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

Accounting and Financial
Management Division

B-253474



149286

June 4, 1993

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

Dear Mr. Chairman:

This responds to your May 7, 1993, request for our views on the Department of the Interior's proposal to delete from its fiscal year 1994 appropriation act the provision which tolls (freezes) the statute of limitations on tribal and individual Indian claims against the United States arising from the Bureau of Indian Affairs' (BIA) management of tribal and individual Indian trust funds. This language has been included in Interior's appropriation acts for many years and, in our view, should be included in its fiscal year 1994 appropriation act.

The provision tolls the statute of limitations on tribal and individual Indian claims "until the affected tribe or individual Indian has been furnished with the accounting of such funds from which the beneficiary (account holder) can determine whether there has been a loss." The parties envisioned that such an accounting would result from BIA's current, ongoing reconciliation and audit of the tribal and individual Indians' trust fund accounts, which the Congress mandated in Interior's fiscal year 1988 appropriation act. However, this reconciliation and audit, which began in 1992 after an initial scoping effort, is far from complete.

Tolling the statute of limitations until reconciliation and audit of an account is completed, or until some mutually acceptable agreement is reached as to the account balance, has two overall purposes. First, it provides all interested parties, including account holders, BIA, and the Congress, an opportunity to examine and evaluate all pertinent account information. Second, it permits interested parties to attempt to resolve all claims arising from BIA's management of the accounts--taking into consideration the practical limitations on the scope of the reconciliation, such as the loss of critical records--rather than addressing specific claims in a piecemeal fashion.

GAO/AFMD-93-84R BIA Appropriation Language

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BIA has experienced numerous problems in attempting to reconcile these accounts--some of which date back 50 to 100 years--for the first time. The Department's proposal to delete the provision is based on BIA's conclusion that "an audit and reconciliation of all trust funds to the earliest possible date would be prohibitive in terms of costs." The Department advised the Congress that BIA has worked closely with tribal representatives, the Office of Management and Budget, and GAO to determine the most cost-effective procedures for reconciling the trust funds. While cost, as well as other factors, such as BIA's inability to identify and locate applicable accounting records, needs to be considered in devising a realistic reconciliation approach, the effort as a whole should not be abandoned solely because of cost.

Our July 2, 1992, testimony¹ before your committee and our April 2, 1992, testimony² before the House Committee on Appropriations, Subcommittee on Interior and Related Agencies noted that many trust fund transactions were for small dollar amounts--quarters, dimes, nickels, and even fractions of a penny--and that, due to missing records, many accounts are not reconcilable. As a result, we advised the Congress that alternatives such as using dollar thresholds, reconciling accounts for time periods where adequate records are available, and using account statements as a basis for reaching agreement on balances could be considered. Further, we suggested that in some cases, such as small balance accounts and individual Indian money accounts, BIA may want to reach agreement or a settlement with accountholders.

Regardless of the alternative used to reconcile or reach agreement on account balances, the thrust of our position has been that the government, to fulfill its fiduciary responsibilities, must provide accountholders with a full accounting.

Until there is a mutually acceptable basis for determining account balances and any associated losses, it would be premature to delete Interior's appropriation act language tolling the statute of limitations. Therefore, we believe the Department's proposal should be rejected.

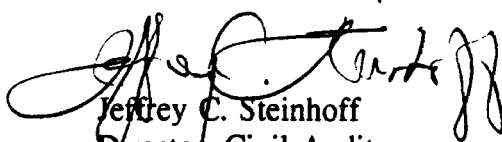
¹Financial Management: Problems Affecting BIA Trust Fund Financial Management (GAO/T-AFMD-92-12).

²Financial Management: BIA Has Made Limited Progress in Reconciling Indian Trust Fund Accounts and Developing a Strategic Plan (GAO/T-AFMD-92-6).

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If you have any further questions regarding this issue, please contact me at (202) 512-9454 or Gayle Condon, Assistant Director, at (202) 512-9577.

Sincerely yours,



Jeffrey C. Steinhoff
Director, Civil Audits

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GAO/AFMD-93-84R BIA Appropriation Language