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General Accounting Office  
Washington, D.C. 20548

Accounting and Information  
Management Division

B-272352

June 24, 1996

The Honorable John McCain  
Chairman, Committee on Indian Affairs  
United States Senate

Dear Mr. Chairman:

Enclosed are responses to the questions that you provided subsequent to our testimony during your June 11, 1996, oversight hearing on "Indian Trust Funds Management by the Bureau of Indian Affairs and Implementation of the Indian Trust Fund Management Act of 1994."

I hope that this information is helpful. If you have further questions, or would like to discuss any of the issues in more detail, please contact me at (202) 512-9508 or Gayle Fischer, Assistant Director, at (202) 512-9577.

Sincerely yours,

Linda M. Calbom  
Director, Civil Audits

Enclosure

RESPONSES TO QUESTIONS FROM JUNE 11, 1996, HEARING

Question 1: In GAO's review of the final reports that the Bureau of Indian Affairs (BIA) provided to each Indian tribe, have you found them to be accurate and reliable? Do they give a "fair and complete" accounting of tribal trust funds during the period 1972 to 1992?

GAO Response: We did not review the individual report packages sent to each of the tribes. We did review BIA's prototype report package. Based on this review, we identified a number of reconciliation procedures called for by the original contract that either were not performed or could not be completed as originally envisioned which could affect the reliability of the account statements. In addition, we found that the prototype report package did not explain or describe the numerous changes in reconciliation scope and methodologies or the extent to which the reconciliation provided a fair and complete accounting. These concerns were described in detail in our May 1996 report to your Committee.<sup>1</sup> Tribal representatives have told us that their report packages generally contain the same limited information that was contained in the prototype report package.

Question 2: What would be the next steps to take in order to implement the settlement process proposed by GAO to resolve damage claims arising from BIA's mismanagement of tribal trust funds?

GAO Response: The mediation/arbitration process that we proposed in our September 29, 1995 report<sup>2</sup> to your Committee and the House Committee on Resources requires a legislative basis. Our report included draft legislation that you might find useful in this regard. That draft would have amended the reconciliation reporting requirement of the American Indian Trust Fund Management Reform Act of 1994, section 304(3) of Public Law 103-412, to require that account holders and the Special Trustee for American Indians initiate certain actions in connection with the reconciliation reports. Those reports, as you know, were issued beginning in January 1996. The draft legislation would need to be revised to reflect that fact, as well as to accommodate specific concerns of Committee members. We would be happy to assist your staff in such an effort.

Question 2 (A): Your May 3, 1996, GAO report said a similar settlement process could be used to resolve claims involving Individual Indian Money (IIM) accounts? Please describe how this might work, since we do not have even a partial reconciliation of these individual accounts?

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<sup>1</sup>Financial Management: BIA's Tribal Trust Fund Account Reconciliation Results (GAO/AIMD-96-63, May 3, 1996).

<sup>2</sup>Indian Trust Fund Settlement Legislation (GAO/AIMD/OGC-95-237R, September 29, 1995).

**GAO Response:** For reasons discussed in our response to Question 5 below, we do not advocate initiating a reconciliation process for IIM accounts. We do feel, however, that a mediation/arbitration process structured as we have proposed for tribal accounts could be used to resolve disputes between the government and IIM account holders over the correct balances of IIM accounts. The absence of a reconciliation and reconciliation reports for IIM accounts is not necessarily problematic. Although the settlement process we proposed for tribal accounts is designed to address disputes raised by account holders over balances as reported in the reconciliation reports, the proposal could easily be modified to recognize some other event to trigger the process for IIM account disputes. For example, as a starting point, the legislation might require the Office of Trust Funds Management (OTFM) to issue account statements by a certain date, reflecting balances shown in OTFM's records as of that date, and to offer the account holders an opportunity to dispute those balances through the same mediation/arbitration process we have proposed for tribal accounts.

**Question 3:** What are the most significant limitations in the scope and methodology of BIA's reconciliation effort?

**GAO Response:** In our May 1996, report, we describe a number of reconciliation procedures called for by the original contract that either were not performed or could not be completed as originally envisioned. The significance of these scope and methodology limitations to the reliability of tribes' account balances would vary depending upon the makeup of each tribe's financial transactions. For example, the contract called for a review of all leases with annual collections greater than \$5,000, but due to time constraints, only 10.7 percent of those leases were tested. This scope limitation could greatly affect the reliability of the account balances for a tribe with significant lease revenues, but not affect the reliability for a tribe with no lease revenues. One major limitation that would affect the reliability of all tribes' account balances is that the general ledger was the starting point for the basic transactions reconciliation and the methodology provided no assurance that all transactions had been recorded in the general ledger.

**Question 3 (A):** I note from your statement that BIA did not disclose these limitations in the written materials BIA supplied to tribes. Has BIA adequately disclosed these limitations in its meetings with tribes?

**GAO Response:** In February 1996, we attended a 2-day meeting in Albuquerque, New Mexico, held for tribes by BIA and reconciliation contractor officials to discuss the reconciliation reports and results. At that meeting, BIA and contractor officials explained some scope limitations, especially in response to questions from

tribal representatives. We have not attended any of the subsequent regional meetings held by BIA to serve as workshops to assist individual tribes in reviewing their reconciliation results. InterTribal Monitoring Association (ITMA) representatives have told us that if tribes ask the right questions at the workshops, BIA explains or discloses limitations. However, they told us that all tribes may not understand the report packages well enough to ask the right questions. Also, ITMA told us that there is no way of knowing what BIA covers in the private meetings with tribal representatives, except to ask the tribes. Some tribal representatives told us that they are still reviewing their information and asking questions about the coverage of their accounts.

**Question 4:** What assurances were lost by not completing the independent certification by Coopers & Lybrand of the reconciliation results?

**GAO Response:** The fiscal year 1990 appropriations act required a separate, independent certification that the accounts had been reconciled and audited to the earliest possible date and that the results were the most complete reconciliation possible. The certification requirement was imposed to obtain independent assurance of the accuracy and reliability of the reconciled balances. After the certification contract was awarded in September 1993, BIA limited the scope of the certification contract to ensure only that the reconciliation effort was performed in accordance with the reconciliation contract. Therefore, the certification effort as designed did not address whether the reconciliation provided as complete an accounting as possible, and it would not, in our view, have provided the additional assurance originally contemplated.

**Question 5:** What would be required for the Department to properly audit, reconcile, and certify the Individual Indian Money (IIM) accounts?

**GAO Response:** Based on our work, we do not believe that records exist to support a full audit and reconciliation of the IIM accounts. Our May 3, 1996, report stated that due to missing records and the lack of an audit trail through BIA's Integrated Records Management System (IRMS), which is used to maintain IIM account information, tribal transactions could not be effectively isolated from individual Indian transactions. As a result, BIA was not able to complete tribal IIM and Special Deposit reconciliations. This same situation would impact BIA's ability to complete individual IIM account reconciliations. In addition, we reported in June 1992<sup>3</sup> that BIA's IRMS system operates differently at six locations, and that subtle changes to programs and coding schemes over time have made the information at these locations inconsistent. We further reported in

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

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our June 1992 report that questions exist about the accuracy of land and mineral ownership records upon which income distributions are based. A BIA official recently confirmed to us that those conditions continue to exist.

Question 5 (A): What records exist which might be used in court by either the United States or the Indian tribes in defending or in prosecuting claims for loss to the IIM accounts?

GAO Response: Because the IIM reconciliation was terminated, neither we nor BIA have developed a complete catalogue of what IIM records exist. As we noted in our testimony before your Committee, individual Indian trust fund accounts were not included in BIA's recent reconciliation project due to cost considerations and the potential for missing records. And, as noted above, significant questions have been raised about the quality and reliability of some of BIA's records. Individual account holders themselves may have records that they would use to assert their claims. Of course, any record offered in court to defend or prosecute a claim could be subject to challenge for relevance, accuracy, and reliability.

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