



Testimony

Before the Committee on Indian Affairs, U.S. Senate

For Release on Delivery
Expected at 10 a.m. EDT
Thursday, July 25, 2002

INDIAN TRUST FUNDS

Individual Indian Accounts

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Mr. Chairmen and Members of the Committee:

I am pleased to be here today to summarize previous GAO work that identified gaps in information needed to reconcile Individual Indian Moneys (IIM) trust accounts, and the rationale that led us to suggest, based upon our earlier work, that Interior seek alternatives to reconciliation such as a negotiated agreement.

Before discussing our prior work, let me point out that we have not yet had time to analyze Interior's July 2, 2002, *Report to Congress on the Historical Accounting of Individual Indian Money Accounts.*, evaluate its proposed methodology, or discuss the report or its proposed methodology with Interior officials. Also, we have not done recent work to evaluate the current state of Interior's IIM records. Nevertheless it is clear that a reconciliation of IIM accounts is a daunting endeavor, both in terms of the magnitude of the project's scope and the obstacles that are likely to be encountered. As to the scope, certainly tens of millions, and perhaps over a hundred million, of IIM transactions have occurred in the more than 100 years since the first Indian allotment act. Further, the supporting documentation that must be examined to reconstruct the account transactions must first be located by searching more than 100 offices, warehouses, records centers, and archives.

Regarding the obstacles that Interior is likely to encounter, we reported to this committee in June 1996¹ that, based on our work, we concluded at that time that records

¹U.S. General Accounting Office, *Indian Trust Fund Testimony Qs&As*, GAO/AIMD-96-125R (Washington, D.C.: June 24, 1996).

were not available to support a reconciliation of the IIM accounts. In addition to missing records, we pointed to the lack of an audit trail through Interior's Integrated Records Management System (IRMS), which was used to maintain IIM account information, and differences in the way IRMS operates at various Interior locations, which affect the consistency of the IRMS information, as obstacles that Interior would encounter in pursuing an IIM account reconciliation.

Much of our previous work in the area of trust fund reconciliations relates to an earlier account reconciliation requirement and a related Interior effort to reconstruct both tribal and IIM trust accounts. From 1992 through 1997, we monitored and reported on various aspects of Interior's planning, execution, and reporting of results for the reconciliation project. First let me discuss the tribal portion of that earlier Interior effort.

Tribal Accounts

The Congress established an Indian trust fund account reconciliation requirement in the Supplemental Appropriations Act of 1987. That requirement was in response to tribes' concerns that (1) Interior had not consistently provided them with statements on their account balances, (2) their trust fund accounts had never been reconciled, and (3) Interior planned to contract with a third party for management of trust fund accounts.

The 1987 act required that the accounts be audited and reconciled before the Bureau of Indian Affairs (BIA) transferred funds to a third party. Interior's fiscal year 1990 appropriations act added a requirement that the accounts be reconciled to the earliest

possible date and that Interior obtain an independent certification of the reconciliation work. The American Indian Trust Fund Management Reform Act of 1994 subsequently required the Secretary of the Interior to provide tribes with reconciled account statements as of September 30, 1995.

Interior contracted with two major independent public accounting firms, one to reconcile the trust accounts and the other to do an independent certification to indicate that the reconciliation resulted in the most complete reconciliation possible. Following a preliminary assessment in March 1992 by Interior's reconciliation contractor, Interior decided to have the contractor reconcile the tribal accounts for fiscal years 1973 through 1992. Subsequent to this decision, Interior also had BIA reconcile the tribal accounts for fiscal years 1993 through 1995 to comply with the 1994 act's requirement that Interior provide tribes with reconciled account statements as of September 30, 1995.

The tribal portion of Interior's Indian trust fund account reconciliation project was completed and Interior reported the results to tribes in January 1996. During the reconciliation project, Interior spent about \$21 million for contract costs over a 5-year period in a massive effort to locate supporting documentation and reconstruct historical trust transactions, as well as to perform other reconciliation procedures, in its attempt to validate tribal account balances.

During a February 1996 meeting at which Interior officials and the reconciliation contractor summarized the reconciliation project results, tribes raised questions about

the adequacy and reliability of the reconciliations results. In May 1996, we reported² on shortcomings of Interior's reconciliation project. The shortcomings consisted of procedures that were not completed due to missing records, systems limitations, or time and cost considerations.

In May 1997, we reported³ to this committee that, as of May 6, 1997, Interior had provided reconciliation reports to 310 tribes, of which 51 tribes had disputed, and 41 had accepted, the reconciliation results. Of the remaining 218 tribes, 47 had requested more time to consider the results, and 171 had not responded to the reconciliation results. In summary, although Interior made a massive attempt to reconcile tribal accounts during its reconciliation project, missing records and systems limitations made a full reconciliation impossible.

IIM Accounts

Now, let me turn to the IIM portion of Interior's earlier account reconciliation effort. In our June 1992 report⁴ on Interior's efforts to reconcile Indian trust accounts, we noted that the effort originally consisted of two phases. The first phase was to cover, in addition to 500 tribal accounts, 17,000 IIM accounts maintained at three agency offices. However, after an initial assessment by Interior's contractor of the level of effort and

²U.S. General Accounting Office, *Financial Management: BIA's Tribal Trust Fund Account Reconciliation Results*, GAO/AIMD-96-63 (Washington, D.C.: May 3, 1996).

³U.S. General Accounting Office, *Indian Trust Funds: Tribal Account Holders' Responses to Reconciliation Results*, GAO/AIMD-97-102R (Washington, D.C.: May 23, 1997).

⁴U. S. General Accounting Office, *Financial Management: BIA Has Made Limited Progress in Reconciling Trust Accounts and Developing a Strategic Plan*, GAO/AFMD-92-38 (Washington, D.C.: June 18, 1992).

cost needed to complete the various segments of reconciliation work, a decision was made not to reconcile IIM accounts as part of the project. In reporting this status, we noted that Interior and its contractor had determined that a full reconciliation of all tribal and IIM accounts was neither possible nor cost-effective due to missing records, commingled tribal and individual Indian accounting records, poorly documented accounting transactions, and the volume of data to be reviewed.

At that time, we recommended that Interior seek alternatives to the reconciliation project and develop a proposal for reaching a satisfactory resolution of the trust fund account balances with account holders. Among alternatives that we recommended for Interior's consideration were that Interior consider negotiating agreements with individual Indians on balances reported on their account statements and request legislated settlements on all, or selected accounts. In a number of testimonies and reports over the next several years,⁵ we supported the idea of Interior and tribal and IIM account holders negotiating a resolution of their issues.

Current Situation

Interior's July 2, 2002 report relates directly to the 1994 act and the ongoing class action lawsuit commonly referred to as the Cobell litigation, which is presently before the United States District Court for the District of Columbia. In this regard, my comments

⁵U.S. General Accounting Office, *Financial Management: Native American Trust Fund Management Reform Legislation*, GAO/T-AIMD-94-174 (Washington, D.C.: Aug. 11, 1994).

U.S. General Accounting Office, *Financial Management: Indian Trust Fund Accounts Cannot Be Fully Reconciled*, GAO/T-AIMD-95-94 (Washington, D.C.: March 8, 1995).

U.S. General Accounting Office, *Indian Trust Fund Settlement Legislation*, GAO/AIMD/OGC-95-237R (Washington, D.C.: Sept. 29, 1995).

today are not intended to address, nor is GAO taking any position on what level of accounting the 1994 act or the courts have required of Interior thus far, whether Interior's plan satisfies those requirements, or, if so, whether Interior's plan is the only or best approach for Interior to satisfy the requirements imposed on it. Those issues will ultimately be decided by the court.

Having said this, we note that Interior's report recognizes that a number of obstacles, similar to those we have previously reported on, will complicate its ability to document for IIM account holders the amount and source of funds deposited to, managed in, and disbursed from their IIM accounts. The Interior report enumerates among those obstacles known discrepancies in the balances, at the trust fund level, reported by Treasury and Interior, as well as the potential for (1) errors in the electronic accounting system data, (2) missing paper transaction records, and (3) missing land ownership information and revenue instruments. The report further states that "It is certain that gaps in documentation will be encountered during the historical accounting. Such gaps may range from a single missing lease to an entire time period of missing documentation for some or all IIM account holders served by a specific BIA agency." Interior's enumeration of obstacles is consistent with what our prior work has shown.

Mr. Chairmen, this concludes my statement. I would be glad to answer any questions from you or other Members of the Committee.

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