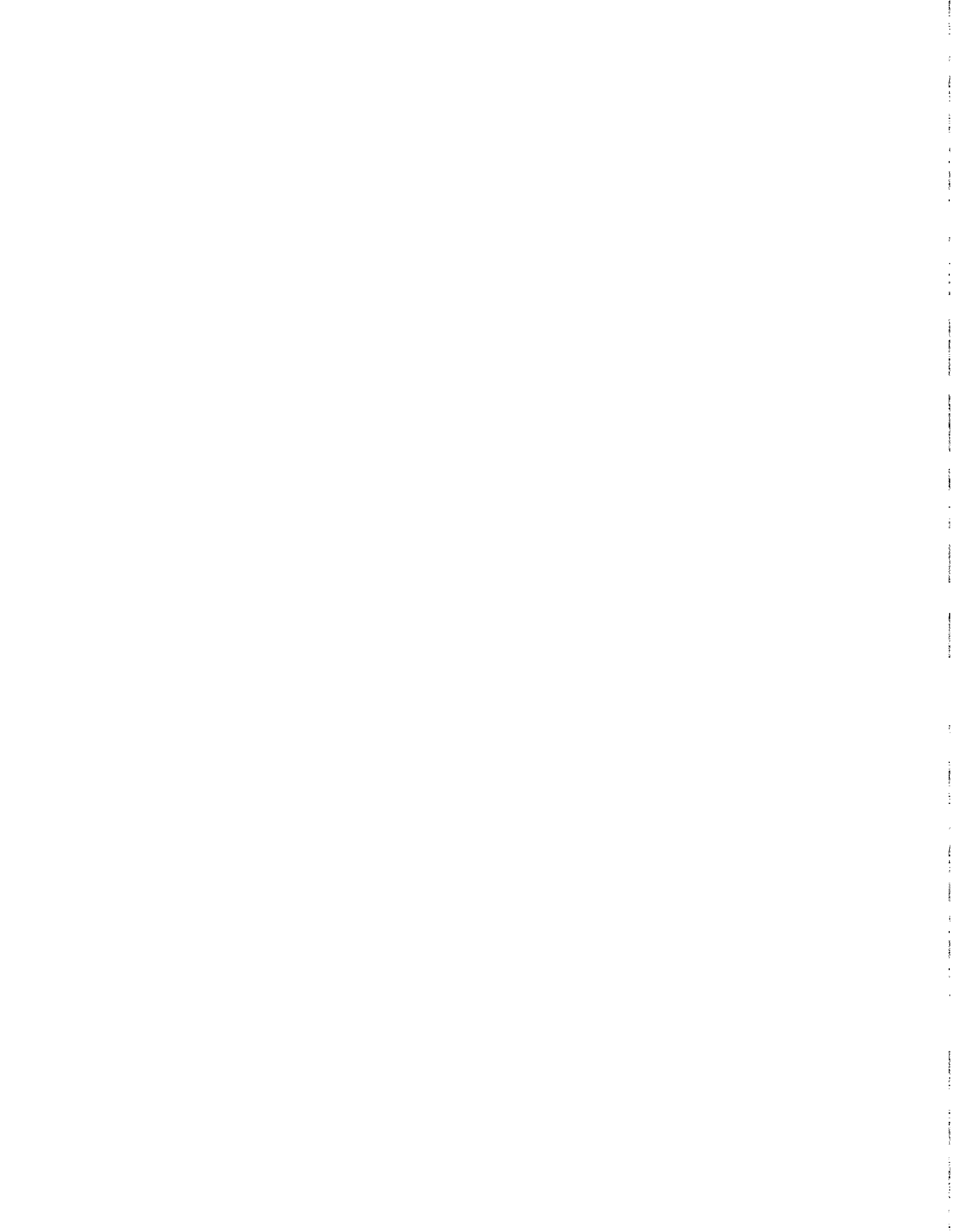
Section 1 of the draft policy does not present the definition of loss before describing the types of losses and whether or not they are reimbursable to account holders. Presenting the definition of loss first will provide a basis for understanding the explanation of types of losses. Therefore, we suggest renumbering Sections 1.6 and 1.5 to present the definition of loss first.

Section 2 is inconsistent in its references to Area Offices and Area Office Directors. For example, Section 2.3A (3) refers to the "cognizant" Area Director, Section 2.8 refers to the "responsible" Area Director, and Section 2.9A refers to the "respective" Area Office. We suggest using "respective" or "cognizant" for consistency.

The first sentence in Section 2.3A (1) should state "the 'lost' (not loss) principal and accrued interest...."

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GAO/AIMD-94-59R BIA's Trust Fund Loss Policy



Status of Reconciliation and Certification Work

BIA's trust fund reconciliation project and the related certification work are being carried out through eight major tasks. These tasks generally cover detailed transaction reconciliations; additional audit procedures including analytical procedures and internal control reviews for selected tribes, an analysis of receipts to leases, and an analysis of tribal accounts handled by BIA's IRMS system which is used for IIM accounting; and reconciliations of balances between BIA's investment and general ledger systems and between BIA's tribal and IIM system data and Treasury balances. Information on BIA's major reconciliation and certification tasks and their status is presented in the attachment to this testimony.

As of March 31, 1994, BIA's reconciliation contractor reported that it had nearly completed reconciliation of the tribal non-investment accounts, the first of the eight major reconciliation tasks. Remaining work on this task includes BIA approval of contractor-recommended resolutions for 786 identified exceptions and independent certification of the reconciliation results.

Also as of March 31, 1994, BIA's certification contractor had developed and obtained approval of its work plan; requested certain reconciliation work papers, reports, and documents from BIA and the reconciliation contractor; and developed a proposed status report format for the certification work. To date, the certification contractor has begun reviews of the non-investment reconciliation work papers, is reviewing work underway for selected tribes to identify lease revenues and related accounting records, and is also reviewing the reconciliation contractor's efforts to perform systems reconciliations.

LIMITED PROGRESS IN IMPROVING TRUST FUND MANAGEMENT

Since our June 1992 report, Interior and BIA have taken some initial steps toward implementing needed short and long-term trust fund financial management improvements. For example, Interior recently approved important initiatives in the areas of staffing, systems, and investment services, and OTFM has made progress in distributing revenues to account holders. While these efforts represent important first steps, much remains to be done to address long-standing problems with BIA's oversight and control of Indian trust fund accounts, particularly the need for a strategic plan to guide overall improvement efforts.

REIMBURSEMENT

Section 3 addresses procedures for reimbursing account holders for identified losses and the related accounting and budget reporting procedures.

Reimbursement of Verified Loss

Section 3.1 states that "(t)he Bureau shall reimburse loss(es) subject to the availability of funds appropriated by Congress for such purpose." We suggest that BIA revise the text to say "verified" loss(es) to be consistent with the heading. We also suggest that BIA delete the phrase "for such purpose." The current wording might suggest that BIA will not reimburse losses unless it receives a line-item appropriation earmarked for reimbursement of losses. An earmarked appropriation is not necessary; the Bureau's "Operation of Indian Programs" appropriation is available for this purpose.

Section 3.1A describes the accounting procedures to be used for transferring funds from appropriated to trust fund accounts; however, it does not state the purpose of the transfer. We suggest that BIA add language to this section to indicate that the purpose of the transfer is to reimburse account holders for verified losses.

Annual Estimate of Loss Reimbursement

Section 3.2 provides for quarterly and annual reporting to BIA's Office of Management and Administration of estimated losses to be reimbursed. Section 3.2A establishes an April 1 annual due date and an August 1 update on estimated losses. We suggest that for appropriation purposes, an August 1 due date with a November 30 update may be more useful. The November 30 update would coincide with the final general ledger closing and preparation of the final SF-133 Report on Budget Execution. Alternatively, a late January/early February update would coincide with submission of BIA's SF-220, Report on Financial Position, and related financial reports required by Treasury.

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