

July 1998

INDIAN PROGRAMS

Tribal Priority Allocations Do Not Target the Neediest Tribes



**Resources, Community, and
Economic Development Division**

B-279789

July 17, 1998

The Honorable Ted Stevens
Chairman, Committee on Appropriations
United States Senate

The Honorable Slade Gorton
Chairman, Subcommittee on Interior
and Related Agencies
Committee on Appropriations
United States Senate

In recent years, media reports have highlighted Indian tribes that have garnered considerable wealth through gaming operations and other businesses. Accordingly, the Senate Committee on Appropriations commented, in its report on the Department of the Interior's (DOI) 1998 appropriation bill, that the tribes with substantial revenues of their own, such as business income, should become more self-sufficient. In the Committee's opinion, the Tribal Priority Allocations (TPA) distributed by the Department's Bureau of Indian Affairs (BIA) should be targeted at the most economically needy tribes. TPA funds are used to provide basic tribal services, such as law enforcement, social services, adult vocational training, child welfare, and natural resources management. TPA made up the largest portion of BIA's direct appropriation in fiscal year 1998, representing 45 percent—or \$757 million—of the \$1.7 billion total.

Concerned about possible inequities in the distribution of TPA funds, you asked us to report on BIA's method for distributing these funds and on the other (i.e., nongovernmental) revenues available to the tribes. We presented our preliminary results in April 1998, in testimony before the Subcommittee on Interior and Related Agencies, Senate Committee on Appropriations.¹ This report contains our final analyses of (1) BIA's method for distributing TPA funds and (2) additional information that could be useful in distributing TPA funds. We also provide, in appendixes I and II, our per capita analyses of TPA distributions, as requested by your offices. Specifically, appendix I provides a BIA-wide summary, by area office, of TPA distributions per capita; appendix II provides more detailed per capita information.

¹Indian Issues: BIA's Distribution of Tribal Priority Allocations (GAO/T-RCED-98-168, Apr. 21, 1998).

Results in Brief

Under the current method for distributing TPA funds, there is no assurance that the funds are effectively targeting the most pressing needs among the tribes. Currently, BIA distributes two-thirds of TPA funds, referred to as “base funds,” largely on the basis of historical funding levels. In distributing these base funds, BIA does not take into consideration changing conditions, such as the tribes’ levels of need or the tribes’ own revenues from nongovernmental sources, such as business income. The remaining one-third of TPA funds, known as “non-base funds,” are used for such activities as road maintenance and housing improvement and are generally distributed on the basis of specific program criteria. BIA’s distribution of TPA base funds has been widely criticized over the last 20 years for, among other things, not being responsive to changes in the relative needs of the tribes. Furthermore, because the tribes’ own revenues are not considered in the distribution of TPA base funds, the tribes with the highest revenues receive TPA base funds just as the tribes with the lowest revenues do. Our analysis showed that each of the 6 tribes with the highest reported revenues received more TPA base funds than did each of 16 tribes with no reported revenues or with losses. In addition, 62 small tribes reported having revenues of their own yet received the same amount of TPA base funds as small tribes that reported no revenues of their own.

A decision about whether and in what way to redistribute TPA funds is as complex as it is controversial. As long as BIA continues to distribute TPA base funds on a historical basis, it cannot be certain that the distribution accommodates the changing needs of the tribes. To determine an equitable distribution among the tribes, several types of data may be considered, such as (1) the economic status of each tribe, (2) the needs of each tribe, and (3) the government’s responsibility to each tribe. However, much of this information is not currently or readily available in a consistent and reliable form. Furthermore, questions of equity in federal financial assistance extend beyond BIA and beyond TPA funds. Although TPA was nearly half of BIA’s 1998 appropriation, it represented just 10 percent of the \$7.5 billion in federal funding appropriated for Indian programs in 1998. Ultimately, however, the issues of how TPA and other federal funds should be distributed and what information should be considered in that process are policy questions for the Congress and other federal decisionmakers to address.

Background

In the early 1970s, BIA began giving the tribes more training, involvement, and influence in the process of allocating TPA funds.² TPA funds are used for programs such as law enforcement, social services, adult vocational training, child welfare, and natural resource management. Most tribes have placed all their available TPA base funding in only 5 or 6 of the more than 30 TPA base fund programs. All federally recognized tribes are eligible to receive TPA funds—either through contracts for operating tribal programs or through BIA-provided programs. As of October 1997, 556 tribes had been recognized by the federal government.

The Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization, which was created in 1990 to develop goals and plans for reorganizing BIA to strengthen its administration of Indian programs, recommended that all small tribes—those with service populations of 1,500 or less—be brought up to a minimum level of TPA base funding to allow them the opportunity to develop basic self-governance capability.³ The task force recommended that the small tribes in the lower 48 states have available at least \$160,000 in TPA base funds and that the tribes in the state of Alaska have available \$200,000. BIA identified 307 tribes as part of this “small tribes funding initiative” that were below the recommended minimum funding levels. As directed by the Congress, BIA used part of its appropriation for fiscal years 1995, 1997, and 1998 to raise all the small tribes up to \$160,000 in available TPA base funding. About two-thirds of the tribes included in the funding initiative are located in Alaska, and, for fiscal year 1999, BIA has requested an additional \$3 million to move them closer to the recommended \$200,000 funding level.

The Single Audit Act of 1984, as amended, requires reporting by nonfederal entities, including tribes, that meet certain federal assistance thresholds. Before fiscal year 1997, the threshold was the annual receipt of \$100,000 or more in federal funds; in fiscal year 1997, the threshold became the annual expenditure of \$300,000 or more in federal funds. Entities meeting the threshold must submit an audited financial statement and a schedule of federal financial assistance.

²Over the years, BIA has referred to this process as “band analysis,” the “Indian Priority System,” and “TPA.” For consistency throughout this report, we refer to the process as TPA. See *Tribal Participation in the Bureau of Indian Affairs Budget System Should Be Increased* (GAO/CED-78-62, Feb. 15, 1978) and *Indian Programs: Tribal Influence in Formulating Budget Priorities Is Limited* (GAO/RCED-91-20, Feb. 7, 1991).

³The Tribal Budget System: Preliminary Assessment of Most Needy Small Tribes, Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization (Apr. 1994).

Historical Funding Levels Drive the Distribution of TPA Base Funds

Of the \$757 million appropriated for TPA in fiscal year 1998, about \$507 million was for base funding, and about \$250 million was for non-base funding. BIA distributes TPA base funds primarily on the basis of historical distribution levels. That is, the amount available to a particular tribe is generally the same as last year's amount, without considering tribal needs or the tribes' own revenues. Depending on annual appropriation levels, increases or decreases to a tribe's base fund amount are made on a pro rata basis (e.g., a tribe that receives 0.2 percent of the total TPA base fund amount would receive 0.2 percent of any increase or decrease). In contrast, non-base TPA funds are distributed according to specific program criteria and, in some cases, the income levels of individual tribal members. BIA's distribution of TPA base funds has been criticized over the last 20 years for, among other things, not being responsive to changes in the relative needs of the tribes. Nor has the distribution of TPA base funds been responsive to changes in the relative levels of the tribes' own revenues.⁴

BIA's Distribution of TPA Funds

The majority of the fiscal year 1998 TPA base funds was distributed on the basis of historical funding levels, as has been the case for decades. The funding process used today has remained essentially the same since the early 1970s, when BIA began allowing the tribes more input into budget decisions and priorities. TPA was created to further Indian self-determination by giving the tribes the opportunity to establish their own priorities and to move funds among programs accordingly, in consultation with BIA. BIA believes that a stable funding base enhances the tribes' ability to plan and budget their funds.

Once a program is categorized as part of the TPA base funds, it loses any need-based identity it once had. Prior to their inclusion in TPA, some programs were funded according to specific program criteria. For example, funds provided under the Johnson O'Malley Act of 1934, as amended, are intended to provide supplementary financial assistance to meet the educational needs of Indian children attending public schools. These funds used to be distributed on the basis of education costs in each state and the number of students eligible for program services. Beginning in 1996, however, Johnson O'Malley funds were transferred into the tribes' TPA base funds, using 1995 data on program costs and eligibility. Because both cost and eligibility may have changed since 1995, and because the

⁴A tribe's "own revenues" refers to all nongovernmental revenues available to a tribe for its discretionary use. That is, these revenues include net profits from business enterprises such as gaming operations, hotels, and restaurants. They also include such things as tribally imposed taxes, interest on investments, rental and lease income, and trust funds. They exclude financial assistance from federal, state, and local governments and from private foundations.

tribes have the authority to move funds in and out of the program, the current distribution may bear little resemblance to the original, formula-driven one.

In contrast to the base funds, the non-base funds—used for such programs as road maintenance, housing improvement, welfare assistance, and contract support—are generally distributed according to specific program criteria that consider, in some cases, individual income. Eligibility for housing improvement funds, for example, is based on whether and to what degree the housing being considered for improvement is substandard, as well as on the applicant’s income level. Similarly, eligibility for welfare assistance is based on a determination that an individual’s income is insufficient to meet his or her essential needs. In general, the tribes may not shift non-base funds among programs without special authorization.

BIA’s Distribution of TPA Base Funds Has Been Criticized in the Past

BIA’s process for allocating base funds, while enhancing the tribes’ budget flexibility, has been criticized for, among other things, not being responsive to changes in the relative needs of the tribes. Although the tribes set priorities for their individual programs, no mechanism exists within TPA for identifying the tribes’ comparative needs and funding them accordingly. As the relative needs of the tribes have changed over time, no corresponding change has occurred in the distribution of TPA base funds, making the apparent funding discrepancies among the tribes more pronounced.

In 1978, we reported that BIA had been criticized by the Office of Management and Budget, the American Indian Policy Review Commission, and the tribes for its failure to develop a formula to ensure the equitable allocation of TPA funds among the tribes on the basis of need.⁵ We reiterate our belief, as stated in our 1978 report, that “accurate, current, and comparable comprehensive tribal needs analyses would provide BIA with a measurement to be considered in developing a formula on which to allocate Bureau [TPA] funds.”

In August 1994, the Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization—charged with developing plans for the reorganization of BIA—recommended that BIA develop a method for measuring the relative needs of each tribe for each BIA program. The task force envisioned that these standard assessment measures would be a

⁵Tribal Participation in the Bureau of Indian Affairs Budget System Should Be Increased (GAO/CE-78-62, Feb. 15, 1978).

cornerstone of an equitable distribution of TPA funds. At the same time, the task force noted the following:

“Developing a system to measure the relative needs of Tribes with widely varying locations, mix of programs, size, and circumstances will be a monumental undertaking. The development will rely heavily on information which can be gathered only through a Tribal/BIA partnership. Much of this information is not currently available in a consistent and reliable form.”⁶

Finally, in 1998, a task force—established pursuant to Interior’s 1998 appropriation bill and charged with deciding how to distribute a general increase in 1998 TPA funds—emphasized the importance of BIA’s developing a TPA funding allocation method that addressed funding inequities and unmet tribal needs. This task force recommended in its January 1998 report that funds be set aside to create a working group to develop a standard assessment methodology. Accordingly, BIA set aside \$250,000 for this purpose. The working group, according to BIA’s fiscal year 1999 budget request, will develop a revised TPA allocation model that is based on tribal needs. BIA has requested an additional \$250,000 for the working group in fiscal year 1999.

As long as it continues to use a funding distribution method that is relatively static, based largely on the initial division of funds among the tribes that was developed in the early 1970s, BIA has no assurance that its current TPA distribution is most effectively meeting the needs of the tribes. According to Interior officials, there is no clear documentation on how TPA base amounts for each tribe were initially determined. And even if those initial divisions were clearly documented, they may not support a distribution made in the early 1970s as the appropriate distribution today. At least two significant changes have occurred in the last 25 years that affect Indian tribes: The Indian population has more than doubled in size, and the revenues of some tribes have greatly increased since the approval of Indian gaming in 1988. In 1995, net income from Indian gaming operations was about \$1.9 billion.⁷

Tribes’ Own Revenues Not a Factor in Distributing TPA Base Funds

Because the tribes’ own revenues are not considered in distributing TPA base funds, rich and poor tribes alike receive them. In fact, the tribes in our analysis that reported the highest amounts of their own revenues

⁶Report of the Joint Tribal/BIA/DOI Advisory Task Force on Reorganization of the Bureau of Indian Affairs, BIA (Aug. 1994).

⁷Tax Policy: A Profile of the Indian Gaming Industry (GAO/GGD-97-91, May 5, 1997).

received more in TPA base funds, in total, than did those tribes that reported the lowest amounts of their own revenues.⁸ Furthermore, all the tribes covered by the small tribes funding initiative were brought up to about the same level of available TPA base funding, even though some reported substantial revenues of their own.

Of the 299 tribes included in our analysis,⁹ one reported having more than \$300 million in revenues of its own in 1996. Yet that same year, this tribe received over \$350,000 in TPA base funds. Similarly, the five other tribes that reported more than \$100 million in revenues of their own in 1995 or 1996 received TPA base amounts ranging from about \$500,000 to \$40 million in the corresponding year. In contrast, three of the six tribes that reported a deficit in their own revenues each received less than \$350,000 in TPA base funds.

Similarly, for the small tribes identified by BIA as being part of the small tribes funding initiative, the tribes' own revenues did not affect the TPA base funds they received. Specifically, 72 of these tribes included in our analysis reported revenues that ranged from minus \$1.4 million to over \$30 million, with a median of about \$92,000. Of the 72 tribes, 62 reported having revenues of their own, and 10 reported having no revenues or having losses. The small tribes that reported no revenues of their own and the one that reported having over \$30 million in revenues, along with all the other tribes in the small tribes funding initiative whose revenues fell in between, were brought up to the same minimum level—\$160,000—of available TPA base funding in 1998, at congressional direction.

BIA stated that “there are a number of statutes which specifically prohibit BIA from considering certain [tribal] revenue sources when making funding allocations.” BIA also said that comparing one tribe’s own revenues and TPA funding with those of another tribe is an “unfair comparison” because it does not take into consideration many other factors that may affect the level of TPA funding, such as a tribe’s land base and population. We agree that BIA is prohibited from considering certain tribal revenues in making funding allocations. The comparisons we present among tribes—regarding

⁸As discussed in more detail later, the nongovernmental income information tribes report under the Single Audit Act is not complete or reliable in all cases.

⁹We examined all 326 Single Audit Act financial statements on file with DOI that were the most recently submitted by the tribes and various related entities. Of the 326 statements, 299 were for tribes. Thirteen of the remaining statements were for tribal businesses or components of tribes, and we included the information in those statements with the information for the respective tribes. The remaining 14 statements were for consortia or associations representing multiple tribes, primarily in Alaska; we did not include the information from these statements in our analysis of the tribes' revenues. The statements generally covered 1995 or 1996.

their own revenues and their TPA funding—are intended to illustrate the point that tribal revenues are currently not considered in the distribution of TPA funds. We agree that many other factors should be considered in determining an appropriate TPA distribution method.

Additional Information That Could Be Useful in Distributing TPA Funds Is Not Readily Available

The question of how to ensure equity in the distribution of TPA funds among tribes is not an easy one. Among the key pieces of information that could prove useful in answering that question are (1) the economic status of each tribe, (2) its needs, and (3) the government's responsibility to it. Much of this information, however, is not currently or readily available. Furthermore, the question of how to ensure equity in funding goes beyond TPA funds; it pertains as well to funding for many Indian programs provided by federal agencies other than BIA. Ultimately, however, the issues of how TPA and other federal funds are distributed and what information should be considered in that process are policy questions for the Congress and other federal decisionmakers to decide.

To obtain an understanding of the economic status of each tribe, complete and reliable information on its finances would be needed. Like all nonfederal entities that expend at least \$300,000 annually in federal funds, tribes must file financial reports under the Single Audit Act to account for the expenditure of those funds. Although the purpose of the Single Audit Act is to safeguard federal funds, not to require complete financial reporting by Indian tribes, the financial information submitted by the tribes under the act is the information most readily available from the majority of tribes. Our analysis of that information showed that tribes reported widely varying amounts of their own revenues. Specifically, six tribes each reported that they had revenues of over \$100 million, for a total of over \$1.1 billion; at the other extreme, six tribes reported losses that totaled over \$9 million. Another 128 tribes reported revenues of between \$1 million and \$100 million, totaling almost \$1.6 billion, and 159 tribes reported that they had from \$0 up to \$1 million of their own revenues, totaling over \$36 million.

However, the information reported by the tribes under the Single Audit Act does not always provide a complete picture of the tribes' financial positions and, in some cases, is not reliable. Our examination of tribal financial statements filed under the act showed that the tribes frequently excluded financial information on business enterprises that do not involve the expenditure of federal funds. For example, in a previous review of

Indian gaming revenues,¹⁰ we identified a tribe that reported over \$100 million in net income from its gaming operations in 1995; yet the tribe's financial statement for the same year (submitted under the Single Audit Act) reported only about \$1.3 million in revenues of its own. Furthermore, the reliability of the data contained in the financial statements we reviewed was, in some cases, questionable. About half of these financial statements received auditors' opinions indicating that the statement was deficient in some way and did not fairly represent the financial position of the reporting entity. Deficiencies ranged from the use of a cost rather than an accrual basis of accounting for revenues and expenditures to the complete unreliability of the data the tribe used for its accounting system. Deficiencies commonly cited included the exclusion of proprietary funds and of the general fixed asset account group.

In addition, not all tribes are required to report under the Single Audit Act. Prior to fiscal year 1997, only those nonfederal entities (including Indian tribes) that received \$100,000 or more in total federal assistance were subject to the reporting requirements in the Single Audit Act. Beginning in fiscal year 1997, the reporting requirement threshold under the Single Audit Act was increased to the expenditure of at least \$300,000 in total federal assistance annually. In addition, tribes that rely on the federal government or some other entity to provide services for them, rather than expending the funds themselves, are not subject to the Single Audit Act.

A second key piece of information that could prove useful in answering the question of how to ensure equity in the distribution of TPA funds is information on tribes' needs. Over the last 20 years, we and others have commented that BIA should develop measurements of the relative needs of each tribe for each BIA program. This recommendation was repeated in January 1998 by a joint BIA/tribal task force. An assessment of a tribe's needs is crucial to determining the extent to which a tribe's own revenues foster its self-sufficiency. In and of themselves, a tribe's financial resources do not serve as a measure of its needs. For example, one tribe in our analysis, which reported having more than \$100 million of its own revenues in 1996, also reported receiving over \$300 million in federal assistance that year. Although the receipt of such a large amount of federal assistance might indicate that the tribe's needs far exceed its own revenues, many other factors could negate or support such a conclusion.

¹⁰Tax Policy: A Profile of the Indian Gaming Industry (GAO/GGD-97-91, May 5, 1997). The Indian Gaming Regulatory Act of 1988 requires that tribes annually submit, to the National Indian Gaming Commission, audited financial statements on their tribal gaming operations.

Among the many factors that may come into play in assessing need are the size and composition of a tribe's population and land base, the type and extent of its natural resources and governance experience, as well as various program-specific criteria. As reported in 1994 by the Joint Tribal/BIA/DOI Task Force, gathering the information necessary to assess tribes' needs would be a "monumental undertaking." There are over 550 federally recognized tribes located throughout the United States. Their reported populations range from 0 to over 225,000, and their reservations vary in size from a few acres for some rancherias in California to 17.5 million acres for the Navajo reservation in Arizona, New Mexico, and Utah.

And finally, to obtain an understanding of the federal government's responsibility to each tribe, the provisions of applicable treaties, laws, executive orders, and court decisions would need to be reviewed. There are over 360 ratified Indian treaties, dating back to 1778, as well as hundreds of relevant executive orders, court decisions, and laws.

In developing Interior's appropriations for fiscal year 1998, the Senate Committee on Appropriations inserted a provision that would have required BIA to develop a formula to allocate TPA funds on the basis of need, taking into account the tribes' own revenues. The provision also would have required the tribes to report their complete financial information to BIA as a precondition of receiving TPA funding. Much of the debate over this provision focused on whether the federal government had an overriding legal responsibility to provide TPA funding regardless of the tribes' own revenues. Although this provision was not retained in the final version of the bill approved by the Senate, or in the version enacted, we expect that questions regarding BIA's distribution of TPA funds will continue. Whether comprehensive financial reporting should be required for the tribes and how that information should be used in determining the distribution of TPA funds are policy questions for the Congress and other federal decisionmakers to address.

Furthermore, our review addressed only the distribution of TPA funding, which is just a small part of the overall federal funding for Indian programs. Although TPA was nearly half of BIA's 1998 appropriation, it represented just 10 percent of the \$7.5 billion in federal funding appropriated for Indian programs in 1998. Such funding comes from various federal agencies: the Department of Health and Human Services (HHS), which provides funding for Indian health programs, accounted for about 37 percent of the federal funding for Indian programs; DOI (including

BIA), about 26 percent; the Department of Education, which provides funding for Indian education programs, about 18 percent; the Department of Housing and Urban Development, which provides funding for Indian housing programs, about 9 percent; and other agencies, the remaining 10 percent.

Given the extent and the amount of federal funding, it is clear that the question of whether federal funds target the greatest needs among tribes extends beyond TPA and BIA; the question of equity might also be asked about funds provided by other federal agencies. In our analysis, for example, the tribe with the most revenues of its own received more than twice as much funding from HHS as it did from BIA. In several previous reviews, we have questioned whether HHS' funding distributions are appropriate.¹¹

Agency Comments and Our Evaluation

We provided a copy of a draft of this report to BIA for its review and comment. Concerning the distribution of TPA funds, BIA commented that there is no statutory or regulatory basis for adjusting TPA distributions on the basis of tribal revenues. Furthermore, BIA said that in some cases it is specifically prohibited from taking into account certain types of tribal revenues in deciding how to distribute TPA funds. We agree with those comments. But we disagree with BIA's characterization as "meaningless" our statement that, under the current method for distributing TPA funds, there is no assurance that the funds are effectively targeting the most pressing needs among tribes. Without assessing the relative needs of the tribes, BIA cannot know if the most pressing needs are effectively being met. And while the relative needs of the tribes have changed over time, BIA's distribution of TPA base funds—which is based on historical levels—has not changed to accommodate them. We continue to believe that tribal needs assessments would assist BIA in developing criteria by which to equitably allocate TPA funds. Our report recognizes that a tribe's revenues do not, in and of themselves, serve as the only measure of its needs. The information on tribal revenues is presented to illustrate one of the changing factors that is currently not being addressed in the distribution of TPA funds and to provide information for the policy debate on this issue currently before the Congress.

¹¹Indian Health Service Not Yet Distributing Funds Equitably Among Tribes (GAO/HRD-82-54, July 2, 1982); Indian Health Service: Funding Based on Historical Patterns, Not Need (GAO/HRD-91-5, Feb. 21, 1991); Indian Health Service: Basic Services Mostly Available; Substance Abuse Problems Need Attention (GAO/HRD-93-48, Apr. 9, 1993).

Setting aside the policy question of whether tribal revenues should be considered in the distribution of TPA funds, the underlying issue remains: whether TPA funds are appropriately distributed among the tribes under existing Indian policy. Even without considering tribal revenues, improvements in the distribution of TPA funds could be made under existing Indian policy. Much of the criticism of TPA distributions over the last 20 years has been that relying on historical distribution levels has resulted in inequitable funding among the tribes. BIA acknowledged that the TPA process has been faulted in many areas over the years, including the inequities in the historical distribution method. In response to these criticisms, BIA has made a number of key improvements in the TPA process but, after repeated attempts, has yet to implement a more equitable TPA distribution method. As noted in the report and in BIA's comments, BIA has created another working group to address this issue.

Regarding the additional information that could be helpful in determining a revised distribution method, BIA emphasized that the purpose of the Single Audit Act was to safeguard federal funds, not to require complete financial reporting on tribal businesses. We agree that, if the Congress wishes to consider the tribes' own revenues in distributing TPA funds, more complete and reliable financial information on the tribes would be required than that currently available in the reports filed under the Single Audit Act. Furthermore, BIA commented that there would be costs associated with "compiling, reporting, analyzing, and making funding decisions" on the basis of the additional types of information discussed in this report. We agree that the costs associated with implementing and maintaining a revised TPA distribution method would be an important factor to consider in developing a new approach. However, BIA has not yet developed a revised approach, so it is not possible to estimate what those costs would be.

BIA also provided several technical clarifications, which we incorporated into the report where appropriate. BIA's comments and our specific responses appear in appendix III.

We performed our review from November 1997 through May 1998 in accordance with generally accepted government auditing standards. A detailed discussion of our scope and methodology is contained in appendix IV.

We are sending copies of this report to the appropriate congressional committees, the Secretary of the Interior, and other interested parties. We will also make copies available to others upon request.

If you or your staff have any questions, please call me at (202) 512-3841. Major contributors to this report are listed in appendix V.

A handwritten signature in black ink, appearing to read "Victor S. Rezendes". The signature is fluid and cursive, with the first name "Victor" and last name "Rezendes" clearly distinguishable.

Victor S. Rezendes
Director, Energy, Resources, and
Science Issues

Contents

Letter		1
Appendix I Distribution of Fiscal Year 1998 TPA Funds, as of March 25, 1998		16
Appendix II TPA Base Funds Distributed and Per Capita Analysis for Tribes in BIA's 12 Area Offices, Fiscal Year 1998		18
Appendix III Comments From the Bureau of Indian Affairs	GAO Comments	37 45
Appendix IV Scope and Methodology		46
Appendix V Major Contributors to This Report		47
Tables	Table II.1: Aberdeen Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	19
	Table II.2: Albuquerque Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	20

Contents

Table II.3: Anadarko Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	22
Table II.4: Billings Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	24
Table II.5: Eastern Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	25
Table II.6: Juneau Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	27
Table II.7: Minneapolis Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	28
Table II.8: Muskogee Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	30
Table II.9: Navajo Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	31
Table II.10: Phoenix Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	32
Table II.11: Portland Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	34
Table II.12: Sacramento Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998	36

Abbreviations

BIA	Bureau of Indian Affairs
DOI	Department of the Interior
HHS	Department of Health and Human Services
TPA	Tribal Priority Allocations

Distribution of Fiscal Year 1998 TPA Funds, as of March 25, 1998

The following table shows the fiscal year 1998 distribution of Tribal Priority Allocations (TPA) base funds among the Bureau of Indian Affairs (BIA) 12 area offices and our per capita analysis of that distribution. Our per capita analysis is for informational purposes only; BIA does not distribute TPA funds on a per capita basis, nor does BIA recommend that such a distribution method be used. Interior officials noted that they do not consider the service population figures, which BIA last reported in 1995, to be reliable. They also noted that TPA funds are distributed to tribes, rather than individuals, and that a lower per capita figure may reflect that tribes in one area have larger memberships but smaller land bases than tribes in another area. We did not independently verify the distribution amounts or population estimates.

**Appendix I
Distribution of Fiscal Year 1998 TPA Funds,
as of March 25, 1998**

BIA area	TPA base funds^a	Self-governance TPA base funds^b	Non-base and other self-governance TPA funds	Total TPA funds	BIA service population^c	Per capita analysis^d
Aberdeen	\$51,844,870	\$0	\$24,254,627	\$76,099,497	128,412	\$593
Albuquerque	31,992,351	800,765	9,004,512	41,797,628	59,598	701
Anadarko	17,144,551	2,223,702	4,737,064	24,105,317	45,535	529
Billings	27,338,825	2,198,050	11,246,422	40,783,297	42,427	961
Eastern	26,386,571	0	10,774,883	37,161,454	50,272	739
Juneau	23,657,663	26,426,731	30,439,566	80,523,960	85,259	944
Minneapolis	21,387,321	13,085,544	14,010,337	48,483,202	76,883	631
Muskogee	10,956,941	15,879,453	7,677,613	34,514,007	284,740	121
Navajo	48,631,672	0	51,467,124	100,098,796	225,668	444
Phoenix	54,506,291	3,303,513	31,671,077	89,480,881	100,854	887
Portland	45,272,367	19,084,235	42,620,543	106,977,145	104,841	1,020
Sacramento	23,948,187	4,593,450	9,722,083	38,263,720	55,717	687
Distributed subtotal	\$383,067,610	\$87,595,443	\$247,625,851	\$718,288,904	1,260,206	\$570
Not distributed ^e	0	0	39,059,096	39,059,096	^e	^e
Total	\$383,067,610	\$87,595,443	\$286,684,947	\$757,348,000	1,260,206	\$601

^aIncludes base funds for only those tribes without self-governance agreements.

^bIncludes base funds for only those tribes with self-governance agreements. These funds are composed of tribe and agency base funds, and exclude funds that are not comparable to those allocated to tribes without self-governance agreements. The amounts were provided by the Office of Self-Governance.

^cService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^dPer capita figures were calculated by dividing total TPA funds by the BIA service population.

^eFunds not distributed include TPA funds for other BIA offices or nontribal entities (e.g., funds for BIA's central office, funds for employees displaced because of tribal contracting, and education funds for nontribal entities), as well as funds that will be but have not yet been distributed to tribes or area/agency offices (e.g., funds for contract support and welfare assistance). Because not all of these funds have been distributed, a per capita analysis is not applicable.

Source: GAO's analysis of BIA's data.

TPA Base Funds Distributed and Per Capita Analysis for Tribes in BIA's 12 Area Offices, Fiscal Year 1998

The following tables show the fiscal year 1998 distribution of TPA base funds among tribes, by area and agency office, and our per capita analysis of that distribution. Our per capita analysis is for informational purposes only; BIA does not distribute TPA funds on a per capita basis, nor does BIA recommend that such a distribution method be used. According to Interior officials, there are reasons for differences in TPA distributions. For example, BIA is required to fund law enforcement and detention in states that do not have jurisdiction over crimes occurring on Indian lands, so tribes located in those states may receive more TPA funds for these purposes than tribes located in other states. Similarly, BIA has a trust responsibility for natural resources on reservations, so tribes that have large land bases may receive more TPA funds for this purpose than tribes with small land bases.

Interior officials also noted that they do not consider the service population figures, which BIA last reported in 1995, to be reliable. They also noted that TPA funds are distributed to the tribes, rather than individuals, and that a lower per capita figure may reflect that tribes in one area have larger memberships but smaller land bases than tribes in another area. We did not independently verify the distribution amounts or population estimates.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.1: Aberdeen Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Cheyenne River	Cheyenne River Sioux	\$5,316,831	11,813	\$450
Crow Creek	Crow Creek Sioux	2,077,294	3,002	692
Fort Berthold	Three Affiliated Tribes of the Fort Berthold Reservation	3,863,570	5,100	758
Fort Totten	Spirit Lake Sioux	2,126,502	5,151	413
Lower Brule	Lower Brule Sioux	1,687,417	1,164	1,450
Pine Ridge	Oglala Sioux	8,451,371	38,426	220
Rosebud	Rosebud Sioux	5,692,110	24,217	235
Sisseton	Sisseton-Wahpeton Sioux	2,429,199	3,277	741
Standing Rock	Standing Rock Sioux	5,670,111	8,198	692
Turtle Mountain ^c	Turtle Mountain Band of Chippewa Indians	5,425,302	12,328	440
Winnebago	Omaha Tribe of Nebraska Santee Sioux Tribe of Nebraska Winnebago Tribe of Nebraska	5,063,421	6,827	742
Yankton	Ponca Tribe of Nebraska Yankton Sioux	2,881,938	7,081	407
^d	Flandreau Santee Sioux	333,593	1,828	182
Total agency office and tribal distributions	16 tribes	\$51,018,659	128,412	\$397
TPA distributed to area office for field operations	^e	826,211	^e	^e
Aberdeen area total	16 tribes	\$51,844,870	128,412	\$404

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts for the specific tribes served by these multitribe agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^bPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^cIncludes TPA funds and service population for the Trenton, North Dakota, location of the Turtle Mountain Chippewa.

^dTribe not affiliated with an agency office.

^eThese area office funds are used to provide services to some or all tribes in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.2: Albuquerque Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Jicarilla	Jicarilla Apache	\$2,270,776	3,735	\$608
Laguna	Pueblo of Laguna	2,018,792	4,693	430
Mescalero	Mescalero Apache	3,038,434	3,056	994
Northern Pueblos	Pueblo of Nambe Pueblo of Picuris Pueblo of Pojoaque Pueblo of San Ildefonso Pueblo of San Juan Pueblo of Santa Clara ^c Pueblo of Taos Pueblo of Tesuque	5,805,566	8,692	668
Ramah-Navajo	Part of the Navajo Nation	2,170,189	3,060	709
Southern Pueblos	Pueblo of Acoma Pueblo of Cochiti Pueblo of Isleta Pueblo of Jemez Pueblo of San Felipe Pueblo of Sandia Pueblo of Santa Ana Pueblo of Santo Domingo Pueblo of Zia Ysleta del Sur Pueblo	8,773,030	24,867	353
Southern Ute	Southern Ute	1,841,456	1,411	1,305
Ute Mountain	Ute Mountain Ute	2,075,466	1,325	1,566
Zuni	Zuni	2,729,828	8,759	312
Total agency office and tribal distributions	24 tribes	\$30,723,537	59,598	\$516
TPA distributed to area office for field operations	^d	2,069,579	^d	^d
Albuquerque area total	24 tribes	\$32,793,116	59,598	\$550

(Table notes on next page)

Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts for the specific tribes served by these multitribe agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^bPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^cSelf-governance tribe. To make the data for self-governance tribes more comparable to the data presented for non-self-governance tribes, only the tribe/agency portion of the self-governance base funds is included in this table.

^dThese area office funds are used to provide services to some or all the tribes in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.3: Anadarko Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Anadarko	Apache Caddo Comanche Delaware of Western Oklahoma Fort Sill Apache Kiowa Wichita and Affiliated Tribes	\$6,212,816	14,325	\$434
Concho	Cheyenne-Arapaho Tribes	2,498,521	7,258	344
Horton	Iowa Tribe of Kansas and Nebraska Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas Prairie Band of Potawatomi Sac & Fox Nation of Missouri in Kansas and Nebraska	1,930,499	3,301	585
Pawnee	Kaw Nation ^c Otoe-Missouria Pawnee Ponca Tribe of Oklahoma Tonkawa	3,543,657	5,006	708
Shawnee	Absentee-Shawnee ^c Citizen Potawatomi Nation Iowa of Oklahoma Kickapoo of Oklahoma ^c Kickapoo Traditional of Texas Sac & Fox Nation, Oklahoma ^c	3,440,041	15,131	227
^d	Alabama-Coushatta Tribes of Texas	705,791	514	1,373
Total agency office and tribal distributions	24 tribes	\$18,331,325	45,535	\$403
TPA distributed to area office for field operations	^e	1,036,928	^e	^e
Anadarko area total	24 tribes	\$19,368,253	45,535	\$425

(Table notes on next page)

Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts for the specific tribes served by these multitribe agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^bPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^cSelf-governance tribe. To make the data for self-governance tribes more comparable to the data presented for non-self-governance tribes, only the tribe/agency portion of the self-governance base funds is included in this table.

^dTribe not affiliated with an agency office.

^eThese area office funds are used to provide services to some or all tribes in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.4: Billings Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Blackfeet	Blackfeet	\$4,586,818	8,208	\$559
Crow	Crow	4,674,503	7,153	654
Fort Belknap	Fort Belknap Indian Community	3,548,902	3,809	932
Fort Peck	Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation	4,829,070	6,555	737
Northern Cheyenne	Northern Cheyenne	4,043,516	4,383	923
Rocky Boy's	Chippewa-Cree ^c	2,263,099	3,142	720
Wind River	Arapahoe Tribe and Shoshone Tribe of the Wind River Reservation	4,040,805	9,177	440
Total agency office and tribal distributions	8 tribes	\$27,986,713	42,427	\$660
TPA distributed to area office for field operations	^d	1,550,162	^d	^d
Billings area total	8 tribes	\$29,536,875	42,427	\$696

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts for the specific tribes served by these multiribed agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^bPer capita figure was calculated by dividing the TPA base funds by the corresponding BIA service population.

^cSelf-governance tribe. To make the data for self-governance tribes more comparable to the data presented for non-self-governance tribes, only the tribe/agency portion of the self-governance base funds is included in this table.

^dThese area office funds are used to provide services to some or all tribes in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.5: Eastern Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Cherokee	Eastern Band of Cherokee	\$2,117,136	11,240	\$188
Choctaw	Mississippi Band of Choctaw	2,992,800	7,419	403
New York Liaison Office	Cayuga Nation ^c Oneida Nation of New York Onondaga Nation ^c Seneca Nation of New York St. Regis Band of Mohawk Tonawanda Band of Seneca ^c Tuscarora Nation ^c	3,970,305	16,014	248
Seminole	Seminole Tribe of Florida	2,741,628	2,292	1,196
^d	Aroostook Band of Micmac	550,011	1,155	476
^d	Catawba Indian Nation	1,559,722	1,597	977
^d	Chitimacha	706,944	373	1,895
^d	Coushatta	392,430	362	1,084
^d	Houlton Band of Maliseet	379,351	331	1,146
^d	Jena Band of Choctaw	215,604	109	1,978
^d	Mashantucket Pequot	385,000	155	2,484
^d	Miccosukee	1,772,217	589	3,009
^d	Mohegan	493,200	642	768
^d	Narragansett	1,039,048	2,439	426
^d	Passamaquoddy ^e	2,100,714	1,600	1,313
^d	Penobscot	1,789,752	1,206	1,484
^d	Poarch Band of Creek Indians	1,280,635	1,673	765
^d	Tunica-Biloxi	342,194	211	1,622
^d	Wampanoag Tribe of Gay Head	787,951	865	911
Total agency office and tribal distributions	25 tribes	\$25,616,642	50,272	\$510
TPA distributed to area office for field operations	^f	769,929	^f	^f
Eastern area total	25 tribes	\$26,386,571	50,272	\$525

(Table notes on next page)

Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts for the specific tribes served by these multitribe agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^bPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^cTribe identified under the small tribes funding initiative.

^dTribe not affiliated with an agency office.

^eIncludes both Indian Township and Pleasant Point reservations.

^fThese area office funds are used to provide services to some or all the tribes in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.6: Juneau Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Number of tribe(s) served by agency office^a	TPA base funds	BIA service population^b	Per capita analysis^c
Anchorage	74	\$14,553,806	29,407	\$495
Bethel	56	10,008,153	16,775	597
Fairbanks	47	9,706,881	15,886	611
Nome	31	6,306,900	11,357	555
Southeast	18	5,553,800	11,834	469
Total agency office distributions	226	\$46,129,540	85,259	\$541
TPA distributed to area office for field operations	^d	3,954,854	^d	^d
Juneau area total	226	\$50,084,394	85,259	\$587

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts to the specific tribes served by these multitribe agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aThe Juneau area has 158 partial or complete self-governance tribes and BIA identified 208 tribes in the area under the small tribes funding initiative (120 of these small tribes were also self-governance tribes).

^bService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^cPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^dThese area office funds are used to provide services to some or all the tribes in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.7: Minneapolis Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Great Lakes	Bad River Band of Lake Superior Chippewa Indians Forest County Potawatomi Community of Wisconsin Potawatomi Indians ^c Ho-Chunk Nation Lac Courte Oreilles Band of Lake Superior Chippewa Indians Lac du Flambeau Band of Lake Superior Chippewa Indians Oneida Tribe of Wisconsin ^d Red Cliff Band of Lake Superior Chippewa Indians St. Croix Chippewa Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians ^c Stockbridge-Munsee Community of Wisconsin	\$6,121,788	18,543	\$330
Menominee Field Office	Menominee	3,845,581	4,452	864
Michigan	Bay Mills Indian Community Grand Traverse Band of Ottawa & Chippewa Indians ^d Hannahville Indian Community Huron Potawatomi, Inc. Keweenaw Bay Indian Community Lac Vieux Desert Band of Lake Superior Chippewa Indians Little River Band of Ottawa Indians Little Traverse Bay Bands of Odawa Indians Pokagon Band of Potawatomi Indians Saginaw Chippewa Indian Tribe Sault Ste. Marie Tribe of Chippewa Indians ^d	10,692,187	22,169	482
Minnesota	Minnesota Chippewa Tribe - Bois Forte Band (Nett Lake) ^d Fond du Lac Band ^d Grand Portage Band ^d Leech Lake Band ^d Mille Lacs Band ^d White Earth Band	7,789,448	21,446	363
Minnesota Sioux	Lower Sioux Indian Community ^c Prairie Island Indian Community ^c Shakopee Mdewakanton Sioux Community ^c Upper Sioux Indian Community ^c	665,337	1,270	524
Red Lake	Red Lake Band of Chippewa Indians ^d	4,654,708	8,111	574
Sac & Fox Field Office	Sac & Fox Tribe of the Mississippi in Iowa	295,087	892	331
Total agency office and tribal distributions	29 tribes	\$34,064,136	76,883	\$443
TPA distributed to area office for field operations	^e	408,729	^e	^e
Minneapolis area total	29 tribes	\$34,472,865	76,883	\$448

(Table notes on next page)

Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts for the specific tribes served by these multitribe agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^bPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^cTribe identified under the small tribes funding initiative.

^dSelf-governance tribe. To make the data for self-governance tribes more comparable to the data presented for non-self-governance tribes, only the tribe/agency portion of the self-governance base funds is included in this table.

^eThese area office funds are used to provide services to some or all tribes in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.8: Muskogee Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Chickasaw	Chickasaw Nation ^c	\$2,776,948	23,036	\$121
Miami	Eastern Shawnee ^{c,d} Miami ^d Modoc ^{c,d} Ottawa ^d Peoria ^d Quapaw Seneca-Cayuga Wyandotte ^c	2,448,385	5,482	447
Okmulgee	Alabama-Quassarte Tribal Town of the Creek Nation ^d Kialegee Tribal Town of the Creek Nation ^d Muskogee (Creek) Nation ^c Thlopthlocco Tribal Town of the Creek Nation ^d	5,197,682	64,330	81
Osage	Osage Nation of Oklahoma	2,712,476	10,529	258
Talihina	Choctaw Nation of Oklahoma ^c	3,686,811	59,832	62
Wewoka	Seminole Nation of Oklahoma	2,102,457	6,667	315
^e	Cherokee Nation of Oklahoma ^c Delaware United Keetoowah Band of Cherokee Indians	6,575,277	114,864	57
Total agency office and tribal distributions	19 tribes	\$25,500,036	284,740	\$90
TPA distributed to area office for field operations	^f	1,336,358	^f	^f
Muskogee area total	19 tribes	\$26,836,394	284,740	\$94

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts for the specific tribes served by these multiribed agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^bPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^cSelf-governance tribe. To make the data for self-governance tribes more comparable to the data presented for non-self-governance tribes, only the tribe/agency portion of the self-governance base funds is included in this table.

^dTribe identified under the small tribes funding initiative.

^eTribes not affiliated with an agency office.

^fThese area office funds are used to provide services to some or all tribes in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.9: Navajo Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Tribe served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Chinle	Part of the Navajo Nation	\$692,981	34,641	\$20
Eastern Navajo	Part of the Navajo Nation	1,242,517	42,709	29
Fort Defiance	Part of the Navajo Nation	757,081	58,183	13
Shiprock	Part of the Navajo Nation	1,190,397	48,337	25
Western Navajo	Part of the Navajo Nation	634,310	41,798	15
Total agency office and tribal distributions	1 tribe	\$4,517,286	225,668	\$20
TPA distributed to area office for field operations	^c	44,114,386	^c	^c
Navajo area total	1 tribe	\$48,631,672	225,668	\$216

^aService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^bPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^cThese area office funds are used to provide services in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.10: Phoenix Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Colorado River	Chemehuevi Colorado River Indian Tribes Fort Mojave	\$3,580,809	3,201	\$1,119
Eastern Nevada	Confederated Tribes of the Goshute Reservation Duckwater Shoshone ^c Ely Shoshone ^c Shoshone-Paiute Tribes of the Duck Valley Reservation ^c Te-Moak Tribe of Western Shoshone Indians	3,927,050	4,384	896
Fort Apache	White Mountain Apache	6,561,314	16,692	393
Fort Yuma	Cocopah Quechan	1,335,972	3,467	385
Hopi	Hopi	4,462,406	6,339	704
Papago	Tohono O'odham Nation	6,565,289	19,225	341
Pima	Ak Chin Indian Community Gila River Pima-Maricopa Indian Community	5,511,890	12,234	451
Salt River	Fort McDowell Mohave-Apache Indian Community Pascua Yaqui Salt River Pima-Maricopa Indian Community ^c	4,436,517	11,345	391
San Carlos	San Carlos Apache	6,107,679	8,098	754
Southern Paiute Field Station	Kaibab Band of Paiute Indians Las Vegas Tribe of Paiute Indians Moapa Band of Paiute Indians Paiute Tribe of Utah San Juan Southern Paiute	1,940,396	1,461	1,328
Truxton Canon	Havasupai Hualapai Tonto Apache Yavapai-Apache Nation Yavapai-Prescott	3,478,651	4,708	739
Uintah & Ouray	Skull Valley Band of Goshute Indians ^d Ute Indian Tribe	2,809,899	3,300	851
Western Nevada	Fort McDermitt Paiute and Shoshone Tribes Lovelock Paiute ^d Paiute-Shoshone Tribe of the Fallon Reservation and Colony Pyramid Lake Paiute Tribe Reno-Sparks Indian Colony Summit Lake Paiute ^d Walker River Paiute Washoe Winnemucca Indian Colony ^d Yerington Paiute Yomba Shoshone ^d	5,351,353	6,400	836

(continued)

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Total agency office and tribal distributions	42 tribes	\$56,069,225	100,854	\$556
TPA distributed to area office for field operations	^e	1,740,579	^e	^e
Phoenix area total	42 tribes	\$57,809,804	100,854	\$573

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts for the specific tribes served by these multitribe agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^bPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^cSelf-governance tribe. To make the data for self-governance tribes more comparable to the data presented for non-self-governance tribes, only the tribe/agency portion of the self-governance base funds is included in this table.

^dTribe identified under the small tribes funding initiative.

^eThese area office funds are used to provide services to some or all tribes in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.11: Portland Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Colville	Confederated Tribes of the Colville Reservation	\$7,224,442	4,929	\$1,466
Flathead	Confederated Salish and Kootenai Tribes of the Flathead Reservation ^c	4,091,583	7,667	534
Fort Hall	Northwestern Band of Shoshoni Nation of Utah Shoshone-Bannock Tribes of the Fort Hall Reservation	3,375,522	6,631	509
Metlakatla Field Office	Metlakatla Indian Community, Annette Island Reserve ^c	1,910,065	1,564	1,221
Northern Idaho	Coeur D'Alene Kootenai Tribe of Idaho ^c Nez Perce	5,145,835	3,577	1,439
Olympic Peninsula	Confederated Tribe of the Chehalis Reservation Hoh Jamestown S'Klallam Tribe ^c Lower Elwha Tribal Community ^c Makah ^c Quileute Quinalt ^c Shoalwater Bay ^c Skokomish ^c Squaxin Island ^c	9,460,225	10,862	871
Puget Sound	Lummi ^c Muckleshoot ^c Nisqually ^c Nooksack Port Gamble Indian Community ^c Puyallup Samish ^d Sauk-Suiattle Stillaguamish Suquamish ^c Swinomish ^c Tulalip Upper Skagit	8,011,371	36,225	221
Siletz	Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians Confederated Tribes of the Grand Ronde Community ^c Confederated Tribes of the Siletz Reservation ^c Coquille Cow Creek Band of Umpqua Indians	4,334,658	8,463	512
Spokane	Kalispel Indian Community Spokane	2,635,418	1,586	1,662
Umatilla	Confederated Tribe of the Umatilla Reservation	2,951,049	2,154	1,370
Warm Springs	Burns Paiute Confederated Tribes of the Warm Springs Reservation Klamath	6,321,256	5,765	1,096
Yakama	Confederated Tribes and Bands of the Yakama Indian Nation	6,680,314	15,968	418

(continued)

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

BIA agency office	Tribe(s) served by agency office	TPA base funds	BIA service population^a	Per capita analysis^b
Total agency office and tribal distributions	43 tribes	\$62,141,738	105,391	\$590
TPA distributed to area office for field operations	^e	2,214,864	^e	^e
Portland area total	43 tribes	\$64,356,602	105,391	\$611

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts for the specific tribes served by these multitribe agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^bPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^cSelf-governance tribe. To make the data for self-governance tribes more comparable to the data presented for non-self-governance tribes, only the tribe/agency portion of the self-governance base funds is included in this table.

^dNewly recognized tribe. Population figure provided by the Office of Audit and Evaluation under the Assistant Secretary for Indian Affairs.

^eThese area office funds are used to provide services to some or all tribes in the area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

**Appendix II
TPA Base Funds Distributed and Per Capita
Analysis for Tribes in BIA's 12 Area Offices,
Fiscal Year 1998**

Table II.12: Sacramento Area: TPA Base Funds Distributed and Per Capita Analysis, Fiscal Year 1998

BIA agency office	Number of tribe(s) served by agency office^a	TPA base funds	BIA service population^b	Per capita analysis^c
Central California	52	\$11,726,739	21,245	\$552
Northern California	18	8,008,275	24,576	326
Palm Springs Field Station	1	179,335 ^d	281	638
Southern California	28	6,774,768	9,615	705
Total agency office and tribal distributions	99	\$26,689,117	55,717	\$479
TPA distributed to Klamath Field Office	e	206,991	e	e
TPA distributed to Palm Springs Field Office	e	743,960	e	e
TPA distributed to area office for field operations	e	901,569	e	e
Sacramento area total	99	\$28,541,637	55,717	\$512

Note: TPA amounts distributed to an agency office serving more than one tribe may be used to provide services for some or all the tribes within its jurisdiction; therefore, total TPA base amounts for the specific tribes served by these multitribe agency offices were not readily available. Similarly, the area office's TPA base distribution is listed separately from the amounts distributed to the agency offices and tribes because the funds may be used for more than one tribe in the area.

^aThe Sacramento area has 6 self-governance tribes and BIA identified 76 tribes in the area under the small tribes funding initiative (2 of these small tribes were also self-governance tribes).

^bService population is the number of Indians eligible to receive services from BIA as of 1995, the most recent year for which data were available.

^cPer capita figures were calculated by dividing the TPA base funds by the corresponding BIA service population.

^dIndividual allocation for the Agua Caliente Band of Cahuilla Indians. The amount does not include any funds allocated to the Palm Springs Field Station.

^eThese funds are used to provide services to some or all tribes in the field office or area. They are included in the per capita analysis for the area total.

Source: GAO's analysis of BIA's data.

Comments From the Bureau of Indian Affairs

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUN 23 1998

Victor S. Rezendes, Director
Energy, Resources, and Science Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Rezendes:

Reference: Draft GAO Report - "Indian Programs: BIA Lacks Assurance That Tribal Priority Allocations Target the Neediest Tribes" (GAO/RCED-98-181)

We appreciate the opportunity to provide comments on the draft report prior to its transmittal to the Committee on Appropriations of the United States Senate.

The title of the audit implies that the Bureau of Indian Affairs (BIA) either does or should attempt to target "needy" tribes in distributing funds provided for Tribal Priority Allocations (TPA). At the present time, there is no statutory or regulatory basis for adjusting funding based upon tribal assets. A more accurate title would be: "**Current Federal Policy Does Not Target Tribal Priority Allocations to the Neediest Tribes.**"

RESULTS IN BRIEF

The first sentence should be deleted. As noted above, current Federal Indian policy does not require that the Bureau of Indian Affairs reduce funding to those tribes with greater financial resources in order to provide increased assistance to those tribes at the lower end of the economic spectrum. Since there is no attempt to target the funds, the statement that we 'lack assurance that funds are effectively targeted' is meaningless.

We have a number of specific comments which are provided under the main report headings which would also necessitate revisions to this section of the report.

BACKGROUND

Small Tribes Initiative – All references to "small and needy tribes" should be revised to read "small tribes".

**Appendix III
Comments From the Bureau of Indian
Affairs**

Throughout its report, the Joint Reorganization Task Force used the term Small Tribes which was defined as a Tribe with a population base of 1,500 or less. The goal of the Task Force was to provide a minimum of \$160,000 in TPA funding to each small tribe (\$200,000 in Alaska).

The House Report accompanying the 1995 Appropriations bill said: "The increase . . . includes \$2,000 for distribution to small Tribes . . ." Since the overall Small Tribes Initiative was estimated to cost \$23 million and only \$2 million was provided as the initial increment, the Senate Report accompanying the 1995 appropriations bill directed that these funds were to be distributed to the "most needy small Tribes. The Bureau should request the remaining funding needed to provide minimum base funding in future budget requests." The most "needy" were those tribes whose current funding was farthest from the \$160,000/\$200,000 targets. The distribution had nothing to do with any other measure of "need." It is incorrect to assume that in 1994 either the Task Force or the Congress envisioned any basis for determining "need" in the Small Tribes Initiative other than a calculation of TPA funds available to each small tribe.

The statement that "BIA designated 307 tribes as 'small and needy' . . ." should be revised to read that "BIA identified 307 small tribes having TPA base budgets below the target of \$160,000 . . ."

HISTORICAL FUNDING LEVELS DRIVE TPA BASE DISTRIBUTION

While it is accurate that the Bureau's Tribal Priority Allocations, or Indian Priority System as it was previously known, have been criticized for some time, the twenty years of criticism covered a multitude of complaints, not limited to being unresponsive "to changes in the relative needs of the tribes," as the report would suggest. The most frequent complaints from tribes were the lack of any significant funding increases prior to 1990; the fact that a number of programs had been removed from the system (school operations, housing, road maintenance, financial trust services, facilities operations and maintenance, and self-determination grants); and a lack of consistency at the field level in obtaining tribal input into funding priorities.

Over the past five or six years, the Bureau has made a number of changes in response to tribal requests: formal processes have been established for obtaining tribal input at the agency, area, and national levels; a number of programs previously removed from the priority system have been restored; increased reprogramming flexibility allows tribes to more quickly respond to changes in local conditions; and the budget requests have included significant increases for TPA funds.

In response to criticism over disparities in the allocation of resources, the Bureau has made several efforts to develop an allocation methodology based upon some type of equity standard. Other than the limited efforts of the Task Force to develop standards for Indian Child Welfare Act allocations, the last major effort was completed in 1990. As with previous efforts, there was substantial tribal opposition to any redistribution of existing resources, so the recommendations contained in the study were not implemented.

The reference to non-base funds being distributed on the basis of specific formulas should be revised to read "specific criteria." For example, there is no formula for the distribution of contract support.

**Appendix III
Comments From the Bureau of Indian
Affairs**

These funds are distributed based upon the indirect cost rates which have been negotiated between the tribe and the Office of Inspector General. Likewise, there is no formula for distribution of welfare assistance funds. The amount provided to a tribe depends upon factors such as the eligibility of individual tribal members for general assistance payments, the actual costs of caring for institutionalized clients, and the costs of providing foster care placement for children.

It probably should be noted that housing and road maintenance were both in the base budgets until 1985 and 1987, respectively. It was only upon removal of these programs from the priority system that distribution methodologies were developed. These were the first of the programs identified by the Task Force to be returned to Tribal Priority Allocations. It is only because the tribes have been unable to reach consensus on the appropriate division of the funds for these two programs that housing and road maintenance have not been placed back in the TPA base budgets.

BIA's Distribution of TPA Funds – The statements in this section and others that the BIA does not consider tribal revenues in the distribution of TPA funds should be revised to read that “Federal Indian policy does not require, or even authorize, the BIA to consider tribal revenues . . .”

At the end of the first paragraph, we suggest that the following be added:

The decentralized decision-making also provides a much greater opportunity for tribes to use limited Federal resources for those programs most appropriate to the individual tribal requirements. Not one tribe receives funds for all of the programs included within Tribal Priority Allocations, and a substantial number of tribes have placed all available resources in only five or six of the 30 TPA base programs.

In the second paragraph insert “some” before “programs were funded.”

While it is true that Johnson-O'Malley (JOM) distribution had a relationship to state per pupil education expenses prior to movement of the program to TPA, it is important to note that JOM became part of TPA based on tribal recommendations which were supported by the Committees on Appropriations. It should also be recognized that when JOM was authorized in 1934, the funds appropriated went to the States and were used in the public schools for both basic and supplemental support of Indian children enrolled in those schools, so there was a rationale for establishing a relationship between the amount of funding provided by the Bureau and the costs incurred by the States. Since the advent of Self-Determination, however, virtually all of the JOM funds are now under contracts with tribal governments and the tribes determine what type of supplemental services will be provided. A number of tribes provide cultural enrichment programs which bear little or no relationship to per pupil public education expenditures.

The report cites programs recently moved to TPA and notes that their distribution is based on data such as housing condition, income level of individuals, and miles of roads. The draft report is incorrect, however, in identifying these measures as representative of “tribal need” since resources available to the tribe are not considered as part of the allocation methodology.

**Appendix III
Comments From the Bureau of Indian
Affairs**

BIA's Distribution of TPA Base Funds Has Been Criticized in the Past -- As noted previously in this response, BIA has made several attempts to develop an "equitable" formula, and another effort is underway. Even if general agreement is reached this time, we believe that legislation will probably be required if a reallocation of existing resources is deemed necessary, and we request that the report reflect that. Existing provisions of the Self-Determination Act, the Self-Governance Act, the Tribally Controlled Schools Act, and other statutes constrain administrative discretion in the reallocation of resources among tribes.

See comment 1.

While the report states that net income from Indian gaming operations was \$1.9 billion in 1995, in the interests of accuracy and fairness, it should be noted that \$1.8 billion of this amount was earned by eight tribes. It would further improve the report, if GAO then identified the TPA funds available to these eight tribes as a percentage of the total TPA budget, so that the Committees might have a more accurate picture of the relatively small amounts of TPA funds going to the tribes with substantial gaming revenues.

Tribes' Own Revenues Not a Factor in Distributing TPA Base Funds -- The sentence "Furthermore, because BIA does not consider tribes' own revenues in its distribution of TPA base funds . . ." should be revised to read: "Furthermore, because no statute requires, or even authorizes, BIA to consider tribal revenues in its distribution of TPA base funds . . ." and a footnote could be added stating: "In fact, there are a number of statutes which specifically prohibit BIA from considering certain revenue sources when making funding allocations. See Appendix V for a partial list." A proposed Appendix V is included as an enclosure with this letter.

See comment 2.

We recommend that "or losses" be deleted at the end of the sentence regarding tribal revenues as well as the discussion of the amount of funds received by tribes reporting deficits. It could give the impression that BIA should provide increased Federal support to those tribes which sustain operating losses in business ventures.

The statement in the second paragraph that ". . . TPA base amounts ranging from about \$500,000 to \$40 million . . ." is an unfair comparison and leaves the impression that all tribes are "one size" with no consideration of land base, population, or other contributing factors which may impact the level of TPA funding. See later discussion for comments on "revenue" reported by tribes.

The last sentence in this section should be clarified by adding the phrase "at Congressional direction" after "available TPA base funding in 1998." The report infers that many of the funding decisions began with BIA determination of Tribal status as "small and needy" and level of funding to be provided when the foundation of this determination began with the Reorganization Task Force Preliminary Report and Congressional Report language on distribution of funds.

ADDITIONAL INFORMATION THAT COULD BE USEFUL IN DISTRIBUTING TPA FUNDS IS NOT READILY AVAILABLE

In identifying the type of information which GAO believes would be useful, there should be some recognition of the fact that there is a cost associated with compiling, reporting, analyzing, and making funding decisions based on the information.

**Appendix III
Comments From the Bureau of Indian
Affairs**

Some tribes might well have such information readily available, however, we believe that most do not. Further, the Bureau would require increased funding for staff and systems support if data provided by tribes were to be used in making funding allocations.

In the second paragraph of this section the sentence: "Specifically, the six wealthiest tribes each reported that they had revenues of over \$100 million . . ." is a judgment which is not supported by the data available and should be revised to read: "For example, six tribes reported that they had revenues of over \$100 million . . ."

It would be helpful to state that the purpose of the Single Audit Act is to help ensure that: (1) federal funds are used for their intended purpose; (2) that the grantee is in compliance with laws and regulations governing the expenditure of such federal funds; and (3) that the grantee has in place an appropriate system of internal controls to prevent funds and other assets from misappropriation or unauthorized use.

The third paragraph under this heading should be expanded to indicate that the Single Audit Act **permits** tribes to exclude business enterprises from their audits under certain conditions. Even though the Single Audit Act permits this exclusion, many auditors render a qualified opinion because all tribal entities are not represented in the financial statements. To the extent that the data collected allows, the statement on page 10 that "half of the financial statements . . . received auditors' opinions indicating that the statement was deficient in some way . . ." should be expanded to indicate the nature of the auditor's qualification.

Given the fact that GAO relied so heavily on the Single Audit Act reports, it would seem appropriate that the report include some caveat about the problems inherent in using data for a purpose other than that for which it was designed, *i.e.* Single Audit Act reports are designed for non-profit and governmental organizations; they are not designed to determine the financial health of for-profit enterprises. GAO relied on these reports because they were the only information available, but without some caution the Congress might think these reports contained information which could be validly applied to determine "need".

APPENDIX I

Footnote "e" states that TPA funds not distributed include funds for BIA's central office. Prior to the movement of road maintenance to TPA, the headquarters program administration costs were funded from the road maintenance line of the budget. With the transfer to TPA, those amounts used for headquarters staff should have been budgeted within Central Office operations. This correction will be made in the FY 2000 budget submission.

APPENDIX II

Footnote "e" indicates "Not a federally recognized tribe" for Kodiak and Valdez. GAO raised this issue the day before the appropriations hearing. The Bureau reported that Kodiak Tribal Council (Kodiak) and Valdez Native Association (Valdez) are 638 contractors that represent several Federally recognized Tribes in operating a self-determination contract.

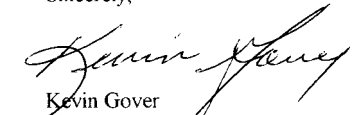
**Appendix III
Comments From the Bureau of Indian
Affairs**

The GAO clarified this point in the hearing testimony and the report should be modified to conform to the testimony. We agree that only Federally recognized tribes should be included within TPA, even through those tribes may choose to have another organization actually provide program services.

In Table II.10. Phoenix Area, the BIA Agency Office is "Truxton Canon" rather than "Truxton Canyon."

If you have questions regarding this response or feel that a meeting would be useful, please contact the Office of Audit and Evaluation.

Sincerely,



Kevin Gover
Assistant Secretary - Indian Affairs

Enclosure

(PROPOSED) APPENDIX V

While reports from the Committees on Appropriations and various other task forces have urged BIA to develop a funding methodology based on “need” or “equity,” there is presently no statutory requirement that it do so. There are, however, a number of provisions of law which specifically prohibit BIA from considering certain amounts of tribal income when making funding decisions. The following list is for illustrative purposes only; it is not exhaustive.

1. Tribally Controlled School Grants, 25 U.S.C. 2501 *et seq.* Funding for grant schools is provided in semi-annual installments. Subsection 2507(b)(1) states:

Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this chapter after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this chapter shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

Therefore, interest income to a tribe from these investments must be excluded in calculating tribal resources.

2. Higher Education Tribal Grant Authorization, 25 U.S.C. 3301 *et seq.* This statute allows tribes to receive the scholarship program which is funded through TPA as a grant rather than a contract. Subsection 3306(d)(1) contains the same language identified above with respect to interest income and contains an additional provision which precludes the Secretary from making changes to the way in which the funds are allocated. Subsection (a)(1) states:

The Secretary shall continue to determine the amount of program funds to be received by each grantee under this subchapter by the same method used for determining such distribution in fiscal year 1991 for tribally-administered and Bureau-administered programs of grants to individual Indians to defray postsecondary expenses.

3. National Indian Forest Resources Management, 25 U.S.C. 3101 *et seq.* The statute authorizes Indian forest land assistance accounts which may contain deposits from a number of sources. Subsection 3109(b)(2) states:

Funds in the Indian forest land assistance account and any interest or other income earned thereon shall remain available until expended and shall not be available to otherwise offset Federal appropriations for meeting the Federal responsibility for management of Indian forest lands.

4. Most Indian claims settlements prohibit the consideration of trust funds, assets, or income earned for the purposes of Federal assistance. In some cases, the corpus of the trust is protected and the Tribe may spend only the interest income which would not be particularly difficult to calculate.

**Appendix III
Comments From the Bureau of Indian
Affairs**

In other cases, such as *Seneca*, if the proceeds of the Settlement were used to establish economic enterprises, it would seem that all income generated from those enterprises would be exempt from consideration. Some examples are shown below:

Washington Indian Land Claims Settlement: *"None of the funds, assets, or income from the trust fund established...shall at any time be used as a basis for denying or reducing funds to the Tribe or its members under any Federal, State, or local program."*

Seneca Nation Land Claims Settlement: Some \$65 million of state and Federal funds was paid to the Seneca Nation in the early 1990s. *"None of the payments, funds or distributions authorized, established, or directed by this subchapter, and none of the income derived therefrom, shall affect the eligibility of the Seneca Nation or its members for, or be used as a basis for denying or reducing funds under, any Federal program."*

Crow Boundary Settlement: *"No payments or benefits conferred pursuant to this subchapter shall result in the reduction or denial of any Federal services or programs to any tribe or to any member of a tribe to which the tribe or member of the tribe is entitled or eligible because of the status of the tribe as a federally recognized Indian tribe or the status of a member of such tribe as a member."*

5. The Indian Self-Determination and Education Assistance Act (P.L. 93-638, as amended), 25 U.S.C. §450j-1 states that:

"The amount of funds provided under the terms of self-determination contracts entered into pursuant to this subchapter shall not be less than the appropriate Secretary would have otherwise provided for the operation of the programs or portions thereof for the period covered by the contract..." and further prohibits the reduction of funding levels in subsequent contract years except for specific reasons stated in the law, such as reduction in appropriations. Tribal revenue is not one of the exceptions. While not all TPA funds are contracted, the majority are.

GAO Comments

1. Our earlier report entitled Tax Policy: A Profile of the Indian Gaming Industry ([GAO/GGD-97-91](#), May 5, 1997) stated that the total revenues reported from Indian gaming operations during 1995 were \$4.5 billion, with a total net income of \$1.9 billion. About 40 percent (\$1.85 billion) of all gaming revenues was generated by eight tribes. In its comments, BIA incorrectly compared the revenue figure for these eight tribes (\$1.8 billion) with the total net income figure for all the gaming tribes (\$1.9 billion). Nevertheless, we agree with BIA's overall point that these eight tribes account for a substantial portion of the gaming revenues and that these eight tribes receive only a small fraction of the overall TPA funds.
2. The data on tribal revenues presented in this report are provided for informational purposes only, for the policy debate currently before the Congress. We chose to include the complete range of tribal revenue figures, from negative to positive, to provide a balanced picture of the financial position of as many tribes as possible. Some tribes reported substantial revenues, while others reported losses from their business enterprises. We understand BIA's concern, and we caution that no inference should be drawn from the presentation of these data that tribes with failing business enterprises should receive increased federal assistance.

Scope and Methodology

We obtained information on BIA's basis for distributing 1998 TPA funds and on the tribes' own self-reported revenues under the Single Audit Act. We contacted officials of the Department of the Interior's Bureau of Indian Affairs, Office of Audit and Evaluation, and Office of Self-Governance in Washington, D.C., and its Office of Audit and Evaluation in Lakewood, Colorado. We analyzed distribution data provided by BIA and the Office of Self-Governance to determine the amounts distributed to BIA area and agency offices and to tribes in fiscal year 1998.

At Interior's Office of Audit and Evaluation in Washington, D.C., and Lakewood, Colorado, we examined all 326 of the most recent financial statements that were submitted as of March 1998 under the Single Audit Act by tribes, tribal associations, and tribal enterprises. These statements generally covered 1995 or 1996. We did not examine statements submitted for some entities, such as tribal housing authorities and community colleges, because these entities are financially separate from the tribes. From each of the financial statements we examined, we obtained information about the independent auditor's opinion, revenues for all fund types reported, and operating income for the tribes that included tribal business information in their statements.

Our analyses of 299 tribes' own revenues were derived from the information contained in the financial statements. Of the 326 financial statements we reviewed, 299 were for tribes (2 of which were not federally recognized). Another 13 were for tribal businesses or components of tribes, and we merged their financial information into that of the cognizant tribes for analysis. The remaining 14 financial statements were for consortia or associations representing multiple tribes, primarily those in Alaska; we excluded the financial information from these statements from our analysis of tribes' own revenues.

We performed our review from November 1997 through May 1998 in accordance with generally accepted government auditing standards.

Major Contributors to This Report

Resources,
Community, and
Economic
Development Division

Jennifer Duncan
Ann Fruik
Barry Hill
Diane Lund
Jeffery Malcolm
Sue Naiberk
Pam Tumler

Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are \$2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. VISA and MasterCard credit cards are accepted, also. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

**U.S. General Accounting Office
P.O. Box 37050
Washington, DC 20013**

or visit:

**Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC**

Orders may also be placed by calling (202) 512-6000 or by using fax number (202) 512-6061, or TDD (202) 512-2537.

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (202) 512-6000 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

For information on how to access GAO reports on the INTERNET, send an e-mail message with "info" in the body to:

info@www.gao.gov

or visit GAO's World Wide Web Home Page at:

<http://www.gao.gov>

**United States
General Accounting Office
Washington, D.C. 20548-0001**

**Bulk Rate
Postage & Fees Paid
GAO
Permit No. G100**

**Official Business
Penalty for Private Use \$300**

Address Correction Requested

