

# Status Report to the Court Number Eight

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For the Period  
August 1, 2001 to December 31, 2001



January 16, 2002

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THE SECRETARY OF THE INTERIOR  
WASHINGTON

JAN 16 2002

*By facsimile transmission and U.S. Mail*

Sandra P. Spooner  
U.S. Department of Justice  
Civil Division  
Commercial Litigation Branch  
P.O. Box 875  
Ben Franklin Station  
Washington, D.C. 20044-0875

Re: Cobell v. Norton - Eighth Status Report to the Court

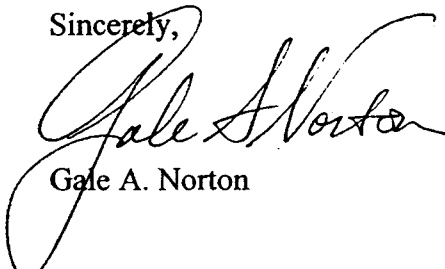
Dear Ms. Spooner:

Enclosed is the Department of the Interior's *Status Report to the Court Number Eight (For the Period August 1, 2001 to December 31, 2001)*, dated January 16, 2002 ("Report"). Please forward a copy to the Court.

As discussed more fully in the Secretarial Observations in this Report, the preparation of this report differed from the preparation of previous reports submitted to the Court. The subproject managers responsible for this Report met in Washington, D.C. with the Deputy Secretary, the Assistant Secretary-Indian Affairs, the Special Trustee, the Director of Trust Transition and me to begin compilation and review of this Report. Each subproject manager has been asked to provide written assurances regarding the accuracy of his or her contributions. As you know, attorneys from the Civil Division of the Department of Justice have worked closely with us in the preparation and review process. My signature on this Report reflects my belief that my personal observations in the Report are true and correct and that the accompanying sections of the Report are, to the best of my knowledge, accurate.

Thank you for your assistance.

Sincerely,



Gale A. Norton

Enclosure

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**I. INTRODUCTION**

This is the eighth report submitted to the Court since March 1, 2000. It covers activities occurring over a five month period from August 1, 2001, through the end of the calendar year. The goal in preparing this report is to provide a complete and accurate status report to the Court. The Department of the Interior (“DOI” or “Department”) stands ready to provide any additional information requested by the Court to explain or supplement this submission. Similarly, the Department will consider any request by plaintiffs for more information.

**The Court’s Orders.** In the matter of *Cobell v. Norton*, the United States District Court for the District of Columbia on December 21, 1999, ordered the Department to submit quarterly status reports to the Court. According to the Court’s Order of December 21, 1999, the quarterly status reports are to set forth and explain the steps the Department has taken to rectify the breaches of trust declared by the Court and to bring itself into compliance with the statutory trust duties embodied in the Indian Trust Fund Management Reform Act of 1994 and other applicable statutes and regulations.

The Eighth Quarterly Report to the Court was originally due on December 3, 2001. On November 26, 2001, the Department filed the Electronic Data Systems (“EDS”) Reports and supporting documents with the Court and requested the Court to accept those documents in lieu of a traditional Quarterly Report to the Court. On December 17, 2001, the Court denied that request, but permitted the Department an additional 30 days from December 17, 2001, to submit the Eighth Quarterly Report to the Court in accordance with the Court’s Order of December 21, 1999.

This report covers a five-month period, from August 1, 2001 through December 31, 2001. The additional coverage seeks to provide the most current status possible for the Court. This report, therefore, is unlike the second through seventh reports, which were limited to three month periods.<sup>1</sup> By separate motion, the Department plans to seek permission from the Court to submit future reports on a calendar quarter basis starting with the first calendar quarter of 2002.

**Status Report Format - A Process in Transition.** The Department’s effort to satisfy its trust responsibilities to individual Indians is necessarily an evolving process, and as that process matures, the means to best inform the Court with respect to this process will also change. Thus, the format of this report varies from that employed in the seven earlier reports submitted to the Court. These changes are guided by reference to the Court’s orders, activities of the Court Monitor and Special Master, the obstacles encountered thus far by the Department, and the Secretary’s initiatives to advance trust reform and the accounting efforts beyond the point they were first envisioned by the original High-Level Implementation Plan (“HLIP”) dated July 1, 1998. Prior reports were structured to report on the status of the revised and updated HLIP dated February 29, 2000, and the so-called “four breaches.”

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<sup>1</sup>The first quarterly report covered actions taken from June 10, 1999 through January 2000. This responded to the Court’s Order of December 21, 1999, that the first quarterly report was due March 1, 2000, and should encompass actions taken since June 10, 1999.

Several efforts and activities illustrate the changing nature of trust reform and hence, the transitional nature of this report. Key changes include:

- The Department created an Office of Historical Trust Accounting (OHTA) to develop a comprehensive plan for an historical accounting.
- The Secretary proposed to reorganize the Department's trust functions.
- The Secretary created the Office of Indian Trust Transition to facilitate that effort and is now consulting with Indian Tribes and Indian leaders about the reorganization proposal; the House Resources Committee has also scheduled a hearing on the reorganization proposal on February 6, 2002.
- The department commissioned the management consulting firm Electronic Data Systems, Inc. ("EDS") to provide a comprehensive independent assessment of the efficacy of the Department's trust reform efforts to date.
- The Secretary also asked EDS to prepare a Trust Asset Management Business Model, to assist her prospectively in reorganizing trust functions to improve Indian trust assets management.

The Department has concluded, however, that the HLIP milestones have become increasingly disconnected from the overall objectives of trust reform. Some milestones have been achieved; some have not been achieved; some have been reported as complete, but little seems to have been accomplished; some have been changed; some need reevaluation; others should have been changed but were not; and in hindsight, trust beneficiaries would have benefited from inclusion of some elements of trust asset management that were not included in prior reports but are now contained in this report. Moreover, the Secretary's initiatives to reevaluate trust reform and to create a new organizational structure are more naturally described under new headings, rather than by reference to HLIP subprojects and milestones that have served their purpose, become ineffective, need consolidation given their interdependencies, or simply do not reflect the true status of trust reform. The format and coverage of this report also allows the Department to refer to and comment upon the independent EDS assessment of trust reform. The changes in the report format are noted below, but given the current reevaluation of trust reform and trust assets management, future reporting formats will develop to dynamically document accomplishments as well as failure or lack of sufficient progress.

The Secretary's Observations begin the report as the first new section. Next come the observations of the Special Trustee, who is charged by statute to oversee trust reform. The Special Trustee's observations have prefaced the quarterly reports from the third report when the Special Trustee began preparing the reports. The Special Trustee's role is further emphasized in this report by including separate Special Trustee observations within each subproject where deemed appropriate by the Special Trustee. Each subproject manager was given a corresponding opportunity to comment on those observations. This change facilitates better reporting on the oversight, coordination and other duties under the Trust Funds Management Reform Act of 1994, P.L. 103-412.

There are other new and important features not present in earlier reports, contained under the section, "Sections New To This Report."

- A. Departmental Reorganization
- B. Office of Historical Trust Accounting
- C. Information Technology Security
- D. BIA Office of Information Resource Management
- E. Current Accounting Activities
- F. Fractionated Heirship
- G. Cadastral Surveys

Under the Trust Reform Activities heading is information on the status of trust reform with reference to familiar HLIP subprojects. The format and topics covered here, however, differ from past reports. Earlier reports were organized to follow the order of the HLIP, subproject-by-subproject. The subprojects were followed by information on three of the four areas identified by the Court as breaches of the trust responsibility.<sup>2</sup> Under prior reports, milestone charts followed each of the subprojects and breaches. The format of the HLIP did not encourage reporting on lack of success or the need for additional resources or efforts.

In contrast, this report covers matters in addition to the status of the subprojects. Subproject managers have been asked to discuss obstacles, resource needs, and whether they know at this time the full extent of the endeavor required. These matters are important for an accurate picture of the status of trust reform. Moreover, summary observations from EDS are included under the subprojects, and the managers of the subprojects are given the opportunity to comment upon the EDS observations so that all views are provided.

Milestone charts are omitted since milestones do not fully disclose the status of trust reform. Information on the status of trust reform is no longer necessarily organized by HLIP subproject, again, in an attempt to allow for full disclosure. This report reorders several subprojects and breaches under the following topics:

Data Cleanup;  
Computer Systems; and  
Trust Management Staffing.

As the Department's management of its trust responsibilities evolves, so shall its reporting of that management. This report, in its totality, is a marked departure from previous reports. As such, it is intended to better serve both the Court and the trust beneficiaries.

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<sup>2</sup>Since the second quarterly report, the Records Retention breach report has appeared under the HLIP Records Management Chapter.

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**II. SECRETARY GALE NORTON'S OBSERVATIONS**

This report details five months of the Department of the Interior's transition toward a better, more effective program of trust reform. It also details the Department's efforts to provide information to this Court that reflects, as accurately as possible, not only the progress being made but also the problems and obstacles encountered. As indicated in the introduction, the style, methodology and content of this report differ from previous reports. We are introducing a new format that is designed to be more readable, and the information is based upon a methodology designed to document more objectively both accomplishments and lack of progress. The previous format focused on the steps we have taken and the completion of milestones. In retrospect, this format exacerbated the ordinary human inclination to report accomplishments and to ignore obstacles, difficulties and problems that were not directly related to the milestones. With this report, we have demanded that managers report both progress and problems. Our report also includes the key recommendations of outside management consultants who have criticized the current approach to some trust reform goals. The overarching goal is to provide the Court a more comprehensive and candid reflection of trust reform. Because transition is inherently a gradual, start-stop process as new problems and issues are encountered, we believe that this report is an improvement over past reports and can serve as a basis to improve future reports even more.

In my first Congressional testimony as Secretary of the Interior on February 28, 2001, I said:

I would like to comment on a matter of very high priority for myself and for the Department, and that is the matter of Indian trust reform. As the Trustee, I clearly recognize the important obligations of the Department to put in place those systems, procedures, and people to fulfill our obligation to the trust beneficiaries, both individual Indians and tribes. This is an enormous undertaking in correcting the errors and omissions of many decades. Coming into this position, and so early in my tenure seeing a decision from the Court of Appeals in the Cobell litigation, I have to say that I have grave concerns about our existing management systems. It is a very high priority for me that the person who comes in as Assistant Secretary of Indian Affairs and the other people who fulfill leadership positions as to our Indian responsibilities are people with strong management backgrounds and abilities.

I can assure the Court that trust reform has the attention of the Department's senior political management team. The first member of my management team was sworn in on July 4, 2001, and since that time, we have spent more time on trust reform than any other single issue. Seemingly every day my senior management team and I learn more about the challenges of reforming the past trust management policies, practices and systems. We believe that we now have a better understanding of the objectives the Department must accomplish. This background does not excuse the Department's past failure to meet its responsibilities in trust management and trust management reform, but it does place in context our growing appreciation of the problems involved and the intensive effort necessary to address them.

As described in prior submissions to the Court, the Department now views the High Level Implementation Plan (HLIP), by which trust management reform progress was measured and reported to the Court, to be obsolete. As reflected in the introduction, HLIP milestones have become increasingly disconnected from the overall objectives of trust reform. The HLIP is now outdated. Many of its identified activities have been designated as being completed; however, little material progress is evident. More fundamentally, the HLIP does not reflect an adequately coordinated and comprehensive view of the trust reform process. A continuing re-examination of ongoing trust reform is needed along with clarification of trust asset management objectives.

Given these concerns about existing management systems, the Department commissioned an outside evaluation of trust reform. We received that evaluation in this reporting period, and that analysis, included in this report, confirmed these concerns. Another high priority has been to identify and recruit seasoned managers who can objectively assess the facts and problems and propose practical solutions so that we fulfill our fiduciary duties to account for the trust assets of Native Americans. By the beginning of this reporting period, most top managers were in place, and I now have a functioning senior management team. (A list of these senior-level employees, their starting dates, and their qualifications is found in Appendix A.) The team is engaged in a day-to-day decision process related to trust reform and trust asset management. Those who have worked with my new team can attest to their extraordinary work ethic, management experience, seasoned leadership and creativity in undertaking complicated tasks.

This new perspective is captured by the observations in this report by Mr. Ross Swimmer, a former Assistant Secretary – Indian Affairs and now the Director of the Office of Trust Transition. Mr. Swimmer, who was appointed on November 26, 2001, has, in the process of working on this report, interviewed subproject managers, analyzed problems and inadequacies in previous reports, critiqued current efforts, and proposed solutions. As Mr. Swimmer reports:

It is obvious also that trust asset management for individual Indians is spread throughout DOI and even indirectly to other agencies of the federal government, such as the Department of the Treasury. There are many instances where work is being done by one agency or bureau and is simply “thrown over the fence” to the next work group without the normal follow-up that would insure a beneficiary receives his/her income or other responsive information due from a trustee. It is essential that trust management reform and the on-going business of trust operations be managed by an organizational structure that has accountability from top to bottom.

This seasoned judgment, thoughtful analysis, sound counsel and problem solving is the perspective I need as the Secretary of the Interior as we chart and implement the future course of trust management reform. This is the type of information that will aid the Court as it monitors progress in our efforts to comply with the Court's order.

The introduction summarizes the key actions I have taken as Secretary on trust management, including creating the separate Office of Historical Trust



Accounting, proposing a reorganization of trust management, consulting with tribes on this reorganization proposal, and asking outside management consultants to assess current trust reform efforts. I have also been working to increase budget resources for trust management and oversight, and I am highly confident that the President will on February 4<sup>th</sup> propose significant increases for improving trust management and oversight.

Our senior management team, by working together, can achieve great progress. But I do not want to leave the impression with the Court that the management team alone can get the needed work done. Many questions and issues must be addressed as we proceed to the accounting necessary to comply with our responsibilities to the beneficiaries and the Court. Input of experts on key aspects of the historical accounting must be obtained and evaluated. A historic accounting will require the cooperation of hundreds of employees and tribal members. The work cannot be accomplished overnight. Inevitably, there will be unforeseen obstacles and problems, some of which may be beyond our control. We will have to determine and marshal from the Congress the resources to do this work. However, we take responsibility to address those problems and to confront those issues. We have a team in place to head this program in the right direction. We also better understand the information desired by the Court in periodic reports.

As I previously indicated, this report also marks the beginning of the transition from a narrow, non-integrated, task-oriented set of activities related to trust reform, to an integrated, goal-focused approach to managing and accounting for trust assets.

The senior management team will coordinate a new management strategic plan to replace the HLIP. This will incorporate a broad variety of perspectives, including those offered by tribes, individual Indians, outside consultants, and other agencies. This plan will incorporate ways to overcome challenges and obstacles identified in this report by the subproject managers, EDS, Inc., the Special Trustee and the Director of Indian Trust Transition. Our objectives are (1) to plan and conduct a valid, cost-effective and timely accounting of the IIM trust in a manner that satisfies the Department's fiduciary duty to account to IIM beneficiaries, (2) to develop a beneficiary approach to trust management and service delivery, (3) to record and maintain comprehensive, up-to-date and accurate land and natural resource ownership records, and (4) to develop a workforce plan and associated activities to attract and maintain a qualified, effective workforce.

As we move forward, we will place high priority on consulting with the tribes. Not only is this required by Executive Order and Departmental regulations (Executive Order No. 13175 (November 6, 2000) and BIA Consultation Guidelines (December 13, 2000)), it is the right way to conduct affairs of government that affect tribes. A task force of tribal leaders is being formed as a way of facilitating the consultation process. I have committed financial resources to support the task force and other consultation efforts. Working with these tribal leaders, we are earnestly endeavoring to achieve progress on trust reform and satisfy our obligations to this Court.

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**Appendix A**

**NEW SENIOR DEPARTMENT OF THE INTERIOR MANAGEMENT**

The following individuals took office in the latter half of 2001. They became active in trust management issues during the time period covered by this report.

- Steve Griles became Deputy Secretary and Chief Operating Officer of the Department of Interior July 17, 2001. Mr. Griles is now in charge of trust management improvement activities. Prior to his appointment as Deputy Secretary, Mr. Griles had 18 years of senior management experience at the Department of Interior and Commonwealth of Virginia. This service included directing national programs for the management of public lands, mineral resources and collection of royalties from federal mineral leases. He also has extensive private sector experience working for a natural resource management company.
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- Neal McCaleb became Assistant Secretary of Indian Affairs on July 4, 2001. Mr. McCaleb is a civil engineer who served as the Secretary of Transportation and director of Director of Engineering for the State of Oklahoma and in those capacities managed complex projects and thousands of employees. Mr. McCaleb was elected to the Chickasaw Indian tribe's hall of fame. Mr. McCaleb was chairman of the Chickasaw National Bank, served on the President's Commission on Indian Reservation Economies and served eight years in the Oklahoma State Legislature.
- Jim Cason became Associate Deputy Secretary on August 13, 2001. Mr. Cason has 11 years federal experience managing complex public lands, agriculture, and minerals programs, including service as the Acting Assistant Secretary for Lands and Minerals Management. He also has seven years experience as the Vice President for Risk Management at an international company. He is currently overseeing trust management projects, especially information technology security improvements.
- Bert Edwards became director of the Office of Historical Accounting on July 2, 2001. Mr. Edwards served three years as the Chief Financial Officer for the Department of State. In that capacity, Mr. Edwards oversaw financial, accounting and budgeting operations for a \$4 billion budget, 25,000 worldwide employees and 260 embassies and consulates in 130 countries. Prior to that, Mr. Edwards had 24 years experience as an audit partner for Andersen LLP. He had company-wide technical responsibility for federal, state and local government audits.
- Ross Swimmer was appointed Director of the Office of Indian Trust Transition on November 26, 2001. Ross is the former Assistant Secretary - Indian Affairs, the former President of the First National Bank, Tahlequah, Oklahoma, Chairman of the First State Bank in Hulbert, Oklahoma, President and CEO of Cherokee Nation Industries, and of counsel to the law firm of Hall, Estill, Hartwick, Gable, Golden and

Nelson, PC. Mr. Swimmer is former General Counsel and Principal of the Cherokee Nation of Oklahoma.

- William Myers became Solicitor of the Department of the Interior on July 23, 2001. Mr. Myers is a former Assistant to the United States Attorney General, Deputy General Counsel at the Department of Energy, and an attorney in private practice with Holland & Hart.
- Phil Hogen became Associate Solicitor for Indian Affairs on October 25, 2001. Mr. Hogen is the former United States Attorney for South Dakota, Director of the Office of American Indian Trust, and Vice Chairman of the National Indian Gaming Commission. Mr. Hogen is an enrolled member of the Oglala Sioux tribe.
- Wayne Smith was appointed Deputy Assistant Secretary – Indian Affairs on October 23, 2001. Mr. Smith is the former Chief Counsel to the California Assembly Republican Caucus and Chief of Staff for the California Attorney General.
- Bill Roselius became IT Systems Consultant for Indian Affairs on September 11, 2001. Mr. Rosellius has a 42-year career in information technology most recently for the Oklahoma Department of Transportation, hardware and software computer firms and major corporations including IBM and Chromalloy.

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**III. SPECIAL TRUSTEE OBSERVATIONS**

**General Observations**

During October 2001, the Special Trustee was briefed by the Electronic Data Systems Corporation (EDS) on its findings and recommendations relative to the TAAMS and the BIA Data Cleanup subprojects. On November 1-2, 2001, EDS also briefed members of the DOI senior management, including the Secretary and Deputy Secretary. On November 13, 2001, EDS presented a recommended action plan. I concurred with the recommendations and forwarded them to the Secretary. The Secretary also concurred with the recommendations of EDS. At this point DOI is using the recommendations to help determine the necessary changes in the development plans for both TAAMS and BIA Data Cleanup.

The EDS report on these two projects recommended that the Department appoint a single, accountable official who would be responsible for the proper discharge of the Secretary's fiduciary responsibilities with respect to Indian trust. That official, as proposed by the Secretary, would lead an organizational concept referred to as the Bureau of Indian Trust Asset Management (BITAM). This organization is the subject of a consultation process with Indian tribes presently.

Additionally, the EDS TAAMS/BIA Data Cleanup report recommended developing a trust operations business model, along with business and computer systems architecture and a consistent information acquisition strategy. The report also advocated a trust program management center along with comprehensive staffing plans for all participating organizations. I agree with these recommendations.

As mentioned in the Seventh Quarterly Report's *Observations*, EDS has been engaged as well to perform a comprehensive assessment of the High Level Implementation Plan to include progress monitoring, coordination and management effectiveness for the subprojects. That report draft was delivered on December 6, 2001, and provides findings and recommendations relative to overall trust improvement efforts. That report has been reviewed by subproject managers who had an opportunity to challenge any facts reported by EDS. Their overall response to these findings and recommendations are reflected in this report as elected by each subproject manager. The final EDS report on trust improvement will be issued on January 24, 2002, with a road map. The next major step for DOI will be to determine trust improvement strategy going forward.

To strengthen management of trust reform, Ms. Donna Erwin, Deputy Special Trustee, now has been given oversight for three subprojects: Probate, TAAMS, and BIA Data Cleanup. She has also been detailed to the Office of Indian Trust Transition, the transition organization for BITAM.

It is critical for this Administration and the Department to take three important steps:

*First, an overall strategy for trust reform needs to be determined.*

*Second, an effective organization to execute that strategy must be put in place and staffed. It will be critical that experienced executives, preferably with trust experience from the private sector, lead that organization and that there be accountability (and consequences) down the line within that organization.*

*Third, uniform business processes need to be provided for certain systems development and data cleanup efforts, and a business plan is needed for the overall organization for trust reform.*

Another area of need for trust responsibility is prudent land management to provide beneficiaries, both tribal and individual, with the best income return on their land, normally the principal trust asset. While there are various allegations of mismanagement of the land, there is no overarching plan to effect adequate controls and assure responsible usage. This matter will have to be addressed by the planning process mentioned above.

Many current subproject reports do not provide suitable timelines for the completion of significant elements of the subproject. It is true that, with the input of EDS, many of these subprojects may require reorganization and even combination with other subprojects, and this reorganization of the subprojects is a major next step for DOI. In many cases the length of time to accomplish subprojects, however, can be estimated and should be. Otherwise the Special Trustee, the Secretary, and the Court have no useful time dimensions.

Finally, documentation of completed steps in the life of a subproject is required. Not all accomplishments to date have been documented sufficiently, and the Department will need to pursue this discipline.

### **Observations on Certain Subprojects or Trust Responsibilities**

#### *Accounting*

In this Report, the Department responds to the fundamental tenet of trust: Is there an accurate accounting provided to the beneficiaries, individual and tribal? When one inspects the accounting responsibilities for trust assets under the law applicable to Indians trust, the answer is basically "no". Until the requisite business plan, systems, policies and procedures, and, most importantly, effective management and employee *accountability* are firmly in place, the accounting responsibilities to the beneficiaries at best will be only partially fulfilled.

#### *Historical Accounting*

As part of the accounting, the effort needed to provide an *historical* accounting is enormous and interconnects with other efforts directed at data cleanup. Project management issues for historical accounting will require careful coordination and demand considerable executive skill. In addition, it is unclear to the Special Trustee whether or not the specific requirements of a full accounting to each beneficiary have been identified.

*BIA Appraisals*

Early last November, the Assistant Secretary-Indian Affairs stated that he shared the concerns of the Special Trustee with respect to the independence and integrity of the BIA appraisal process. Further, he offered that the placement of the appraisal staff in the OST was the most appropriate and efficient way to ensure the integrity of the function. The Special Trustee concurred with that decision as set forth in the Assistant Secretary's memorandum of November 8, 2001, accompanied by a directive of the Special Trustee pursuant to Secretarial Order 3232. Work on the transition of Appraisals to OST is underway.

Additionally, the Appraisals subproject will have to curtail system development activities relative to the TAAMS subproject until the latter is redesigned. The Appraisals subproject must also redevelop a plan under the direction of the Office of the Special Trustee to institute standardized appraisal processes and procedures as quickly as possible.

*Cadastral Surveys*

This is an important aspect of identifying, accurately, the assets that belong to the beneficiaries, and is a part of cleaning up trust data. The program for Indian trust cadastral surveys needs to be planned and pursued, and it can be prioritized to produce beneficial impacts for as many beneficiaries as soon as possible. A plan to provide an assessment of the task, to furnish executive direction, and to accelerate the currently limited cadastral survey effort needs to be established.

*Data Cleanup*

The basic re-direction required, as EDS has observed, is to improve project management as well as to prioritize the cleanup tasks that permit the most effective and efficient way to correct data and produce an accurate record of a beneficiary's assets. This means checking the account records for anomalies as well as common error types rather than to concentrate on single types of error correction for all of the accounts in one office.

EDS has recommended the combination of the data cleanup efforts into a single cleanup project, and that is under serious consideration by the Department. The Special Trustee has not yet formed an opinion on that recommendation.

*Land Title*

There are six title plants maintaining title information for Indian land assets across the U.S. Serious consideration should be given by the Department to centralizing all title information in one organization in one location in conjunction with a single data system. With today's communication capabilities, this change should provide better service for the beneficiaries, more efficiency and lower costs.

*Policies and Procedures*

The Special Trustee agrees with the subproject manager that the executive responsibility for trust-related policies and procedures should be relocated from the BIA to the new proposed trust organization and provided the authority to promulgate such policies and procedures as necessary across the activities of the Department.

*Probate*

More effective control of the probate processing should be initiated to track and process a probate case from end-to-end. In other words, a single person should be accountable for the probate of specific accounts and ensure completion of the process. Reorganization of this ongoing activity, therefore, is necessary.

*TAAMS*

Generally, EDS expressed serious reservations about the viability of the land use (leasing) portion of the TAAMS system, but felt the title portion could proceed in development and put into use. The Department, however, has decided not to implement the title portion in additional locations pending further re-planning of the overall asset management systems projects. With that decision the Special Trustee concurs.

*Computer and Business Systems Architecture*

As articulated in the accompanying subproject report, this critical subproject needs to deal now with two issues: The organizational location for the governance of trust architecture going forward and developing the architecture in greater detail. With regard to the former, the Special Trustee believes that the governance (executive responsibility and requisite staff) needs to be within the trust chain of command of a separate, unified trust organization.

**Conclusion**

In this report, there are positives in the vetting process by the Department of the individual subprojects for the report plus the receipt of the EDS observations and recommendations on the status of all of the subprojects and trust reform. Overall progress on trust reform cannot be assured or confirmed, however, because of the apparent inadequate planning and execution to date of some subprojects and other important remedies for Indian trust.

Intelligent and objective planning in the upcoming months should provide for the appropriate steps to be taken. It is important to success that the DOI senior management recognizes the interdependencies of the total trust reform effort. Reporting for the subprojects herewith may not include reporting on steps that should have been planned, the absence of which may present problems to the completion of the subproject. It is in that sense, at least, that parts of this report remain inadequate, in the Special Trustee's judgment.

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**IV. DIRECTOR OFFICE OF INDIAN TRUST TRANSITION OBSERVATIONS**

The Office of Indian Trust Transition (OITT) was organized pursuant to Secretarial Order No. 3235, November 20, 2001, with the purpose of “establishing a temporary office in the immediate Office of the Secretary that will be responsible for planning and implementing the transition of the Department’s Indian trust functions, currently located in various units of the Department of the Interior (Department), to a new entity within the Department.” On November 26, 2001, I became involved with the Department of the Interior’s (DOI) trust reform initiative. It was at that time I was asked by the Secretary to take on the role of directing a transition office for trust reform.

Since my involvement in this matter, the Deputy Secretary assigned certain oversight responsibilities to OITT including the Trust Asset and Accounting Management System (TAAMS), Probate and BIA Data Cleanup. Ms. Donna Erwin, Deputy Special Trustee has been assigned to my office on a non-reimbursable detail to help manage and control these subprojects in addition to her other responsibilities. In late November and December, Ms. Erwin met with project managers and reviewed project information. As a result of these reviews, beginning in January, OITT will begin to reassess, revise and reprioritize project objectives to generate a more comprehensive, interdependent plan to produce the greatest positive impact for Trust account beneficiaries and holders. In addition, further development and deployment of the ArtesiaLand System known as TAAMS has been deferred until we are satisfied that it is the most appropriate way to automate the land title, realty management and other required trust functions. Work related to TAAMS has been reviewed with subproject managers to explain to them the reasons for deferring further implementation of TAAMS. Also, cleanup projects are being redirected to insure that there is more emphasis on meeting DOI’s fiduciary duties; and probate managers will be requested to include more emphasis on distribution of funds to heirs once the probates are done and heirs determined. Additional recommendations will be forthcoming regarding development of high level business processes so that trust reform efforts can be accomplished in the context of building an overall trust business.

Recently, I was also requested to help compile the 8<sup>th</sup> Report (Report) in the revised format. In order to do this, and be as confident as possible concerning the completeness and accuracy of the Report, I have participated in interviews with all subproject managers regarding their individual reports.

During the interview process, questions were asked such as: You state you did this task or training or report, etc., where is the documentation? Often the response was similar to: *I really believe it was done, but I will have to do more checking to confirm.* In other words, subproject managers were willing to state certain progress was made but when challenged could not always defend their position. In other instances, I would hear that subproject managers had completed a task, but when asked what happened with their work to insure that the beneficiary received his/her income, the answer often was: *That is not my area.* As an example, title work might have been completed for a tract so that ownership is legally defensible, but realty might not get the information regarding leases or oil and gas receipts in order to meet distribution payment requirements.



It is very alarming to read and hear reports of progress being made and, in some instances, projects completed without having this work fit into an overall context of trust management. It is apparent that some projects could be completed or “under control” yet not add substantively to the requirements of a person receiving income from assets held in trust for them. Although some confusion arises from different writing styles in their reports, the reporting often lacks complete thoughts and understanding of the problems affected or created by the work being reported.

It is obvious also that trust asset management for individual Indians is spread throughout DOI and even indirectly to other agencies of the federal government, such as the Department of the Treasury. There are many instances where work is being done by one agency or bureau and is simply “thrown over the fence” to the next work group without the normal follow-up that would insure a beneficiary receives his/her income or other responsive information due from a trustee. It is essential that trust management reform and the on-going business of trust operations be managed by an organizational structure that has accountability from top to bottom. This is, of course, not a new suggestion. Many people, including myself have suggested creating an organization that would contain all aspects of Indian trust management. My interviews with the subproject managers from BLM, BIA, OST & MMS confirms my view that centralized management is needed.

During this Report’s development, it also became obvious that information related to the “asset” portion of trust asset management primarily focused on financial assets. While that is important in an income-producing asset, it also is critical that we know how all assets are being managed, and that future reports should present the status of land and natural resource management, both by the tribes and DOI. For instance, grazing leases produce revenue for Indian individuals and Tribes, but if overgrazing occurs, the income in future years may be seriously affected. Minerals Management Services does a good job of collecting royalty revenue, but are we managing the initial leasing process to be certain we are performing our trust duties appropriately?

Another serious problem is illustrated by the refusal of some tribes to allow for the collection of documents and other information necessary to complete actions on behalf of beneficiaries. As stated in the Department’s February 2000, High Level Implementation Plan (HLIP), the Office of the Special Trustee was charged with collecting individual Indian money (IIM) jacket folders for centralized review and storage. IIM jacket folders are Federal records that contain account maintenance documents for an IIM account including, for example, birth certificates, social security numbers, and court ordered actions (guardianships, address changes, fund requests, probate distributions, etc.).

As reported, OST had not been able to transfer IIM jacket folders from three Federal Indian agencies — the Standing Rock Agency in North Dakota, the Pine Ridge Agency in South Dakota, and the Umatilla Agency in Oregon. Although these are Federal not Tribal records, the Tribes served by these agencies have not approved or have otherwise prevented the release of IIM trust documents from their respective reservations — the Standing Rock Sioux Tribe (Standing

Rock Agency), the Oglala Sioux Tribe (Pine Ridge Agency), and the Confederated Tribes of the Umatilla Indian Reservation (Umatilla Agency).

I am told that on January 12, 2001, the Department of Justice informed the Special Master that a solution had not been reached with any of the three Tribes. The Department attempted to reach a settlement when, on February 1, 2001, the Special Trustee and the Deputy Commissioner of Indian Affairs jointly addressed a letter to the chief official of each of the three Tribes. The letters to the Standing Rock Sioux Tribe and the Combined Tribes of the Umatilla Indian Reservation requested each tribe's proposals for resolving the issue by February 28, 2001. Unlike the other two Tribes, the Department had not negotiated with the Oglala Sioux Tribe; thus, the letter to the Oglala Sioux Tribe asked their President to contact the Director of the Office of Trust Records to open discussions. No response was received from the Tribes. The Solicitor's Office advised that it wrote the Department of Justice on June 4, 2001, requesting that Justice notify the Special Master and Court Monitor about this impasse.

Since the time the Secretary proposed that an organization be created in DOI that would create a new management structure for the Indian trust business, the Tribal leaders have expressed their concerns with their involvement and the process of consultation. Development of new ideas, processes, changes in management functions, regulations, legislation, and virtually any other issues affecting Indians or Tribes is required to go through a consultation process. In the case of the proposed reorganization, such consultations have begun and are expected to continue into the next reporting period.

During this reporting period, two large meetings attended by Tribal leaders, IIM account holders, BIA and other DOI officials were held. Out of those meetings, a tribal task force of tribal leadership has been agreed to among the Tribes as a way of facilitating the consultation process. The Secretary has committed financial resources to support the Task Force and other consultation efforts and it is expected that the organizational meeting of the Task Force will be held on January 17, 2002, at the San Diego consultation meeting. It is expected that the tribal consultations will be the final steps toward the creation of a program and staffing plan with DOI to move trust management forward.

**V. SECTIONS NEW TO THIS REPORT**

**A. DEPARTMENTAL REORGANIZATION**

**Background of Reorganization**

In August 2001, during formulation of the FY 2003 Budget, various proposals and issues were identified concerning the trust asset management roles of the Bureau of Indian Affairs (BIA), the Office of Special Trustee for American Indians (OST), and other DOI entities carrying out trust functions. There were discussions regarding the Office of Trust Risk Management, for example, and its overall duties and responsibilities, workload, and identification of purpose and function as it related to other offices in DOI. In examining their budget proposals, both BIA and OST were directed to tie proposed funding levels to performance targets, performance goals, and time frames with milestones to assure their respective roles were clearly defined specifically as they relate to trust reform. During the month of September an additional issue was identified by the Special Trustee regarding OST simultaneously performing both operational responsibilities and providing oversight. The Special Trustee indicated that such dual responsibilities represented an inherent conflict. Based on these and other areas of concern, an internal working group was created.

**Internal Work Group**

The goal of the internal working group was to find new ways to improve management of trust responsibility to better serve the Tribes and individual Indians, and identify a better organizational structure to meet these goals. Discussions further focused on the issue of OST performing both oversight and operational responsibilities, BIA performing a mixture of trust functions and other Indian service functions, the decentralized nature of the Department's trust reform and Indian trust assets management functions, and methods to enhance management strengths and to overcome weaknesses. The internal working group developed a number of organizational options ranging from realigning all trust and associated personnel into a separate organization under a new Assistant Secretary in DOI to maintaining the status quo. These options were evaluated based on the best method for delivering trust services and other functions to American Indians and Tribal governments.

**EDS Report**

While the Department's senior officials conducted their internal reviews and analysis, EDS was undertaking its own independent, expert evaluation. On November 12, 2001, EDS presented its report "DOI Trust Reform Interim Report and Roadmap for TAAMS and BIA Data Cleanup: Highlights and Concerns" in which it called for a "single, accountable, trust reform executive sponsor."

**Organizational Options and Secretarial Decision**

Various organizational options were presented to the Secretary. The Secretary selected an option to form an organizational unit called the Bureau of Indian

Trust Assets Management. This option envisioned the consolidation of most trust reform and trust asset management functions located throughout the Department. The new Bureau would report to a new Assistant Secretary. The new Assistant Secretary would have authority and responsibility for continuing trust reform efforts and for Indian trust asset management. The proposed reorganization plan was submitted to EDS for review and it received a favorable endorsement.

### **Office of Indian Trust Transition**

On November 20, 2001, the Secretary issued Secretarial Order 3235. That Order established the Office of Indian Trust Transition. The Office would have responsibility for planning and implementing the transfer of programs involving Indian trust from various bureaus or offices to a new entity located within the DOI. On November 20, 2001, the Secretary also announced the appointment of Ross Swimmer as the Director of the Office of Indian Trust Transition. In anticipation of the proposed trust management organization, a reprogramming request involving approximately \$300 million was sent to Congress. Congress has deferred action on the reprogramming request pending the completion of Tribal consultations. Hearings on the reorganization proposal have been scheduled before the House Resources Committee for February 6, 2002.

### **Private Trust Standards and Indian Trust Responsibilities**

A major objective of the Department is blending private trust standards with the guiding principle that tribes have a government-to-government relationship with the United States.

The Indian Self-Determination and Education Assistance Act of 1975 (the "Act") allows the tribes to contract Trust functions. The Act contemplated that "the Federal Bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs." Section 203, Pub. L. 103-413. On the other hand, Congress specifically affirmed that the Federal Government's trust relationship and obligation will remain. Pursuant to the Constitution, Congress alone has the authority to define or alter the Trust relationship.

The Department believes that the government's Trust responsibility and tribal sovereignty are positive, complimentary forces. Even so, the Federal government has an overriding duty as trustee to formulate reasonable improvements in and standards for ensuring the proper discharge of the Department's fiduciary Trust functions. The need to achieve a responsive and efficient discharge of the trust responsibility while balancing the Department's commitment to administering the government-to-government relationship with Indian tribes by supporting tribal sovereignty, tribal self-governance and tribal self-determination, as expressed by Congress is a tremendous challenge. It is thus necessary to consider the unique relationship between the Tribes and the Federal Government as the Department proceeds with trust reform and the reorganization process and the adoption of appropriate policies and procedures that address the sometimes competing principles.

**Tribal Consultations**

Prior to implementation of the proposed plan, the Secretary directed Interior staff to consult with Congress, Tribes, and Interior personnel and their unions. Affiliated aspects of the reorganization, include an expectation that OST would continue to monitor and provide oversight of the Department's trust responsibilities; the Office of Indian Trust Transition would provide leadership for continuing trust reform efforts; and, other non-trust services to Indian Tribes would continue to be provided by the Bureau of Indian Affairs.

Two consultation sessions were completed during this reporting period. The Tribes generally opposed any reorganization. The reason cited for opposing the reorganization proposal centered upon the consultation process itself. The Tribes have suggested the formation of a Task Force as part of the consultation process. The Secretary advised the Tribes that her original plan would not be withdrawn, but that she would work with the Task Force as a meaningful way to further the consultation process. She further agreed to provide resources to the Task Force. The Task Force is organized and will meet in San Diego on January 17, 2002. Tribal leadership has decided that two Tribal leaders from each of the 12 BIA regions are to be represented on the Task Force. Representatives of the Department will meet with the Task Force in San Diego to continue the consultation process and a subsequent three day session of the Task Force has been scheduled in early February.

**Future Trust Reform**

It is very important to note that development of a Trust Management Team to continue to carry out trust reform within DOI is moving forward. The Director of the Office of Indian Trust Transition is providing leadership with the full cooperation of all DOI entities involved in trust responsibilities. Personnel and funding needs and a short and long term strategic plan are being developed. When Tribal consultation is completed, the trust reform team and its efforts can become the foundation for the trust asset management organization.

The immediate objective, however, is for the Department's trust management team to identify all of the DOI resources being applied to trust management, both financial and staff. In the short term, DOI intends to focus more carefully on the tasks of highest priority. One of the first tasks of the team under the Office of Indian Trust Transition will be to develop the strategic plan.

**Assurance Statement:**

I concur with the content of the information contained in Section V. B. "Departmental Reorganization" as set forth. The information in that section is accurate to the best of my knowledge and belief.

Dated January 16, 2002

J. Steven Griles  
Deputy Secretary

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**B. OFFICE OF HISTORICAL TRUST ACCOUNTING**

**1. Introduction**

The Office of Historical Trust Accounting (OHTA) was established by Secretarial Order 3231 on July 10, 2001. The purpose of OHTA is to plan, organize, direct, and execute the historical accounting of Individual Indian Money (IIM) accounts. The period covered by the Eighth Report includes the formative activities of the OHTA, and its work towards implementing preliminary historical accounting projects and developing a Comprehensive Plan for the historical accounting. In cases where OHTA is pursuing work which was started before the creation of OHTA, the status of such projects also reported.

**2. Executive Director's Observations**

**The Comprehensive Plan**

On December 21, 1999, the District Court ruled that the Secretary has a duty "to provide plaintiffs an accurate accounting of all money in the IIM trust held in trust for the benefit of plaintiffs, without regard to when the funds were deposited." Cobell v. Norton, 91 F.Supp.2d 1, 58 (D.D.C. 1999). On appeal, the Court of Appeals affirmed the District Court, stating that it is "clear that the Interior Secretary owes IIM trust beneficiaries an accounting for 'all funds held in trust by the United States for the benefit of . . . an individual Indian which are deposited or invested pursuant to an Act of June 24, 1938.'" Cobell v. Norton, 240 F.3d 1081, 1102 (D.C. Cir. 2001). Following the Court decisions and creation of the Office of Historical Trust Accounting, the Secretary charged OHTA in her order 3231 to create a comprehensive plan.

The OHTA's assignment to prepare a Comprehensive Plan also arises in a directive from Congress in the Conference Report on the fiscal year 2001 appropriation for the Department as it related to future funding for a statistical sampling project. House Conference Report 106-914 on H.R.4578, *Making Appropriations for the Department of the Interior and Related Agencies for the Fiscal Year Ending September 30, 2001, and for Other Purposes*, September 29, 2000, page 150, states the following.

"...the managers direct the Department to develop a detailed plan for the sampling methodology it adopts, its costs and benefits, and the degree of confidence that can be placed on the likely results. This plan must be provided to the House and Senate Committees on Appropriations prior to commencing a full sampling project. Finally, the determination of the use of funds for sampling or any other approach for reconciling a historical IIM accounting must be done within the limits of funds made available by the Congress for such purposes."

Congressional staff has affirmed that the same planning and reporting requirement applies to the historical accounting methods being developed by the Department. Delivery of the Comprehensive Plan to Congress will address the requirements in the Conference Report and provide a foundation for the

Department's funding requests. The Comprehensive Plan also will be provided to the District Court so the Court is informed how the Department intends to proceed with the historical accounting.

**The *Blueprint* and *Report Identifying Preliminary Work***

To ensure that progress was being made in a thoughtful and deliberate manner, the Secretary ordered that OHTA report on the following initial activities.

- Within 60 days, the Executive Director will prepare a comprehensive description and timetable for completion of all steps that are needed to staff and develop a comprehensive plan for an historical accounting that meets the Department's fiduciary obligations to IIM beneficiaries.
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- Within 120 days the Executive Director will identify the preliminary work that can be done immediately. Once that work is identified, detailed plans should be developed so that the affected bureaus and offices can begin to work.

The foregoing two reports, *Blueprint for Developing the Comprehensive Historical Accounting Plan for Individual Indian Money Accounts* and *Report Identifying Preliminary Work for the Historical Accounting*, were issued by OHTA on September 10, 2001, and November 7, 2001, respectively. These reports are posted on the OHTA website, <http://www.doi.gov/ohta>.

The *Blueprint* contains the following OHTA Mission Statement.

The mission of the Office of Historical Trust Accounting is to plan and conduct a valid, cost effective, and timely accounting of the IIM trust in a manner that satisfies the Department's fiduciary duty to account to IIM beneficiaries. This accounting will include, at an appropriate level of detail, an assessment of the accuracy of the balances in IIM accounts, reports to individual beneficiaries of the money and real property held in trust for their benefit, and reports to individual beneficiaries that contain sufficient information to allow beneficiaries to determine whether the trust has been faithfully performed.

The *Blueprint* also includes background information on IIM accounts, a discussion of various issues OHTA plans to address in the Comprehensive Plan (expected to be completed by mid-year 2002), and a description of how the OHTA will manage the historical accounting.

The *Report Identifying Preliminary Work* identifies work that can begin immediately on the historical accounting, even before the Comprehensive Plan is completed. The work is divided into three categories.

- Prototype Historical Accounting Projects: These are projects to conduct accountings of some of the IIM accounts. These projects are expected to produce detailed results for IIM account holders, and will contribute to the

overall historical accounting by informing OHTA on the success or failure of various accounting methods.

- Operational Pilot Projects: These projects are designed to facilitate the historical accounting by identifying IIM records and verifying the accuracy of existing data and records that will be relied upon. Some of these reports are related to or support Trust Reform projects.
- Outreach Projects: These projects support OHTA's effort to work in an open, transparent manner and consult with knowledgeable and impacted parties, e.g., IIM account holders, tribes, etc.

### **Consultants**

Five certified public accounting firms have been retained to assist in the various projects outlined in the *Report Identifying Preliminary Work* and with developing the Comprehensive Plan. These firms include Arthur Andersen LLP (Andersen), Chavarria, Dunne & Lamey LLC (CD&L), Deloitte & Touche LLP, Ernst & Young LLP (E&Y), and Grant Thornton LLP. In addition, an economics/statistics consultant (NORC, a nonprofit affiliate of the University of Chicago), an oil and gas consultant (Gustavson Associates), and an integration contractor (Booz-Allen & Hamilton) have been retained by the OHTA. The following are steps taken by OHTA and its contractors to implement various projects contained in the *Report Identifying Preliminary Work* or to develop the Comprehensive Plan.

### **Accounting Projects**

In March 2001, the Office of Trust Risk Management under the Office of the Special Trustee for American Indians contracted with CD&L to analyze the IIM accounts data in order to identify the types of accounts that might allow a more efficient reconciliation than other types of accounts. In June 2001, the Office of Trust Risk Management approved CD&L to sample accounts and transactions for the pilot project.

- IIM Accounts Related to Ten Judgment Awards: The largest ten awards affecting Judgment accounts were selected. Judgment accounts are created for minors, and incompetents and other adults who are not eligible to receive direct payments of monies from tribal judgment distributions.
- IIM Accounts Related to Five Per Capita Distributions: Similar to Judgment accounts, the five largest per capita distributions were selected. Per Capita accounts are created for minors, and incompetents and other adults who are not eligible to receive direct payment of monies from tribal per capita distributions.

### **Judgment Account Transactions**

By October 31, 2001, the initial steps of the pilot project was completed. The sample of ten judgment accounts selected resulted in an initial reconciliation of



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approximately 8,400 accounts aggregating \$30.6 million. The results of Judgment account testing illustrate significant efficiencies in reconciling these accounts compared to other account types, which could have multiple sources of revenue through surface or subsurface leases. Since the activity in Judgment accounts generally is limited to judgment distributions and interest paid until disbursement is made to the IIM account holder, relatively few transactions had to be analyzed in the reconciliation and, as a result, a historical accounting for the related accounts can be accomplished. The accounting firm of Grant Thornton LLP is currently conducting a quality review of the work performed by CD&L.

Based on the results of the Judgment accounts pilot, the OHTA has engaged CD&L to continue the accounting for 159 groups of Judgment accounts based on large judgment awards. Completion of this work is expected to provide accounting results to more than 15,000 additional Judgment account holders. A work plan based on the previously reviewed methods will be prepared by CD&L and reviewed by the Department, and OHTA's accounting experts and trust law advisors.

#### **Per Capita Account Transactions**

Per Capita accounts also have limited activity since their primary purpose is to be deposited for of per capita payments paid to tribes and received by minors and adults not eligible to receive direct payments. Some per capita payments are the result of tribal revenues from natural resources and some are from Judgments (misclassified as per capita transactions). Similar to Judgment accounts, there are significant efficiencies in reconciling Per Capita accounts not evident in other types of accounts. The following summary illustrates the magnitude of funds and accounts involved.

Per Capita Accounts Assessed	5
Transactions reconciled	23,200
Total IIM accounts affected by sampled transactions	17,400
Total value of transactions reconciled	\$51.6 million

Per capita payments are not limited to IIM accounts classified as Per Capita accounts, and can impact other account types, such as Special Deposit, Unallotted Indian, etc.

Based on the results of the pilot, OHTA believes it is possible to reconcile a significant percentage of the account balances in the IIM Trust Fund by focusing on Judgment and Per Capita accounts. Although some issues may exist regarding the documentation, these issues can be resolved with substantially less effort than other account types. Further, both Judgment and Per Capita accounts are affected by large initial dollar transactions. Both Judgment and Per Capita accounts, however, may require further analysis if they are affected by transactions other than the distributions and interest. Grant Thornton LLP will also perform a quality review of CD&L's work on Per Capita accounts.

### **Other Accounting Projects**

#### **Palm Springs BIA Field Office**

The Palm Springs, California, Office has been chosen for a historical accounting of IIM accounts held by the Agua Caliente Indians served by this Office. Through this project, the OHTA will continue with its mission to provide a historical accounting, while at the same time learning how to meet challenges related to accounting for other types of IIM accounts.

In Palm Springs, the historical accounting can begin with a small number of holdings of a relative homogeneous ownership group, with a relative short history of meaningful trust income, and, in recent years, large dollar flows. The historical accounting will encompass records concerning trust land ownership, trust income from leases and other sources, and the IIM accounts themselves. This will provide a test for various planning assumptions, information on costs and timing, and lessons for the OHTA and its contractors that will be involved in historical accounting. Because revenue for these allotments is principally from long-term land leases of hospitality firms and other businesses in Palm Springs, it is less likely that this project will need to examine other categories of trust income (such as farming and grazing, timber, or oil and gas). This project will, however, result in an accounting for about 300 trust accounts with relatively high dollar revenues.

Andersen has been engaged to perform this work. The OHTA is leading and has begun an analysis of the IIM and land title records for the Agua Caliente to frame the accounting. The OHTA is supported by NORC, a nonprofit research affiliate of the University of Chicago under contract to OHTA. Initial record searches have been initiated by OHTA and NORC to obtain account statements, leases, and ledgers for periods prior to the mid-1980's. At the start of the Palm Springs accounting project, Andersen will submit a plan for conducting the accounting to document procedures and results obtained. At the conclusion of this project, Andersen will furnish a work plan to be used for similar types of accounts in other BIA Field Offices.

In addition to providing historical accounting results to IIM account holders, additional goals of this project are to assess the methods, associated costs, duration, and the results achieved in providing a historical accounting that goes back to different points in time. Alternative approaches, their costs, and consequences will also be evaluated.

#### **Historical Accounting of Large Dollar Transactions**

At the request of the Department of Justice, Andersen reviewed transactions in excess of \$1 million and traced these transactions into IIM accounts. The transactions comprised a total of more than \$1.5 billion during period 1985-1999, affected more than 2,200 accounts, and resulted in 320,000 subsequent transactions in the Integrated Records Management System (IRMS), the legacy trust fund account system. Funds from these transactions were distributed in three categories in the IRMS: (1) undisbursed balances left in a Special Deposit account, (2) funds transferred to an IIM account, and (3) funds disbursed/transferred out of the IRMS from a Special Deposit account. Overall,

more than 98% of funds in the transactions reviewed were either transferred to IIM accounts or disbursed/transferred out of IRMS.

The OHTA is working with Andersen to extend this review of transactions into a historical accounting that can build on the previous work and produce complete accounting results that are reportable to the IIM account holders or result in reconciliation/distribution of Special Deposit accounts. This analysis will have to be extended to incorporate a review of the data in the current Trust Funds Accounting System (TFAS) to provide transaction and account information through a current date.

The OHTA has directed Andersen and other supporting contractors to develop a plan detailing what additional, current supporting documentation is required, test the validity of the transactions posted to the IIM accounts in IRMS and TFAS, and develop and implement procedures to produce an accounting for IIM account holders and reconcile and recommend distributions from residual Special Deposit accounts.

### **BIA Eastern Region**

A historical accounting is planned in this project for active IIM accounts in the BIA's Eastern Region in Nashville, Tennessee. The Eastern Region has approximately 2,000 IIM accounts of various types, an ideal size to learn about the difficulties that will be encountered when accounting for larger numbers of accounts. The OHTA, working with NORC, initiated a preliminary examination of the types of IIM accounts in the Eastern Region. Many Eastern Region IIM accounts do not have trust real property revenues since there have never been allotted lands in the Region. However, some IIM account holders in the Eastern Region may have inherited interests in allotted lands. Once this effort is completed, it will substantially complete the accounting for one of the 12 BIA Regions.

The Indian Trust Accounting Division (ITAD) of the General Services Administration has agreed to help the OHTA conduct an accounting for all beneficiaries in the Eastern Region. As part of its work, ITAD is examining the electronic IIM account files in the TFAS system to understand the types of accounts in the Eastern Region, and is developing a work plan for review by OHTA and its accounting experts.

Upon approval of its accounting work plan, the ITAD will begin working with the Eastern Region Office to undertake the required historical research on Tribes within the Eastern Region, scheduled for late January 2002.

### **New Accounts in the TFAS System (opened in the past 3 years)**

Since 1999, when the Trust Fund Accounting System was installed, new accounts have been established on TFAS. These new accounts have been opened as a result of probate inheritance, entering into a new lease of allotted lands, Judgment or Per Capita distributions, or for other reasons. The limited history associated with these new accounts affords a cost-effective means for the OHTA to test and learn to how use the electronic IIM account information in

TFAS in relation to supporting paper records and documents in performing an accounting. Further, the OHTA's examination of these selected IIM accounts will serve as a test to identify and resolve procedural and policy questions related to reconciling the automated and manual IIM records.

The OHTA selected the firm of E&Y to begin accounting work for this project. Data from the TFAS was received by OHTA on January 8, 2002, and will be provided to E&Y for its review and use in developing a work plan for this accounting project. The scope of this accounting project may be adjusted, depending upon the location of the records. The accounting plans and results of the accounting will be reviewed for quality control by an independent accounting firm and other trust expert advisors to the OHTA.

### **Other Activities**

#### **Reconciling Beneficiary Names**

Andersen has conducted a preliminary review for the Department of Justice of the accounts in the Integrated Records Management System (IRMS) to determine the number of individual account holders. Since individuals can have multiple account numbers, a linkage between such account numbers is required to group the multiple accountings.

Several analyses were performed for accounts with common characteristics to identify linkages between account numbers. Accounts were associated within these analyses and validated through account name review and Social Security Number comparisons (where available). Upon completion of this initial process, individual account numbers were reviewed for possible duplicate use, e.g., historically the same account number may be associated with more than one individual.

The next phase of this analysis will entail a comprehensive review of the apparent multiple and duplicate accounts. Upon completion of this initial review and establishment of a research methodology, Andersen will expand its work and incorporate and test those accounts identified through the data cleanup project to ensure consistency of methodology.

#### **General Services Administration, Indian Trust Accounting Division (ITAD) Records Inventory**

Many containers of Indian trust documents stored at widely separated locations around the country hold both tribal and Individual Indian records. To conduct the historical accounting these records must be separated and indexed. A project will be conducted by the ITAD at its facilities in Lanham, Maryland, for records in its custody. A plan for the inventory assessment was finished in December 2001. A 100% wall-to-wall inventory is now underway of the voluminous Lanham facility holdings. An inventory is scheduled to be completed by mid-March 2002 and updated as needed.

#### **Land Title Project**

The goal of the Land Title Project is to evaluate the completeness of the Bureau of Indian Affairs' land title records system underlying the IIM accounts. There are two facets to this issue: (1) completeness of physical land records (i.e., are all tracts/allotments in the land records system), and (2) completeness of ownership records (i.e., are all undivided tract/allotment owners in the land records system). Once OHTA is able to assess the completeness of these records, OHTA may use them as an input to assessing the IIM accounts themselves.

For this Land Title Project, NORC, a research arm of the University of Chicago under contract to the OHTA, is selecting random samples of 24 individual Indian-owned tracts from each of the nine Land Title Records Offices (LTROs). After selecting the sample tracts, NORC obtains a standard set of reports for those tracts to locate documents pertaining to the tracts and to understand the type of leasing and other income generating activity and ownership changes that have occurred historically. Maps and other ownership records are consulted to confirm the completeness of the Indian land records. Probate and other records are being reviewed for the completeness of the ownership information.

The sampling for the Albuquerque LTRO was completed and documented in December 2001. The sampling for the Sacramento LTRO is scheduled for January 23-25, 2002. To draw the sample, an NORC team will be in Sacramento collecting probates, leases, maps, and the other materials to do the required completeness checking. The remaining seven LTROs are scheduled to be sampled during February 2002, and the onsite collection of records for the completeness checks finished by the end of March 2002. The OHTA expects to be able to issue a report on the completeness of the land records in April 2002, and the completeness of the ownership information in May 2002.

#### **Collection of Missing Information from Outside Sources - "Breach One"**

On October 1, 2001, OHTA assumed responsibility for this project. The details of OHTA's work is detailed in the discussion of the Breach One project elsewhere in this *Eighth Report to the Court*.

#### **Outreach and Key Meetings**

##### **General Accounting Office**

From 1921 to 1951, the United States General Accounting Office (GAO) was charged with examining and settling all governmental accounts. The OHTA has requested the GAO to clarify for the record its role in auditing and settling IIM-related accounting records, and information on where these records may be stored, particularly original leases for use of allotted land which GAO then required to be submitted to it. As previously reported to the Special Master on December 4, 2001, at a meeting on September 20, 2001, GAO reported to OHTA that it was aware of 600 boxes of previously unidentified GAO records at the Federal Records Center in Chicago, Illinois. On November 13-19, 2001, OHTA staff examined the contents of some of the 600 boxes and located original lease documents and other IIM-related records. On December 21, 2001, DOI Deputy Secretary J. Steven Griles and OHTA Executive Director Bert Edwards met with Comptroller General David Walker and two GAO attorneys to accelerate GAO

cooperation on its role and records locations.

### **Bank of America**

On December 13, 2001, the OHTA staff met with 13 representatives of Bank of America's Federal Government and Trust Operations Divisions. The purpose was to explore how this major bank, operating throughout the United States, could inform OHTA on how trust operations and predecessor banks address trust issues under common law trust provisions. OHTA is scheduled to meet with Bank officials on January 24, 2002, to finalize the contractual arrangement for the Bank to provide expert assistance to OHTA.

### **Inter-Tribal Monitoring Association and Other Groups**

On October 26, 2001, the OHTA Executive Director attended the Inter-Tribal Monitoring Association meeting in Las Vegas, Nevada, to present and discuss the OHTA's planning for the historical accounting of IIM accounts. Subsequently, similar presentations were made to the Accountants Roundtable (a group of senior and retired Washington area educators, professional organization representatives, accounting and consulting firm leaders, and others, which has met regularly since the 1930s) and staff of Booz-Allen and Hamilton (OHTA's integration contractor). These presentations have been posted to the OHTA website.

### **Department of the Interior Listening Meetings**

Shortly after OHTA was established, it scheduled "Listening Meetings" at which employees and interested retirees of the Department of the Interior could provide their comments and ideas on the historical accounting process. The first Listening Meeting was held in Washington, DC, at the Main Interior Building on August 15, 2001, with about 45 employees in attendance. Eleven individuals provided comments and suggestions or posed questions to a panel consisting of Assistant Secretary – Indian Affairs Neil McCaleb, Solicitor William Myers, Special Trustee Thomas Slonaker and OHTA Executive Director Bert Edwards. The second Listening Meeting was held in Albuquerque, New Mexico, at the Albuquerque Convention Center on August 20, 2001, at which about 60 employees were in attendance. Ten individuals provided their comments and suggestion or posed questions to a similar panel. At both meetings, comments were recorded by a stenographer whose transcripts are posted on the OHTA website.

### **Court Monitor**

On July 11, 2001, following the establishment of OHTA, the Executive Director and the Court Monitor met to introduce themselves. On August 15, 2001, and August 20, 2001, respectively, the Court Monitor attended the Listening Meetings conducted by OHTA, discussed above. On November 8, 2001, Jeffrey P. Zippin, OHTA Deputy Executive Director, and an OHTA staff member met with the Court Monitor to discuss progress on OHTA's mission. The Executive Director and the same OHTA staff member had a similar meeting on November 20, 2001, to

discuss the *Blueprint* and the *Report on Preliminary Work*.

### **Indian Mineral Brochure and OHTA Brochure**

As part of service to IIM mineral interest IIM account holders, the Department, with assistance from the OHTA, prepared a *Quick Reference* guide that provides general information on five Department agencies (Minerals Management Service, Bureau of Indian Affairs, Bureau of Land Management, Office of Surface Management and the Office of the Special Trustee's Office of Trust Funds Management) that are responsible for managing mineral interests on Indian trust lands. This *Quick Reference* provides Indian mineral owners with a ready resource that lets them know who to contact if they have specific questions about their mineral and land assets.

To ensure that factual information is getting to Indian Trust beneficiaries directly concerning trust reform and the historical accounting process, the OHTA prepared a reference brochure that focuses on IIM account holders and IIM Trust Fund issues. The brochure contains general information on the OHTA, such as providing its mission statement, as well as phone numbers, fax numbers, e-mail addresses and web sites for the OHTA. Reference information for the Office of the Special Trustee is also provided, should account holders have questions concerning their IIM accounts. The brochure will be distributed to Bureau of Indian Affairs regional and agency offices, Office of the Special Trustee offices, and other Departmental offices.

### **Problems and Concerns**

The *First Periodic Report* which OHTA expects to issue on January 23, 2002, supplements issues raised in the earlier *Blueprint* and *Report on Preliminary Work* reports. These issues will be addressed by OHTA and its contractors, and the Department's and Justice's attorneys as work progresses on the Comprehensive Plan.

As a consequence of the U.S. District Court's December 5, 2001, Temporary Restraining Order on Internet and e-mail connectivity, the OHTA has experienced problems in communicating with Departmental employees, our contractors, the Department of Justice and its experts, and the Department of Treasury. This has delayed commencement of the Land Record Title Project and several of the accounting projects at least ten days. Further delays may be experienced.

### **3. EDS Observations**

EDS did not make observations on OHTA's historical accounting activity.

### **4. Special Trustee's Observations** *The following is an extract from the Special Trustee's observations, which pertains to Historical Accounting. The Special Trustee's observations are included in complete form in Section III of this report. Care should be taken to read the entire observations and not to take this specific comment below out of context with the overall Special Trustee observations.*

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*Historical Accounting*

As part of the accounting, the effort needed to provide a *historical* accounting is enormous and interconnects with other efforts directed at data cleanup. Project management issues for historical accounting will require careful coordination and demand considerable executive skill. In addition, it is unclear to the Special Trustee whether or not the specific requirements of a full accounting have been identified.

**5. Executive Director's Comments on the Special Trustee's Observations**

The OHTA Executive Director concurs with the Special Trustee that the historical accounting is a challenging responsibility. The specific requirements of a historical accounting have not been identified but are presently under review and will be reported in the Comprehensive Plan for the Historical Accounting to be submitted to Congress and the District Court.

**6. Assurance Statement**

I concur with the content of the information contained in Sections 1, 2, and 5 of this report on the OHTA. The information in those Sections is accurate to the best of my knowledge and belief.

Date: January 15, 2002

*Signature on File*

Bert T. Edwards  
Executive Director  
Office of Historical Trust Accounting

**7. Collection of information from outside sources**

**a. Introduction**

On October 1, 2001, the OHTA assumed responsibility for establishing written policies and procedures for collecting from outside sources missing information necessary to render an accounting of the IIM trust. *See Cobell v. Babbitt*, 91 F.Supp.2d 1, 58 (D.D.C. 1999).<sup>3</sup> The Court of Appeals stated that, though not technically breaches of trust, such "policies and plans would be necessary for the government to discharge its fiduciary obligation[]" to render an accounting to IIM beneficiaries. *Cobell v. Norton*, 240 F.3d 1081, 1105-1106 (D.C. Cir. 2001). The previous plan, implemented by the Office of Special Trustee (OST), was initially limited to the period after October 25, 1994, and stated that the approach for the period prior to October 25, 1994, would be determined at a later date (in

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<sup>3</sup> Because this is the first of several breaches in the Court's December 21, 1999 Order, this project is commonly referred to as the "Breach One" project. Since February 2000, the Office of Special Trustee had managed this project. After October 1, 2001, OST continued to oversee the completion of its planned pilot project (discussed below), which was completed on October 31, 2001.



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conjunction with the development of the historical accounting project). Accordingly, the steps planned by OHTA address records which may have been generated as far back as 1887, the year the General Allotment Act was enacted. In part, this plan is intended to assist the Congress and the Court in determining what is a reasonable time period for an historical accounting. The Department's analysis will be detailed in the Comprehensive Plan for the historical accounting.

## **b. Subproject Manager's Observations**

### **The OHTA Plan**

Due to the historical nature of the accounting project, it is likely that the Department will not possess some documentation that may aid an accounting. Thus it may be necessary to collect missing documentation from third parties. The following plan outlines the steps OHTA will take and has taken to develop final written policies and procedures directed toward gathering from third-party custodians missing information necessary to perform an accounting.<sup>4</sup>

As a first step, OHTA received materials from OST to review the work which had already been completed. OST delivered copies of its work plan, deliverables, contracts, and other related materials. OHTA also reviewed the OST submissions to the quarterly reports filed with the U.S. District Court for the District of Columbia. OHTA concluded that OST performed an analysis of income streams to determine what documents would be expected to be generated, and then determined what documents were necessary for an accounting. Missing information could then be identified and requested from third parties as needed. As reported in the Seventh Quarterly Report, OST found that "[t]o date, no information has been required or sought from possible 3<sup>rd</sup> Parties relative to the pilot effort" because it found that the information it required was available. OHTA believes that contacting third parties is essential to formalizing written policies and procedures for collecting documentation from outside custodians of trust-related records. Therefore, OHTA decided that it would design an approach, which would require contacting third party custodians.

On December 11, 2001, OST delivered to OHTA the final results of its pilot project – an analysis by a CPA firm of judgment and per capita distributions to accounts of minor beneficiaries. An initial review of this report indicates that, as a result of this pilot, OST contacted few third-parties regarding missing information because most of the necessary documents were in federal hands.<sup>5</sup> Also, the report is limited to judgment and per capita payments only. The pilot did not attempt to address funds that were generated from allotted lands (e.g., oil and gas royalties, timber revenue, farming and grazing rentals, etc.). The final product, however, will be very valuable in providing an accounting of judgment and per capita accounts.

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<sup>4</sup> It is anticipated that, in many cases, gaps in documentation will be addressed using appropriate accounting principles.

<sup>5</sup> OST staff report that it contacted the Treasury Department once and Indian tribes twice.

The Office of Historical Trust Accounting also reviewed the *First Report of the Court Monitor*, dated July 11, 2001. In that Report, the Court Monitor criticized the Department for initially limiting the focus of the project to the period 1994 to the present. As stated below, the OHTA plan to address "Breach One" does not include this limitation, but is designed to discover what records may exist in the hands of third parties generated as early as 1887, the year the General Allotment Act was enacted.

### **Phase I: Investigation and Assessment**

Before a collection effort can begin, it is essential that the Department estimate the volume of third-party records, determine the procedures necessary to collect such documents, the storage and inventorying requirements, and the necessary staff and funds associated with such an effort. At this stage in the development of the historical accounting, it is unknown what historical documents may exist in the hands of third parties. These third parties may include mineral, farming and grazing, or timber lessees, state and local government records custodians or archives, historical societies and other non-government organizations, or others. Therefore, OHTA has begun to investigate the population of third-party custodians by contacting relevant third parties.

As a first step, OHTA identified broad categories of relevant third parties (e.g., oil and gas producers, foresters, etc.). Within each category, OHTA has begun to identify those specific third parties likely to have IIM-related documents and will request from an appropriate segment of such entities an inventory of such documents. For example, within the "oil and gas" category, OHTA will identify a list of oil and gas producers and request that a representative portion self-identify (1) its entire inventory of IIM-related documents, circa 1887 to the present, (2) its records retention practices, and (3) any other third parties to which these companies may routinely turn over outdated records, if any. Based on this preliminary investigation, OHTA will be in a position to estimate the volume of third-party records, and to determine the procedures necessary to collect such documents, the storage and inventorying requirements, and the necessary staff and funds associated with such an effort.

In addition to contacting third parties which may have IIM-related information, OHTA will also contact trade groups to determine whether published "best practices" exist relating to record keeping and records retention. Examining such practices will give OHTA further insight into what the expected volume of third-party records may be. We welcome plaintiffs' input in identifying relevant trade associations, which may assist the accounting project. Finally, because OHTA does not have the authority to require third parties to respond to our inquiries, it will measure successful due diligence by ensuring that third-party records custodians are contacted in accordance with its plan and that follow-up procedures are implemented.

### **Phase II: Collection**

After Phase I is completed, OHTA will have a basis for informed collection procedures. Further, it will have a better understanding of what records must be

requested from third parties. As the accounting proceeds, OHTA will consult with its accounting experts to identify those gaps in information, which cannot be addressed without documentation from a third party. If necessary, OHTA will request from the appropriate third party the missing record(s) necessary for an accounting. In the interim, however, OHTA will complete the Phase I investigation and assessment. We anticipate that written policies and procedures will be in place by May 2002, and that they will continue to be updated as we discover information. In the interim, we will also take steps to ensure that third parties either refrain from destroying their records or, in the alternative, forward relevant records to OHTA. Such a request presents serious logistical and cost concerns, stated below.

### **Implementation of the OHTA's Plan To Address "Breach One"**

While evaluating the OST's documentation, OHTA published the general concept of our approach to "Breach One" in its *Report Identifying Preliminary Work for the Historical Accounting*. Because few third-party custodians had been contacted prior to October 1, 2001, as a result of this project, OHTA's plan contemplates contacting third parties which may have IIM-related documents and those which may identify industry guidance on records retention practices through inquiries of trade associations.

Pursuant to our plan, on December 8, 2001, OHTA determined the categories of third parties it would contact. These categories include: oil and gas producers, banks and other financial institutions, state and local governments, other federal agencies, timber companies, ranching companies, mining operations, Tribes, and other lessees.<sup>6</sup> If new categories of third parties are identified as the historical accounting proceeds, OHTA intends to add them as well. Within each of these categories, OHTA identifies specific third parties to contact. OHTA prioritizes large revenue categories first, such as oil and gas, and subsequently addresses smaller revenue categories.

Before a large number of requests can be sent, the *Paperwork Reduction Act*, 44 U.S.C. § 3501 *et seq.*, requires that federal agencies obtain approval from the Office of Management and Budget if collecting information from ten or more parties. The appropriate Information Collection Request was submitted to OMB on December 21, 2001, and was approved by OMB on December 27, 2001. Although this process usually requires agencies first to submit such information requests in draft to the *Federal Register* for publication and can take six months to obtain final approval, OHTA was successful in obtaining expedited consideration pursuant to OMB's emergency review procedures.

Before the Court's temporary restraining order was entered, the Department's Minerals Management Service provided OHTA with a list of oil and gas royalty payors and the contact information for the top 10 payors. Consistent with the

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<sup>6</sup> Although technically not a "third" party, IIM account holders may have relevant information as well and should have an opportunity to submit any documentation they wish for consideration for the accounting. OHTA understands that OTFM routinely requests information from beneficiaries for data cleanup purposes. OHTA is currently studying the possibility of seeking Court permission to invite IIM account holders to submit such records for consideration.

*Paperwork Reduction Act*, we requested information from the top 9 payors on December 18 and 19, 2001. After securing OMB approval, the tenth payor was contacted as well. From the list of 500 payors, OHTA's statistician has selected a sample of 256 third parties, but no further requests have been sent due to the temporary restraining order regarding computer access (see discussion below). We are working with BIA to identify other third parties.

### **Notification to Third Parties**

In order to ensure that third party records are available, OHTA expects to notify third parties that it is interested in possibly examining or obtaining records that may be in their possession, and requesting that such third parties refrain from disposing of such records. Initially, OHTA plans to file a notice in the *Federal Register*, and to follow-up with other means of notification. A draft notice has been completed and should be published in the near future. Once this notice is published, we plan to submit a copy to the Court.

### **Field Search Project**

In addition to requesting information from third parties, we will also do some actual "field work" where records may exist. To support us in this effort, OHTA has hired a contractor for assistance. There do not appear to be firms whose line of business is searching for third-party records. Therefore, we have contracted with Gustavson Associates, a natural resources consulting firm, that searches such records incidental to its primary line of business. A preliminary statement of work has been completed, and the firm was under contract on January 4, 2002.

### **Industry "Best Practices"**

Our plan is also designed to determine whether industry standards exist regarding records retention. Such industry standards may assist the Department in evaluating the expected volume of records in the hands of third parties and serve to inform us in developing appropriate policies and procedures. We have contacted relevant trade organizations for information regarding any such industry standards. Thus far, we have sent requests to the American Petroleum Institute, the National Mining Association, the American Forest and Paper Association, the National Cattleman's Beef Association, and the American Farm Bureau.

On January 3, 2002, the American Forest and Paper Association reported that there are no specific records retention guidelines for the timber industry, and referred OHTA to the American Corporate Counsel Association. Accordingly, we have contacted the ACCA for further information.

### **Contact With Federal Agencies**

In addition to the steps described above, we have also been working in cooperation with two federal agencies, the General Accounting Office and General Services Administration's Indian Trust Accounting Division, to determine what records may be in their possession.

On July 10, 2001, we sent a request to the Comptroller General of the General Accounting Office seeking assistance in locating records from 1920-1951, when it was responsible for “examining and settling” the financial records of Indian Disbursing Agents. This GAO work covered appropriated United States Government funds and Tribal and IIM trust funds. The Deputy Secretary and OHTA Executive Director met on December 21, 2001, with Comptroller General David Walker, and two GAO staff members. Mr. Walker indicated that GAO would reassess its records to determine the location of records related to the 1920-1951 period.

Earlier this year, OHTA confirmed that the General Services Administration’s Indian Trust Accounting Division would assist us by evaluating the financial documents in their possession. This effort is explained further on pages 19-20 of the Department’s *Report Identifying Preliminary Work for the Historical Accounting*, dated November 7, 2001, and filed with the Court on November 9, 2001.

Finally, OHTA staff has had discussions with Bureau of Indian Affairs’ staff to determine whether the United States Forest Service has relevant records. Anecdotal evidence suggests that it is unlikely that the Forest Service has IIM-related records. OHTA will, however, continue its research and present its finding to the Forest Service for its assessment.

### **Problems and Concerns**

**Temporary Restraining Order of December 5, 2001** – The Minerals Management Service has reported to OHTA that it maintains contact information for payors on its computer system and will require access to this system in order to generate reports that are responsive to OHTA’s request for contact information. On January 3, 2002, MMS informed OHTA that our request for an ad hoc report would be delayed indefinitely because it was unable to access its computer system due to this Court’s temporary restraining order prohibiting computer access. Once the computer systems are accessible, MMS will expeditiously provide the requested information.

**The Department Has Little Authority to Demand Third-Party Records** – To a large extent, third-party records are private property that DOI has little, if any, authority to control. Therefore, our plan states that we will request third parties either to refrain from destroying relevant records or, in the alternative, forward them to us. These parties may comply or they may not. If third-parties are not cooperative, the Department will evaluate what legal options may be available. Further, because the volume of records is still unknown, if parties forward records to us, the Department may be overwhelmed with a large volume of records which will require proper storage and inventorying and which may be irrelevant or unnecessary (i.e., not missing). Thus, we may need additional funding for these purposes.

**c. EDS' Observations**

**Current State**

A plan to address this breach was completed in February of 2000. As a result of this plan a pilot project was launched and completed. The missing information breach team completed the pilot focusing on low transaction, high balance accounts. The pilot was conducted by contractor staff and was successfully completed. The information was gathered from within the Federal Government. Almost all accounts chosen for the pilot were reconciled and information to support reconciliation was collected.

As of October 1, 2001 the Office of Historical Trust Accounting (OHTA) will be taking on the majority of the work associated with the missing information breach. The OHTA has published the "Blueprint for Developing the Comprehensive Historical Accounting Plan for IIM Accounts," as well as their "120 Day Plan." These documents, in concert with the "Comprehensive Plan for Historical Accounting" (yet to be published), will provide the scope, process and planning for collecting missing information needed to establish an historical accounting. EDS observed that there are currently a number of cleanup projects and differing groups impacted by the need for the collection of missing information from third parties. As a result, there is the potential for various processes and efforts used to collect data. All cleanup projects and the missing information breach have a similar focus in data collection and verification. These projects should be designed to most effectively exploit the workflow of an IIM account holder's jacket file through the various stages of accounting and reconciliation.

The collection of missing information is part of an end-to-end process that establishes the boundaries of an individual Indian's account under the Trust. There is a clear overlap in the data collection and verification effort under both OHTA and Missing Information.

**Recommendation Summary**

The following recommendation is suggested to enhance the locating and updating of missing information requirements for the successful reporting of activity occurring in IIM accounts.

- Merge Missing Information activities under OHTA and create a process for close coordination with the BIA and OST Data Cleanup efforts. All aspects of an institutionalized process for locating, validating and maintaining missing information are extremely important in the reconciliation and accounting of monies in the IIM accounts. The close coordination between OHTA and the Clean up efforts will assist in more efficient process to leverage the capabilities and data of both all parties.

**d. Subproject Manager's Comments on EDS & Special Trustee Observations**

EDS Observations: The focus of the "Breach One" project is to collect missing information *necessary for an accounting*, and therefore I agree with EDS' ultimate recommendation that this project should be consolidated under OHTA. However, I do not necessarily agree that gathering this information is a "cleanup project" or that this project has a similar focus as the BIA or OST Data Cleanup projects. Thus, I believe EDS overestimates the amount of overlap between OHTA, BIA, and OST with regard to third-party documents. Nevertheless, coordination amongst these projects is a positive step.

Special Trustee Observations: Although the Special Trustee did not report any observations to the subproject manager with regard to this subproject, in his observations regarding the Historical Accounting, he stated:

*EDS has recommended the combination of the cleanup efforts into a single project, and that is under serious consideration by the Department. I have not yet formed an opinion on that recommendation.*

This observation appears to the subproject manager as related to the EDS recommendation regarding the Collection of Missing Information Breach Project.

**e. Assurance Statement**

I concur with the content of the information contained in Sections a and b of this subproject manager report, set forth above. The information in those sections is accurate to the best of my knowledge. I do not concur with the content of the information contained in Section c. I have set forth my dissenting views in Section d of this report.

Date:

*Signature on File*  
Stephen C. Swanson  
Subproject Manager

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**C. INFORMATION TECHNOLOGY SYSTEM SECURITY**

This topic has not been developed and reported upon as an HLIP subproject. In the past, the topic has received sporadic attention in dialogue with the Court. The security of information technology systems that house or provide access to individual Indian trust data has received considerable attention during this reporting period. Subsequent reports to the Court will reflect this topic.

**Summary description:**

Based upon recent assessments, significant improvement is required in this area. A large number of security weaknesses have been identified. The Special Master demonstrated (twice) that at least one of the key Bureau of Indian Affairs computer systems could be penetrated. Some remedial work has been done; however, there is no approved comprehensive project or strategic plan for systematically improving systems security and integrity to levels required by the relevant portions of the applicable U.S. government standard, OMB Circular A-130. In the absence of a comprehensive plan, "progress" is generally measured by the status of various activities being undertaken.

The Department has taken initial steps to prepare a long term strategic plan to improve the security of individual Indian trust data. The information technology staff is collaborating with MCI WorldCom to develop the specifications for a new communications network that would be dedicated to hosting Indian trust data. The Department has informed the Special Master of its initial steps and its plan to migrate individual Indian trust data onto that network. The Department's intent is to seek accreditation that security provisions, for the network, the applications systems and individual Indian trust data residing on that network, comply with the applicable portions of OMB Circular A-130, the standard cited in the Consent Order.

With timely funding and acceptance by relevant parties, the core of the dedicated network can be installed during FY 2002, and its operational role will expand with the phased migration of application systems over time. The migration of most information technology systems supporting individual Indian trust data is anticipated within three years. Decisions will need to be made, on a case-by-case basis, on which systems to migrate. Currently, the Department has identified information technology systems housing individual Indian trust data in the Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Bureau of Reclamation (BOR), Mineral Management Service (MMS), Office of Hearings and Appeals (OHA), and Office of Special Trustee (OST). Other systems may be identified as a part of the Consent Order assurances process.

For the purposes of this section of the report and consistent with the definition included in the relevant Consent Order, the term "information technology system" refers to any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including computers, ancillary equipment, software, firmware



and similar procedures, services (including support services), and related sources.

For the purposes of this section of the report and consistent with the definition included in the relevant Consent Order, the term “individual Indian trust data” refers to “all data stored in an information technology system upon which the Government must rely to fulfill its trust duties to Native Americans pursuant to the Trust Fund Management Reform Act of 1994 (P.L. No. 103-412), other applicable statutes and orders of this Court reflecting, for example,

- the existence of individual Indian trust assets (e.g., as derived from ownership data, trust patents, plot descriptions, surveys, jacket files, statement of accounts),
- the collection of income from individual Indian trust assets (e.g., as derived from deposit tickets, journal vouchers, schedule of collections),
- use or management of individual Indian trust assets (e.g., as derived from leases, sales, rights-of-way, investment reports, production reports, sales contracts), or
- the disbursement of individual Indian trust assets (e.g., as derived from transaction ledgers, check registers, transaction registers, or lists of canceled or undelivered checks).”

Individual Indian trust data reside on information technology systems located within several Bureaus and Offices in the Department. These systems exist on a variety of networks and hardware & software platforms and are of varying states of functionality and repair.

The Bureau of Indian Affairs and, to a lesser degree, other agencies of the Department, rely upon these systems to fulfill the trust duties to Native Americans pursuant to the Trust Fund Management Reform Act of 1994 (P.L. No. 103-412), along with other applicable statutes, regulations and Court orders. These systems store important information (e.g., land ownership records, interests in monetary accounts, lease payments, cash disbursements, etc.) or provide various computing capabilities - functions critical to proper administration of the trust.

**Task Manager’s Observations:**

**Steps Taken:**

During this reporting period (August 1, 2001 to December 31, 2001), Departmental efforts were not guided by an agreed upon information technology systems security strategic plan. Therefore, there are no “planned” steps to report upon. Instead, there were a number of steps, being undertaken in an unsystematic way, that were intended to begin the process to address the security weaknesses that have been identified by a variety of internal and external evaluations while a systematic approach is developed.

The more noteworthy steps, comprised of completed and/or “work-in-progress” elements, include:

- The Department conducted budget planning efforts and submitted a draft budget containing FY 2003 funding requests to OMB in September, 2001. Requests for substantial additional information technology systems funding to support trust reform and trust assets management were included in the submission. The Department's FY 2003 budget is pending and remains subject to OMB adjustment and Congressional direction.
- The Department forwarded (to OMB) its response to the annual reporting requirements on information security for the Government Information Security Reform Act (GISRA) that is requested under OMB Memorandum M-01-24. The report states, "Limited resources were also obligated (FY01) to begin a security assessment of the Indian Trust Management Systems from an agency-wide perspective due to their importance and sensitivity to the DOI mission. In FY 2002, additional funds will be directed toward IT security for Indian Trust Management Systems."
- The Department tasked (FY 2001) a contractor, SRA International Inc., with conducting an assessment of the information technology systems supporting Indian trust management business activities and, subsequently, for compiling, in thematic groups, the findings and recommendations contained in past evaluations of IT security, including the Special Master's, to provide a checklist of required actions to be incorporated into a future strategic plan. Work products are still pending completion.
- The Department is seeking qualified candidates to fill two key positions, an Information Technology Specialist to act as an IT Security Chief, and an Information Technology Specialist to provide Indian Trust Management IT Security assistance. In addition, BIA published an announcement to fill its vacant positions for a Chief Information Officer and Director, Office of Information Resources Management. The personnel selection process is still pending.
- BIA signed a contract with Predictive Systems to install and test three firewalls and associated intrusion detection systems (IDS) on its communications network (BIANET). Initial installation has been completed in Reston (VA), Phoenix (AZ), and Albuquerque (NM). Further efforts to configure, test and qualify these devices for service is pending. The firewalls are intended to filter communications at the interface points, between BIA's Intranet and the Internet, where Internet traffic is introduced into BIANET. In addition, the Predictive Systems' contract includes a provision for one year of active monitoring of the IDS logs. Active monitoring refers to having skilled individuals review, on a contemporaneous basis, the electronic traffic on a network to identify and react to any unusual patterns that may indicate unauthorized activity.
- BIA procured a T27 encryption package for the Unisys NX. This package allows for encrypted web browser sessions from authorized users to the Unisys NX (Note: BIA does not have Internet access at this time.)

- BIA procured a 3270 encryption package for the IBM S390 (NBC Denver), which will encrypt terminal emulation sessions from authorized users. The IBM S390 runs the Social Services Assistance System (SSAS), Land Records Information System (LRIS) and the National Indian Irrigation Management System (NIIMS). Implementation of this software capability is pending the return of the system to operational capability and appropriate testing.
- BIA has begun reauthorizing user IDs on its systems. From a past level of 2500 authorized user IDs associated with the Integrated Records Management System (IRMS - contains BIA land ownership and other associated records), BIA has reduced the number of authorized user ID's to approximately 930. This number involves about 465 authorized users, most of whom have two ID's, one for accessing the system and one related to hardware (mainly printer) ports.
- BIA continued efforts to prepare information technology security plans. Some of the security plans listed were prepared prior to this reporting period; however, since some may not have been previously reported to the Court, they are being included for reference.
- The Office of Assistant Secretary Indian Affairs Information Technology Security Program [May 17, 2001]
  - Vulnerability Analysis [July 15, 2001]
  - Trust Asset and Accounting Management System (TAAMS), User Access Security - Policies, Guidelines and Procedures [July 6, 2001]
  - Trust Asset and Accounting Management System (TAAMS), System Security Plan [June 30, 2001]
  - BIA Wide Area Network, System Security Plan [June 30, 2001]
  - Reston Local Area Network, System Security Plan [June 30, 2001]
  - Land Records Information System (LRIS), System Security Plan [June 30, 2001]
  - Integrated Records Management System (IRMS), System Security Plan [June 30, 2001]
  - The Office of Assistant Secretary for Indian Affairs, IT Security Program Implementation Plan [May, 2001]
  - Trust Asset and Accounting Management System (TAAMS), Disaster Prevention and Recovery Plans and Procedures [October 30, 2000]
  - IT Security Program Draft Implementation Plan Review [November 26, 2001]
  - Network Architecture Security Assessment for the Bureau of Indian Affairs (BIA) [November 12, 2001]

Little material progress has been made to implement these plans; future implementation of the recommendations contained in these security plans will be prioritized and incorporated into the long-term planning processes the Department will use to achieve compliance with OMB Circular A-130.

- The Department, through the Office of Special Trustee, contracted with SAIC, a firm specializing in information systems technology security, to provide expert technical assistance. The SAIC Program Manager has coordinated the efforts of various SAIC technical personnel to undertake a variety of tasks, such as: evaluating the configuration of the Denver Virtual Private Exchange (VPX - communications routing equipment); testing the logical partition of the LRIS system; testing the status of the Department's efforts to disconnect from the Internet; installing a Raptor firewall to improve the security of the IRMS; and, providing technical recommendations to improve the security of the information technology systems containing individual Indian trust data.

On December 5, 2001, the Court entered a Temporary Restraining Order (TRO), amended on December 6, 2001, requiring the Department to "immediately disconnect from the Internet all information technology systems that house or provide access to individual Indian trust data" and to "immediately disconnect from the Internet all computers within the custody and control of the Department of Interior, its employees and contractors, that have access to individual Indian trust data." The Department complied with the TRO immediately and expended efforts to verify compliance.

On December 17, 2001, on the Defendants' motion, the Court entered a Consent Order, to which Plaintiffs did not agree, that provides a mechanism to re-establish systems operations or use of the Internet. Initial proposals to operate Indian payment related systems were provided to the Special Master on December 17, 2001 and December 21, 2001.

**Status Observations:**

There are many challenges remaining to be addressed in the area of information technology systems security and integrity. The shortcomings and failures of the overall system are well documented. A host of prior reports from government institutions, private contractors and, most recently, the Special Master have pointed out in great detail the security weaknesses (e.g. lack of firewalls, intrusion detection, active log monitoring, etc.) of the systems housing individual Indian trust data. The Special Master's report (on November 14, 2001) and other relevant documents were provided to the Court, before and during this reporting period.

There are obstacles or impediments to achieving acceptable information technology systems improvements. For example:

- **Acceptable standards for information technology systems need to be articulated and they need to be realistic.** The Department is committed to achieving long-term compliance with OMB Circular A-130. In the short term, for systems containing individual Indian trust data, expectations need to be clarified regarding acceptable security measures that will permit the Department to undertake its critical work. In the long term, the negotiated systems security standard to comply with OMB

Circular A-130 must balance the relative risks of providing access to the system against the need to conduct trust business processes.

- Past views within the Department concerning its trust responsibilities have not led to the development of a robust information technology system security infrastructure. Current security measures were designed to support a traditional government program. Substantial efforts will be required to establish a solid, stable, dynamic and secure infrastructure designed to meet a new, robust set of requirements for trust reform and trust assets management.
- The development of a comprehensive information systems strategic plan to manage and secure individual Indian trust data is imperative. Relevant work needs to be prioritized, coordinated and scheduled. The plan needs to incorporate a number of aspects including, but not limited to, network communications, systems migration, management policies & procedures, systems security, and user access control. In the short term, the associated technical staffs will be focused upon seeking the Special Master's concurrence to operate the systems needed to undertake the Department's business. In the longer term, the planning and implementation process will have a goal of achieving compliance with the relevant portions of OMB Circular A-130 for those systems housing or providing access to individual Indian trust data.
- **Generally, the quantity and quality of information technology system technical leadership and support staff are insufficient.** The Department and BIA are seeking to add technical leadership and support. It is difficult for government to compete with the private sector to attract highly skilled technical talent (although some such individuals are attracted to the challenges of public service); however, these skills can generally be obtained through contract mechanisms.
- **The government (e.g. DOI, OMB, Congress, etc.) needs to evaluate current funding requirements.** Making material improvements in the current status of information technology system security will likely require additional funding. To provide new information technology funding in FY 2002, the Department would need to obtain the approval of OMB and the Congress on a reprogramming or supplemental funding request; requests are currently being prepared. The Department has already requested significant amounts of new funding in the FY 2003 budgeting process. Once new requirements are identified, new funding will be requested pursuant to the appropriations process.

There are a number of elements that are not known. The following unknowns present the possibility for either effective solutions or impediments-to-progress that cannot be fully assessed at this time. These unknowns may or may not actually occur. If unexpected impediments present themselves, the Department will need to address the impediments contemporaneously so that continued progress can be made. These situations may influence the design of information technology security systems or the schedule of initiative implementation. Some key unknowns include:

- System specifications need to be reconciled against the multiple requirements contained in applicable statutes, regulations, Court Orders, treaties, investigations, and Congressional budget directives. Some of this work has been done. As a part of the Internal Controls and the Policies and Procedures HLIP subprojects, the Department inventoried various statutes, regulations, internal program guidance documents, GAO, Office of the Inspector General, Congressional, and external reports. As a part of the process to develop an integrated business model and the computer systems specifications to support business processes, the Department plans to task EDS to compile and analyze documents that must be relied upon to provide guidance regarding the specific requirements the Department must meet in fulfilling its trust duties to Native Americans.

In the past, OMB has directed the Department to adopt an “enterprise architecture” plan and to treat Bureau level initiatives as subordinate to the development and approval of the Departmental plan. Therefore, the schedule to implement trust based initiatives must deal with OMB directives that may adversely impact schedules and funding.

The relative quality and structure of the application systems and the data contained therein has not been evaluated. And, the degree to which information technology systems containing individual Indian trust data, located throughout the Department, can be consolidated will influence systems design and long term planning.

- The ability to accomplish business process standardization (a significant issue as evidenced by the difficulties with the TAAMS development project) is important and unknown.
- The results of future reorganization efforts to consolidate trust reform and trust assets management functions will influence systems security planning.
- Finally, the results of the process being undertaken pursuant to the Consent Order are unknown, but will likely influence long-term systems design.

## **2. Special Master’s Observations:**

In the report, entitled “REPORT AND RECOMMENDATION OF THE SPECIAL MASTER REGARDING THE SECURITY OF TRUST DATA AT THE DEPARTMENT OF INTERIOR, [November 14, 2001], the Special Master arrived at a number of conclusions, including:

“After ten years of blistering reviews generated by federal agencies and private contractors, this deplorable condition is inexcusable.”

“It can not be argued that Interior was unaware of the hundreds of deficiencies and suggested remedies chronicled in this Report.”

“It also can not be argued that Interior was unaware that the manner in which it stores trust data violates public laws and federal regulations.”

“Finally, it can not be argued that Interior was unaware of the desperate need for adequate funding to overhaul its IT Security program.”

“For example, the lack of firewalls and adequate perimeter security have been repeatedly identified by the OIG Reports and the SeNet Reports as among the most grievous risks threatening trust data.”

“In truth, the system is in its current state of disrepair because protecting trust funds is not now, and has never been, a “priority” deserving of adequate resources.”

Based on these conclusions, the Special Master recommended the following:

“Interior - in derogation of court order, common-law, and statutory and regulatory directives - has demonstrated a pattern of neglect that has threatened, and continues to threaten, the integrity of trust data upon which Indian beneficiaries depend. Rather than take any remedial action, its senior management has resorted to the condescending refrain that has consistently insinuated itself into the federal government’s relationship with Native Americans, in general, and with IIM holders, in particular. And that is one that requests forbearance and trust on the grounds that reform continues to be the “highest priority.” It is the view of the Special Master that, in this instance, such trust is not warranted, requests for forbearance should be denied and promises of future compliance should not be credited. The stakes are simply too high. An agency that ignores its own commissioned reports and those generated by other federal agencies; ignores pleas from its own staff for adequate funding; and spends tens of millions of dollars funding computer systems when the integrity of the very data to be loaded on those systems has been open to compromise for so many years, inspires little confidence.

The security of systems housing trust data is no better today than it was ten years ago. The circumstances leading to the Court’s alarm “that BIA has no security plan for the preservation of [trust] data,” Hon. Royce C. Lamberth, April 4, 2000 Hearing at 11, speak with compelling application today. The continued lack of trust data security is “vivid proof” that Interior has “still failed to make the kind of effort that they are going to be required to ever make trust reform a reality.” *Id.* at 12. It is the recommendation of the Special Master that the Court intervene and assume direct oversight of those systems housing Indian trust data. Without such direct oversight, the threat to records crucial to the welfare of hundreds of thousands of IIM beneficiaries will continue unchecked.”

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**3. EDS Observations - Information Assurance**

Information Assurance is not individually or collectively part of an HLIP subproject or court identified breach. However, it was part of EDS' Trust Reform Assessment scope of work.

**Current State**

Overall, at the time of the review, EDS found that there were significant confidentiality and integrity risks to information in the TAAMS system. The current security safeguards protect against casual or inadvertent access to information. The system is not well protected against deliberate intrusion. Adequate security requirements, tools and processes have not been instituted using a layered security approach. A layered security approach would include: firewalls, intrusion detection, active systems audits, and effective identification and authentication processes.

It was noted that ATS has a contingency plan for TAAMS. However, the BIA has indicated that they do not have a contingency plan.

BIA OIRM IT network office has insufficient resources (staff) to perform the roles required for an adequate information assurance program. Therefore, critical functions, such as monitoring of system logs and monitoring of system and security patches/updates, are not being performed.

Password management for TAAMS directly contradicts industry standard practices, legislative and federal standards for compliance in the construction, use, and maintenance of passwords.

The potential presence of non-BIA related user profiles on the IBM AS/400, BIA dedicated system, opens the system to potential for unauthorized access.

There are no provisions in the TAAMS application for deleting obsolete accounts due to inactivity or termination of duties/employment. There is no computer notice and consent log-on banner (warning screen) upon entry to the ATS network.

Three separate firewall problems were found:

- There is no firewall on the BIANET between the BIANET and the Internet Service Provider (ISP).
- There is no firewall on the ATS network between BIANET and TAAMS.
- There is no firewall on the ATS network between the ATS corporate LAN and TAAMS.

Discussions with the BIA network staff indicated that an Intrusion Detection System (IDS) was not currently installed on the BIANET. Discussions with the ATS staff indicated that although they do not have an IDS, they do use security audit tools that will alert them on their pagers in the event of network problems.

ATS developers installed a "backdoor" that allows BIA direct access to the TAAMS database by circumventing the monitoring and auditing process. The



backdoor approach breaches the data integrity protections. The “backdoor” was established at the direction of BIA by ATS in an attempt to expedite data cleanup.

**Recommendation Summary**

Short Term Recommendations:

- Implement a layered security approach
- Add firewalls to BIANET.
- Implement an intrusion detection system (IDS) and perform proactive review of audits.
- Periodically perform automated vulnerability assessments.
- Develop procedures or plans to close the TAAMS “backdoor”.
- Immediately implement and enforce password management practices which comply with BIA requirements and industry standards.
- Perform regular user account management housekeeping functions.
- Deploy DOI agency wide Advise and Consent (Warning) Banner in accordance with Public Law 99-474, DOI IRM Bulletin dated June 12, 2001, and DOI 375 DM, Chapter 19.

Long Term Recommendations:

- Ensure BIA internal and external service providers conform to BIA security requirements as well as to applicable regulations, departmental and industry practices in the area of information assurance.
- Ensure all Service Level Agreements (SLA) explicitly identify information assurance expectations.
- Develop and test Disaster Recovery and Business Continuity plans for the BIANET.
- Hire and retain skilled and qualified staff to fulfill the operational commitments required of the BIA OIRM IT network office.
- BIA needs to complete the security requirements documentation for TAAMS and include the security requirements in the standard testing process.

**d. Task Manager’s Comments On the Special Master, EDS and Special Trustee Observations:**

Of the other observations made, the Special Master provided the most comprehensive overview. The Special Master’s report provides the findings and recommendations of a large number of prior reports on the subject of information technology system security for systems containing individual Indian trust data. As the Special Master’s report has already been filed with the Court, only a summary of findings and recommendations have been included herein.

EDS was not specifically tasked to evaluate the security of these related systems. EDS focused principally on the TAAMS system. Nonetheless, their findings and recommendations are generally applicable to the issue at hand.

While the details may vary, the conclusions are consistent. The security of individual Indian trust data is inadequate. As noted above, the Department is

keenly aware that there are weaknesses and shortcomings. The Department is undertaking the steps necessary to address these weaknesses and shortcomings in a comprehensive manner.

**Assurance Statement**

I concur with the content of the information set forth in the Task Manager related sections. The information is accurate to the best of my knowledge and belief.

Date: January 16, 2002

*Signature on File*  
James E. Cason  
Associate Deputy Secretary

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**D. BIA OFFICE OF INFORMATION RESOURCE MANAGEMENT**

**1. Background**

Based on information in the National Association of Public Administration study of BIA management and administration completed in August 1999, the Bureau of Indian Affairs (BIA) decided it needed to provide better oversight and “hands on” management of its computer operations, including the computer systems that processed portions of trust asset accounting. The BIA moved its primary Office of Information Resources Management (OIRM) computer operations center from Albuquerque, NM to Reston, VA during calendar year 2000. The move however had some adverse effects. Many of the employees in Albuquerque did not accept a transfer to Reston, citing the higher cost of living with no appreciable increase in income, the culture differences between Reston and Albuquerque, and other reasons. The BIA hired contractors to manage the move, and perform computer software maintenance and the computer operations in Reston. The computers and software systems were old technology and required the knowledge of qualified computer programmers and operators to perform the maintenance effectively. The building in Reston required a large amount of remodeling and additional capabilities to accommodate the BIA computers and support staff. It took eight months to complete the move and become operational in Reston. There was much turmoil during the move including a Temporary Restraining Order.

**2. Steps that increased physical security that were completed during August 1 to December 31, 2001**

- a. Contracted with Wackenhut Corporation to provide guard coverage 24 hour /7 day coverage.
- b. In September an additional guard was added during daytime business hours
- c. Hired a Building Security Manager (effective 10/01/2001) to monitor security compliance, oversee the contract security operations and issue access cards to favorably screened employees and contractors.
- d. Installed additional security cameras and lights and relocated the emergency power off switch.
- e. Conducted verification of OIRM employees to ensure limited appropriate access to OIRM and the Data Center areas of the building and reconfigured access card readers to meet the verification standards.
- f. The OIRM staff and BIA accounting staff in the OIRM building that have access to Indian Trust Data were moved into a separate secure location within the OIRM location at Reston. Staffs whose jobs do not involve or require access to Indian Trust data are not allowed to access this space.
- g. Developed a draft plan for using the old OIRM data center in Albuquerque, NM as a backup site

- h. Tested the draft plan in conjunction with other DOI bureaus and offices
- i. The draft Plan was modified based on the test results
- j. Following negotiations for the inclusion, in annual funding agreements, of screening requirements prior to access to BIA information technology systems and/or individual Indian and tribal trust resources, a brochure discussing requirements and procedures was disseminated at the annual Self-Governance conference in November 2001. The same brochure is under review for dissemination to 93-638 contracting tribes.

Items b and c will require ongoing funding and resources not previously anticipated

**3. Requirements to make the OIRM operation successful**

- a. Evaluate and Enhance OIRM Security Plan to meet OMB A-130 standards i.e.:
- b. Floor to ceiling security at OIRM perimeter
- c. Replace computer room doors to meet OMB A-130 standards
- d. Convert the draft plan into a full Continuity of Operations Plan.
- e. Enhance monitoring of the personnel access list
- f. Develop and implement a hardware life cycle maintenance policy for all computer and support equipment
- g. Complete the personnel safety and emergency response plan
- h. Complete and implement the comprehensive training plan for personnel and asset security

**4. Assurance Statement**

I concur with the content of the information contained in Section V. D. OIRM Physical Security of this subproject manager report set forth above. The information in those sections is accurate to the best of my knowledge.

Date: January 13, 2002

*Signature on File*  
William R. Roselius  
Consultant to AS-IA

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**E. CURRENT ACCOUNTING ACTIVITIES**

1. The Department is not yet in full compliance with 25 USC § 4011 (a)-(c) and § 162a(d)(1)-(7). This section reports on the steps the Department of the Interior has taken toward complying with 25 USC § 4011 (a)-(c) and § 162a(d)(1)-(7). Future reports will identify progress as it is accomplished. In addition this section covers Trust Funds Accounting System (TFAS) related issues.

**a. Account for the daily and annual balance of all funds (i.e., Indian trust assets) held in trust by the United States for the benefit of Individual Indians.**

On April 1, 2000, the Office of the Special Trustee for American Indians' Office of Trust Funds Management (OTFM) completed the conversion of all Individual Indian Money (IIM), Tribal and other trust fund accounts and associated balances to a commercial-off-the-shelf (COTS) trust accounting system, SEI Investments, Inc.'s Trust 3000. In OTFM, Trust 3000 is known as the Trust Funds Accounting System (TFAS) and operates in a service bureau environment. Trust 3000 is used by approximately 60 percent of U.S. private sector commercial trust departments. Because Trust 3000 is widely used in the trust industry, it is capable of interfacing with other systems including, but not limited to oil and gas systems (sub-surface), land management systems (surface), financial investment related systems, and electronic funds transfer systems. SEI Investments, Inc. has a well-organized user group that recommends improvements to Trust 3000 on a regular basis in order to keep abreast of industry standards and requirements. Additionally, through the use of Trust 3000 cash management features and the establishment of a lockbox for returned checks, OTFM has enhanced overall cash management.

SEI Trust 3000 links with other financial systems for notification of prepayment and valuations of financial investments, and itself creates notification of upcoming maturities, interest payments, etc. An accounts receivable system, however, will not be fully implemented until the non-financial investments (surface and sub-surface leasing, etc.) are converted to an automated accounts receivable system. Other Department of the Interior (DOI) systems initiatives should provide the non-financial investment accounts receivable capabilities (e.g., ownership for surface and subsurface leasing, appraisals, etc.).

**b. Provide a periodic statement of performance at the end of each calendar quarter that identifies: (a) the source, type and status of the funds; (b) the beginning balance; (c) the gains and losses; (d) the receipts and disbursement; and (e) the ending balance.**

OTFM provides a periodic statement of performance on a quarterly basis to each accountholder with a valid address. If a valid address is unavailable, the statement of performance is still generated but as a "file copy" for storage in a computer output to laser disk (COLD) system. The statement provides the beginning balance for the reporting period, the receipts and disbursements for the account, and the ending balance. It provides only generic source information (interest, lease income, etc.). It does not provide property specific performance

information (e.g., allotment description, lease numbers, etc.) or the valuation for all account types and investments (financial and non-financial).

While each quarterly statement contains the beginning balance for the reporting period, the initial account balances have not been verified. The Office of Historical Trust Accounting (OHTA) is tasked with *establishing the accuracy of the balances in the IIM accounts* and it is envisioned that other DOI systems initiatives should provide the non-financial investment source of funds information (allotment description, lease numbers, etc.).

**c. Perform an annual audit on a fiscal year basis of all funds held in trust by the United States for the benefit of Individual Indians.**

Since 1995, OTFM has contracted for an independent audit of trust funds it manages for the benefit of individual Indians, Tribes, and others. The 1995 audit covered the balance sheet, internal controls, and compliance with laws and regulations. Audits for fiscal years 1996 through 2001 added changes in fund balances. The fiscal year 2001 audited financial statements and reports on internal controls, and compliance with laws and regulations are in final draft. The Office of the Inspector General oversees the audit and reviews the resulting reports prior to their release to the public. Selected information is incorporated into the DOI consolidated financial statements. Additionally, SEI Trust 3000 is subject to a Statement of Accounting Standards (SAS) 70 review annually and thus far has received the opinion that the system controls are functioning as asserted by management of SEI Investments, Inc.

**d. Provide adequate systems for accounting for and reporting trust fund balances.**

As stated previously, OTFM utilizes Trust 3000, a COTS product, for the accounting and investment of financial assets held in trust for the benefit of individual Indians, Tribes and others. Also, as stated previously, Trust 3000 is subject annually to a SAS 70 review. That review thus far affirms that the system controls are functioning as asserted by management of SEI Investments, Inc.

The Federal Managers Financial Integrity Act (FMFIA) requires an annual self-assessment by managers for all functions for which they are responsible. The self-assessment involves identifying responsibilities, accessing the levels of risk associated with the responsibilities, and identifying and implementing adequate controls to mitigate risk. The self-assessment process supports the ability to provide an annual assurance statement (FMFIA requirement) to the Special Trustee for American Indians that controls are functioning appropriately to reasonably assure that the risk is minimized. OTFM has initiated the process to meet the requirements of FMFIA.

Other DOI initiatives should provide for the annual assurance statement for non-financial investment functions and related functions.

**e. Provide adequate controls over receipts and disbursements.**

In addition to the initiatives and system improvements discussed above and below, OTFM has centralized the encoding of receipt and disbursement transactions both financial and administrative. This has supported the implementation of a pre-posting verification (Pre-Quality Assurance) of transactions with the exception of interfaces from BIA systems for oil and gas, range leases, etc. Additionally, OTFM has instituted a post quality assurance program to review transactions after posting that includes the high level balancing of interfaces from BIA systems, e.g., oil and gas, or range leases.

Other DOI initiatives should provide for the proper controls to ensure that funds are being collected timely in the proper amount and disbursed to the appropriate beneficiary.

**f. Provide periodic, timely reconciliation to assure the accuracy of accounts.**

OTFM performs a number of periodic reconciliations that taken as a whole and in conjunction with the FMFIA initiative discussed above will culminate in OTFM being able to provide reasonable assurance that account activity is accurate. The accuracy of the account balance however, is not possible until established by OHTA.

Other DOI initiatives should provide for reconciliation to ensure funds are collected timely, in the proper amount, and disbursed to the appropriate beneficiary.

**g. Determine accurate cash balances.**

Please see the discussions above regarding initiatives, system improvements and OHTA.

**h. Prepare and supply account holders with periodic statements of their account performance and with balances of their account that shall be available on a daily basis.**

Please see discussion in B. above. Additionally, TFAS provides account information including the account balance (in the context of the discussions above) on an on-line real-time basis. OTFM has also provided beneficiaries (with a valid address) with a wallet size card that contains a toll free number for account holders to obtain information. In support of the toll free number, OTFM maintains a help desk for account holders that operates from 7:00 a.m. to 7:30 p.m. Central Time, Monday through Friday. As noted in B. above, this information does not include asset specific valuation, performance, or other indicators.

**Assurance Statement**

I believe that the information provided by me in subsection V. E., Current Accounting Activities subsections a through h in the boxes I have outlined, initialed and dated (copies attached) pages 52 through 54 which I authored and were subject to edits by other Department of the Interior (DOI) staff is objective and an informative analysis as of December 31, 2001. My belief is based on my knowledge, input from other Office of Trust Funds Management staff and review of credible evidence. The information I reference above extends beyond the reporting period outlined for the eighth quarterly report.

January 16, 2002  
Signature on File  
Douglas A. Lords  
Director, Office of Trust Funds Management

**2. TFAS**

**Introductions**

The conversion of the Individual Indian Monies accounts to the Trust Funds Accounting System (TFAS) was completed in April 2000. TFAS is a generic term for SEI Investment, Inc. off-the-shelf standard trust accounting system. TFAS provides the basic receipt, accounting, investment, disbursing, and reporting functions common to commercial trust funds management operations. The system is commercially operated and maintained by SEI Investments, Inc.

There are no remaining uncompleted steps pertaining to the conversion.

**Training**

A total of 54 OST, BIA and Tribal staff received TFAS related training this reporting period.

**EDS' OBSERVATIONS**

This subproject was successfully completed effective April 2000 (as reported in Quarterly Report No. 2), when all tribal and Individual Indian Monies (IIM) Trust fund accounts were converted to the automated TFAS. TFAS has become the system of record for BIA and OST and is being used to produce statements and payments to all tribal and IIM account holders.

Though TFAS has provided numerous improvements in functionality, including substantial reporting improvement over its legacy predecessor, its full potential is yet to be realized. This is due to the limitations in the external systems that interface to TFAS.

The contractor operates the same software release for all of its users, the contractor only upgrades and/or modifies Trust 3000 when there is sufficient user group support (Financial Services Trust Network (FSTN) is the national SEI



Users Group) or a legal requirement exists. Therefore, functional changes to the core Trust 3000 do not occur often or easily. SEI does support customization to preprocessing and reporting functions.

A few key business functions (e.g. account closeout interest calculation) are not part of the COTS package, but an external custom interface solution is providing the missing functionality.

There is a draft change control procedure to request modifications to the COTS package or the interface programs when required to support a business change; however, the draft version has not been approved.

A TFAS Users' guide, provided by the application vendor, is available (both in paper and online form) and distributed to users. Though "quick reference guides" are also available, they are cumbersome and difficult to navigate.

The deployment (including conversion from the legacy system) of TFAS occurred over an extended period of time and was staged through the regions; therefore business procedures were constantly evolving and changing. Regulatory factors also contributed to changed business procedures. As a result, incomplete and outdated business procedures exist.

Laws, regulations, and interpretations are paper based and take a long time to be created and then passed to the personnel who must act on them. The process from Congress to deployment often takes months before a user in the field is able to place a new regulation into practice. This affects all bureaus involved in Trust Management. (See Policies and Procedures Subproject Assessment)

Common data elements (e.g. account ID information) are duplicated in multiple systems (across bureaus) and lack consistent formats. Since there are several applications involved in the overall Trust process, a proliferation of identification numbers exists. Collaboration across bureaus is needed to resolve this problem.

The TFAS help desk is currently available and providing responsive support, yet it has limited staffing and is not leveraged across other systems. Because the help desk personnel are located in Albuquerque, NM, (Mountain Time), nationwide time zone coverage is not available.

### **Recommendation Summary**

The recommendations are:

- Establish a formal and documented change request procedure for the TFAS application and its information and interfaces.
- Develop an online users' guide to provide help and understanding for both the application and its information.
- DOI should define and document the business processes that are supported by TFAS to ensure the design of TFAS is consistent with process requirements.
- DOI should establish and operate an integrated help desk for all time zones, to support users of all Trust applications.

**Subproject Manager's Observations on EDS**

Note: the current OTFM business process for closing accounts is not the same as the account closure process in private sector trust departments; therefore the COTS system does not support this feature. Customization to COTS is a common practice in the private sector to meet the unique needs of the customer. Customization could be an option if the cost benefit analysis so indicates. (NOTE: unsure of point being made by EDS).

**Comments on EDS' Recommendations**

#1 – OTFM agrees.

#2 – OTFM agrees with conceptually, however a cost benefit analysis should be done before proceeding. OTFM is in the preliminary development stages of creating Desk Operating Procedures Manuals that will include TFAS functionality, and business processes. A targeted date for completion has not been established.

#3 – OTFM agrees, however, we do not think this item belongs in the TFAS section. It appears to be a broader comment, and should not just be system specific, and should be in the Executive Summary portion of the overall EDS report.

#4 – OTFM agrees, however this too does not belong in the TFAS section, but in the overall Executive Summary EDS report.

**Assurance Statement**

I believe that the information provided by me in the TFAS Subproject Section 2 above, is an objective and informative analysis of that subproject as of December 31, 2001. My belief is based on my knowledge and review of credible evidence.

Date: January 16, 2002

*Signature on File*

Dianne M. Moran

Trust Operations Officer

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**F. FRACTIONATED HEIRSHIP**

Although several treaties provided for the allotment of tribal land to individual members of the tribe, the General Allotment Act (GAA) enacted in 1887 established the federal policy of dividing (allotment) of tribal lands to individual members of the tribe. The GAA provides that tribal lands be divided into small parcels and given or "allotted" to individual Indians. The allotment of lands was to accelerate the civilization of the Indians by making them private landowners and to assimilate them into the society. However, few Indians assimilated into the non-Indian society. They retained their traditional ways, which resulted in their impoverishment. By the 1930's it was widely accepted that the GAA had for the most part, failed. In 1934, Congress, in Section 1 of the Indian Reorganization Act, stopped the further allotment of tribal lands. Presently, we are dealing with the vestiges of the allotments resulting from the GAA.

When an individual Indian dies owning interest in trust and/or restricted land, his/her land ownership must be distributed to his/her heirs. In other words, if an Indian owning a 160-acre tract of trust or restricted land dies intestate and leaves four heirs, the four legal heirs would not inherit 40 acres each. Rather, they each inherit an undivided 1/4th interest (fractionation) in the entire 160-acre tract and their ownership is treated as tenants in common. As each of these four heirs die, their interest is further divided among their legal heirs. Based on data obtained from Indian probate records, it has been determined that the average number of heirs to inherit trust and restricted land from an Indian trust estate is seven. Thus, by the third generation a full interest in a tract of land can become a highly fractionated tract of land. There are significant cultural and family ties associated with these allotments and, often times, owners want to ensure that each of their heirs receive a part of their heritage, culture and family allotment. As the years passed, fractionation has expanded exponentially to the point where there are hundreds of thousands of tiny fractional interests. As owners of trust and restricted lands die, the fractionation of Indian land continues to grow. Attached is a copy of a page from a redacted Title Status Report for an allotment on the Sisseton Reservation in South Dakota, which depicts a highly fractionated ownership.

Highly fractionated ownerships hinder the Department's ability to efficiently administer trust transactions, maintain current and up-to-date ownerships, maintain trust records, maintain and account for trust funds in individual accounts and timely distribute trust income. Highly fractionated lands are becoming increasingly more burdensome and, thus, costly to the federal government to administer. Approximately 80 percent of the BIA's real estate services budget is spent administering 20 percent of the trust and restricted lands (10,000,000 individually owned acres and 46,000,000 tribal acres).

In 1999 a pilot program was initiated on three reservations within the Midwest Region of the Bureau of Indian Affairs. The program acquires small-undivided interests of 2 percent or less from willing sellers at no less than the appraised value. The federal government purchases the interests and title is placed in the name of the Indian tribe on whose reservation the land is situated. Proceeds derived from the acquired interests are deposited into the acquisition fund until

the purchase price is recouped. Upon recoupment of the purchase price for the acquired interest, future proceeds due the interest are paid to the Indian tribe.

The program is no longer a pilot and has been expanded to include additional reservations. In FY 2002 the Indian Land Consolidation program will operate on six reservations, five of which are under the BIA's Midwest Region (Bad River, LacCourte Oreilles Lac du Flambeau, Fond du Lac and L'Anse (Keewanee Bay) and one reservation under the Great Plains Region (Rosebud). The focus of the program continues to be the acquisition of fractional interests of 2% or less and there are no plans to expand the program outside the two Regions. Nationwide there are approximately 1.4 million fractional interests of 2 percent or less involving 58,000 tracts of individually owned trust and restricted lands. Confining the program to these six reservations will permit the collection of statistical data on the program and potential benefits of acquiring the interests and reducing administrative costs.

The design of the program is not to effectuate trust reform but to gather data to evidence administrative cost savings to the federal government and slow the growth of fractionation. The resolution of fractionation of Indian lands is indirectly related to the DOI trust reform objective, which is to improve trust assets by making them more economically viable and useable. Because of management issues associated with highly fractionated lands, the lands may often times remain idle and economic development opportunities may be missed. Thus, the economic value of Indian lands is potentially reduced due to the inefficiencies caused by multiple ownership.

Additional and focused measures will be required to fully address the administrative problems and costs associated with fractionated Indian lands. One measure initiated by the Department in 1994 resulted in Congress enacting the Indian Land Consolidation Act Amendments of 2000 (ILCA 2000) in November 2000, (P. L. 106-462, 114 Stat. 1991). The legislation is the initial step toward meaningful resolution of the fractionated ownership problem. The legislation provides for the:

- Adoption of tribal probate codes;
- Changes the definition of an Indian which determines who is ineligible to inherit trust land;
- Imposes federal limits on inheritance;
- Prescribes more emphasis on estate planning to assist Indian landowners;
- Significantly modifies the Secretary's authority to approve trust to trust conveyances; and
- Provides some relief to the onerous consent requirement imposed by the various statutes by adoption of a sliding consent scale based on the number of owners.

Section 219 of ILCA 2000 provides, with certain exceptions, that the Secretary of the Interior may approve transactions if the owners of not less than the applicable percentage as set forth in the section consent to the transaction. Although a positive step, the legislation will not eliminate the problem of fractionation nor

fully lessen the burden of the federal government for many years. As owners die their interests will be further fractionated creating a new set of small-undivided fractional interests. Implementation guidance, training, outreach and education on the impacts of the provisions of ILCA 2000 are on going.

**Program Statistics**

<b>LAND ACQUISITION PROGRAM</b>	<b>Aug. 2001</b>	<b>Sept. 2001</b>	<b>Oct. 2001</b>	<b>Nov. 2001</b>
No. of Pending Applications	91	117	169	122
No. of undivided interests affected by applications	1096	1226	1807	1241
No. of undivided interests acquired	2119	707	273	1153
No. of acres the acquired interests represent	1074	344	114	553
Total Acquisition Cost	\$746,935	\$203,211	\$83,728	\$434,627
Total Administrative Cost	Not collected	\$30,500	\$25,425	\$29,268
Average Cost of acquired interests	\$353.00	\$287.43	\$306.70	\$376.95
No. of IIM accounts eliminated*	93	6	4	18
No. of future probates eliminated**	23	25	9	58
No. of Deeds Recorded in LTRO***	689	105	0	0
No. of employees trained	0	0	259	129
No. of Training sessions conducted	0	0	2	1
No. of notice publications in local/tribal newsletters regarding the amendments	100	118	29	10

Data for December 2001 is not yet available.

\*Average monthly system cost to administer an IIM account in TFAS is approximately \$35 or \$420 per year, thus, annual savings for the elimination or placement of account into inactive status for 121 IIM accounts is \$50,820.

\*\*Average cost to probate an Indian estate is \$1,500, thus, savings for the elimination of 115 potential estates is \$172,500.

\*\*\*LTRO delayed deed recordings until receipt of funding. Recording actions renewed in Dec. 2001. Funds pay staff overtime costs to perform recording, thus, prevent interference with other program responsibilities and creation of a backlog.

While ILCA 2000 removed the 100 percent owner consent requirement for highly fractionated ownerships and will enable the more timely submission of transactions to the Secretary, it does not resolve the administrative problem of fractionation. The Secretary still must provide notice, consult and allow time for the owners to consider a transaction prior to consenting or not consenting to a transaction. This means that if a proposed transaction involves land with 200 owners, then, all 200 owners must be notified, given an opportunity to consider the transaction, obtain technical advice or assistance and submit their consent or objection. The decision to approve or disapprove a transaction represents a federal action and, therefore, can be appealed by the affected parties. Thus, the ability to obtain majority consent will not result in a more timely issuance of a decision because all of the owners (consenting and non-consenting) must be

notified of the decision and given the right of appeal. If an appeal is filed, no further action can be taken until the administrative appeal process is exhausted. The administrative appeal process is a legal process designed to give affected parties an opportunity to challenge federal decisions.

The difference between the figures for the number of IIM accounts eliminated and the number of future probates eliminated is due to the manner in which the elimination count is conducted. There are two count scenarios and they are as follows: 1) If an individual owns interests in five tracts of land and sells his/her interests in all five tracts, his/her account is eliminated and no probate of his/her trust estate will be required. 2) If an individual owns interests in five tracts of land and sells his/her interest in two of the five tracts of land, his/her account continues to exist and a probate of his/her estate will be required at some point in the future. Scenario No. 1 provides a one to one count - one account eliminated and one probate eliminated. The count for Scenario No. 2 is treated differently. Due to the location of the lands where this program is presently operated, very little resource activity or income is generated other than an occasional timber sale. Consequently, in Scenario 2 the program office requests the owner/account holder to withdraw all funds in their account at the time of the sale. This enables the program office to place the account in an inactive status when routine deposits are not being made or there is no potential for future deposits. Similarly, if there are no funds in the account or potential for future deposits, the account is placed in an inactive status. These actions help to reduce the administrative system costs associated with the accounts. Thus, in Scenario No. 2 the inactive accounts are counted as eliminated accounts. Sale proceeds are paid direct to the seller from the Treasury and are not deposited to the IIM accounts and subsequently disbursed.

While reviewing information necessary to compile this report, the question was raised regarding the distribution of funds received from the purchase of fractionated interests. The sale proceeds received by the Indian interests owners are not being received in their IIM account or reflected on their IIM statements for the sale of his/her fractionated interests. This question of direct payment of proceeds from the disposal of trust assets including but not limited to fractionated interests, oil and gas royalties, and solid mineral royalties, needs to be addressed. The current method of distributing funds creates an accounting/audit issue. A review of this matter and recommendation for appropriate action for the resolution of the payment of proceeds for sales of fractionated interests under the Indian Land Consolidation Program will be made during the first quarter of this calendar year.

It is important to note that the costs associated with administering individually owned interests will be replaced by costs associated with administering each of the acquired interests. This is due to the need to track and maintain records on the acquired interests until the purchase price is recouped. For example, if the undivided interest of six individuals is acquired, the federal government will no longer have administrative expenses associated with maintaining accounts for the six individuals or probating their estates. However, the federal government will still be responsible for tracking and maintaining records on each of the six acquired interests until the purchase price for each interest is recouped.

The key objectives for addressing fractionation are: 1) reducing the federal government's costs associated with the administration of highly fractionated lands and 2) ensuring changes that may increase the use, productivity and economic viability of Indian lands which is a fundamental trust responsibility of the federal government. These will be accomplished through:

- Continuing to acquire, through the Indian Land Consolidation Program or other avenues, the undivided interests to slow the growth and consolidate the interests into the Indian tribe;
- Gaining Congressional support via statistical data obtained from the consolidation program;
- Securing funds for the nationwide expansion of the acquisition program;
- Continuing the implementation of the provisions of ILCA 2000; and
- Working with Indian tribes, individual Indians and Congress to enact additional legislation to address problems associated with the fractionation of Indian lands.

The Indian Land Consolidation Program and ILCA 2000 and its implementation represent components for reducing the administrative costs associated with fractionated ownership. To ensure their continued use, these activities must continue to receive support and funding. These programs are primarily geared to address ways to reduce the federal government's costs associated with the administration of highly fractionated lands rather than trust reform to improve the delivery of services by the federal government to the Indian beneficiaries. A benefit that will arise, in time, from these actions will be fewer owners and, thus, will provide an increased use benefit.

The problems associated with fractionated ownership is generally not a problem of Indian tribes. Fractionation is a problem for individual Indians. Many individual Indian owners are of the opinion that the fractionation problem was created by the federal government and express the view that the federal government needs to devise methods to more adequately and effectively deal with the management of the fractionated land and not penalize the individual Indian owners because the federal government wants to reduce its administrative costs. Thus, issues raised about fractionation by Indian tribes may not be representative of the issues identified by individual owners. Any attempts to resolve fractionation will require consultation with individual Indians as well as Indian tribes. Their views will need to be heard and factored into the fractionation resolution decision-making process. Failure to engage individual Indians in developing potential solutions on fractionation and securing their "buy in" may result in obstacles for implementation from Congress, Indian organizations and others. In those instances where an Indian tribe owns land with individual Indians, a conflict of interest can arise if the intent of the Indian tribe is not agreeable to the individual owners. Because the issues associated with owners' property rights and the Secretary's fiduciary duty and trust responsibility to both the Indian tribe and the individuals for the trust asset, the Secretary is placed in an awkward position of determining whose best interests to promote and/or protect. This conflict of interest is no less true in determining the best avenues to resolve the fractionation ownership between the federal government and the individual Indian owners.

Attachment

**Assurance Statement**

I concur with the content of the information contained in the following section of the 8<sup>th</sup> Report to the extent these subprojects were under my supervision. The information provided in these sections is accurate to the best of my knowledge.

Section V. F. Fractionated Heirship

Date: January 15, 2002

*Signature on File*

Neal McCaleb

Assistant Secretary – Indian Affairs



TRACT ID RES PFX NUMBER 347	STATE SD	INDIAN RESERVATION SETSETDN	NAME	FRACTION OF TRACT (+/-) AS ACQUIRED	RESOURCES BOIN	EXAMINATION 10/24/83	DATE OF LAST VERIFICATION	AGGREGATE SHARE CONVERTED TO LCD	AGGREGATE DECIMAL
OWNER RES NUMBER 06/15741	A	12 AL	316018977		592		252200	228614400	0.0011337868
07/22746	A	12 AL	31001977		902		252200	228614400	0.0011337868
	A	12	TC023R986		29 77750		85260	228614400	0.0003729423
	A	12	TC023R986		29 77750		85260	228614400	0.0003729423
	A	12	TC023R986		29 77750		85260	228614400	0.0003729423
	A	12	TC023R986		29 77750		85260	228614400	0.0003729423
	A	12	TC023R986		29 77750		85260	228614400	0.0003729423
	A	12	TC023R986		29 77750		85260	228614400	0.0003729423
	A	12	TC023R986		29 77750		85260	228614400	0.0003729423
	A	11	TC097S977		540		423360	228614400	0.0018518518
	A	11	TC097S977		540		423360	228614400	0.0018518518
	A	11	TC097S977		540		423360	228614400	0.0018518518
	A	11	TC097S977		540		423360	228614400	0.0018518518

REPORT CONTINUED

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**G. CADASTRAL SURVEYS**

**1. Project Summary**

Cadastral survey is a common term within the land surveying community but is not widely recognized outside of the surveying and taxation professions. Cadastral is derived from the Greek *katastikhon*, a list or register, from *kata stikhon*, "line by line". Cadastral surveys are most commonly used as a basis for taxation. A cadastral survey is a land survey of sufficient scale to show the extent and measurement of property boundaries. A cadastral survey within the Bureau of Land Management (BLM) is used to accurately identify land boundaries and to maintain the related survey records for all public and tribal lands. These surveys require detailed investigations of the history of land use and occupancy, legal document research and correlating on-the-ground, physical surveys with legal documents. A cadastral map or plat shows and records property boundaries, subdivisional lines, buildings and related details.

Federal land surveys were mandated by Indian treaties, executive orders and acts of Congress to allow for the allotment of Indian reservations. The Act of June 14, 1862, 12 Stat. 427, was entitled "An Act to protect the property of Indians who have adopted the habits of civilized life." The act provided protection for Indians who received an allotment of tribal lands according to treaty stipulations. The Indian agent was to protect the allottee from trespass, etc. Nothing was said about how the agent was to determine the boundaries of an allotment. The method of surveying allotment boundaries was not included by statute until the Act of April 8, 1864, 13 Stat. 39, entitled "An Act to provide for the better Organization Of Indian Affairs in California." The act dealt primarily with California reservations and affairs but section 6 of the act states:

*"That hereafter, when it shall become necessary to survey any Indian or other reservations, or any lands, the same shall be surveyed under the direction and control of the general land office, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed."*

This section is codified in 25 U.S.C. § 176. The general land office was replaced by the Bureau of Land Management (BLM) in 1946. The code now reads:

*"Whenever it becomes necessary to survey any Indian or other reservations, or any lands, the same shall be surveyed under the direction and control of the Bureau of Land Management, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed."*

It is a well-settled principle of law that a cadastral survey plat becomes a part of every Government trust land patent that refers to any subdivisions whose descriptions are to be found upon such plats. The legal significance of the plat is as important as though a copy of such plat has been incorporated into trust patents. The same applies to any subsequent deeds of transfer. The public and Indian land is not to be regarded as "surveyed" until it has been duly shown upon

an approved cadastral survey plat, and no subdivisions are to be "disposed of" until so identified. An original cadastral survey of public and Indian lands does not ascertain boundaries; it creates them.

Almost all Indian land has been surveyed. The vast majority of the original surveys in Indian country were conducted by the U.S. General Land Office. These survey are more than 100 years old and the corners were marked with sticks and rocks which are extremely challenging to recover. Years of human and animal activity and negligence has wiped out all visible traces of the corners and boundaries in large areas. Uncertainty of boundary corners has resulted in lawsuits and has impeded economic development.

The BLM has the responsibility of managing cadastral survey records. In numerous Indian Reservations the allotment surveys were conducted by the Bureau of Indian Affairs (BIA) Indian Service and many of these survey records cannot be found.

Older surveys are sufficient in most cases for title description, land transfers, and other lands related actions. They are not adequate, however, for efficient management, definitive ground location, and modern decision making. A modern survey provides a physical ground location of boundaries, an updated record of survey, an updated and accurate legal description (including area), and the capability to incorporate this information into an electronic format that can be used with other systems to manage effectively the land and its resources.

The legal requirements and authority for survey of the approximately 56 million acres of Indian Trust lands are the responsibility of the BLM. The BIA and BLM set the priorities for surveys of Indian Trust lands based upon a hierarchy of survey need criteria which includes categories of litigation, legislation, revenue enhancing, jurisdictional disputes, boundary management needs, and condition of existing survey. The BIA realty specialist understanding and experience in survey related issues is at the elementary level and requires consultation with the BLM's cadastral survey staffs to develop the best priority of survey issues.

The BLM has developed a training course for BLM realty specialist, cadastral surveyors, BLM appraisers and other BLM land tenure specialists to help in broadening the cross cutting issues facing these specialists. The BLM is improving its efficiencies in addressing survey and realty actions because of this course. This course is currently being redesigned for Indian issues and will be called "Foundations of Land Tenure in Indian Country." The first offering of the course is planned for the third quarter of 2002 and should then be available for national deployment.

The BIA provides funds to BLM through a reimbursable interagency agreement to perform cadastral surveys of Indian trust and restricted lands. The BLM has reduced the administrative overhead under the interagency agreement to five percent in order to provide for more on-the-ground resources for these surveys. The BLM provides annual accomplishment reports to the BIA. In fiscal year 2001 (ending September 30, 2001) the BLM surveyed 817 original survey miles, 843 resurvey miles, 360 special survey miles, established 4,472 monuments,

approved 215,325 acres of original surveys and 87,796 acres of resurveys for Indian lands.

In 1978, the House Appropriations Committee conducted an investigation into the Cadastral Survey programs of the Department of the Interior and the United States Forest Service. This investigation was in response to concerns that the BLM was not meeting the surveying needs of other federal agencies. As a follow up to this investigation, the Interagency Cadastral Coordination Council (ICCC) was formed. Through this Council, the surveying needs and priorities of federal agencies, including the BIA, were reviewed. Efficiencies have been gained for all participating agencies; however, the amount of funding available from agencies is minimal compared to the needs. Only the top priority surveys are performed. The ICCC has also operated at the local and regional levels to allow managers direct access to the BLM survey officials who direct the Cadastral Survey programs at the state and regional levels. Most recently, a national ICCC meeting was held in July 2001. The primary focus of the meeting was the impact of the significant increase in funding from BIA to BLM to survey Indian Trust lands. The past funding levels were \$2.2 million per year until FY 2001 when the funding level was increased to \$6.5 million.

The BLM and BIA have conducted general inventories of survey needs on Indian reservations. These inventories are based on existing requests for surveys, BIA/BLM knowledge of lands involved, and a projection of future needs. Both agencies identified the need for a more comprehensive inventory, and funding has been requested to accomplish this task. The BIA and BLM identified a \$62 million backlog of immediate cadastral surveys needs and \$51 million in projected needs. This inventory of backlog needs is for all of Indian country and does not distinguish between IIM allotments and Tribal lands. However, the demand for cadastral surveys is not static and the Indian land base is expanding from land claims and acquisitions that will require additional surveys. Urban growth on Tribal lands and the increased demands upon Tribal resources will result in more survey needs.

The Special Trustee for American Indians is aware of this backlog of survey needs for Indian trust lands. Specific parcel information is required before the full extent of the unmet needs can be quantified, and a detailed plan can be completed. BLM is in discussions with BIA and OST on how to develop a detailed accounting of a cadastral services backlog. The BLM provides the surveys for the transfer of public lands to the State of Alaska, allotments for native Alaskans and tracts for the twelve Alaska native corporations. The planning system for this survey of competing Alaskan groups is complex. The BLM is working with the BIA to implement a similar model in a BIA regional office by the third quarter of 2002. This action is in concert with the observations by the Special Trustee.

## **2. EDS Observations**

Cadastral Survey is not individually or collectively part of an HLIP subproject or court identified breach, it was however, part of EDS' Trust Reform Assessment scope of work.

**Current State**

The dollar amount required to conduct the cadastral surveys identified as backlog for Indian Trust lands is estimated to be approximately \$62 million by BLM (with input from BIA). Much of the backlog is to update original surveys that are over 100 years old.

The backlog has grown to its current level as a result of several years of minimal funding amounts allocated to BIA for the purpose of conducting cadastral surveys. For FY2001 the funding amount was increased threefold (from \$2.2 million to \$6.5 million) which allowed for increased requests for and executions of cadastral surveys in Indian Trust lands. If the level of funding for FY 2001 remained consistent for future budget years, it would take approximately ten years to process the current survey backlog.

It is unclear how significant an effect the current backlog of cadastral surveys has on the processing of probate cases and the distribution of revenues related to Indian land interests. BIA and BLM do not have any specifically documented information on backlogged surveys with a clear connection to outstanding probate cases or inaccurate revenue distribution concerns.

**Recommendation Summary**

- Develop more effective oversight and management practices and improved processes regarding requesting and scheduling cadastral survey work from BLM.
- Develop a schedule to address the cadastral survey backlog. This can be done through better control of its scheduling and oversight of current and future survey work by improving processes to:
  - Gather survey request information and prioritize survey requests
  - Schedule survey work with a global perspective through a centralized mechanism
  - Develop cadastral survey work budget for current and out years
  - Review the inventory of cadastral surveys to determine the impact on probate backlogs and revenue distributions. Incorporating the above recommendations will put BIA in a better position to ascertain “critical needs” survey work that can effect the efficient management of Trust responsibilities associated with probates and revenue distributions.
- Review and assess the “Yakama” model, a geographic information system (GIS) database of both current and historical survey information, for possible use in other regions or BIA-wide. Several benefits are accrued from a GIS including increased accuracy in parcel boundaries and revenue distributions for beneficiaries.
- Improve BIA’s cadastral survey budgeting process to enhance the regional office’s ability to advance plan for needed survey work.

- 3. Special Trustee Observations.** *The following is an extract from the Special Trustee’s observations, which pertains to Cadastral Surveys. The Special Trustee’s observations are included in complete form in Section III of this report. Care should be taken to read the entire observations and not to take this specific comment below out of context with the overall Special Trustee observations.*

*Cadastral Surveys*

This is an important aspect of identifying, accurately, the assets that belong to the beneficiaries, and is a part of cleaning up trust data. The program for Indian trust cadastral surveys needs to be planned and pursued, and it can be prioritized to produce beneficial impacts for as many beneficiaries as soon as possible. A plan to provide an assessment of the task, to furnish executive direction, and to accelerate the currently limited cadastral survey effort needs to be established.

**4. Bureau of Land Management Observations**

The BLM is concerned that ownership records are linked to an accurate cadastral layer with geo-spatial capabilities. The BLM has a land parcel database containing geographic coordinates of survey corner positions, and their associated attributes. BLM and partners are working toward a measurement-based geographic information system containing coordinates of every corner of the Public Land Survey System (PLSS), including trust lands. The Geographic Coordinate Data Base (GCDB) will serve as the foundation or framework for all land information recorded at the parcel level within a Reservation or State. An example of this system type of partnership is with the Yakama Indian Nation (YIN). The Yakama Geographic Information System Project has allowed the Yakama Nation to combine the information resources of the State of Washington, Yakima County, BIA, and their own into a parcel (allotment) level database. The Project incorporates information from programs dealing with health, housing, realty, surveys, roads, zoning, probate, natural resources including forestry, fisheries, wildlife, water resources, archeology, and environmental protection. The Project combines the disciplines of land surveying, realty, cartography, and photogrammetry in a computer database of land status.

The resources that generate the money for the Individual Indian Money (IIM) accounts come from the land. There will never be a true and accurate accounting of Indian Trust Assets until there is a true and accurate data about the location of land ownership and trust resources. To achieve a credible trust management system, legally defensible cadastral (land) surveys are necessary to locate and mark the corners and lines of the Trust boundaries. But the success of a trust management system does not end with surveys. The land tenure data must be integrated under the direct supervision of experienced survey and title professionals, and formatted to a standardized database operating within a functional land information system. The BLM and BIA are in the process of setting priorities for survey needs and will incorporate standardized cadastral data that has a review of a multi-disciplinary team.

**5. Assurance Statement**

I concur with the content of the information contained in the Sections VI. G. 1. and 4. of this report, set forth above. The information in those sections is accurate to the best of my knowledge.

Date: January 15, 2002

*Signature on File*  
Donald Buhler  
Bureau of Land Management

**TRUST REFORM**

**A. DATA CLEANUP**

**1. OST DATA CLEANUP**

**a. Introduction**

Administrative data and supporting documentation in the IIM module of the Bureau of Indian Affairs (BIA's) Integrated Records Management System (IRMS) and IIM file jacket folders were not maintained consistently throughout BIA and OTFM field offices.

Numerous deficiencies existed in the data because of inconsistent application of any "standard" method of data input, account/data review, or standardized use of system codes.

OST is tasked with standardizing and verifying data for trust administrative records with the objective of establishing a standard set of codes to open and close accounts, maintain accounts to reflect the most complete and accurate information possible for each account holder, and to ensure the information is reflected properly in the Trust Funds Accounting System (TFAS). These tasks often involve the Bureau of Indian Affairs (BIA) in policy decisions, implementation and monitoring.

This subproject and its procedure development and implementation are essential steps to providing accurate and reliable account information in a timely manner to trust beneficiaries. Use of accurate system data provides the opportunity to fulfill the requirements of the American Indian Trust Fund Management Reform Act of 1994 enabling this subproject to comply with the DOI's trust obligations.

This subproject includes the following activities: Post Conversion Cleanup Efforts; Locate Missing Documents; Whereabouts Unknown Accounts; Special Deposit Accounts, Small Balance/Inactive Accounts; and Accounting Discrepancies.

**b. Subproject Managers Observation**

**Post Conversion Cleanup Efforts**

The conversion process from the Individual Indian Monies (IIM) System to the Trust Funds Accounting System (TFAS) identified 1,334 accounts that contained account types that did not conform to OTFM policy. A review and correction process was done throughout the conversion timeline as well as after conversion. The remaining six accounts were investigated, corrected, and completed during this reporting period. This item is now complete.

**Locate Missing Documents**



OTFM policy POL98-003- Mandatory Documentation Requirements for Individual Indian Money (IIM) Account Jacket Folders states that mandatory documentation for individual, unsupervised accounts include disbursement authorizations and W-9 or copies of Social Security Cards. These unsupervised accounts are also referred to as “unrestricted” and are “flow-through” in nature, meaning Trust monies are collected and disbursed automatically once the account balance reaches the minimum threshold.

Phase 1 of this task included “unrestricted” account holders having cumulative disbursements exceeding \$5,000 over a 12-month period. 472 accounts were identified and letters and forms were sent to the account holders asking them to complete and return the forms. A total of 456 (97% of the 472 accounts identified) have been updated as of December 31, 2001.

This cleanup activity will be complete when the remaining sixteen accounts are updated with the mandatory documents. Pursuant to 25 CFR 115.101, which authorizes the Superintendent to sign the permanent authorization on behalf of the account holder, we are working with BIA to obtain Superintendent signatures. Upon receipt of the Superintendent signatures Phase 1 will be complete.

Phase 2 began in August 2001 and consists of a regional mass mailing to the remaining “unrestricted” account holders, regardless of their disbursement totals, excluding accounts that have already submitted mandatory documents. During this reporting period, 13,888 letters were sent to account holders requesting mandatory documents, and 63 responses were received.

Three known roadblocks are notarization/witnessing of source documents, lack of documents imaging and lack of response from account holders. OST policy states that when an account holder wishes to change an address or request a disbursement from their account a notarization or DOI witnessed signature is required on the forms. An impediment to this policy is the cost of notary services, (for example, account holders have informed us that the cost is as high as \$10 - \$20 per notarization), and/or the unavailability of access to DOI employees in remote areas for witnessing documents. A Document Imaging contract was and is envisioned to provide a database of inventoried documentation, which would allow OTFM to readily access certain documents

It is envisioned that the Locate Missing Documents process be moved to on-going data maintenance upon the development, implementation and monitoring of procedures.

### **Whereabouts Unknown**

In the Whereabouts Unknown project, during the two-week period of September 17, 2001, through September 28, 2001, files containing lists of all of the Social Security Numbers we have for account holders were sent to Trans Union’s HAWK product, which notifies us of Social Security Administration (SSA) death claims on behalf of these Social Security Numbers. HAWK also notifies us of Social Security Numbers that were never issued by Social Security Administration and of IIM account holders that appear to have an improper Social

Security Number. Accounts and Name and Address records were updated accordingly on November 29, 2001.

On November 15, 2001, OTFM implemented a new, proactive approach to minimize the occurrence of new Whereabouts Unknown accounts by placing all accounts with a valid Social Security Number and /or current or previous valid address on Trans Union's WATCH product. WATCH notifies OTFM when an account holder changes their address within three years of being placed on WATCH.

Lists of Whereabouts Unknown were sent to Tribal officials asking for their assistance in locating their tribal members. Favorable responses include: address updates from numerous tribes; letters from account holders stating they had seen their name on a posting in their local Tribal office; telephone calls and walk-in's to field office locations; and inquires to the OST website. This mailing will be done on a semi-annual basis.

The *Lakota Journal* published a list of Whereabouts Unknown on October 25, 2001, and based on responses from account holders and comments from OTFM field staff this publication has been favorable. 10,000 copies of the publication went to subscribers and newsstands within the five state region of South Dakota, North Dakota, Montana, Nebraska and Wyoming.

Letters have been drafted and will be sent in January 2002 to IRS, BIA Payroll, Social Security Administration, Veterans Administration, and Indian Health Services requesting assistance and/or the sharing of information of these Whereabouts Unknown account holders and OTFM will also contact various agencies/bureaus to discuss our request.

OTFM has been tracking the Top 100 highest dollar balance Whereabouts Unknown accounts since May 2001. As of December 31, 2001, 50 of the Top 100 accounts have been updated.

Roadblocks include lack of document imaging; (which would enable us to electronically review up-to-date jacket folder contents); notarization of source documents (due to the insignificant account balance in relation to the cost of notary services, account holders have informed us that the cost is as high as \$10 - \$20 per notarization); the unavailability of access to DOI employees in remote areas for witnessing documents; document retrieval from many locations; lack of response from account holders; and the mobility of the Indian population. Due to the issuance of the Temporary Restraining Order involving the information technology we are unable to connect to the Internet. As a result, we cannot access the OST Whereabouts Unknown website for account holder responses/updates. The inability to inquire to Trans Union's system for address information on returned mail is similarly affected

Whereabouts Unknown will never be totally resolved. It is unrealistic to assume that, at any given time, there would be zero account holders who are whereabouts unknown given the volume of accounts under management. It should also be noted that private sector operations (i.e., insurance companies and banks) also have this problem of not having current addresses for their

account holders. Therefore, it is essential that the whereabouts unknown process be moved to on-going data maintenance upon the development, implementation and monitoring of procedures. Draft procedures are currently being piloted for finalization. Additionally, cleanup of other projects such as Probate Backlog and *Babbitt v. Youpee*<sup>7</sup> may increase the number of accounts.

The following table shows total Whereabouts Unknown accounts, number of account holders found/corrected and number of account holders lost for the reporting period.

**Whereabouts Unknown Statistics**  
**As of December 31, 2001**

OST DATA CLEANUP	Total WAU as of 7/31/01	Total WAU found	Total WAU added	*Net Adjustments For the Reporting Period	Total WAU as of 12/31/01
Accounts over \$100,000	36	13	3	2	28
Accounts over \$5,000 and under \$100,000	3,063	353	391	117	3,218
Accounts over \$1,000 and under \$5,000	10,682	3,428	1,059	329	8,642
Accounts over \$100 and under \$1,000	15,382	2,554	1,471	1,183	15,482
Accounts over \$1 and under \$100	26,029	3,025	3,189	-587	25,606
Accounts under \$1	9,350	949	1,816	-1,044	9,173
<b>Total Whereabouts Unknown accounts</b>	<b>64,542</b>	<b>10,322</b>	<b>7,929</b>	<b>0</b>	<b>62,149</b>

\*Net adjustments occur as a result of account transaction activity that affects account balances that may place the account in a different dollar stratification (i.e., in July, an account balance was showing in the \$1,000 to \$5,000 threshold, but in the following months the account received enough income to move it into the \$5000 to \$100,000 threshold).

**Special Deposit Account Clean Up**

Numerous findings have cited the significant misuse of special deposit accounts for purposes other than those established in 25 CFR 114.2 as temporary "suspense" accounts. Over the years, the number of special deposit accounts that have been opened and remained inactive over 18 months has proliferated.

A pilot project to resolve residual balances in special deposit accounts (SDA) is currently ongoing with the expected national rollout to be determined based on pilot results. Initially it was intended that four BIA agencies would be involved in the pilot project with a contractor performing the clean up work and a BIA liaison to assist with coordination of document retrieval from agency offices. To date, 233 accounts valued at approximately \$5.8 million have been reviewed, data

<sup>7</sup> In 1997, the United States Supreme Court held in *Babbitt v. Youpee* that the escheat provision of the Indian Land Consolidation Act (ILCS) was unconstitutional. Thereafter, all the interests in estates that escheated are or treated as escheated under the ILCA escheat provision are referred to as *Youpee* interests/estates.

compiled, documents searched/gathered and analyzed and a recommendation for distribution/transfer of funds made to BIA for concurrence and action. Another approximately 190 accounts valued at \$8.0 million are partially through the same process. In addition, certain special deposit accounts were included in the pilot project from the Northwest and Rocky Mountain Regions in an effort to 1) include on-going clean up work performed by some agency offices under their own initiative 2) obtain more information for a better extrapolation of data analysis and 3) ensure clean up procedures are consistently applied across the board.

Roadblocks include document retrieval from many locations and a lack of document automation such as imaging; lack of mechanisms to retrieve historical land/title/ ownership records (i.e., current IRMS Lease Distribution System may not reconcile with the Lease Records Information System (LRIS)); missing data, historical documents and not getting a timely response from BIA on the contractor's recommended actions on account distribution and/or transfer of funds. BIA staff is busy with daily operational activities as well as other reform initiatives and cannot always assist the contractor to pull files or direct them to records.

Furthermore, as the project continues, there are special deposit accounts that for a number of reasons such as defunct companies or absent documentation may have to be referred to the Solicitor for an opinion before funds are distributed. With the already large volume of cases being handled by the Solicitor's office, timely resolution of the accounts may not occur.

Additionally, in the Great Plains Region, the Management Accounting and Distribution (MAD) system is a unique work around for income distribution. MAD does not calculate interest for distributions when principal dollars are distributed, which if not corrected, will continue to create undistributed balances in special deposit accounts, the very problem being addressed. OST is continuing a dialogue with BIA on a reassessment of this problem.

Finally, the Temporary Restraining Order involving information technology, causing Interior to disconnect from the Internet and ancillary trust systems has directly affected the database of automated transaction data for trust accounts. At present, the contractor is unable to access the database to continue data statement analysis and data stratification. Additionally, the disconnect is resulting in an increase in SDAs and related account balances as funds are being collected and not distributed to beneficiaries.

#### **Small Balance/Inactive Accounts**

For the Small Balance/Inactive Accounts, as of December 31, 2001, there are 18,453 accounts that have a \$.01 - \$1.00 balance with no activity for the previous 18 months. The total included in those accounts is \$5,460.48.

OTFM is working with the Office of the Solicitor to reconcile the statutory obligation to earn interest with the technical inability at present to allocate interest earnings of less than \$0.01 to the respective accounts. Timely resolution is uncertain at this time.

### **Accounting Discrepancies**

Accounting Discrepancies relates to an unreconciled difference between the total cash balances reflected by the OTFM for Tribal, Other Trust Funds and Individual Indian Monies Trust Funds and the balances reported by Treasury. OTFM fund balances exceed Treasury balances by approximately \$35 million. Treasury maintains that these differences are probably reporting errors. BIA/OST have apparently reported receipt items to Treasury that were not recorded on OTFM's books, or reported disbursements more than once. The problem with reconciling the difference is the absence of detailed records at both Treasury and Interior.

In addition, the aggregate of all positive fund balances from the IIM detailed subsidiary accounts exceeded the assets by approximately \$6.7 million. As a result, the amount of interest earned, and distributed to the individual beneficiaries, is less than it would be based on positive balances in the subsidiary. The purpose of this effort is to bring OTFM and Treasury into agreement and to secure an appropriation for the fund shortfall.

Draft legislation has been circulated within the Department to resolve the discrepancy. The discrepancy has remained stable since mid-1998 and it appears that proper controls are in place to prevent any reoccurrence. Still to be identified is the starting point of the discrepancy, the amount of interest due to account holders, and how to distribute that interest.

Due to the absence of a full historical accounting, it is difficult to determine the starting point of the discrepancy and to what extent individual account holders have been impacted.

### **c. EDS' Observations**

OST Data Cleanup efforts are currently ongoing and at various stages of completion. Coding issues are being addressed and substantial progress has been made, but continued efforts are necessary to cleanup management coding and alpha coding. Missing documents efforts are also ongoing with an initial phase aimed at unrestricted accounts with annual disbursements over \$5,000. This phase resulted in an 88% success rate in obtaining mandatory documents. Whereabouts unknown (missing or inaccurate account holder permanent address) issues continue to be a significant problem with the actual number of such accounts growing from approximately 46,000 to 64,500 between October 1997 and August 2001. This growth occurred despite the location of 23,000 owners from the 1997 whereabouts unknown inventory. In other words, the original universe of whereabouts unknown accounts was cut in half, but 41,500 new such accounts were added to the inventory. A pilot project to resolve special deposit accounts is currently ongoing as part of the daily operations and exceeds the requirements of the HLIP planning effort. The pilot is expected to have a national rollout to be determined based on pilot results. A method for closing zero balance, no activity accounts has been established within TFAS, but small balance, inactive accounts continue to represent an unresolved issue.

The EDS observation in this area, is that there are not clear distinctions among the data collection/cleanup projects. It is not readily apparent where one project ends and others begin. Operating each of the efforts as a separate project ignores the “process” view. As a result, the efforts may resolve existing data gaps, but not correct core process problems. This may lead to future data problems and affect data accuracy as new systems come on line. Operating the efforts as separate projects opens the door for data gaps as each project assumes that information will be provided under another effort.

### **Recommendation Summary**

Based on analysis completed using information collected during interviews, the following recommendations are suggested:

Combine BIA and OST data cleanup subprojects into a single effort to effectively exploit the close connection among these projects. By combining the efforts, DOI can reduce redundancies and more effectively share information across the several data collection effort. Establishing a process view will enable DOI to avoid similar data collection errors in the future.

The recommendation recognizes that each of the data collection/cleanup efforts is attempting to supply the necessary data associated with the end-to-end Trust cycle. By combining the efforts, it will be easier to eliminate duplication of effort and share information collected. By taking an overall process view (not as narrow as the HLIP currently calls for), it should also be possible to clearly identify the dependencies in the cycle, helping to avoid data collection errors in the future. The initial step in the effort is to develop an end-to-end process flow and the related data dependencies. This will help define the data requirements to support the entire cycle and identify how data collected in early phases of the cycle affect downstream activities.

**d. Special Trustee’s Observations.** *The following is an extract from the Special Trustee’s observations, which pertains to Data Cleanup. The Special Trustee’s observations are included in complete form in Section III of this report. Care should be taken to read the entire observations and not to take this specific comment below out of context with the overall Special Trustee observations.*

#### *Data Cleanup*

The basic re-direction required, as EDS has observed, is to improve project management as well as to prioritize the cleanup tasks that permit the most effective and efficient way to correct data and produce an accurate record of a beneficiary’s assets. This means checking the account records for anomalies as well as common error types rather than to concentrate on single types of error correction for all of the accounts in one office.

EDS has recommended the combination of the data cleanup efforts into a single cleanup project, and that is under serious consideration by the Department. The Special Trustee has not yet formed an opinion on that recommendation.

**e. Subproject Manager's observations on EDS & Special Trustee Observations**

OTFM does not endorse EDS's recommendation that BIA and OST data cleanup subprojects be combined into a single effort without clear delineation of BIA's data clean up tasks. OST administrative data cleanup is substantially completed with the exception of the special deposit account clean up project. The special deposit clean up project has the potential for following the BIA data clean up, once BIA data clean up has been defined. If BIA Data Cleanup is envisioned to reconcile current and historical ownership records then OTFM could possibly follow behind with special deposit account cleanup and distribute residual account balances from special deposit accounts.

OTFM is recommending that two of the OST data cleanup tasks i.e., Missing Documents and Whereabouts Unknown Accounts become a part of ongoing operations upon the development, implementation and monitoring of procedures managed by OTFM.

The small balance/inactive accounts issue is not a data clean up project. OST is waiting for an opinion from the Solicitor to resolve this issue.

Please note the following update: As of December 31, 2001, the success rate in obtaining mandatory documents for Phase 1 of Locate Missing Documents was **97%**, not 88% as reported in the December 6, 2001 EDS Report, (88% was the rate at the time of EDS interview).

**f. Assurance Statements**

I believe that the information provided by me in the OST Data Cleanup Subproject Section, except for the "Accounting Discrepancies" task which will be surmised by Michael Fansler, and the "Resolve Issues and Receive Jacket Folders From Tribes" task by OTR, is an objective and informative analysis of that subproject as of December 31, 2001. My belief is based on my knowledge and review of credible evidence.

Date: January 16, 2001

*Signature on File*  
Helen Riggs  
Project Manager

*Signature on File*  
Dianne M. Moran  
Trust Operations Officer

Date: January 15, 2002

*Signature on File*  
Michael M. Fansler

**2. BIA DATA CLEANUP**

**a. Summary Description**

A new automated system for management and accounting for trust assets will be replacing the current automated and manual systems for title and realty currently in place throughout the BIA. It is imperative that the trust data in any automated system is consistent and accurate. The ability to use a new trust management software and hardware is dependent upon having good data. The data cleanup tasks include researching and correcting critical key fields, reducing BIA backlog, direct data entry of hard copy data that previously was not in an electronic format and conversion and testing of existing electronic data for accuracy. To insure uniformity, the project requires the establishment of data cleanup policies, guidelines, and computer reporting tools for monitoring and for developing a uniform approach to planning, control, and data management. This approach allows for individual Regional Office differences and maintains standard system principles.

The scope of the BIA data cleanup effort is extensive. At present, the BIA is managing an estimated 170,000 tracts of land encompassing 56 million acres, 350,000 Indian owners, 2 million owner interests and 100,000 active leases. Some historical records date back to the original allotment period in the 1880s.

From the start of this project, Duplicate Owner Identification numbers and Multiple Owner Identification numbers have been the main focus of data cleanup for all Regional Offices for both Title and Realty. Other data anomalies have been identified and reports produced, but they are more region-specific. Since July 2001, when the Office of Trust Responsibilities in the BIA took over the project, management efforts have been focused on documenting the magnitude of the cleanup project. This entails identifying additional data anomalies for both Title and Realty and producing the reports for use by the contractor at the regions. As expected, additional critical data anomalies have also been identified since loading the Integrated Records Management System (IRMS) and History Land Records Information System (LRIS) data for Rocky Mountain Regional Office (RMRO) into a test database.

The BIA Data Cleanup activity was initiated in January 1999. A contractor, DataCom Sciences, Inc., was hired to assist in the effort. The effort was to be focused on land title and resource management information maintained by the bureau in automated systems, microfilm/microfiche, and physical hard copy files/folders. DataCom performs the majority of the cleanup work. Regional and agency BIA staff review and approve work submitted by the contractor, approve standard operating processes for correcting/encoding identified errors, assist with identification errors, prepare regional data cleanup plans, and provide the necessary coordination and feedback between OTR and the contractor. While this report associates accomplished numbers with DataCom, BIA staff has contributed as listed above. Additionally, two of the regions are using BIA staff to supplement the contractor. The reader should not assume that BIA is not involved in the work or that their effort is not being reported. NAID, also a contractor, is providing data cleanup support in the areas of systems analysis, business analysis, program development, and reporting on the anomalies.



In the future, the priority for Data Cleanup will be directed toward income producing trust lands and the Department's fiduciary responsibility.

**b. Subproject Manager's Observations**

**Accomplishments**

During this reporting period, emphasis was placed on re-structuring the data cleanup subproject. This involved reviewing existing documents, consultation with regional BIA personnel, and culminated with a set of general policies and procedures/guidelines for data cleanup. The Realty/Title tract match has been identified to be the number one priority, followed closely by determining missing key fields, which is required to load a record into a new automated system.

Using these policies and procedures/guidelines, a data cleanup team was established, management support tools were developed, and regional staff were trained to develop their own individualized data cleanup plans. The re-structured data cleanup subproject was initiated by preparing a statistical baseline that is to be updated monthly. This would allow progress to be monitored and the identification of problems on a timely basis.

In support of this project, the following data cleanup activities have been completed from August 1, 2001 through December 31, 2001:

1. In August of 2001, a Regional Data cleanup meeting for the Regional Data Administrators was held in Albuquerque to review the Data Cleanup Strategy Plan. This plan provided an outline and uniform policies and procedures/guidelines for each Regional and Agency office to prepare their data cleanup plans. Roles and responsibilities of each team member were also outlined and discussed. See Attachment A for Data Cleanup Strategy Plan.
2. Prepared a useable set of data cleanup monitoring and reporting tools for both Title and Realty. These documents identified each type of data anomaly, its priority, and listed the anomalies associated with each record. Training for field staff was conducted by BIA-OTR and NAID on how to read these reports.
3. Critical key data items for data cleanup were identified by the BIA-OTR and NAID. These critical key data items would prevent successful transfer of data to an automated system. These items have been prioritized and standard operating procedures are being developed. We are also in the process of identifying other critical data items that need to be cleaned up that are unique to each Region or pertinent to reporting the correct information.
4. The BIA-OTR and NAID developed a Monthly Status Report for BIA staff. This report displays the number of possible errors for each data field. The Data Cleanup Team (TAAMS and Data Cleanup Project Manager, OTR Data Cleanup Staff, Contractor's project manager and staff and regional/agency Staff) determined data fields requiring validation. The Monthly Status Report was mailed to all the Regional Data Administrators for comments and their reporting criteria. The reporting criteria will be updated in the future to capture the true

count of each data anomaly reported in the previous report. These reports were discussed with the Regional and Agency staff. The criteria used to identify errors and consolidate these errors were explained to the staff. Comments and feedback were received from some of the regions.

5. Data Conversion --- Conversion of Title and Realty data to an automated system, simply stated, is the process of translating data from one format to another. To do this effectively, data from the current system must be properly represented in the new automated system, which is accomplished by means of developing mapping documents. Crosswalks are developed between legacy and the new systems to effectively translate and convert data to the new formats or codes if needed.

Title and Realty mapping and crosswalk documents were developed by BIA-OTR and ATS (TAAMS contractor) for title history, IRMS-Lease/Ownership/People modules, and the Real Estate module (REM) for Southern Plains Region. Data conversion mapping document and crosswalks were also developed for History Title and Document Recording Systems by the BIA-OTR and ATS staff.

BIA-OTR reviewed with BIA and ATS staffs the codes between Anadarko/Billings Title History/Document Recording and the new system. From that, a crosswalk document has been developed which identifies the current BIA codes (e.g., Owner types, Ownership codes) to the new system.

BIA-OTR reviewed with BIA and ATS staffs the data field elements between Anadarko/Billings Title History/Document Recording and the new system. A mapping document has been developed which identifies the BIA field, formats to the new field(s) in the new system. Also being developed are rules for each data field, some fields have no rules, but others have special processing rules for conversion, these rules will be use to develop the conversion software to the new system.

6. DataCom personnel continued eliminating multiple identification owner numbers and determining whether previously non-enrolled individuals have enrolled since the issuance of the ID number containing the "N" class code. They have also been working on verifying ownership ID's between TFAS and IRMS, encoding updates to range leases in IRMS, verifying changes in the land status in deeds, and correcting legal descriptions in LRIS, IRMS and TAAMS.

7. Other data cleanup activities worked on BIA regional and DataCom staff include encoding probate modifications, encoding supplemental patents and encumbrance documents into LRIS to eliminate existing backlog and reviewing and acquiring legal land documents for future recordation purposes. This quarter, DataCom personnel also initiated drafting and encoding administrative modifications.

See Attachments B and C for break down by Region of ongoing data cleanup activities and definitions of data cleanup tasks.

**Progress Made**

The data cleanup steps that are in process have shown improvement and progress in the areas of site assessments and current enhancements for monitoring and reporting tools. Site assessments were conducted at four (4) regional offices. These assessments provided a picture of data cleanup requirements at each region. Southwest Region, Navajo Region, Western Region, Great Plains Region, Northwest Region and Pacific Region, Midwest Regions and Eastern still require site assessment.

Development of the next phase of the data cleanup and monitoring tools continued. This included completing the preliminary work for adapting LRIS to the approach now being used for IRMS. Integration testing commenced for the IRMS upgrade. A user guide is being developed to assist the field staff in understanding the anomaly reports.

Progress made on data cleanup is reported in the Monthly Status Reports. See Attachment B for report.

**Steps remaining to be done**

The data cleanup team has developed a set of data cleanup monitoring and reporting tools. As these are implemented in the regions, the remaining phases of data cleanup that include pre-conversion data cleanup, conversion to a new automated system, data validation, post-data cleanup needed to be completed.

The following outlines the remaining activities to complete the subproject.

Data Cleanup/Pre-Conversion --- The data cleanup will occur at each region in advance of data conversion to a new automated system by using the monitoring and reporting tools. This activity is initiated by the preparation of the regional data cleanup plans per policies and guidelines established earlier. The following are the uncompleted tasks in this phase:

- Prepare approved regional data cleanup plans.
- Provide subject matter consultation as required.
- Prepare monthly data cleanup status reports (MSR).
- Execution of regional data cleanup plans.
- Conduct pre-conversion data cleanup per regional plans.
- Complete site assessments for the following regions: Southwest Region, Navajo Region, Western Region, Northwestern Region, Great Plains Region, and Pacific Region.

Data Conversion --- Conversion of Title and Realty data to an automated system, simply stated, is the process of translating data from one format to another. To do this effectively, data from the current system must be properly represented in an automated system. This requires careful analysis and design of the conversion software.

Initial data conversion efforts by NAID converted the current LRIS data from Rocky Mountain and Anadarko regions to TAAMS. BIA converted the LRIS history data to a test database for Billings. Early prioritization of data conversion placed conversion of current data first. The conversion for history to a test database is an ongoing task for Billings and Anadarko.

The following tasks are set up to accomplish data conversion:

- Prepare BIA Title and Realty file definitions.
- Prepare BIA Title and Realty conversion rules, routines, and crosswalk documents.
- Prepare BIA Title and Realty mapping documents.
- Program TAAMS conversion software.
- Provide contractor staff with Title and Realty data.
- Final conversion of all Title and Realty data to the new automated system.
- Provide Title and Realty system post data cleanup anomaly reports.
- Program data download software.

Data Cleanup Monitoring and Reports System (DCMARS). DCMARS is a suite of computer and non-automated tools. These tools will support regional data cleanup activities and BIA wide monitoring activities. The following tasks are remaining to complete DCMARS services:

- Finalize BIA data retrieval software to retrieve Title and Realty mainframe data.
- Finalize data cleanup monitoring and reporting tools.
- Establish a database with associated software that collects anomalies that impact several cross systems and ensures that all non-compliances are resolved.

Data cleanup Post Conversion --- Post data cleanup is made up of data anomalies from two sources, namely those anomalies held over from the pre-conversion data cleanup activities and those identified during the conversion process. The following tasks are to be completed:

- Prepare post conversion anomaly reports for data cleanup.
- Identify post data cleanup activities, prioritizing data cleanup activities, post conversion reports.

### **Shortfalls and/or failures experienced**

BIA Data Dictionary --- A BIA data dictionary was developed in the starting stages of data cleanup. The BIA data dictionary is essentially a table containing information about the data elements in the trust database. The information stored in a BIA data dictionary includes information such as the data element names, the trust tables that use these data elements, the type of data (e.g., numerical - 345.67, Text - 'ABCD'), and a description. This description is a free form field that includes and should not be limited to: Definition, Comment, or Entity Attribute Definition.

Data Downloads --- Data Downloads from BIA is the initial step in providing the software development contractor with the data to be placed in the new automated system. LRIS data downloads for testing were being provided to the software development contractor for Group A regions; however, the current obstacle to continuing the data cleanup deployment has been seriously hampered by the recent court order shutting down computer access to LRIS and IRMS.

Post Conversion Data Cleanup --- Post Data Cleanup Activities have begun but further analysis with regional input need to be performed on data that has been converted. From this analysis post data cleanup activities will be identified and prioritized at the planned LTRO manager's meeting.

Monthly Status Reports (MSR) --- Monthly status reports that were developed for BIA staff reporting were mailed to all the Regional Data Administrators for comments and their reporting criteria. The criteria used to identify errors and roll them up was explained to the staff. To date we have not received responses from some of the regions.

System Shut Down --- On December 5, 2001, mainframe systems and the data cleanup server in Albuquerque were inactivated due to the temporary restraining order issued by the court. Because of this the following shortfalls occurred:

- Regional data cleanup has been suspended.
- The Monthly Status Reports were not prepared for November and December.
- Development of mainframe data retrieval was placed on hold.
- Communications to the TAAMS system were no longer possible, thus preventing Title current data conversion.
- Integration testing for the DCMARS upgrade was not possible without the availability of the server.
- All data cleanup report requests cannot be processed.
- Unifying LRIS and IRMS data cleanup monitoring and reporting on the same system has been delayed. The upgrade of the IRMS version, which is ready for integration testing, has also been delayed. This data cleanup tool provides an intermediate step, which supports data cleanup activities and the transfer of trust data to TAAMS. Support of regional requests for additional Title anomaly reports currently has been suspended and needs to be resumed as soon as possible.
- Data cleanup efforts are seriously hampered as the field users are prevented from accessing the Legacy systems, LRIS and IRMS to cleanup their data.

The Data Cleanup Strategic Plan was presented at the Regional Data Administrators meeting in August. The acting Data Cleanup Coordinator reviewed this document with the meeting participants and suggested using this document as a guide in developing their Regional Data Cleanup plans. To date, the Data Cleanup Team has not received a full and completed detailed Regional Data Cleanup Plan from any of the Regional Offices. Lack of dedicated data cleanup staff has prevented timely response and feedback from the field offices.

It has been difficult to get additional help because this is an additional workload for staff. Also, the support and commitment by some of the Regional senior managers to the project is lacking.

Scheduling meetings in conjunction with other meetings does not work. Time allotted to meet on the side is never sufficient or these specific meetings never occurred because of meetings exceeding time allotted.

Frequent changes in direction and priorities by upper senior management have resulted in a loss of continuity. For example, data cleanup plans were developed to work on Title only. Later on, plans were changed to include Realty. Our latest direction refines the need to work on income producing trust lands. This has been one of the biggest frustrations out in the field.

Issues impacting data cleanup must be identified, policies and procedures written, approved and signed off on. There are several issues pending that need to be re-visited and acted on (e.g., owner ID's).

Timeliness in processing security background checks, assignment of user Ids and passwords for TAAMS, IRMS, and LRIS continues to be a problem for the contractor and BIA staff.

Other Significant Problems

- Lack of resources to effectively conduct data cleanup activities.
- Users lack of knowledge of the legacy systems is a problem in some areas.
- System and network downtime hamper ability to complete tasks.

### **Assessment of Obstacles**

Management ---

Immediate progress needs to be made to reactivate systems affected by the Temporary Restraining Order.

Emphasis on developing regional data cleanup plans must receive top priority from regional management.

The subproject needs clear direction on the prioritization of Data Cleanup requests.

Management must strive to understand that changes in priority and emphasis adversely impact staff's ability to do data cleanup effectively.

Develop a realistic set of metrics and plans to adequately support budgeted priorities.

Timeliness in assigning user Ids, passwords and security clearances must be improved so it will not interfere with ongoing trust activities.

The data cleanup subproject manager, contractor and the BIA field personnel need to set attainable goals (BIA approvals, agency action on cases) based on available resources to ensure that continuous progress is made and established milestones are met.

Resources ---

Budgetary considerations should reflect the true scope of the job and a good balance between the use of permanent and temporary staff.

Training ---

Regional and agency training needs for TAAMS, Title and Realty have been grossly underestimated. A realistic training plan should be developed and executed vigorously.

Development of multiple skill sets throughout trust processing (cross training).

**Resources needed to rectify identified obstacles**

Permanent Regional data Administrators at each Regional Office

Data Cleanup Coordinator, who will also act as the COTR

Administrative Assistant

Software development programming staff

Need hardware and software that will support IRMS and LRIS storage capacity and processing requirements.

Additional adequate staff needs to be assigned and dedicated throughout this subproject.

We are still gathering information on the types and volume of data cleanup by region. Each region is unique in how they enter data into the legacy systems. As we do the site assessments and load data into an automated system, we will undoubtedly uncover errors we have not encountered in other regions.

**Training**

To assist the field staff, the data cleanup team from Albuquerque has been going to each Regional Office to go over the Data Cleanup Strategic Plan with the Regional Data Administrators and Agency data administrators. Meetings also covered how the reports were generated and how to read the data anomaly reports.

Proper training of staff is necessary to ensure quality timeliness of cleanup work. Additionally, when new tasks are identified it is necessary to develop new

processes and provide training to accomplish those tasks for those staff assigned. After a task is defined the contractor in consultation with BIA develops an approved cleanup business process. The process then becomes the standard that is used to train staff.

Another less frequent need is refresher training to staff already involved in the overall data cleanup effort. All of these instances make it necessary to provide ongoing training, usually in small groups with well-defined training needs. Training will continue throughout the life of the data cleanup sub-project.

Training is ongoing when needed in the areas of, but not limited to: Encoding to LRIS/IRMS/TAAMS, lease processing, ROW processing, land/legal descriptions, probating estates, and drafting probate modifications.

### **c. EDS' Observations**

#### **Current State**

The number, complexity and non-standardization of Title and Realty records within the regions have been barriers for DOI to estimate the total magnitude of the Title Data Cleanup task. Current records exist in a variety of forms, including paper documents, microfilm, stand-alone computers at field offices, and existing systems such as LRIS. Further missing or conflicting information presents the need to seek out source documents outside of BIA at county offices and other local records locations. Some of the source documents may no longer exist. It is clear that a significant percentage of the data cannot be found on an existing automated system. Therefore, this data cannot be readily accessed and corrected as needed, and loaded into TAAMS.

Preparing data for TAAMS presents a number of unique challenges at the regional offices. Although each regional office uses the identical version of the LRIS software, they vary in the way LRIS is used. Many regions have coded their unique "intelligent numbers" into data fields that require different versions of editing and conversion programs. Many regions also have secondary systems that keep track of information pertinent to TAAMS. Further, the data conversions need to account for the data stored in systems other than LRIS. This requires a unique set of processes for data preparation at each location.

Each region is determining what data cleanup activities need to take place and are directing internal staff and contractors to complete those activities. The contractor and BIA staff working on the Data Cleanup are dedicated and committed. However, DOI has not applied an adequate number of resources to the effort. The shortage of resources can cause synchronization problems given that the underlying data can change and the delayed approval can be based on inaccurate data.

In conclusion, the BIA Data Cleanup project, under a new project manager, is proceeding at a slow and steady pace. Progress has been made; however, the effort is limited and primarily focused on Title, and the magnitude of the cleanup effort is not known. In addition, there are insufficient DOI resources to work on the backlogs. The Data Cleanup efforts to date appear to have been driven by a



systems development approach rather than a mission or business approach. In a mission or business approach, records of highest business priority would be identified and given the highest cleanup priority.

In addition to the general status described above, the BIA Data Cleanup assessment highlighted the following findings and issues:

- Some progress has been made in the identification and prioritization of BIA Data Cleanup tasks.
- The Data Cleanup efforts to date appear to have been driven by technical concerns rather than from a fiduciary responsibility and risk perspective.
- There remain a large amount of anomalies and missing data within the set of information needed to successfully operate TAAMS.
- There is a lack of qualified resources to support BIA Data Cleanup.

#### **Recommendations Summary**

- Immediately assess the nature and magnitude of the BIA Data Cleanup issue.
- Immediately appoint one individual accountable for TAAMS and BIA Data Cleanup.
- Improve stakeholder involvement in TAAMS and BIA Data Cleanup.

**d. Special Trustee's Observations.** *The following is an extract from the Special Trustee's observations, which pertains to Data Cleanup. The Special Trustee's observations are included in complete form in Section III of this report. Care should be taken to read the entire observations and not to take this specific comment below out of context with the overall Special Trustee observations.*

##### *Data Cleanup*

The basic re-direction required, as EDS has observed, is to improve project management as well as to prioritize the cleanup tasks that permit the most effective and efficient way to correct data and produce an accurate record of a beneficiary's assets. This means checking the account records for anomalies as well as common error types rather than to concentrate on single types of error correction for all of the accounts in one office.

EDS has recommended the combination of the data cleanup efforts into a single cleanup project, and that is under serious consideration by the Department. The Special Trustee has not yet formed an opinion on that recommendation.

#### **e. Subproject Managers Comments on EDS & Special Trustee Observations**

EDS and Special Trustee--- We agree with their comments, findings and recommendations; however, since the shift in responsibility to Office of Trust Responsibilities, more emphasis has been placed on documenting the magnitude

of the cleanup project. We agree more emphasis has to be placed on documenting our business processes. We agree too, that our priorities should reflect the Federal Government fiduciary responsibility, although many of the priorities in place already are directly related to the fiduciary, which may not be apparent to all observers.

It is clear that regional business processes must be analyzed and synthesized into an enterprise model. It is our opinion that the approach to doing this must be weighed carefully. An approach must be selected that is capable of being handled by practicing professionals in the BIA regional field offices. When business processes are not well documented or understood, evolutionary approaches appear to work better than traditional total planning and/or modeling methods. Evolutionary approach means that steps to develop a business model are performed iteratively until a well understood and acceptable business model is complete.

**f. BIA Data Cleanup Sub-project Observations by Deputy Special Trustee for American Indians for Trust Systems and Projects**

On November 21, 2001, Donna Erwin, Deputy Special Trustee for American Indians for Trust Systems and Projects, was detailed to the Office of Indian Trust Transition (OITT) to oversight three sub-projects and associated project management personnel. The three projects are Trust Asset and Accounting Management System (TAAMS), BIA Data Cleanup, and Probate. In November and December the Deputy Special Trustee met with project managers and reviewed project background information. OITT will continue to reassess, revise, and reprioritize project objectives to generate a more comprehensive, interdependent plan to produce the greatest positive benefit for Trust beneficiaries in accordance with the Department of the Interior's fiduciary responsibilities. The Deputy Special Trustee's comments on this sub-project are based on her oversight role since August 2001, her monitoring of the EDS assessment, and her direct supervision of the project since November. These comments support and parallel the EDS report.

**Assessment of sub-project**

- Work to date demonstrates the dedicated effort of scores of DOI employees
- Definition of project not well formed
- Universe of work not established prior to inception
- Prioritization based on data migration requirements rather than fiduciary responsibilities
- Interdependencies with other trust reform efforts not established
- Insufficient continuity of project managers
- Inadequate project management
- Inadequate direction and performance metrics for contractor tasks
- BIA Project teams unrealistic expectation that BIA staff performing daily operations can also develop cleanup plans, oversee contractor, and verify and substantiate work
- Need to secure data from unauthorized changes once validated

- Conversion of data to new system should be segregated and managed as distinct project

**Obstacles**

- Lack of universal agreement throughout DOI of business processes and end state of project
- Resources diverted to litigation-related activities
- Documentation needed to research discrepancies or data anomalies sometimes displaced or deficient

**Course of action**

- Redirect contractors to concentrate on established data issues while developing the nation-wide deployment plan
- Develop consistent, nationwide strategic project plan to include:
- Adequate balance between government and contract personnel
- Interdependencies with other projects, e.g., records management and historical accounting
- Safeguarding of validated data to mitigate risk of corruption
- Segregate data conversion from data verification
- Determine the universe of data in need of verification
- Based on fiduciary responsibilities, prioritize the validation and correction of data
- Modify and redirect contract to incorporate national plan, changed priorities and performance metrics

**g. Assurance Statements**

I concur with the content of the information contained in the section f. of the BIA Data Cleanup Section of the 8<sup>th</sup> Report. The information provided in these sections is correct to the best of my knowledge

Date: January 16, 2002

Donna Erwin  
Deputy Special Trustee for American Indians – Trust Systems and Projects

I concur with the content of the information contained in the following section of the 8<sup>th</sup> Report to the extent these subprojects were under my supervision. The information provided in these sections is accurate to the best of my knowledge.

BIA Data Cleanup

Date: January 15, 2002

Neal McCaleb  
Assistant Secretary – Indian Affairs

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**ATTACHMENT A**

**Data Cleanup Strategy**

The data cleanup planning includes the BIA Regional and Agency offices. This is essential since most of the work will be performed in their office environment using their data and records. Using the site assessment and in coordination with BIA personnel, the data cleanup contractor produces the planning documents for the site. The documents are updated to ensure site-specific issues are addressed and that management has had the opportunity to properly plan the cleanup activities for the specific area.

Meet with Regional Data Administrators, TAAMS Regional Office Coordinators, and Contractors to assess where we are at with data cleanup. At this meeting, the attendees will review existing plans and reports and develop a strategy for doing data cleanup. The Regional Data Administrator and TAAMS Regional Office Coordinator will then meet with each agency and Tribe to develop a detailed Data Cleanup Plan.

The three phases of data cleanup are:

- Pre-Conversion Data Cleanup
- Trial Conversion Data Cleanup
- Post Conversion Data Cleanup

**A. PRE-CONVERSION DATA CLEANUP**

- 1. Review and update the following documents if available.**
  - a. Regional and Agency Data Cleanup Teams
  - b. Roles and Responsibilities of Data Cleanup Teams
  - c. Site Assessment Report
  - d. Monthly Status Report
  - e. Data Cleanup Activities
  - f. Critical Items
  - g. Standard Operating Procedures
  - h. Training Plan
- 2. Activities driving Data Cleanup**
  - a. Implementation Schedule
  - b. Availability of documents and condition of documents
  - c. Training
  - d. Resources
- 3. Criteria for Data Cleanup**
  - a. Records that cannot load (duplicate records, Tracts, missing key fields, etc.)
  - b. Identify active leases
  - c. Identify active Tracts
  - d. Identify active income producing tracts
- 4. Identify how data will be cleaned up**
  - a. Manual process

- b. Automated process (programmatically)
5. **Identify who will do the data cleanup**
  - a. BIA (Title or Realty (Regional or Agency Office))
  - b. Contractor.
6. **Identify where data cleanup will be performed**
  - a. On Site
  - b. Regional Office
  - c. Albuquerque (DataCom)
7. **Prioritize Data Cleanup activities**
  - a. Pre-Conversion Data Cleanup
  - b. Post-Conversion Data Cleanup
  - c. Develop SOPs for each data cleanup activity
8. **Identify who will be doing Quality Assurance reviews**
9. **Review existing reports and identify new reports**
  - a. Legacy System Reports
  - b. Anomaly, Load, and Special Reports
  - c. Reformat Reports
  - d. Develop Statistical/Summary Reports
10. **Things to consider:**
  - a. Before deciding to enter from scratch:
    - volume of data for re-entering
    - how current are these records
    - resources
    - deployment schedule
  - b. Before cleaning up Data/Codes on legacy systems:
    - verify if it is an error
    - determine what impact it has legacy and other systems
    - volume of data that needs to be changed
    - resources

## **B. TRIAL CONVERSION DATA CLEANUP**

1. Review Load Error Reports
2. Identify new data cleanup activities
3. Re-prioritize data cleanup activities
4. Develop Standard Operating Procedures for new data cleanup activities

5. Identify how data will be cleaned up
  - a. Manual process
  - b. Automated process (programmatically)
6. Identify who will do the data cleanup
  - a. BIA (Title or Realty (Regional or Agency Office))
  - b. Contractor

**C. POST-CONVERSION DATA CLEANUP**

1. Review Load Error Reports
2. Identify Data Cleanup Activities
3. Prioritize Data Cleanup Activities
4. Develop Standard Operating Procedures for each Activity
5. Identify how data will be cleaned up
  - a. Manual process
  - b. Automated process (programmatically)
6. Identify who will do the data cleanup
  - a. BIA (Title or Realty (Regional or Agency))
  - b. Contractor
7. Identify Reports
  - a. TAAMS

Data cleanup activity must be coordinated between Title and Realty. The Regional Data Administrator and local experts will be actively involved in analysis activities and decision-making.

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**ATTACHMENT B**

**DataCom Data Cleanup Activities**

The pre-deployment data cleanup tasks have generally consisted of researching and correcting critical key fields, reducing BIA backlog, document acquisition and direct encoding into TAAMS. Attached is a list of task definitions and unit of measure for all data cleanup tasks currently in progress. Data cleanup tasks completed prior to the 8<sup>th</sup> Quarter (August 2001) are not listed in this document. It is important to note, when comparing task sizes from previously reported documents to the current task sizes listed below, that task size (baseline) may increase due to additional data cleanup work identified through the research process. Additional tasks may also increase.

**Alaska Region**

DataCom personnel follow four main steps in order to fully research and encode tracts into TAAMS: 1) Title Examination (Chain Sheet Preparation), 2) Chain Sheet Review, 3) TAAMS Encode, 4) TAAMS Encode Review. Title examination requires personnel to pull together all pertinent tract documentation to create an accurate land description, ownership, conveyance of ownership (chain of title), and history of the tract before encoding into TAAMS. Prior to encoding, DataCom personnel perform the first of two internal quality checks on the chain of title (documented as the chain sheet) to ensure that all the correct title and conveyance information is located on the chain sheet. Personnel then encode this information into the appropriate TAAMS modules to build individual tract and conveyance history. DataCom personnel then perform a last internal quality check to ensure that the information encoded into TAAMS is accurate before sending the completed tract file to BIA Alaska. A tract is considered complete when BIA Alaska "accepts" the encoded tract.

- There are approximately 17,753 tracts that need to be encoded into TAAMS. 483 tracts were completed during the reporting period. 927 tracts have been completed to date.

**Eastern Region**

DataCom personnel in the Eastern Region (Cherokee Agency) worked on reviewing and acquiring legal land documents for future recordation purposes. The acquired documents are shipped to the Southern Plains Regional Office where they will be recorded.

- The size of the task is 90,000 transaction records. 3,657 transaction records were completed during the reporting period. 49,582 transaction records have been completed to date.

**Great Plains Region**

DataCom personnel continued to work on eliminating multiple owner identification numbers and encoding documents into LRIS to eliminate existing backlog.

- ❑ The Multiple Owner ID Task totals 12,300 owner records. 31 owner records were completed during the reporting period. 12,286 owner records have been completed to date.
- ❑ The Document Processing Task totals 14,995 document records. 335 document records were completed during the reporting period. 14,046 document records have been completed to date.

### **Pacific Region**

DataCom personnel continued to work on eliminating multiple owner identification numbers and determining whether previously non-enrolled individuals have enrolled since the issuance of the ID number containing the "N" class code. This quarter, data cleanup personnel also initiated encoding documents into LRIS to eliminate existing backlog.

- ❑ The Multiple owner Identification Task totals 727 owner records. 3 owner records were completed during the reporting period. 605 owner records have been completed to date. 32 owner records are pending BIA Regional approval and 37 are pending Agency action.
- ❑ The Non-Enrolled Identification Number Tasks totals 2,904 owner records. 71 owner records were completed during the reporting period. 1,632 owner records have been completed to date. 291 owner records are pending BIA Regional approval and 290 are pending Agency action.
- ❑ The Document Processing Tasks totals 93 document records. 0 document records were completed during the reporting period. 0 document records have been completed to date. 22 document records are pending BIA Regional approval and 5 are pending Agency action.

### **Northwest Region**

DataCom personnel continued to work on eliminating multiple owner identification numbers and determining whether previously non-enrolled individuals have enrolled since the issuance of the ID number containing the "N" class code. This quarter, data cleanup personnel also initiated correcting incorrect modifier codes in LRIS.

- ❑ The Multiple Owner Identification Task (Northwest) totals 4,061 owner records. 501 owner records were completed during the reporting period. 2,523 owner records have been completed to date. 8 owner records are pending BIA Regional approval and 101 are pending Agency action.
- ❑ The Multiple Owner Identification Task (Colville) totals 584 owner records. 2 owner records were completed during the reporting period. 2 owner records have been completed to date. 161 owner records are pending BIA Regional approval.
- ❑ The 100N Number Task (Northwest) totals 3,342 owner records. 67 owner records were completed during the reporting period. This task was completed during the reporting period.
- ❑ The 100N Number Task (Flathead) totals 284 owner records. 58 owner records were completed during the reporting period. 204 owner records have been completed to date. 62 owner records are pending BIA Regional approval.
- ❑ Current Doc Type and Doc Mod Combo Task (Northwest) totals 199 document records. 28 document records were completed during the reporting period. 28



document records have been completed to date. 8 document records are pending BIA Regional approval.

- Current Doc Type and Doc Mod Combo Task (Flathead) totals 13 document records. 12 were completed during the reporting period. 12 document records have been completed to date. 1 document record is pending Agency action.

### **Rocky Mountain Region**

DataCom personnel continued to work on eliminating multiple owner identification numbers, verifying ownership information between TFAS reports and IRMS, encoding updates to range leases in IRMS, verifying changes in the land status in deeds, and correcting legal descriptions in LRIS, IRMS and TAAMS.

- The Multiple Owner Identification Task (IRMS) totals 4,530 owner records. 483 owner records were completed during the reporting period. 2,722 owner records have been completed to date. 21 owner records are pending BIA Regional approval.
- The IIM ID Match Task totals 789 owner records. 17 owner records were completed during the reporting period. 746 owner records have been completed to date. 42 owner records are pending BIA Regional approval.
- The Change in Land Status Task totals 1,031 documents. 72 owner records were completed during the reporting period. This task was completed during the reporting period.
- The Range Lease Encoding Task totals 310 document records. 267 document records cases were completed during the reporting period. This task was completed during the reporting period.
- The Title/Realty Tract Match task totals 2,675 track records. 283 track records were completed during the reporting period. 2,434 track records have been completed to date. 224 track records are pending BIA Regional approval.

### **Southern Plains Region**

DataCom personnel continued to work on eliminating multiple owner identification numbers, and verifying tract numbers and ownership information in REM, LRIS, TAAMS and TFAS.

- The Multiple Owner Identification Task totals 2,540 owner records. 102 owner records were completed during the reporting period. This task was completed during the reporting period.
- The REM/LRIS/TAAMS/TFAS ID Comparison Match Task (Pawnee) totals 1,111 owner records. 276 were completed during the reporting period. 276 owner records cases have been completed to date. 206 owner records are pending BIA Regional approval and 144 are pending Agency action.

### **Southwest / Navajo / Western Region**

DataCom personnel continued to work on eliminating multiple owner identification numbers and determining whether previously non-enrolled individuals have enrolled since the issuance of the ID number containing the "N" class code, encoding probate modifications, supplemental patents and encumbrance documents into LRIS to

eliminate existing backlog. This quarter, personnel also initiated drafting and encoding administrative modifications.

- The Multiple Owner ID Task (Southwest) totals 940 owner records. 22 cases were completed during the reporting period. 816 owner records have been completed to date. 59 owner records are pending BIA Regional approval and 55 are pending Agency action.
- The Multiple Owner ID Task (Navajo/Western) totals 3,092 owner records. 170 cases were completed during the reporting period. 2,599 owner records have been completed to date. 410 owner records are pending BIA Regional approval and 36 are pending Agency action.
- The Non-Enrolled Identification Number (Western) totals 1,832 owner records. 2 cases were completed during the reporting period. 101 owner records have been completed to date. 619 owner records are pending BIA Regional approval and 514 are pending Agency action.
- The Non-Enrolled Identification Number (Eastern Navajo) totals 937 owner records. 197 owner records were completed during the reporting period. 731 owner records have been completed to date. 25 owner records are pending BIA Regional approval and 177 are pending Agency action.
- The BIA Assigned Administrative Probate Modifications Task totals 1,512 document records. 3 document records were completed during the reporting period. 75 document records have been completed to date. 672 document records are pending BIA Regional approval and 54 are pending Agency action.
- The Administrative Modification Encoding Task totals 114 document records. 8 document records were completed during the reporting period. 14 document records have been completed to date. 100 records are pending BIA Regional approval.
- The Encoding Supplemental Patents Task totals 793 document records. 112 document records were completed during the reporting period. 786 document records have been completed to date. 6 document records are pending BIA Regional approval.
- The Encoding Encumbrances (Group I) Task totals 2,983 document records. 966 were completed during the reporting period. This task was completed during the reporting period. Task I are baseline counts of encumbrance document records.
- The Encoding Encumbrances (Group II) Task totals 8,000 document records. 525 document records were completed during the reporting period. 525 document records have been completed to date. 46 document records are pending BIA Regional approval. Task II are additional encumbrance document records identified for data cleanup after the baseline counts were established.
- The Drafting and Encoding Administrative Modifications Task totals 220 document records. 0 document records were completed during the reporting period. 0 document records have been completed to date.

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**ATTACHMENT C**

The following definitions represent all past and present data cleanup tasks assigned to DataCom personnel. Please refer to the Data Cleanup Status Summary for a more detailed breakdown of tasks assigned to each region.

**100N Number** - In the past, the BIA assigned 100N Numbers to lineal descendants of enrolled members who did not formerly meet the criteria to become enrolled members. This task involves the identification of all ID numbers associated with any individual who currently has a 100N number assigned and to successfully change all alias ID numbers to one ten-digit, Tribal ID Number. An owner identification number is the defining unit of measure for an individual owner record.

**Administrative Modification Encoding** - This task entails encoding a backlog of administrative modifications previously not entered into the system of record. An administrative probate modification is the defining unit of measure for an individual document record.

**Backlog (Document Processing)** - This task involves the preparation, encoding, and documentation of the Land Title and Records Office document backlog. A document is the defining unit of measure of an individual document record.

**Backlog (Global Requests from Agencies)** - The purpose of this task is to assist the BIA with encoding a backlog of requests for global changes in the system of record.

**Backlog (Recordation of PSFO Documents)** - The purpose of this task is to assist the BIA by encoding a backlog of documents into the LRIS recordation module. This task entails assigning document numbers, recording the documents into the LRIS recordation module, and microfilming the documents.

**BIA Assigned Administrative Probate Modifications** - The purpose of this task is to assist the BIA by processing a backlog of enrollment verifications that require administrative modifications. An Administrative probate modification is the defining unit of measure for an individual document record.

**BIA Acceptance**

BIA Acceptance occurs when a tract has correctly been encoded within TAAMS, and the system is able to produce an accurate TSR. After final BIA approval, TAAMS becomes the system of record, and the old legacy systems are no longer used for the tract. A tract is the defining unit of measure for an individual tract record.

**Change in Land Status**

This task involves verifying changes in the land status of deeds and fee patents. If an error is identified, DataCom personnel encode the correct information into the ownership module of IRMS. A document is the defining unit of measure for an individual document record.

**Current Agency Global Requests** - The purpose of this task is to assist the BIA with encoding current requests for global changes in the system of record.

**Current Doc Type and Mod** – The purpose of this task is to correct the incorrect modifier codes that are currently associated with specific document types. A document is the defining unit of measure for an individual document record.

**Encoding Encumbrances**

The purpose of this task is to review (extract) and encode encumbrances into LRIS. There are several different types of documents: Easement/Right of Ways; Mortgage; Mortgage Satisfaction; Oil & Gas Lease; Assignment of Oil & Gas Lease; Assignment of Mining Lease; Homesite/Residential Lease; Assignment of Residential/Homesite; and Cancellation & Termination Lease. Due to DataCom's continual receipt of encumbrance documents to be processed, group numbers (Group I and II, etc.) are currently being assigned in an effort to define baselines that measure progress more effectively. An encumbrance document is the defining unit of measure for an individual document record.

**Encoding Supplemental Patents**

This task reviews (extracts), updates, and encodes supplemental patents into LRIS. A supplemental patent is the defining unit of measure for an individual document record.

**Fee Owner ID Task** - The purpose of this task is to identify non-Indians who have inherited land interests. Once these individuals are identified, research is done to locate an existing identification number and verify its correctness. If no identification number is located, a number is then assigned.

**Godzilla Task** - This task involves researching and correcting conflicting land descriptions for tracts of land in LRIS.

**IIM ID Match**

This task pertains to the verification of owner identification numbers found in IRMS and account numbers contained within TFAS reports. An owner identification number is the defining unit of measure for an individual owner record.

**Lease Owner Inquiry** - The purpose of this task is to determine distribution by comparing LRIS and IRMS reports with the decedent's probate.

**Multiple Owner ID Task** - The primary purpose of the Multiple Owner Identification Task is to determine the correct identification number for several individuals identified as *anomalies* in the BIA Land Record Information System (LRIS) and Integrated Record Management System (IRMS). The individuals on these *anomaly lists* have land interests in these systems under more than one ID number. Once the correct number is confirmed through Agency verification, enrollment books, etc., personnel update the systems to coincide with hard-copy land title documents and records. An owner identification number is the defining unit of measure for an individual owner record.

**Non-Enrolled ID Number** - The purpose of this task relates to the ID numbers of individuals containing a class code of "N" which indicates that the individuals are non-enrolled. The primary purpose of this project is to determine if these individuals have enrolled since the issuance of the ID number containing the "N" class code. In most instances this will require agency verification. An owner identification number is the defining unit of measure for an individual owner record.

**Payment File Verification** - This task entails the verification of the legal descriptions and tract numbers from Realty Modules and hardcopy records at the agency/field offices against data in the Lands Record Information System. Once personnel verify the tract numbers and legal descriptions, they verify all ownership as well.

**Range Lease Encoding** - The purpose of this task is to encode Fixed Payment and Present Status on Range Leases into IRMS for the Blackfeet Agency of the Rocky Mountain Region. A lease document is the defining unit of measure for an individual document record.

**REM/LRIS/TAAMS/TFAS ID Comparison Match (Pawnee)**

This task entails the verification of tract numbers and ownership from Realty Modules and hardcopy records at the agency/field offices against data in LRIS and TFAS. DataCom personnel are currently authorized to encode changes into LRIS and TAAMS only. All other systems requiring changes (recommended by DataCom personnel) are turned over to the BIA. An owner identification number is the defining unit of measure for an individual owner record.

**TAAMS Information Migration Evaluation (TIME) Task** - The purpose of the TIME Task is to compare original title documents to data housed in LRIS and TAAMS for pre- and post-conversion statistical assessments. Document samples are randomly derived from LRIS and scanned by on-site cleanup personnel for centralized review and comparison by independent assessors located in Albuquerque. Samples are based on 100 individually selected tracts by region and a predetermined percentage of total documentation contained in LRIS.

**Title/Realty Tract Match**

This task pertains to the verification of legal descriptions between LRIS and IRMS. The objective is to find the correct legal descriptions on given tracts from an anomaly list provided by the BIA in the IRMS, LRIS, and TAAMS. A tract is the defining unit of measure for an individual tract record.

**The following tasks pertain only to the Alaska Region:**

**Chain Sheet Review Task** - Data cleanup personnel perform an internal quality check of the work placed on the chain sheet before encoding and sending to ATSC. The reviewer analyzes the original file documents and researches documents to determine if the information on the sheet is accurate and acceptable for the next task. If it is not accepted, the reviewer returns it for further examination.

**TAAMS Encoding Task** - Personnel encode title and conveyance information located on the chain sheet to the appropriate TAAMS modules to build individual tract and conveyance history.

**Title Examination Task** - This process involves understanding all documents found in the tract folder, researching the Alaska Title Service Center (ATSC) databases, extracting LRIS reports, and reviewing the Alaska Land Information System (ALIS) website for information relevant to that particular tract being examined. Personnel bring

all of this information together to create an accurate land description, ownership, conveyance of ownership, and history of the tract before encoding into TAAMS. Once the examiners research these documents and extract the appropriate title information from its sources, the examiner uses a form called a "chain sheet" to record the title information. ATSC has requested that the BIA Data Cleanup project provide them with complete accurate chain sheets.

**TAAMS Review Task** - This task is also an internal quality check put in place to assure that the information encoded into TAAMS is accurate and to ensure compliance with all standards before the BIA reviews the encoded tracts.

**The following tasks pertain only to the Eastern Region:**

**Document Acquisition/Inventory Task** - The purpose of this task is to review files for documents classified as recordable legal documents and determine what information is missing on behalf of each Tribe under the jurisdiction of the Eastern Region. Once personnel identify, review, tag, inventory, classify, and encode these documents into a DataCom database, they duplicate the documents for verification of the classification given to each record for future recordation at the Southern Plains Regional Office. A transaction record is the defining unit of measure for an individual record.

**Microfiche Inventory Task** - The purpose of this task is to inventory microfiche files and verify the documents contained in each file.

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**B. PROBATE BACKLOG**

**1. Summary Description**

The Secretary is charged with administering trust or restricted resources and funds for the benefit of individual Indian owners. Federal law permits Indian resource owners to pass title to their trust assets by testamentary devise or by intestate succession and imposes upon the Secretary the duty of determining the legal heirs to the trust assets after the death of an Indian trust asset owner, with the exception of the restricted lands of the Five Civilized Tribes and Osage Nation. As each generation passes, Indian heirs become owners of increasing numbers of undivided interests in trust and restricted assets. This multiple common ownership is referred to as fractionated heirship.

Due in large part to the increasing numbers of fractionated interests in trust assets, probate cases in BIA regions with high concentrations of allotted lands have become backlogged. The Indian Probate Reinvention Laboratory found in 1999 that this situation is further exacerbated by the fact that both BIA and the Department of the Interior's Office of Hearings and Appeals (OHA) lacked sufficient staff exclusively dedicated to probate case work, and that no uniform procedures for facilitating timely processing existed. As of February 29, 2000, the Department estimated a "backlog" of approximately 15,000 actions, which includes probate cases prepared for adjudication by BIA and contract/compact Indian tribes, cases that needed to be posted and recorded at BIA Land Title and Records Offices and BIA Agency Realty Offices, and cases pending at OHA. The Department had also estimated a backlog in the distribution/redistribution of *Youpee*<sup>8</sup> interests/estates at 178,000 interests in 13,000 estates.

The two primary objectives of the probate subproject are to eliminate the backlogs and to prevent future backlogs. The progress on the elimination of the backlog is discussed below in this section. To prevent future backlogs, the probate subproject had to restructure the probate program and develop it to be more effective. Actions taken included standardizing and streamlining the probate process, implementing the Attorney Decision Maker (ADM) Program within BIA for informally deciding non-complex cases, increasing field staffing for exclusively probate functions at the BIA and OHA, and tracking and reporting probate cases using the joint BIA/OHA tracking system.

Responsibility for adjudicating probate cases, maintaining updated and correct title records, and distributing estate income with interests rests with three DOI Offices (BIA, OHA and the Office of Trust Funds Management (OTFM)). The adjudication of probate cases is vested in a deciding official. Pursuant to federal regulations, deciding officials primarily include the BIA ADMs, OHA Administrative Law Judges (ALJs) and Indian probate judges. The determination of the deciding official is based on whether the case has issues of fact or law, which must be decided by an OHA deciding official. See 25 C.F.R. §15.205.

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<sup>8</sup> In 1997, the United States Supreme Court held in *Babbitt v. Youpee* that the escheat provision of the Indian Land Consolidation Act (ILCA) was unconstitutional. Thereafter, all the interests in estates that escheated or are treated as escheated under the ILCA escheat provision are referred to as *Youpee* interests/estates.

**2. Subproject Managers' Observations**

**Program Development**

During this reporting period, OHA amended its regulations to make them consistent with the policies and procedures established by BIA's regulations. The OHA final rule was published in the *Federal Register* on December 31, 2001. Both BIA and OHA will conduct further rule-making but pending legislation could affect how extensive the amendments will be. In the interim, BIA and OHA expect to assemble a joint drafting team during the next quarter to amend the probate rules to correct some technical language to clarify BIA's time line responsibility and notice requirements for creditors. OHA plans to make some further substantive amendments to its new rule and will ensure that they comply with the plain language requirements.

The probate subproject developed an Interagency Memorandum of Understanding, which will be used to exchange missing information on decedents and their potential heirs or beneficiaries between governmental agencies. The probate subproject proposes to have executed agreements with Internal Revenue Service, Veteran's Administration, Department of Health and Human Services, and Social Security Administration. In the next quarter, further follow up will occur with the DOI senior officials to complete this process.

**Progress on Backlog Reduction**

**Number of Cases Processed and Decided**

As of February 29, 2000, there was a case inventory or workload of 10,400 for pending decisions (5000) and cases requiring preparation (5,400). Of the cases pending decision, 3,355 were remaining at the beginning of the 8<sup>th</sup> Report. During this reporting period, BIA and OHA received an additional 979 cases. There was a negative adjustment of 120 cases resulting in a balance of 859 additional cases. During this reporting period, 1,785 cases were decided and the workload remaining was 2,429 as of December 31, 2001.

With regard to the backlog of cases requiring preparation, the Office of Special Trustee (OST) directed that a small pilot be conducted in three agencies in the Western Region, which was initiated in March 2001. Of the 5,400 backlog cases, the contractor completed 50 at the beginning of the 8<sup>th</sup> Report. During the 8<sup>th</sup> report period, the contractor completed 11 cases. The backlog as of December 31, 2001, is 5,339.

**Number of Cases Posted and Recorded**

As of February 29, 2000, the backlog was reported to be 4,600. Work began on the posting and recording backlog in July of 2000. Due to funding priorities, the elimination of the backlog at the Land Title and Records Offices (LTROs) was set as the highest priority. Thereafter, the contractor inventoried all six LTROs, and the backlog had been reduced by 919 by BIA. At the beginning of the 8<sup>th</sup> Report, the backlog was 3,161 as of August 1, 2001. During this reporting period, BIA



approved 1,507 cases processed by the contractors, and 1,654 cases remain as of December 31, 2001. Due to the Court's Temporary Restraining Order issued December 5, 2001, virtually all BIA and contractor work in the LTROs has ceased because employees do not have access to the Land Records Information System (LRIS), BIA's title system of record.

***Babbitt v. Youpee Activities***

The OST has approved a pilot project for \$500,000 to change land title and realty records in the Southwest Regional LTRO, which also includes the Navajo and Western Regions. Since the contractor has just begun work, there have only been four redistributions completed during this reporting period. The contract is now delayed due to the shut down of the LRIS, the automated system of record, pursuant to court order. Thus, since December 5, 2001, the contractor does not have access to the system for title work.

An associated activity with the *Youpee* backlog is the compilation of a national inventory of undistributed and distributed escheated estates. This activity was outsourced to a contractor and a contract was awarded on May 31, 2001, to locate all escheated interests to tribes from individual estates and undistributed escheatable estates in the LRIS, and identify tribal escheat accounts and undistributed individual estate accounts in the Trust Funds Accounting System (TFAS). Based on queries to the LRIS database, the contractor identified a total of 60,469 escheated and undistributed interests in 10,411 individual estates that have possible escheated interests as of July 2001. The contractor has also identified 1,515 escheat-related accounts in TFAS. The final draft of this report was completed during this reporting period.

Another associated *Youpee* activity is Phase II of the Pawnee Pilot Project. Under the Indian Land Consolidation Act project, OTFM executed a contract for the study of the existing redistribution process with regard to the calculation of income with interest and distribution of income. Preparations are under way to estimate BIA's and OTFM's time, cost, and tasks for completing the existing journal voucher process in order to develop a more streamlined and automated journal voucher system for national redistribution.

The Department has been presented with four options to resolve the costs to administer the distribution or redistribution of *Youpee* interests, which are currently under consideration. The options are:

1. Actual redistribution of escheated interests and distribution of income with interest to the heirs;
2. Actual redistribution of escheated interests and distribution of lost income based on maximum value with interest to heirs;
3. Condemnation of escheated interests and payment of just compensation; or
4. Voluntary purchase of interests from the heirs and transfer of title to Tribes having jurisdiction over the property.

**Work Remaining in the Subproject**

Clearly, the elimination of the backlogs remains the primary goal of the subproject. The review and amendment of the probate regulations is another priority. These amendments will prompt the need for the update of handbooks and require follow-up training. The Probate Tracking System needs to be updated to capture the ADM case-related data, record ADM caseloads, perform data cleanup activities, and provide a more responsive and friendly system to the users. The probate subproject plans to develop programs in the areas of consumer and tribal outreach relating to the probate process and estate planning. Memoranda of understanding should be executed between the federal agencies and tribes to expedite the exchange of missing information needed to complete the probate files. Having a reliable and effective tracking reporting system is essential to improving the probate program. Integration of probate modules into TAAMS and TFAS will reduce the time required to prepare certified inventories, locate persons, change title, and distribute income.

### **Shortfalls Experienced in the Project**

A major factor that slows the progress on completing the backlog work is the contractor's steep learning curve. To lessen the learning curve, the probate subproject staff provided training to the contractor along with handbooks and on-site technical advice and assistance. The contractor's staff has been included in all BIA training sessions. Even with this assistance, the BIA must continually advise the contractor employees on the process and approve their work. While the process is readily defined and documented, contractor employees' personal contacts within the communities are non-existent. Thus, the time to complete the genealogical research requires a longer period of time because the contractor employees are not familiar with family trees and different cultural practices. Also, it is difficult for the contractor to recruit employees to work in remote areas and the employment pools in these small communities do not afford a wide selection of potential employees, which has resulted in a delay of recruitment and high turnover rate.

When the Probate Tracking System was operational, a problem that occurred was in the electronic transmission of the OHA-7 form (the primary tool that the deciding official uses to determine heirship and family relationships). In some instances, it may take up to 30 minutes per page to enter relevant family data. Upon further investigation, it was revealed that some BIA agencies have inferior connections to the communication networks. This is an infrastructure connectivity problem that can only be resolved locally through providing additional resources to upgrade the wiring. The probate subproject will request additional resources to correct the problem.

One of the problems that affected the daily operation of the OHA-7 Web Input System (Interim Probate Tracking System) on a national scale including both the BIA and contract/compact tribal staff is the length of time required for an employee to be cleared by security for access to the system. Due to lack of resources, the approved access has been slow because there were only 4-5 staff persons working with the BIA security department to clear over 150 persons. New user profiles are still being received in addition to existing notifications of clearance from BIA Security. Approximately 75% of the total BIA/tribal system users have been cleared by BIA security and granted authorization for access to

the system. New BIA/tribal probate and contractor employees must receive security clearance and training on the tracking system to correctly input data and to process and track probate cases.

The lack of progress on the case processing backlogs is a result of a shortage of staff of the BIA, contract/compact tribes, and contractors to assist in the preparation of the probate case files. This resource shortage has also affected the number of incoming cases received by OHA. From August 2000 to July 2001, the existing BIA staff worked on the summary distribution backlog while simultaneously processing their current caseload created as a result of newly reported deaths. In July 2001, the OST approved funds for a contractor to assist the BIA and tribal field staff in the preparation of cases for summary distribution. Contractors have been deployed to approximately 20 agencies with caseloads of 25 or higher. Several agencies have close to or over 100 remaining cases. While this measure has provided additional resources to the field, there remain the contractor-related problems mentioned above with local recruitment and providing contractor training.

Because OST decided to conduct a pilot project for case processing rather than conducting a national roll-out, OHA has received fewer cases than expected when it hired a cadre of temporary employees. If a national case processing effort is not performed, OHA may have to reduce staffing levels in FY 2003, only to have to rehire staff when the backlogged cases are later processed. To address this issue, a request to the Department will be made during the next quarter to roll out case processing on a national scale.

OHA experienced some slow down in case processing and adjudications in FY 2001 while its field offices were networked into a local and wide area network. This affected the field offices' ability to have access to the Probate Tracking System for case tracking and reporting functions. During this reporting period, all remaining offices were networked and now all OHA field offices will be fully operational once the Probate Tracking System, which has been shut down pursuant to Court order, is returned online.

During the reporting period, the probate subproject lost through attrition four program analysts. At this stage, the subproject has just one remaining program analyst on board and this will impact our effectiveness and ability to monitor contracts until other staff is hired. During this reporting period, the positions were advertised and closed. At this time, a change in duty station of the probate subproject as a result of the recent reorganization may create delays in filling these positions.

#### **Obstacles which Require Solution in Order to Complete the Subproject**

The foremost obstacle that impedes the progress on the backlog is the shut down of access to LRIS, the BIA title system as a result of the temporary restraining order. The denial of access to this system has literally caused the contractor and BIA work to cease at the title plants and realty offices because access is essential to process probate files and orders. The Probate Tracking System was also disconnected, which has stopped the electronic transfer of cases from agencies and regions to the deciding officials and has created a new

backlog of data entry to bring the tracking system back up to date for any cases submitted since December 5, 2001. Further delays in work by the contractors, BIA, Indian tribes, and OHA will occur if new passwords and new clearances are issued.

### **Resources Needed to Rectify Obstacles**

The overall recurring roadblock that has delayed the reduction of the probate backlog is the lack of human and financial resources. The original budget estimates were based on using BIA employees, not contractors, to perform the backlog reduction work. Thus, when the Department elected to outsource all backlog work in order to expedite the work, the cost substantially increased. As a result of past limited funding, the project timelines have slipped and will continue to slip as work is carried forward to new fiscal years. In FY 2002, the probate subproject requested an increase of \$7.5 million for the *Youpee* contract, but the budget submitted by OST was approximately \$2.5 million for the backlog and other related activities within the Indian Land Consolidation Project. The contractor is currently preparing an updated project management plan for three backlogs (case processing, posting and recording, and *Youpee*) for immediate national roll out. The contractor has estimated that the funds required for these backlogs are approximately \$90.8 million to complete the work by FY 2005. The *Youpee* estimate does not include the preparation of additional cases that will arise as a result of the identification of subsequent deaths when the *Youpee* estates are distributed or redistributed.

### **Identification of the Full Extent of Problems Associated with the Subproject**

Generally, most of the shortfalls and problems have been identified in the conduct of the probate subproject activities during this past year and one-half. The one remaining area is the exact number of subsequent cases that will occur when the *Youpee* interests are distributed/redistributed. Due to the fact that some of these estates are over 16 years old, it is highly likely that deaths of some of the heirs have occurred. Subsequent deaths will create a new backlog in case preparation and decisions. At this time, the actual number of subsequent estates is unknown and will not surface until the *Youpee* estates are distributed or redistributed. However, based on the Pawnee Pilot experience, at least 25% of the 10,411 escheated and undistributed estates (2,603) should be included in additional plans and cost projections.

### **Training**

The probate subproject staff provided training during this reporting period to the ADM staff and BIA/tribal field probate staff to ensure the accurate interpretation and uniform application of the new probate regulations, handbooks, and operation of the interim tracking system. During this reporting period, the probate subproject staff trained 152 BIA, 14 tribal and 3 contractor employees. These training sessions were conducted within the regions as follow-up sessions to the centralized training that was conducted last March. The draft handbook was circulated among the field probate staff for comments and relevant comments were incorporated into the handbook as the "best practices" recommendations from the field probate staff. OHA has provided training for its probate staff on

processing cases, operating the probate tracking system and cultural awareness. During this reporting period, OHA trained about 50 employees, including administrative law judges, Indian probate judges, attorneys, paralegal specialists, and legal clerks. The handbooks used in the BIA and OHA's training sessions have become part of the daily operations of the probate program.

### **3. EDS' Observations**

#### **Current State**

Within each of the five probate backlog areas, specific numbers of backlogs were identified across all BIA and OHA regions. Backlog elimination progress has been realized in certain areas while only temporary backlog elimination gains have been realized in others. There was evidence of planning efforts for the individual probate backlog areas. However, the lack of a coordinated, near-term plan and deadline for the complete elimination of probate backlogs covering all five specific areas is, in large part, responsible for the overall lack of sustained, across-the-board probate backlog elimination. In addition, inadequate funding has reportedly been a cause for the lack of probate backlog elimination progress. The failure to ensure prompt, coordinated, complete, permanent and near-term probate backlog elimination arguably violates the fiduciary duty owed by the DOI to the Indian Trust beneficiaries.

The incremental approach to probate backlog elimination serves only to shift the burden of backlog elimination among the five areas. For the five probate backlog areas, in accordance with OST direction to address these backlogs:

1. A pilot study was initiated related to the elimination of case processing probate backlogs but, due to a variety of reasons, significant case processing probate backlogs remain.
2. Backlogged summary distributions were detailed to the ADMs and nearly half of the backlogged summary distribution cases have been adjudicated.
3. LTRO post-adjudication posting and recordation backlogs were handed over to a contractor for processing and backlog elimination via a pilot study in the six LTROs. Overall LTRO posting and recordation backlog elimination efforts are reportedly beginning to succeed, despite certification demands on title examiners.
4. A pilot study (which consumed better than 16 months) was initiated to address the redistribution of *Youpee* case interests. A small percentage of the identified affected restricted and Trust interests have reportedly been redistributed to date.
5. OHA added additional adjudicatory personnel and reopened four field offices to handle existing probate backlog and anticipated increase in caseload from BIA. OHA anticipates that by the end of FY2002, it will have eliminated its backlog of probate cases.

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**Recommendations Summary**

- To eliminate probate backlogs at all levels within BIA and OHA and meet HLIP timeframes, the expanded, simultaneous and nationwide application of contracted backlog elimination services (with exception of ALJ adjudications) is an imperative. An orderly, timely, prioritized and rational plan for elimination of probate backlog is necessary to ensure the prompt resolution of all probate backlogs.
- Within several key areas, existing BIA probate staffing and funding levels require review because they are insufficient to rationally assure the sustained performance of both probate and realty staff operations in a manner that will ensure probate backlogs are not permitted to reoccur.
- Seriously examine the option of a Congressionally-mandated and fully funded negotiated settlement in the *Youpee* matter.
- Expand and upgrade communication and outreach efforts focused on beneficiaries and tribes to lower their frustration and resentment of the probate process.
- Eliminate administrative and technical redundancies and overlaps to improve probate case tracking and record keeping.

- 4. Special Trustee's Observations.** *The following is an extract from the Special Trustee's observations, which pertains to Probate Backlog. The Special Trustee's observations are included in complete form in Section III of this report. Care should be taken to read the entire observations and not to take this specific comment below out of context with the overall Special Trustee observations.*

*Probate*

More effective control of the probate processing should be initiated to track and process a probate case from end-to-end. In other words, a single person should be accountable for the probate of specific accounts and ensure completion of the process. Reorganization of this ongoing activity, therefore, is necessary.

- 5. Subproject Managers' Comments on EDS' & Special Trustee's Observations**

With regard to EDS' observations, we believe that EDS' overall assessment of the progress of the probate subproject is fair and we agree with their recommendations for the remaining objectives of the project. EDS' program recommendations are consistent with the views of the probate subproject managers.

With respect to EDS' recommendations for eliminating the probate backlog areas, the subproject managers have already developed a methodology for a holistic approach for three backlog areas. During this reporting period, the contractor for these three backlogs (case processing, posting and recording, and *Youpee*) has been working on an integrated plan that maximizes the contractor's resources by working on all three backlogs at the same time on a phased roll out scale. In December 2001, the BIA probate subproject director requested the

contractor to modify the plan for immediate roll out of all three backlogs. The contractor has nearly completed the EDS' recommended proposal for a near-term, across-the-board plan for these three backlogs areas.

The subproject managers will consider how to implement effectively EDS' proposal as it relates to the other two backlogs areas (BIA ADMs, OHA ALJs and Indian probate judges), which represent the adjudicatory process and is not eligible for outsourcing. In preparation for additional workload, however, OHA has hired permanent and temporary staffing, and BIA and OST have scheduled the transfer of the ADM program to the base funding of the Office of Trust Responsibility for FY 2003.

The posting and recording backlog at the LTRs may have appeared to be a pilot study; however, the project management plan did not call for a pilot. Rather, due to limited funding, the contractor's work was limited to three of the six LTRs until roll out to the rest of the LTRs this reporting period.

With respect to the Special Trustee's observations, we agree that the probate process should be monitored from the preparation of the probate file to the distribution of the estate income to ensure the efficient and timely processing of probates.

**6. Probate Sub-project Observations by Deputy Special Trustee for American Indians for Trust Systems and Projects**

On November 21, 2001, Donna Erwin, Deputy Special Trustee for American Indians for Trust Systems and Projects, was detailed to the Office of Indian Trust Transition (OITT) to oversight three sub-projects and associated project management personnel. The three projects are Trust Asset and Accounting Management System (TAAMS), BIA Data Cleanup, and Probate. OITT will continue to reassess, revise, and reprioritize project objectives to generate a more comprehensive, interdependent plan to produce the greatest positive benefit for Trust beneficiaries in accordance with the Department of the Interior's fiduciary responsibilities. The Deputy Special Trustee's comments on this sub-project are based on her oversight role since August 2001, her monitoring of the EDS assessment, and her direct supervision of the project since November. These comments support and parallel the EDS report.

**Assessment of sub-project**

- Progress has been made in the following:
- Modifying regulations
- Reducing backlog in preparation of probate packages
- Hiring additional decision-makers, administrative law judges and probate staff
- Updating ownership in the BIA title systems as a result of completed probates
- Plans do not address interdependencies with other agencies and other projects
- Definitive project end state has not been sufficiently defined

- Distribution of funds accumulated during the probate process and updating ownership records in the realty income distribution should be but has not been the primary goal of this subproject
- Funding requirements have not been anticipated nor fully forecasted for out years
- Adequate performance metrics have not been defined for contractor tasks
- Metrics do not encompass entire business process from date of death through date of distribution
- Inadequate project management

### **Obstacles**

- Lack of universal agreement throughout DOI of business processes and end state of project
- Lack of resources at all agencies to provide priority to the subproject
- Need to modify contracts supporting the sub-project to redirect without impeding current initiatives
- Reopening of *Babbitt v. Youpee* and resultant redistribution of small interests
- Fractionalization, i.e., increasing number of probate cases

### **Course of action**

- Contract to compile comprehensive business processes
- Assess fiduciary duties as they relate to probate process
- Complete reengineering business processes to meet fiduciary duties
- Augment project management tools
- Determine proper mix of contract and dedicated BIA staff to manage the project
- Modify and redirect contracts to incorporate performance standards and metrics
- Pursue alternate solutions to income distribution from *Youpee* cases
- Determine exit strategy; i.e., when project meets its objectives and is moved to daily operations

## **7. Assurance Statements**

I concur with the content of the information contained in section f. of the Probate Section of the 8<sup>th</sup> Report. The information provided in these sections is correct to the best of my knowledge

Date: January 16, 2002

Donna Erwin  
Deputy Special Trustee for American Indians – Trust Systems and Projects



I concur with the content of the information contained in Sections, 1, 2, and 5 of this subproject managers' report for the Probate Implementation Project. The information in those sections is accurate to the best of my knowledge.

Date January 15, 2002

January 16, 2002

*Signature on File*  
Kathleen R. Supernaw  
Subproject Co-Manager, BIA

*Signature on File*  
Charles E. Breece  
Subproject Co-Manager, OHA

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**C. APPRAISALS**

**1. Summary Description:**

Various regulations governing the trust land transactions require the Secretary to obtain valuations. To meet this requirement, an appraisal or other valuation is used as a management tool to ensure that fair and just compensation is received on transactions including, but not limited to, leases, rights-of-way, land sales, timber sales, land exchanges, grazing and range permits. This subproject is limited to surface appraisals only and does not include subsurface minerals.

A key objective of this subproject is to ensure that the integrity of the valuation process promotes objectivity, independence, professionalism, leadership, accountability and oversight. Other objectives include: ensuring timely, comprehensive valuations of trust resources; eliminating appraisal backlog through staffing, training, and introduction of new methods; developing a tracking and monitoring system for appraisal requests; developing BIA-wide comprehensive valuation practices which are in accord with the Uniform Standards of Professional Appraisal Practice; and updating or generating pertinent provisions in trust program manuals that outline appraising options and administrative procedures for ensuring the timely completion of appraisals.

**2. Subproject Manager's Observations (8/01/01 to 12/31/01):**

**Realign Line Authority to Ensure Consistent Management and Overview of Appraisal Program**

On November 8, 2001, the Assistant Secretary – Indian Affairs and the Special Trustee for American Indians agreed to transfer the BIA appraisal function to the Office of the Special Trustee. This action separates the Appraisal line authority from trust asset managers and addresses the Special Trustee's concern regarding the independence and integrity of the BIA appraisal process. This eliminates any real or apparent "conflict of interest" associated with the inherent fiduciary responsibility of the trust asset manager.

Following this decision, meetings occurred among Department of Interior (DOI) components on December 5 and 7, 2001. A preliminary plan was drafted on December 10, 2001, to propose a new appraisal organizational office, under the Office of the Special Trustee (OST). The draft plan provided specific management information regarding appraisal operations, policy, organizational structure, and staffing requirements. The Final Plan is to be written following the approval of budget, personnel, facilities and other issues. Staff from the BIA was detailed on December 23, 2001 to OST to assist in effecting the transfer of the appraisal function to OST by addressing these issues.

Tasks regarding the realignment of the appraisal function moved forward in order to address the Special Trustee's concern about potential conflict of interest. Recent tasks performed were (1) notification to the union on December 19, 2001, (2) preparation of a draft letter on December 28, 2001, to Chairman of the Subcommittee on Interior and Related Agencies regarding the transfer of the

appraisal function, and (3) circulation of draft letter to DOI managers for comments and review with an estimated four-week time frame.

A draft Secretarial Order from the Solicitor's Office was circulated within the DOI on December 20, 2001, which would transfer the appraisal function to the OST.

On December 20, 2001, the Assistant Secretary of Indian Affairs issued two memoranda. One memorandum notified BIA management (Deputy Commissioner, Central Office Directors, Regional Directors) that the appraisal function was to be transferred to OST. The second memorandum identified employees assigned to a 120-day detail to effect the transfer and realignment of the appraisal function. Steps are being taken to proceed with the transfer of the appraisal function from BIA to OST.

Currently, the need for tribal consultation (Milestone K in the 5<sup>th</sup> Quarterly Report) for realignment of the Appraisal function is being reviewed to determine if consultation is necessary to implement internal management changes regarding Appraisal reporting.

The Subproject Manager agrees with the EDS observations. In this regard, DOI is preparing the necessary action documents to formally implement this change in line authority. The Subproject Manager notes that the realignment issue has been pending for over a year and recommends immediate transfer of the appraisal function to OST.

#### **Develop and Maintain a Database for Tracking Appraisals**

An Appraisal Management System (AMS) core team met on several occasions (July 31, 2001; August 13, 2001; and September 4, 2001) to determine requirements for TAAMS AMS. Appraisal design documentation was developed to describe the Appraisal business process. Design documents were submitted to the contracted facilitator, Native American Industrial Distributors (NAID), on October 22, 2001. The TAAMS AMS database for appraisal tracking is currently on hold in order to allow time for its inclusion in the comprehensive trust business processes.

The Subproject Manager believes an impediment to this project is that TAAMS is on hold.

#### **The Interim Appraisal Tracking System**

The Office of Information Resources Management has created a prototype of a tracking program for appraisals.

The Subproject Manager believes an impediment to this project is the current lack of a comprehensive trust management system.

#### **Implement an Automated Comparable Sales/Lease System**

The Comparable Sale/Lease Data System (CDS) will provide comparable real estate sales and lease data in major real estate markets. The database will allow

appraisal staff to use commercial appraisal products to assist in the development and analysis of real estate data to be used in the appraisal process.

In December 2000, the Appraisal Design Team submitted an issue paper recommending the purchase of a commercial "Off the Shelf" (COTS) software program that can be tailored for use by the Office of Appraisal Services. The issue paper requested funding for the purchase of the COTS from the TAAMS Project Office. On July 3, 2001 the Bureau contacted Bradford Technologies, a private commercial appraisal software vendor to obtain preliminary estimated costs for design and implementation of this module. The estimated cost for this module was submitted to the TAAMS Project Office August 28, 2001. The TAAMS Project Office has not provided guidance to the Appraisal Subproject Manager whether or not to proceed with further negotiations with Bradford Technologies.

The Subproject Manager finds a hindrance to the project is the lack of a decision to approve or disapprove the funding, development and implementation of the comparable database system. The Subproject Manager believes an impediment to this project is the current lack of a standardized comparable database system in which to assist in the development and analysis of real estate data.

### **Program Reviews**

The Bureau Chief Appraiser determined the need to conduct program reviews in FY-99 and FY-00 to identify necessary improvements to appraisal operations. Prior to this action, the regional appraisal program had not been reviewed nationwide. Review of the appraisal program was completed in all 12 Regional Offices in 2000. These reviews provided information regarding workload, staffing, qualifications, training needs, reporting formats, and compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), directives, and policies. Upon completion of the review, an exit interview was conducted and a report submitted to the Regional or Deputy Director identifying recommendations for program improvement. The program reviews allowed the Bureau to identify resources necessary in order to reduce turn-around time for appraisal completion. As a result, in FY-01, increased funding, preliminary staffing needs, and program realignment improvements were identified for implementation.

A second program review is scheduled to monitor the status of the appraisal program. These program reviews began in December 2001 and are scheduled to continue through April 2002.

### **Outsourcing of Appraisal Services**

The first program reviews completed in 2000 identified that several of the self-governance tribes and contract tribes have outsourced the appraisal function from the Bureau, but were unable to maintain appraisal work production levels in order to process trust transactions in a timely manner. The reported number of appraisals completed decreased significantly since the tribes outsourced the program. Such was the case with Blackfeet. In FY-2000, the Rocky Mountain Region had reported that Blackfeet had approximately 1,500 appraisals in backlog status. Although the tribe had outsourced the appraisal function and

was fully responsible for completion of the appraisals, the Bureau had to expend its resources to assist the tribe in the depletion of this backlog.

The Chief Appraiser is aware of two tribes (Blackfeet and Leech Lake) which have retroceded the appraisal function back to the Bureau in 2000 and 2001. This has resulted in increasing the appraisal program workload to an estimated 2,000 backlogged appraisal requests. In this instance, the backlog was a result of costly fee appraisals, and the lack of interested qualified private industry contract appraisers willing to bid on work in Indian Country. The remote location and lack of market data make it more expensive to use fee appraisers to bid on appraisal assignments in Indian Country.

The appraisal program will examine outsourcing of appraisal services, where cost effective.

### **Projected Workload Increases**

Future appraisal workload is expected to increase through special projects such as, the Indian Land Consolidation Act (ILCA), Land Consolidation Pilot Project (LCPP), realty backlogs, and retrocession.

For example, the Land Consolidation Pilot Project (LCPP) has been expanding and this expansion has also increased the appraisal workload. This pilot project was created in 2000 to purchase the undivided interests in allotments of Indian individuals in order to consolidate ownership under the tribe. This pilot project has resulted in an increase in appraisal requests of approximately 3,000 in one year. This pilot project is a forerunner for the ILCA, described below.

A tremendous increase in appraisal workload is expected when the ILCA is implemented.

As discussed under the heading of Outsourcing of Appraisal Services, we have seen an increase in retrocession that has significantly increased the Bureau appraisal workload. Based on the current workload, historical areas of backlog, retrocession, and special projects, it appears that staffing requirements of the appraisal program need to be increased.

The Subproject Manager will initiate workload and staffing analysis to implement the EDS recommendations.

### **Training Components of Appraisals**

Under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act, the Appraisal Foundation acting through the Appraiser Qualifications Board (AQB) establishes the national minimum education, experience and examination requirements for state certification. The state certification requirements consist of: 180 classroom hours of formal real estate appraiser training; 3,000 hours of actual appraisal experience; successful completion of the state appraisal exam; and payment of certification/licensing fees. The states require continuing education for certified appraisers to maintain licensing. For the level of

complexity of appraisal assignments performed by Bureau appraisers, the State Certified General licensure is required.

Currently the Bureau's appraisal staff consists of 56 Appraiser FTE's (which includes six vacancies). Thirty-three are state certified appraisers and four are pending certification. The remaining sixteen FTE appraisers are in the process of meeting the minimum educational and on-the-job training experience required by state appraisal boards.

The Bureau has developed and implemented a standardized position description requiring state certification for all Regional Appraiser positions.

In August 2001, the Bureau had applied for course certification from the Arizona State Appraisal Board for its course titled, Appraisal Training, course number ABA-0801-015, which granted Continuing Education Units (CEUs). Following application to and approval by the Arizona Board of Appraisals, the Bureau conducted its first state appraiser board endorsed appraisal training for BIA staff appraisers. Fifty-seven appraisers (including BIA appraisers, 638 Appraisers, and Fee Appraisers) in attendance received Continuing Education Units.

### **Revision of Appraisal Handbook**

The BIA Appraisal Handbook was revised in October 1998. The revised handbook is designed as a technical handbook for staff appraisers. Through the years, it has become apparent that the handbook is a dynamic document that covers the technical aspects of the appraisal process in Indian Country.

The Appraisal Technical Board (ATB), consisting of all 12 Regional Appraisers, has issued two Statements and one Advisory Opinion revising and updating the Appraisal Handbook since 1998. The Handbook will require constant revision, expansion and updating in order to provide guidance in the administrative management of the appraisal program and be designed to support the efforts of trust reform.

The Subproject Manager is proceeding to establish a workgroup composed of members of the ATB and appraisal users in order to effect this revision. This group will commence the revision in 2002.

### **Creation of Appraisal Regulations**

In the current regulations, there are no specific guidelines in place in which to appraise or value trust assets. In the regulations, the terms and methodology used to establish values of trust assets should be defined to appraisal industry standards. Lack of appraisal regulations has been one of the missing components in supporting trust reform. Appraisal regulations would promote standardization of valuation practices of trust assets. The regulations should also adopt industry profession standards (the Uniform Standards of Professional Appraisal Practice-USPAP).

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**3. EDS' Observations**

**Current State**

The Appraisal Backlog Elimination subproject had 12 specific tasks of which nine are identified as completed or ongoing and three tasks are identified as not completed. Significant efforts were made by the subproject manager and regional appraisal staff to address and fulfill the requirements of the various tasks. However, even with these efforts and a majority of tasks completed, BIA's Appraisal Program still experiences a backlog of appraisal requests (current estimate is 1,500) and does not appear to have firmly established bureau-wide standards for valuation practices.

For the three incomplete tasks various activities are underway or being initiated to address the open issues. Regarding the appraisal tracking system, BIA's Chief Appraiser initiated with OIRM the development of an interim tracking system. The system will be a stopgap measure to address security issues and manage appraisal workloads until the TAAMS Appraisal module is activated. With regard to the comparable sales/lease database, BIA's Chief Appraiser is evaluating the procurement of such a system from a commercial source.

For the third open task - realignment of appraisal line authority - various quarters had proposed solutions or action plans but until recently none of these plans were approved or accepted by BIA's central office, regional office management or the Special Trustee. A year and a half after the original completion date of May 2000, no formal realignment plans have been implemented. Most recently, the Assistant Secretary, Indian Affairs proposed to the Special Trustee (who accepted) relocating BIA appraisal functions to OST. The next step is preparing the necessary action documents to formally implement this change.

Additionally, describing some of the tasks as completed raises the question of whether certain activities were performed to "check off the box" for the task. It is questionable if there were permanent improvements in the organization's operations and processes considering the ongoing issues with backlogs and standardization of valuation practices.

**Recommendations Summary**

- DOI needs to immediately review and develop a solution to the alignment of authority over appraisal groups in order to address the conflict of interest issue and ensure effective management and oversight of the appraisal group resources. During this review BIA should explore the option of outsourcing appraisal services and evaluate the impact this would have on providing timely, reliable and cost effective appraisal services to their customers.
- DOI must focus on the continued development and implementation of systems and processes that support the delivery of consistent, efficient and valid appraisal valuation services. This includes an appraisal tracking database, the best property valuation methods for types of property and incorporation of performance metrics to gauge progress towards goals and determine adjustments to resource allocations.

- Additionally, BIA must continue with and expand the development of standardized appraisal processes and procedures to support consistent and efficient appraisal valuations within and among the regions. At the same time, BIA must acknowledge the various unique aspects of certain regions and areas and ensure they are recognized in the revised and updated appraisal policies and procedures.

**4. Special Trustee's Observations.** *The following is an extract from the Special Trustee's observations, which pertains to Appraisals. The Special Trustee's observations are included in complete form in Section III of this report. Care should be taken to read the entire observations and not to take this specific comment below out of context with the overall Special Trustee observations.*

*BIA Appraisals*

Early last November, the Assistant Secretary-Indian Affairs stated that he shared the concerns of the Special Trustee with respect to the independence and integrity of the BIA appraisal process. Further, he offered that the placement of the appraisal staff in the OST was the most appropriate and efficient way to ensure the integrity of the function. The Special Trustee concurred with that decision as set forth in the Assistant Secretary's memorandum of November 8, 2001, accompanied by a directive of the Special Trustee pursuant to Secretarial Order 3232. Work on the transition of Appraisals to OST is underway.

Additionally, the Appraisals subproject will have to curtail system development activities relative to the TAAMS subproject until the latter is redesigned. The Appraisals subproject must also redevelop a plan under the direction of the Office of the Special Trustee to institute standardized appraisal processes and procedures as quickly as possible.

**5. Subproject Manager's Comments on EDS & Special Trustee Observations**

The Subproject Manager agrees with EDS observations:

- To formally implement the change in line authority to address the conflict of interest issue, ensure effective management of, and oversight of the appraisal group resources.
- That DOI develop and maintain a database for tracking appraisals
- That DOI implement an automated comparable sales/lease database system
- That DOI continue with and expand the development of standardized appraisal processes and procedures

The Subproject Manager recommends that EDS recommendation of realignment of line authority and outsourcing of appraisal services be separated and not addressed as the same issue. These are complex issues that require detailed examination to determine what is in the best interest of trust reform.



The Subproject Manager has no comments on the Special Trustee's observations.

**6. Assurance Statement**

"I concur with the content of the information set forth above with the exception of the EDS and Special Trustee observation sections 3 and 4. The information is accurate to the best of my knowledge."

Date: January 15, 2002

*Signature on File*  
Gabriel Sneezy  
Chief Appraiser

**D. COMPUTER SYSTEMS**

**1. TAAMS**

**a. Summary Description**

TAAMS is the acronym for an automated Trust Assets and Accounting Management System. TAAMS project mission is to develop and deploy a comprehensive, integrated, automated national system for title and trust resource activities. The key objectives are to meet statutory and regulatory requirements for Trust responsibilities; conform to financial management standards; support standard trust business practices across the Department; protect Trust data; and comply with an overarching comprehensive trust operations business model.

TAAMS is intended to replace outdated and inadequate legacy systems with modern technology to meet Departmental Trust responsibilities regarding processing title, resource management and probate actions. A contract for a commercial-off-the-shelf system (COTS) was awarded to Artesia Data Systems a subsidiary of Applied Terra-Vision Systems (ATS). The COTS package has evolved into a software development project.

Consistent with the Electronic Data Systems (EDS) November 12, 2001 Interim Report and Roadmap for TAAMS and BIA Data Cleanup, the Department of the Interior (DOI) is deferring realty and accounting functionality until the business processes are documented and defined. This delay will enable full definition of requirements for the automated system and is in conformance with recommendations by both the General Accounting Office (GAO) and Congress.

On November 14, 2001, J. Steven Griles, Deputy Secretary assigned Donna Erwin, Deputy Special Trustee for American Indians, Trust Systems and Projects, to oversee TAAMS, BIA Data Cleanup, and Probate subprojects. Effective November 21, 2001 the staff dedicated to these three subprojects were detailed to Ms. Erwin's supervision.

On November 27 & 28, 2001, the Deputy Special Trustee met with staff managers for TAAMS and BIA data cleanup. The Deputy Special Trustee directed staff to:

- Evaluate the ATS product for title for additional requirements.
- Defer further development and implementation of the ATS product until business processes are completed.
- Complete the modification including appropriate testing to correct minor flaws in the current title production system.
- Perform a comparison of current title ownership to Realty and Oil & Gas ownership in the legacy system to determine number and type of anomalies.
- Provide additional reporting capability to the current Title production system.

- Evaluate and modify as necessary all contracts supporting the ATS product to ensure contracts coincide with the recommendations to defer further development and implementation.
- 

The EDS contract is being negotiated to direct EDS to compile all versions of business processes that are in various forms of completion. EDS will then work with subject matter experts from all regions to validate the current processes and document any necessary variations in practices. This will allow DOI to establish a set of business processes that will be enforced for like processes throughout the organization. The contract modification will also require a cost comparison of the legacy title system vs. ATS product vs. available commercial systems.

#### **b. Accomplishments**

The following steps were completed during this reporting period:

- Defined corrective actions needed as a result of the integrated user acceptance test.
- Referred corrective actions to the BIA subject matter experts and TAAMS contractors for review.

The following significant steps remain:

- Complete test and release modifications to correct minor flaws in the current ATS product.
- Implement improvements to the configuration management process.
- Evaluate any additional title software development and system testing that is required.
- Evaluate further deployment of the ATS product for current Title as recommended by EDS.
- Complete training plans and documentation, and train users.
- Evaluate the deployment of the ATS software to agencies and tribes within Rocky Mountain, Southern Plains, Alaska and Eastern Oklahoma Regions for read only access.
- Perform a comparison of title ownership residing in the ATS system to realty and Oil & Gas ownership in the legacy system to determine number and type of anomalies.
- Complete, review, validate, and re-engineer business processes.
- Determine automated system requirements based on re-engineered system processes.
- Develop plan for acquiring automated systems based on requirements. Plan will include:
  - Risk management assessment
  - Quality Assurance
  - Record retention schedules
  - Policies and procedures
  - Workforce planning
  - Quality assurance
  - Training
  - Continued Monitoring

Problems, Issues and Concerns:

- Inadequate resources, e.g., suitable staffing that is dedicated to the project.
- Need for ATS contract to be modified or renegotiated, current concerns:
- Canadian Parent Company.
- Ownership of code for programs.
- DOI has purchased 735 licenses and paying 10% help desk and 10% maintenance fee based on cost of licenses – only utilizing approximately 265.
- Need for establishment of consistent project management and internal controls.
- Comprehensive uniform understanding of status of the ATS product.
- Lack of universal accountability and support for Trust Reform efforts.
- Demonstrated issues of migrating large automated systems.
- Resources diverted to support litigation activities.
- Need to identify the universe of data cleanup problems for both legacy systems and manual records.
- Security deficiencies relating to the ATS product (physical, personnel, and information).
- Disconnection from the Internet as a result of the Temporary Restraining Order makes the ATS product unavailable.

Tasks to correct Problems, Issues and Concerns:

- Preparation of appropriate staffing charts to support project.
- Renegotiate ATS contract that currently expires 2/28/02.
- Approval and implementation of staffing requirements.
- Establishment of a Trust Program Management Center as recommended by EDS to utilize consistent project management and internal controls of all projects that will evolve to the trust programs.
- Establishment of a communications outreach to DOI staff and to stakeholders.
- Establishment of accountability factors for all staff involved in trust reform vs. generic performance elements.
- Training and briefing of DOI on the importance of a universal agreement and support of trust reform efforts.
- Training on business culture changes to reduce resistance and prepare managers and staff for types of problems that will potentially be encountered.

**Status of Land Title and Records Offices**

The ATS product is being used with limitations, for current title activities in Rocky Mountain, Southern Plains, Alaska and Eastern Oklahoma Regions. LRIS, courthouses, and/or manual processes are still used for title history and some current activities. Actual usage of the ATS product for current title varies widely among these four regions.

- Rocky Mountain and Southern Plains regions use the ATS product for virtually all-current title activities.

- 
- Alaska region did not formerly utilize an automated title system. As a result title documents are being compiled by a contractor, encoded into the ATS product by a contractor, and then certified by BIA personnel. If a Title Status Report (TSR) is requested for a tract that is not already in the ATS product, then the title data is given priority for compiling, encoding and certification into the ATS product so the TSR can be generated and certified.
- 
- Eastern Oklahoma has been researching and entering into the ATS product income-producing tracts in the Chickasaw and Seminole land areas. The Self-Governance Tribes of Cherokee, Muscogee (Creek), and Choctaw Nations that have compacts for title have not been able to use the ATS product. The TAAMS Project Office is pending completion of personnel security packages.

### **Status of Other Modules**

The development of Title History, Realty, Accounting, Appraisal and Probate modules has been deferred until business processes have been documented and re-engineered.

### **c. EDS Observations**

*Note: In the EDS observations TAAMS is referring to the ATS product.*

TAAMS was supposed to be rapidly implemented using a commercial off-the-shelf (COTS) product, with minor modifications. The initial schedule envisioned a phased implementation using the COTS product and making as-needed modifications to support variations in the field. This presumed a high level of consistency between BIA processes and those assumed in the COTS product. However, the BIA has a highly decentralized and varied set of trust management business processes. There is a huge gap between the set of business processes assumed in the COTS product and the actual practices in the field. That gap required either a re-engineering of the existing BIA processes (which could also result in streamlining of activities and improved reporting and monitoring) or an extensive modification to the COTS product. Introducing these modifications without first formally documenting and approving the business processes and requirements created conditions for a difficult software implementation.

Regarding specific areas of functionality, progress has been made in implementing the current Title application with the name & address module. The current title application is being used in four regions. Title history is dependent upon BIA Data Cleanup tasks and is not yet available in production. The business functions in the Realty area are much more complex than Title. During development, critical requirements for defining the Realty application were not appropriately captured, partially due to its accelerated development schedule. This resulted in extensive re-coding, so that the COTS product is at this point a custom design. The original COTS product was focused on the leasing and did not have a title component that reflected BIA land management practices. In

addition to being time consuming and expensive, the extensive set of changes exposes the system to an increased risk of operating problems when placed in production.

In addition to the general status described above, the TAAMS assessment highlighted the following issues:

- There is no single lead sponsor or single project team for the combined TAAMS and BIA Data Cleanup efforts.
- Different business models and processes throughout the regions and field offices make TAAMS development complex and costly.
- The Current Title Module of TAAMS is being used in four (4) regions.
- The TAAMS requirements determination and gathering process is inadequate.
- Testing teams do not have detailed requirements to test against, making it difficult to measure success.
- There is a high risk that the DOI network infrastructure will be insufficient for current and future support of TAAMS.
- 

#### EDS' Recommendations Summary

- Immediately appoint one individual accountable for TAAMS and BIA Data Cleanup.
- Accelerate TAAMS Title and Defer Realty and Accounting Functionality.
- Establish required computing and communications capabilities.
- Improve stakeholder involvement in TAAMS and BIA Data Cleanup.
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**d. Special Trustee's Observations.** *The following is an extract from the Special Trustee's observations, which pertains to TAAMS. The Special Trustee's observations are included in complete form in Section III of this report. Care should be taken to read the entire observations and not to take this specific comment below out of context with the overall Special Trustee observations.*

#### *Land Title*

There are six title plants maintaining title information for Indian land assets across the U.S. Serious consideration should be given by the Department to centralizing all title information in one organization in one location in conjunction with a single data system. With today's communication capabilities, this change should provide better service for the beneficiaries, more efficiency and lower costs.

#### *TAAMS*

Generally, EDS expressed serious reservations about the viability of the land use (leasing) portion of the TAAMS system, but felt the title portion could proceed in development and put into use. The Department, however, has decided not to implement the title portion in additional locations pending further re-planning of the overall asset management systems projects. With that decision the Special Trustee concurs.

**e. Comments on EDS & Special Trustee Observations**

BIA Comments:

Without Bureau of Indian Affairs staff meeting with EDS' personnel to review documentation that EDS based their report on, it is very difficult to comment on EDS' Interim Report and Roadmap for TAAMS. However, the TAAMS review team concurred with the majority of EDS' recommendations.

No comment on the Special Trustee's Observations.

Deputy Special Trustee, Trust Systems and Projects' Comments:

The Deputy Special Trustee, Trust Systems and Projects generally agrees with the EDS recommendations, however the acceleration of TAAMS current Title must be in coordination with development and re-engineering of business processes. This will provide the needed requirement definition for the automated system.

**f. Trust Asset and Accounting Management System (TAAMS) Sub-project Observations by Deputy Special Trustee for American Indians for Trust Systems and Projects**

On November 21, 2001, Donna Erwin, Deputy Special Trustee for American Indians for Trust Systems and Projects, was detailed to the Office of Indian Trust Transition (OITT) to oversight three sub-projects and associated project management personnel. The three projects are Trust Asset and Accounting Management System (TAAMS), BIA Data Cleanup, and Probate. In November and December the Deputy Special Trustee met with project managers and reviewed project background information. OITT will continue to reassess, revise, and reprioritize project objectives to generate a more comprehensive, interdependent plan to produce the greatest positive benefit for Trust beneficiaries in accordance with the Department of the Interior's fiduciary responsibilities. The Deputy Special Trustee's comments on this sub-project are based on her oversight role since August 2001, her monitoring of the EDS assessment, and her direct supervision of the project since November. These comments support and parallel the EDS report.

**Assessment of sub-project**

- Development of TAAMS to date demonstrates the dedicated, concerned, good intentions of scores of DOI employees; a tremendous personal effort by many individuals
- TAAMS efforts have been handicapped by a perceived need for a "quick fix" that prevented sufficient detailed information gathering and planning
- Requirements not developed in accordance with a comprehensive business process model
- TAAMS interdependencies with other trust reform efforts not well established
- Insufficient continuity of project managers
- Configuration controls and system security need to be strengthened

- Software contract has unresolved issues due to customization of system
- Adequate performance metrics have not been defined for contractor tasks
- Inadequate project management

**Obstacles**

- Complex information systems are difficult to realize in any environment
- Lack of agreement throughout DOI for business processes and end state of project
- Expectation that TAAMS must be all things for all people
- Unrealistic time expectations for completion
- Resources diverted to litigation-related activities

**Course of action**

- Development and further software deployment deferred
- Modify existing contracts to coincide with deferral of further software development, correct previously identified issues, and include performance metrics
- Institute disciplined project process
- Develop business process model
- Define system requirements based on business process model
- Perform gap analysis between system requirements and existing software
- Establish configuration controls and system security
- Meet the requirements of the steps above

**g. Assurance Statements**

I concur with the content of the information contained in section a, the Deputy Special Trustee's Observations in section e, and section f. of the TAAMS Section of the 8<sup>th</sup> Report. The information provided in these sections is correct to the best of my knowledge.

Date: January 16, 2002

Donna Erwin  
Deputy Special Trustee for American Indians – Trust Systems and Projects.



I concur with the content of the information contained in the following section of the 8<sup>th</sup> Report to the extent these subprojects were under my supervision. The information provided in these sections is accurate to the best of my knowledge.

Section VI. D. I TAAMS

Date: January 15, 2002

*Signature on File*  
Neal McCaleb  
Assistant Secretary – Indian Affairs

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**2. COMPUTER AND BUSINESS SYSTEMS ARCHITECTURE**

**a. Summary Description:**

The objective of this subproject is to provide the blueprint for defining and mapping business processes within the trust management activity from existing procedures and systems to the new operating environment. The blueprint, which this project produced on August 14, 2001, is the foundation for continuing work on the computer and business architecture. While this subproject is an essential first step, most of the work of implementing computer and business systems architecture remains to be done. Recommendations in the final report, or blueprint, outline critical next steps to set up the architecture as an ongoing governance mechanism over the entire life of trust management reform.

**b. Subproject Manager's Observations:**

With delivery of the final report on August 14, 2001, the Enterprise Architecture Planning (EAP) project submitted the last of the scheduled products. The 18-month project is completed, producing all 9 of the planned reports and deliverables as outlined in the initial February 2000 project plan.

This subproject was initiated as a planning effort. The final deliverable was expected as a description of the current technical and business environment, but more importantly it was expected to produce a plan. The final report includes the plan as a guideline or blueprint for implementing improvements to Trust Management computer and business systems. The plan proposed follow-on work to be implemented over the next several years. The benefit of the completed work is that it not only documents the existing technical environment and business rules, but also provides a means of assessing changes to that technical or business environment.

The deliberate intention of the planning effort was to produce an initial framework, not a set of comprehensive details. The development of comprehensive details is more appropriately carried out by the bureau and office owners of the systems within the framework of the trust enterprise architecture than at a high-level planning level. That detail work has already been initiated in most of the five bureaus and offices within the trust community.

Essential next steps include providing more detail for the business model. Coordination between bureau and office subject matter experts was difficult both because of a lack of coordinated goals between HLIP projects and because of the lack of a governance body to provide guidance as objectives or details were found to be in conflict.

The Trust Management Architecture planning project was performed within the context of the Interior Architecture project, as the trust technical environment is set within the boundaries of the bureaus and offices of the Department of the Interior. Policies, regulations and technical decisions made at the Department or Bureau level necessarily impact the trust computer and business environment. For that reason, the Trust Management Architecture Work Group constantly reviewed decisions and products with other architecture initiatives within the

Department. The benefit was good communication among the bureaus and offices and the final product reflected a coordinated effort with all five bureaus and offices within the trust business community. The difficulty of the constant coordination was that the infrastructure was not in place to provide a governance body to review and make decisions about what business and/or computer environment changes were allowable. The proposed Trust Asset Management organization will be very helpful to the Department in providing a means of implementing the architecture within the trust business community.

The completion of the Trust Architecture project coincided with the initiation of an EDS study for a number of trust-related projects. The Trust Architecture Technical Oversight Committee decided to request that EDS also review the Trust Architecture deliverables as a means of getting a third-party opinion of the completed project deliverables. Action on the project recommendations was delayed pending publication of the EDS report, scheduled to be published on January 24, 2002. Comments based on the December 6, 2001 draft, both by EDS and this subproject manager are included below.

The completion of this final report of the planning effort represents a significant landmark in the Trust Architecture development. The deliverables clarified the current business and computer architecture. The report proposed several recommendations, including both procedural and technical initiatives. It outlined important follow-on work that is essential to maintaining the architecture and developing more detailed design specifications. A Trust Management Architecture Office is being established, staffed initially with two full time employees, one project manager and one senior technician. Personnel actions have been initiated for both of those positions. Funding is identified for FY2002 to maintain the architecture and for some contracting support. As these positions are filled, these individuals will perform the continuing work on this subproject.

**c. EDS' Observations:**

**Current State**

The Architecture Working Group completed a high level Enterprise Architecture for Trust Management in August 2001. Pending completion of the present DOI assessment effort, the distribution of this Architecture has been limited to the Trust Management Technical Oversight Committee, select DOI leaders, and the General Accounting Office (GAO). Currently, DOI has budgeted one third of the funding originally requested for the Trust Architecture.

The Computer and Business Systems Architecture Project created a high-level skeleton of the Trust enterprise, using a framework developed by Dr. Steven Spewak. It resulted in the identification of principles and an understanding of the current landscape of the enterprise. This Enterprise Architecture Planning effort satisfied an important first step towards the Enterprise Architecture for Trust Management.

A well-designed enterprise architecture is an informational representation of an enterprise that carefully links existing and future business and IT elements to support business strategies. Therefore the architecture needs further

development in areas such as the business model and technology (i.e. networks, security, sizing); it should be defined to a level that helps to assess and improve business functions. This architecture will provide a continuous roadmap to improve the efficiency and effectiveness of the enterprise.

The Trust Management Architecture Working Group identified two major groups of recommendations. As published in the August 2001 Enterprise Architecture Planning Project Transition Plan & Project Summary, these recommendations were related to an architecture management office and technology upgrade. EDS concurs and supports the architecture management office. Though technology upgrades are important, any implementation of technology should be preceded by development of the architecture to an appropriate level to ensure optimal integration of the existing technology with the future environment.

The Architecture Working Group (AWG) developed the foundational Business Model upon which the Architecture was constructed. Because the members of the business community involved in Trust had only limited involvement in the development of the Business Model, they have not had sufficient opportunity to embrace and validate it.

Much of the Trust community lacks an understanding of Enterprise Architectures. They do not understand why it is needed and how it is used for both business and technology purposes, its value and benefits, and how the architecture represents them. Awareness of external and internal customer requirements is deficient, resulting in "gaps" and rework as work is handed off among the groups. The successful adoption of the architecture will require a cultural change throughout the Trust Management environment.

No systematic approach currently exists to improve the overall business performance of Trust Management. Investments to improve business performance are conceived and approved within individual organizations involved in the Trust business to improve their individual parts of business processes that flow across organizational boundaries. Moreover, the investments are made without considering their overall effects on Trust Management and without an overall determination of where improvement is most needed.

Some disagreement exists within the Trust community about whether the oversight of the Enterprise Architecture best belongs within an operational or an information management organization. The AWG's Computer and Business Systems Architecture document suggests establishing a Trust Architecture Office with permanent staff.

### **Recommendation Summary**

It is important to leverage the work that has already been performed by the Architecture Working Group. However, a sizeable effort, with participation throughout the Trust community, will be required to complete a comprehensive Trust Enterprise Architecture. EDS' review of the existing Computer and Business Systems Architecture has resulted in three overarching recommendations:

- **Develop a comprehensive Enterprise Architecture.** The structure of the Trust Management Architecture is consistent with industry practice and is a very basic representation of the entities involved in Trust Management. However, it is a high level first step. There is a significant amount of work still necessary to develop the architecture in more detail. This will define both business and IT components of the current state and desired state, and help to perform gap analysis activities and transition planning. It may also be necessary to consider significant modifications to the existing processes and approaches to managing Trusts.
  
- **Develop the governance discipline to manage the Trust business.** Trust Management Leadership must strengthen its ability to determine the business performance improvement investments that will best enable the attainment of business strategies. Additionally, it must strengthen its process governance to ensure that improvement initiatives are integrated and sufficient to achieve goals. Governance includes such elements such as systems acquisitions strategy and consistent technology frameworks, methodologies, tools.
  
- **Institute an Architecture Office to manage the Enterprise Architecture.** The formation of an Architecture Office will be critical to the ongoing success of building and maintaining the Enterprise Architecture in a complex environment. All of the architecture components should be carefully managed as a whole from this central point.

**e. Special Trustee Observations:** *The following is an extract from the Special Trustee's observations, which pertains to Computer and Business Systems Architecture. The Special Trustee's observations are included in complete form in Section III of this report. Care should be taken to read the entire observations and not to take this specific comment below out of context with the overall Special Trustee observations.*

*Computer and Business Systems Architecture*

As articulated in the accompanying subproject report, this critical subproject needs to deal now with two issues: The organizational location for the governance of trust architecture going forward and developing the architecture in greater detail. With regard to the former, the Special Trustee believes that the governance (executive responsibility and requisite staff) need to be within the trust chain of command of a separate, unified trust organization.

**f. Subproject Manager's Comments on EDS & Special Trustee Observations:**

The Trust Architecture Subproject Manager agrees with EDS comments and recommendations, especially regarding the essential architecture work remaining to be done, with the following brief clarifications.

The Trust Architecture Subproject Manager agrees that there remains much work to be done. The Trust Architecture Office is charged with, as primary duty, to maintain and continue to develop the trust architecture, initiating appropriate architecture efforts to develop supporting architecture components as necessary for the Trust business community. While EDS and the Architecture Work Group differ as to the level of detail necessary in the planning stage, we fully agree regarding the extremely high priority of performing the essential remaining architecture work.

The Trust Architecture Subproject Manager agrees that additional presentations need to be scheduled for business managers and that the trust business community needs to take a more active role in the work of developing and maintaining the trust architecture products. A number of Department of the Interior business leaders were involved in the continuing trust architecture work during the 18-month architecture planning project. Further, additional review sessions were scheduled to begin following the Technical Oversight Committee's review of the final report, originally scheduled for August 2001. Upon publication of the EDS Final Review on January 24, 2002, the Technical Oversight Committee will determine what action should be taken regarding the review sessions. The Trust Architecture Office tasks as outlined in the final report includes this ongoing coordination and education role. Recommendations by EDS and elsewhere regarding the governance process will also contribute to the essential increased involvement by the business community.

I concur with the Special Trustee's Observations.

**Assurance Statement**

I concur with the content of the information contained in Section VI. D. 2 covering Breach 3, Computer and Business Systems Architecture Framework Plan. The information in that section is accurate to the best of my knowledge.

Date: January 16, 2002

*Signature on File*  
Julia M. Laws  
Subproject Manager

### 3. MMS SYSTEM REENGINEERING

#### a. Summary Description

The Minerals Management Service (MMS), Minerals Revenue Management (MRM) is responsible for collecting, accounting for, and distributing mineral revenues from both Federal and Indian mineral leases and for evaluating industry compliance with laws, regulations, and lease terms. (Note: MRM conducts its business processes, maintains reported information, and distributes revenues at the lease level. BIA uses the ownership records it maintains to distribute the revenues to the individual Indian level. MMS does not maintain information at the individual Indian mineral beneficiary level.)

Faced with changing energy markets, new legislative mandates, and aging computer systems, MRM made the decision in April 1997 to reengineer its core business processes and support systems and to reorganize around those streamlined business processes. This initiative was necessary in order for the MRM to remain cost-effective and responsive to customer needs and to fulfill its trust responsibility to American Indians by continuing to improve its business effectiveness.

MMS Systems Reengineering is aimed at overall improvement of MMS's financial and compliance capabilities rather than any specific DOI trust weaknesses. The project entails development and installation of a new commercial off-the-shelf (COTS) financial system, compliance system, and data warehouse, providing enhanced accessibility to revenue and production information and analytical tools.

The project consisted of a comprehensive analysis of business processes including benchmarking, process mapping, and input from customers and constituents. The preliminary design for the new processes was completed in March 1998 followed by prototyping, pilot testing, and development of capital investment plan in September 1998. MRM's implementation plan, *The Roadmap to the 21<sup>st</sup> Century*, was completed in November 1998.

MMS Systems Reengineering consists of two major development projects.

- Financial System and Data Warehouse – In September 1999, MRM contracted with Accenture Corporation to design, develop, and implement a new financial system, a relational data base management system, and a data warehouse. The financial system is used to process monthly mineral revenues and reports from Federal and Indian leases as well as mineral production reports that are needed for compliance verification and other purposes. The new system consists of a PeopleSoft financial system and an Oracle relational database management system. The data warehouse is available not only to MRM but also to other DOI bureaus, states, tribes, and industry.
- Compliance System – In September 2000, one year after award of the financial system contract, MRM awarded a companion development contract to Accenture for a new compliance system. This system, which

is integrated with the financial system, consists of analytical tools and validation systems utilizing the current and historical mineral revenue and production information contained in the data warehouse.

MRM's contracts with Accenture include the post-implementation operations and support of the new systems. Accenture subcontracts with USInternetworking (USi)—an applications systems provider—to host the new MRM applications at USi's Annapolis, MD data center.

**b. Subproject Manager's Observations**

During the period August 1 through December 31, 2001, MRM completed most of the remaining tasks for the MMS Reengineering Subproject, culminating with implementation of the core financial system, the relational database management system, and the data warehouse system on November 1, 2001. MRM has implemented the key elements of the financial system that are necessary for timely and accurate collection and disbursement of trust revenues.

Some work still remains in order to test and implement two additional elements of the financial system—the mineral production reporting module and the exception processing module. These two modules are less time-critical and were postponed in order to focus resources on implementing the core financial system by November 1. Current progress on these modules has been halted by a system shutdown in response to the December 5 Temporary Restraining Order. Once the testing environment is available again, MMS estimates an additional 4-6 weeks will be required to complete testing and implementation of these modules.

Implementation of the Compliance System was scheduled for January 1, 2002 but was delayed pending outcome of the system shutdown. MRM is prevented from testing and implementing the final phases of the system, which includes two key trust-related components (Major Portion and Dual Accounting) which are necessary to help ensure compliance with regulations and lease terms. Once the systems are available, MMS estimates an additional 2-4 weeks will be required to complete testing and implementation of these modules.

Following is a recap of the steps completed during this reporting period and the one remaining:

<b>Step</b>	<b>Date Completed</b>
Complete Final System Security Plan	09/27/01
Complete Functional and Performance Acceptance Tests	10/18/01
Complete Data Conversion from Legacy Systems	10/31/01
Implement Core Financial System, Relational Data Base Management System, and Data Warehouse	11/01/01
First automated distribution to BIA system	11/16/01
Implement Production Reporting and Exception Processing	To be determined
Implement Compliance System	To be determined



**c. EDS' Observations**

**Current State**

The MMS reengineering effort has culminated in the business process retooling of the Minerals Revenue Management (MRM) organization and the development and deployment of the new Minerals Revenue System. The core financial system was completed successfully and went into live production on November 1, 2001. Additionally, on November 13, 2001, the first semi-monthly automated transfer was performed of the Financial Distribution Report to Royalty Distribution and Reporting System (RDRS, a module that is part of the IRMS legacy system). After resolving some data issues, a retransmission on 16<sup>th</sup> of November resulted in a successful transfer.

The automated revenue system, currently known as the Minerals Revenue System (MRS), was implemented using a commercial off-the-shelf (COTS) financial system. MRS uses a commercially available financial system with customization as required to support the MRM business functionality.

The customized COTS solution provides substantial functionality and usability improvement over the legacy application. However, additional improvements and upgrades are needed to continue to support the enterprise. Though a well-defined change control approach was used throughout the development effort, nothing has yet been established for on-going system maintenance.

Sufficient and complete procedures have not been established to resolve information exchange issues between bureaus. This relates to both operational data transactions and the effects of application functionality revisions. Collaboration among bureaus must take place to establish, revise, and document cross-bureau resolution procedures. Examples of information exchange include transaction files between MRM and BIA for lease and royalty payments.

Laws, regulations, and interpretations are paper based and take a long time to be created and then passed to the personnel who must act on them. The process from Congress to deployment often takes months before a user in the field is able to place a new regulation into practice. This affects all bureaus involved in Trust Management. (See Policies and Procedures Subproject Assessment)

Common data elements (e.g. account ID information) are duplicated in multiple systems (across bureaus) and lack consistent formats. Since there are several applications involved in the overall Trust process, a proliferation of identification numbers exists. While MRM uses common data elements within its systems, collaboration across bureaus is still needed. (See Computer & Business Systems Architecture)

Though additional COTS reporting and data warehouse solutions, a part of the MRS application, will provide substantial reporting improvement over the legacy application, this capability is currently targeted to support only the MRM user community (industry, states, tribes, and other bureaus). This functionality was completed before the end of 2001. The power of this capability should be leveraged and available in Trust applications for other bureaus (e.g. BIA).

**Recommendation Summary**

The EDS Team recommends:

- Establish a formal and documented process for identifying and requesting changes to the MRS application.
- Review, revise and document the formal process for identifying and resolving operational information exchange errors that occur between bureau systems.
- Develop and document a formal process to resolve impacts from a design change to one system that affects other interfaced bureau systems.
- DOI should develop the business processes and procedures for the royalty disbursement area across bureaus.
- DOI should develop the capability for authorized users (e.g. bureau personnel, tribes, and individual allottees) to access their data in all Trust applications.

**d. Subproject Manager's Comments on EDS Observations**

MMS believes that, in general, the EDS report and the summary above accurately portray the status of this subproject and concurs with the recommendations insofar as MMS is concerned. Because several of the recommendations are directed more broadly than MMS, those should be reviewed and commented on by the appropriate DOI representatives. Following are the specific EDS comments and recommendations, followed by MMS's response:

**EDS Comment: Though a well-defined change control approach was used throughout the development effort, nothing has yet been established for on-going system maintenance.**

**Recommendation: Establish a formal and documented process for identifying and requesting changes to the MRS application.**

**MMS Response: Change control procedures for ongoing system maintenance are a contract requirement and are under development by the contractor.**

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**EDS Comment: Sufficient and complete procedures have not been established to resolve information exchange issues between bureaus. This relates to both operational data transactions and the effects of application functionality revisions. Collaboration among bureaus must take place to establish, revise, and document cross-bureau resolution procedures. Examples of information exchange include transaction files between MRM and BIA for lease and royalty payments.**

**Recommendations:**

- Review, revise and document the formal process for identifying and resolving operational information exchange errors that occur between bureau systems.

- Develop and document a formal process to resolve impacts from a design change to one system that affects other interfaced bureau systems.
- DOI should develop the business processes and procedures for the royalty disbursement area across bureaus.

MMS Response: MMS has in place documented procedures for its disbursement process and for resolving exceptions that occur in its systems with regard to data exchanges. Also, MMS coordinates with BIA and OTFM when considering system changes that may alter the outputs it provides to those bureaus. This cross-bureau coordination was carried out during MMS Systems Reengineering project. However, the interfaces with those bureaus' systems were basically unchanged by MMS Reengineering, with only some technical adjustments required.

MMS concurs with the need for ongoing coordination and clear procedures across DOI. MMS concurs with the recommendations for a more formalized process for documenting data interchange procedures across bureaus and for communicating and collaborating regarding system changes. Although MMS has in place documented disbursement procedures, we are supportive of the recommendation for development of crosscutting DOI-wide procedures.

.....

**EDS Comment: Though additional COTS reporting and data warehouse solutions, a part of the MRS application, will provide substantial reporting improvement over the legacy application, this capability is currently targeted to support only the MRM user community (industry, states, tribes, and other bureaus). This functionality was completed before the end of 2001. The power of this capability should be leveraged and available in Trust applications for other bureaus (e.g. BIA).**

**Recommendation: DOI should develop the capability for authorized users (e.g. bureau personnel, tribes, and individual allottees) to access their data in all Trust applications.**

MMS Response: A key element of the MMS reengineering project was to make MRM data more accessible, not only to MMS personnel but also to the universe of MRM data users (states, tribes, other government entities, and industry). MMS's reengineered systems provide capability for these authorized users to access their data. (MMS cannot provide online access to lease level data for the individual allottees because it does not have a database of beneficiaries and their allocations and therefore could not insure information confidentiality. As an alternative measure, BIA agency offices are able to assist allottees in viewing leases in which they have an interest.)

The thrust of this recommendation is directed toward DOI and other DOI bureaus.

**e. Assurance Statement**

I concur with the content of the information contained in Sections a, b, and d of this subproject manager report, set forth above. The information in those sections is accurate to the best of my knowledge.

Date: January 11, 2002

*Signature on File*  
Phil Sykora  
Manager, Information Technology Center  
Minerals Management Service,  
Minerals Revenue Management

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**E. RECORDS MANAGEMENT**

**1. Summary Description**

The Office of Trust Records (OTR) was established in 1999 to develop and implement an active, continuing program for the economical and efficient management of trust records, consistent with the American Indian Trust Fund Management Reform Act of 1994, the Federal Records Act, other statutes, and their implementing regulations. Responsibilities include:

- Correcting past Indian trust record keeping inadequacies;
- Improving current records management within BIA and OST;
- Instilling integrity and consistency in trust records management for the future; and
- Cooperating with other DOI bureaus that manage Indian trust records to attain standardized procedures meeting fiduciary requirements.

The Records Management project addresses not only the essentials of records retention to ensure that records are maintained for the required period of time, but also establishes an active, continuing program to see that the necessary records are created and maintained and that the records are safeguarded throughout their scheduled retention.

The Records Management project encompasses the second breach cited in the Court's Order dated December 21, 1999, that the Secretary of the Interior and Assistant Secretary - Indian Affairs owe plaintiffs pursuant to the statutes and regulations governing the management of the IIM trust, the statutory trust duty to:

"... establish written policies and procedures for the retention of IIM-related trust documents necessary to render an accurate accounting of the IIM trust."

The key objectives of this project are to:

- Resolve the breach of trust associated with IIM-related documents (extant trust records necessary to do an accurate accounting are identified, safeguarded, and under intellectual [inventory] control)
- Clean up the records disposition backlog (inactive records — those not needed for current business — are stored in appropriate facilities)
- Establish a viable and continuing BIA and OST records management program (standardized record keeping requirements and practices are established; schedules are developed; and training and guidance is provided)

**2. Subproject manager's observations**

OTR would like to note that the Department-wide policy for the retention of IIM-related documents has been that any document that relates in any fashion to IIM accounts or the management of IIM accounts must be preserved. Because of this mandate to preserve all IIM-related records, OTR has devoted a majority of

its resources to those project steps associated with record management clean up activities. Ultimately, the policies and procedures needed to assure that IIM-related documents necessary to do an accurate accounting of the IIM trust are retained will be included in the BIA and OST records schedules and manuals. As reported below, work on the records schedules is underway and development of the records manuals is in the planning stage.

The Department-wide policy for the retention of electronic mail records has been that the records must be printed and then filed in the office filing system<sup>9</sup>. And although there is a Department-wide moratorium on the development of electronic records management systems, OTR is working with a commercial contractor to design and implement a pilot OST document management system.

During this reporting period OTR made considerable progress on the following activities:

- 
- Analyze Storage Requirements. During this period, OTR completed records assessments at 36 BIA locations. A records assessment is a review of the volume and physical condition and location of all records at a particular office or location. This information is essential to understanding what needs to be done to correct storage conditions and the number of records in need of appropriate disposition. Replacement or additional records storage equipment will be provided as a result of these assessments.

Records assessments at BIA Central Office are scheduled to begin in January 2002. Also in January, OTR will begin working with OST to develop a plan on how to complete analyses of OST's records storage requirements. The operational and filing structures at these locations are very different from BIA. As a result, their needs most likely will not be as extensive. OTR has not completed assessments at a reported 500-plus tribal compact or contract locations. OTR needs to determine how it will complete these assessments.

- Records Disposition Backlog. Disposition backlog means the volume of records that are currently inactive—not used to conduct current business—and are being stored in office space and off-site locations at BIA locations. OTR has contracted with a commercial records service provider to assist with the removal of inactive records from BIA locations and to perform the paper-intensive work involved in preparing records for

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<sup>9</sup> In addition, on August 3, 2001, the Department's Chief Information Officer issued reminder instructions to key offices and bureaus on the retention of e-mail system backup tapes. The instructions remind administrators to backup mailboxes of e-mail users who may send or receive e-mail relating to (1) American Indian trust reform; (2) the Cobell v. Norton litigation; or (3) administration of IIM accounts; to make daily backups Monday through Friday; to externally label, sequentially number and store backups, without overwriting them; to maintain a log showing date and sequential number of each backup; and to indefinitely retain a set of backups. The instructions were distributed to senior managers in the Office of the Solicitor, the Inspector General, the Bureau of Land Management, the Minerals Management Service, the Bureau of Indian Affairs, the Special Trustee, the Office of Hearings and Appeals, and the National Business Center. Ernst and Young began inventorying e-mail system backup in certain bureaus in December 2001.

transfer to the Federal Records Center (FRC). During this period, contractor and OTR staff reported that over 14,000 boxes of records were sent to the contractor's facility for organizing and inventorying. In addition, BIA and OTR approved the transfer of over 2,500 boxes of inactive records to the FRC, bringing the total to date to over 10,300 boxes of inactive records transferred to the FRC or National Archives.

In late 1999, BIA regions estimated that they had approximately 17,600 boxes of inactive records. Through site assessments at 75 BIA locations OTR staff identified over 57,900 boxes of inactive records. Projections indicate there may be as many as 80,000 boxes of inactive records (or 200 million pages of documents). Central Office and tribal holdings are not included in this projection.

- **Records Schedules.** Records schedules are the key to any successful records management program. Records schedules include a description of each records series and detailed instructions for records disposition. Records schedules must be comprehensive and include all records regardless of media. By statute, all records schedules must be approved by the Archivist of the United States before they are implemented. The existing BIA directive (16 BIAM) has 406 records disposition items in six chapters.

OTR continued work on 16 BIAM Chapter 4000 which deals with programs generally associated with trust management. BIA and NARA have reviewed four of six sections of Chapter 4000 that include 87 items of the 406 referenced above. After a number of discussions and meetings with BIA program experts, it was decided that a work group comprised of OTR records specialists and BIA program personnel should be established to review and analyze in more detail the proper description and retention of each trust-related records series. This work group expects to have its first meeting in February 2002. In addition, OTR has started the data collection phase needed for the development of OST records schedules.

OTR has also established two teams comprised of OTR staff that, starting in January 2002, will be devoting 100% of their time to completing all trust-related records schedules.

- **Program Evaluations.** During this period, OTR completed records program evaluations at 34 locations bringing the cumulative total to 93 BIA field locations. A program evaluation concerns the management of records and the implementation of agency requirements. Under normal circumstances, the records program evaluation is used to ensure compliance with appropriate policies and procedures, and good business practices. Because records management programs at most BIA locations have been neglected for some time, the evaluation process is being used as a means of identifying major problems and helping set priorities for program improvements at the local level. There are a few locations that need to focus more attention on records requirements in order for them to bring their programs into minimum compliance. As the second round of

evaluations begins, it is expected that program improvements will occur as a result of the implementation of specific recommendations and suggested record keeping practices.

In January 2002, OTR will begin working with OST to develop a plan and schedule for conducting evaluations at OST locations. OTR has not completed assessments at a reported 500-plus tribal compact or contract locations and needs to determine how it will complete these assessments.

- Training and Technical Assistance. Training is an essential part of any records management program and had not been offered in any continuing or systematic way in BIA or OST for many years. In conjunction with NARA, OTR developed two training curricula. The first, a two-three hour briefing, is intended for all personnel. The second, a two-day session, is for those personnel with records maintenance and disposition as part of their duties.

During this period, OTR presented awareness briefings to 457 BIA and tribal employees. To date, over 2,200 employees have attended the briefings and over 560 have attended the two-day training. This number does not include employees who attended presentations made at national line officer or other types of meetings.

Up to this point, OTR has focused on providing training and technical assistance to BIA field staff. Beginning in January 2002, OTR will begin working with OST to develop a plan on how to best provide training to employees at approximately 65 OST field locations. The operations at these field locations are less complex than at BIA locations and require a different training curriculum than that used for BIA.

While some progress has been made on the following steps, there is still a lot of work to do on them before the project will be complete:

- Develop and Issue Records Manuals (completion date of 12/31/01 missed)
- Establish Advisory Committee on Records (completion date of 08/31/01 missed)
- Establish Life Cycle Database (Inventory) for Trust and Other Records (completion date of 12/31/01 missed)
- Replace Historical Records with Working Copies
- Award New Contract for OST Imaging
- Complete Plan to Comply with Electronic Records Regulations (completion date of 09/30/01 missed)
- Develop and Implement a Vital Records Plan
- Publish Trust Records Instructional Guide (completion date of 12/31/01 missed)
- Establish Pilot Project for Electronic Record Keeping
- Analyze BIA Records Imaging Requirements (completion date of 12/31/01 missed)



In addition, because of how the HLIP was constructed, a number of records management steps simply required the initiation or establishment of an action. As a result, the step was reported as being completed when the action was “initiated” or when the first action took place. Work on the steps, however, is continuing. For example, while reported as being completed, work on the steps to replace historical records with working copies, conduct cyclic evaluations, and provide training to compact and contract tribes is ongoing.

Currently there is a restriction on destroying any BIA or OST program-related record. As a result, the focus of OTR’s work has been on training and records cleanup and protection. A very limited amount of resources has been directed at those tasks associated with developing policies, procedures, standards and guidelines. Now that the first round of on-site assessments and technical assistance to BIA field locations has been completed, OTR will direct more resources to programmatic rather than cleanup activities.

The following obstacles are impeding the timely completion of this project:

- Decades of inadequate records management programs
- Insufficient staff/resources in BIA and OST offices to manage records
- Organizational resistance and conflicting organizational priorities
- Misconceptions about roles and definitions
- Interdependency of internal milestones and other Subprojects
- Difficulty recruiting experienced Records Management professionals
- Unexpected complexity of some tasks and the unknowns
- Apparent conflict between Tribal self-governance/self-determination and records standardization and centralization
- Incongruities between aspects of backlog and clean up, and longer-term reform of the records program
- Uninformed criticism

While a lot of progress has been made on the overall cleanup aspects of this project, OTR is finding that the major resource needed to successfully complete the project is time. The records management program had been in a shamble for decades. The true extent of the problem, as well as its complexity, was greatly underestimated. As work on the records cleanup is progressing, it has become obvious that some of the timelines associated with cleanup activities are unrealistic. Complete cleanup and the development and implementation of a new, coordinated Department-wide trust records program, will take more time.

In addition to time, many of the obstacles can be rectified by management support. Many of OTR’s efforts to improve conditions at the local level have been impeded by both employees and management at various levels within the organizations that OTR is here to support. For example, OTR is responsible for training trust-related program personnel. Accordingly, OTR puts together plans to train a certain number of BIA employees during a certain period of time, and provides records awareness briefings onsite or sponsors centralized training classes at locations throughout the country. Participation and attendance at the training by BIA employees, however, is optional and not mandatory. Another example includes the reluctance on the part of many program offices to send their inactive records—many of which are being stored in office space or

inadequate facilities—to the federal records centers. These offices believe that the solution to their records problems is to purchase more filing equipment, install sprinkler systems, or build fireproof vaults.

### **3. EDS' OBSERVATIONS**

#### **Current State**

Records evaluations have been done at the majority of field offices and the OTR is currently on schedule to complete all remaining evaluations by December 2001. Training has been done at all but one of the field offices, Approximately 2,172 persons have attended the OTR's half day "Records Awareness" training out of the 5,247 BIA and 400 OST Full Time Equivalents (FTE). The two-day Basic Records Training has been given to 551 field staff. Approximately 57,900 of a possible 80,000 boxes of BIA Federal Records and 31,000 of 37,500 of OST Federal Records and located at field offices are in various stages of the records lifecycle including: identification of documents as federal records, cleaning /restoring of records, inventorying and transferring to Federal Records Centers where they are properly stored.<sup>10</sup> As of last interview with the OTR, four of six sections of records had been scheduled and submitted to National Archives and Records Administration (NARA) for comments, two other sections have been drafted and submitted for internal comments within BIA/OST.

The OTR has not made as much progress with electronic records. Currently, the DOI CIO has put a moratorium in place halting the development of Electronic Records Management (ERM) systems, as part of Interior policy to coordinate future systems development. This causes all employees of BIA and OST to follow antiquated processes for the retention and storage of electronic records. Currently all staff of BIA and OST print all electronic records and file and store them as paper. This is not uncommon process throughout the federal government, however it is inefficient and in need of change.

The OTR has a staff providing coverage for records management and retention in many locations and in various areas of the records program. This staff is overburdened with the totality of the work required for records retention and running the Records Management Program. Currently within OTR there is a:

- Lack of project management for effective planning and measuring of progress.
- Limited effective communications and perception with the general BIA and OST field staff required to do records management on a daily basis.
- Lack of focus on institutionalizing records management into the daily work of all BIA and OST FTEs.

The objective of institutionalizing a unified records management program is currently being overshadowed by the efforts to fix the past records management problems.

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<sup>10</sup> "Records Management and Records Retention Subproject Report" Trust Systems and Projects Meeting, October 2-3, 2001.

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**Recommendation Summary**

Based on analysis completed using information collected during interviews with the OTR and industry standards in the area of record management, the following recommendations are suggested:

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- Elevate the creation and maintenance of an Ongoing Records Management Program to the forefront of OTR's responsibility. Project management disciplines, disaster recovery of vital records plan and continuation of the lifecycle database will assist in establishing and institutionalized Records Management Program.
- Elevate Priority of Electronic Records Issues. A process analysis, file plan, migration to an Electronic Records Management System and published policies and procedures will enable good electronic records management.
- Increase communications regarding Records Management. Creation of a communication plan and an outreach initiative will assist the records management staff in opening up dialogue and changing the perception of the field staff of BIA and OST.
- Expand Records Management resources. Resources need to be expanded to enable the completion of all records management obligations and bring in skills that are needed in areas of project management and communications.

**4. SUBPROJECT MANAGER'S COMMENTS ON EDS AND SPECIAL TRUSTEE OBSERVATIONS**

OTR generally agrees with the content of the EDS report and the recommendations.

**5. Assurance Statement**

I believe that the information provided by me in the Records Management Subproject Section is an objective and informative analysis of that subproject as of December 31, 2001. However, I did not provide the information in footnote 9. My belief is based on my personal knowledge, my review of certain documents, and my review of credible evidence and documents provided b me by my staff.

Date: January 16, 2002

*Signature on File*  
Debra J. Meisner

As to the footnote 9 in the Records Management Section, I concur with the content of the information set forth therein. The information is accurate to the best of my knowledge and belief

Date: January 16, 2002  
*Signature on File*  
James E. Cason, Associate Deputy Secretary

**F. TRUST MANAGEMENT STAFFING**

**1. WORKFORCE PLANNING**

**a. Summary**

In *Cobell v. Norton*, the court declared that the Trust Fund Management Reform Act requires the Department of the Interior to establish a written plan for the staffing of IIM trust management positions. Because DOI currently has no staffing plan as required, the Court declared that DOI is currently in breach of this trust duty owed to plaintiffs.

Workforce planning is a systematic process that provides managers with a framework for making personnel decisions based on an organization's mission, strategic plan, budgetary resources, and the associated skills needed to accomplish mission tasks now and in the future. It allows managers to anticipate change rather than being surprised by events, as well as providing strategic methods for addressing present and anticipated workforce issues including skills gaps and attrition. The workforce planning process must be linked to program, budget and strategic planning to be effective. Human resources are expensive. The Office of Management and Budget is emphasizing the link between dollars and personnel and asking agencies to accompany workforce requests with documentation tying the requests to overall staffing goals. Agencies are being asked to combine budget, program performance, and workforce priorities into a cohesive strategy that is presented in budget justifications.

**b. Subproject Manager's Observations**

A major step was accomplished by the issuance of Departmental policy governing the content and timeframe for development and submission of staffing and workforce plans. Personnel Bulletin No. 02-3, Workforce, Staffing, and Individual Development Planning for Trust Activities, was issued on October 31, 2001. It requires the development of staffing plans to address current vacancies and to project vacancies for FY 2003 and beyond. It also requires the submission of workforce plans that will address future workforce issues including management initiatives in outsourcing, layering, and EGov. Workforce plans will be developed by September 30, 2003, for FY 2004-2008 and updated annually thereafter. In addition, every employee with trust process responsibility must have an individual development plan by the end of the first quarter, FY 2003. Since there is some indication that not all appropriate management officials received a copy of this policy, a second distribution will be made.

As a transition instrument, Offices and Bureaus with trust responsibilities were requested to submit staffing plans for FY 2002. Plans were completed and forwarded to the Office of Personnel Policy by all organizations with the exception of the Office of the Special Trustee. The submissions were status reports listing current staff and vacancies although some included narratives that discussed related staffing problems such as turnover and lack of qualified applicants. The new Departmental policy requires future staffing plans to contain the following information: percentage of time spent on trust management work;

known or projected attrition (including retirements, resignations, transfers, etc.); detailed information on any intended use of retention incentives; if encumbered, the name of the incumbent; if vacant, the date the position became vacant; and a detailed plan for filling all vacant or projected vacant positions.

A Trust Management Workforce Planning Program Manager was hired on a permanent basis effective November 18, 2001. This position is assigned to the Office of Personnel Policy and will have workforce planning subproject lead responsibility.

The next critical steps are:

- Obtaining more accurate information on existing trust management workload. Until a satisfactory workforce-planning tool can be identified and obtained, we will collect this information using task analysis with a standard template that will be administered and reviewed by individual supervisors. The template will ask employees to track how much time they spend on trust processes and related support functions such as customer service. This undertaking will also assist Interior in assigning levels of security since employees with trust responsibilities must have higher levels of security. Ideally, Interior would staff this assignment with qualified management analysts who could review and update workload and workforce data on a regular basis. Those resources are not currently available.
- 
- Establishing a business model and business processes. Workforce plans will be developed in coordination with business models. Setting a strategic direction (using the Office of Personnel Management's Federal Workforce Planning Model as a guide) by conducting business process reengineering and reviewing organizational structure is the first step in successful workforce planning.
- 
- Tagging trust positions in the Federal Personnel and Payroll system (FPPS) to enable Interior to run standard reports that will capture data on encumbered positions. Unfortunately, FPPS cannot report on vacant positions. The restriction on use of the Internet is preventing further progress on this step.

Once the organization has been established and the business processes defined, work can begin on analyzing the workforce to identify competencies needed, skill gaps, and performance measures. This information will provide the basis for an action plan: What human resources do I have? What human resources do I need to have in order to meet the performance objectives of the organization? Once I have employees on board, how do I develop them? What strategies should we use to retain them?

Finally, we can begin to implement the action plan – targeting, recruiting, and conducting organizational assessments annually for outsourcing and delayering.

During the second quarter of FY 2002, we plan to go forward with workforce planning in all trust management organizations. OST and BIA will commence

workforce planning as part of the reorganization. Trust processes have been identified, and work will begin on developing competencies and associated gap analyses for mission critical jobs. Although Interior policy does not require submission of a formal workforce plan until FY 2003, starting with a smaller group of positions will enable us to develop and pilot processes and systems that we can then apply to the larger workforce.

While attempting to implement workforce planning in Interior as a whole and for trust processes specifically, the following issues will have to be addressed or overcome:

- Interior has no workforce planning software, including basic position management software or tools to track employee development. Even successful modification of the program developed by Booz - Allen and Hamilton, Inc., to assist in workforce planning would not provide a complete suite of tools with which to interface staffing, classification, training, and employee skills and competencies. We plan to review existing commercial off-the-shelf software during the next quarter and identify tools that will help bridge the current gap.
- 
- Given the remote locations and the lack of appropriate labor pools, the high vacancy rates in BIA and OST may not be sufficiently reduced by better staffing and workforce plans or the application of financial incentives such as retention allowances. All alternatives should receive serious consideration including outsourcing, but an increased emphasis on recruitment using a variety of tools including professional search services should also be pursued. The EDS Report recommended a recruiting process redesign effort and the establishment of a central recruiting resource. Recruitment is currently performed by human resource specialists with other responsibilities and no specialized skills in the type of outreach functions necessary in this situation.
- 
- Although a Trust Management Workforce Planning Program Manager has been selected, similarly dedicated and trained resources are needed in appropriate trust management organization offices to plan, develop, implement and administer workforce plans.
- 
- Supervisors and managers should receive basic training in workforce planning as part of their required training. If workforce planning is to become a true managerial tool, it must be a supervisory/managerial responsibility associated with budget and organizational reviews. The DOI University has already developed a course called "Workforce Planning: A Manager's Toolkit", which is currently presented in Albuquerque, New Mexico, only, but could be used on a much larger scale. DOI University just completed the first module of supervisory training for web delivery, and it is possible, once Internet service has been regained, to plan on inclusion of this class as well.

The full extent of the problems associated with high vacancy rates, inadequate staff, inadequate training, and poor or nonexistent business process analysis are probably not known, and it is likely to be quite difficult to solve all of these issues

satisfactorily even with greater resources devoted to planning, recruiting and training. However, once trust activities are clearly defined and positions identified, it should be possible to accurately describe the problem areas, which is the first step in workforce planning.

**c. EDS Observations**

**Current State**

Workforce planning is new to DOI. Currently there is not a consistent workforce planning process followed throughout the Department. Regional Directors and Superintendents have traditionally left staffing and workforce planning activities to Personnel Directors, as they have not seen it as part of their responsibilities. As there was no identified workforce planning policy to follow, or anyone requiring a regular workforce planning process be followed, very little in this area prior to October 2001 had been accomplished by either Regional or Personnel Directors.

Because of the court's requirement to develop a Trust Management staffing plan and recent DOI executive direction (Deputy Commissioner of Indian Affairs), the subproject's focus is on staffing plans and filling vacancies rather than overall workforce planning – workforce planning is currently a lower-level priority to filling the vacancies. This executive focus has trickled down to the regions and agencies, making Trust Management staffing a number one priority.

The focus on staffing appears to be well overdue. BIA has the highest vacancy rates for Trust Management positions, currently calculated at approximately 11.1% (per the Director, Office of Human Resources Policy, Office of the Assistant Secretary – Indian Affairs). However, these numbers have to be substantiated by the exercise currently underway to identify encumbered and vacant Trust positions. The objective is to reduce the vacancy rates to less than five percent.

The subproject has developed a Workforce Planning Guide and process, but as stated above, filling the vacancies has superseded implementing the process. It is not a question of whether or not the subproject has completed their work; it is a question of implementing their work throughout Trust Management organizations.

**Recommendation Summary**

The EDS team recommends that DOI develop organizational work plans focused on workforce planning, staffing, recruiting, and retirement forecasting. To accomplish this:

- DOI should establish a single organization to develop, coordinate, and lead Trust Management workforce planning and training efforts. Putting both disciplines under one leader will allow coordination and integration between the two subprojects. Workforce Planning should not be considered a project but a permanent entity. Staff making up the Workforce Planning team should not have other job responsibilities.

- The workforce planning methodology that has been developed and documented by the subproject needs to be institutionalized throughout the Indian Trust organization – managers and supervisors need to be educated/trained and then held accountable to these standards. This will result in better forecasting of resource needs, better planning for filling those needs, and ultimately lower vacancy rates.
- Once the positions needed are identified, a new approach to filling vacancies should be developed including options such as outsourcing and seasonal employment, as well as a stronger emphasis on local recruiting.
- To strengthen recruiting efforts, a recruiting process redesign effort should be undertaken and a central recruiting resource needs to be put in place. Without redesigning the processes to address some of the issues associated with recruiting qualified applicants, the expected retirement bubble will make the staffing situation worse.
- The laws on Indian preference, specifically those involving merit promotions, should be examined. The DOI should investigate ways to offer career path opportunities for both Indian and non-Indian employees.
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**d. Subproject Manager's Comments**

EDS' comments appear to be accurate, although the Department has issued detailed workforce planning policy in the interim. Interior, like most other Federal agencies, has not undertaken workforce or staffing planning in the past and has few trained resources to devote to the effort. Most managers are also apprehensive about the process.

The organizational changes EDS recommends would function well if the trust processes are realigned into one entity. However, if the processes remain in separate Bureaus, resources should be established within the Bureaus to address recruiting, training, and workforce planning since these areas require great familiarity with the specific environment and cannot be done well operationally from a centralized office. Departmental level recruiting, training, or workforce planning staff would provide more useful assistance as an overall resource.

To address the problems with shortages of applicants and high vacancy rates, Interior should focus increased resources (staff and money) on recruitment efforts.



**e. Assurance Statement**

I concur with the content of the information contained in Sections a, b, c, and d of this subproject manager report, set forth above. The information in those sections is accurate to the best of my knowledge.

Date: January 16, 2002

*Signature on File*

Elizabeth Orman Shuff

Trust Management Workforce Planning Program Manager

**2. TRAINING**

**a. Summary Description**

The lack of adequate training of those persons who manage Indian trust assets has been cited in numerous Office of Inspector General and General Accounting reports and has been identified as a significant obstacle to the more effective management of and accountability for the proper discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians for whom the Department holds or controls trust assets. The Secretary has a continuing responsibility to provide adequate staffing, supervision, and training for trust fund management and accounting (25 U.S.C. 162 a(d)(7)). Training, coupled with intelligent supervision and productive experience, is essential to the successful management of any operation.

The objective of the training subproject is to support the systems implementation and specialized skills training for the overall trust reform effort in order to increase the job performance and interorganizational effectiveness of Departmental and Tribal personnel who manage Indian Trust assets on behalf of the Secretary.

**b. Subproject Manager's Observations**

Heretofore, the Training section of the Quarterly Reports to the Court reported on training associated with the TAAMS and TFAS subprojects, as well as the Trust Foundations courses developed and offered under the guidance of OST. The Training section for this Eighth Report to the Court will be limited to reporting on that training for which OST is directly responsible. Some of the subprojects in addition to TAAMS and TFAS have conducted or will conduct training suitable to the function addressed by those subprojects. Therefore, a training section will be added to those subproject reports where required. The Special Trustee, in his oversight role, will continue to monitor the adequacy and appropriateness of all the training being provided, or to be provided, to support trust reform and trust asset management in the future.

**Trust Foundations**

During the period August 1, 2001, to December 31, 2001, Upper Mohawk, Inc., the contractor that has been retained to assist in the development of and to conduct classes in basic trust concepts, completed course content and created course materials for the single 3-day Trust Foundations: An Introduction to Trust Reform and Change course. This training will be offered on an ongoing basis starting on January 7, 2002.

The purpose of this non-technical training is to provide trust system personnel at every level with an increased understanding of the Government's and the Department's fiduciary responsibilities with respect to those Indian assets held in trust for particular tribes and individuals. This training is designed to give the entire fiduciary staff that understanding by introducing them to general concepts of fiduciary conduct and productive organization interaction. It sets forth the

proposition that each person engaged in any manner in the Indian trust asset management process is part of a large fiduciary team, that each job is important to the successful operation of that process, that the trustee is required to make reasonable decisions based on fiduciary principles, that such decisions are dependent on full and accurate information, maintained in a useful system of records, that such information can only be produced by the use of productive communication, and objective management skills and that those Departmental habits that frustrate the use of those skills must be changed in order to better serve the interests of the trust's beneficiaries. The objective of this training is to support a trust asset management system that operates as an organic whole.

This 3-day course was developed after the successful introduction of Trust Foundations I, a 2-day course, which was to be followed several months later by a 3-day Trust Foundations II course. After pilot projects indicated that a single 3-day course was more suitable, the present 3-day course was created. The remaining task, therefore, is to offer a 1-day course to the approximately 1500 employees who took Trust Foundations I. That supplemental training was begun during the August 1 to December 31 periods. It is expected that the other half of the population to be trained will have the 3-day course during 2002.

A broad range of trust asset management training, to include systems, nonsystems, and particular skills training, must continue if the reform of the trust management process is to be successful over the long term. Therefore, an essential reform element will demand the creation and maintenance of suitable training requirements for all persons within the control of the Department who manage or administer Indian trust assets. A permanent commitment to training must be institutionalized.

The Trust Foundations training program has not experienced any serious shortfalls or failures in this reporting period. The majority of those people who have taken Trust Foundations I have given it very favorable reviews.

A major objective of the Trust Foundations training program is to change or at least modify the Departmental corporate culture with respect to the discharge of the Secretary's trust responsibilities. The obstacles to achieving that goal are the widely-held beliefs of many senior managers that trust reform is not warranted, that the traditional fiduciary principles drawn from common law are inappropriate to the Indian trust relationship, and that all that is needed is increased funding to better support the existing management system.

Trusts Foundations training would benefit from a better developed monitoring system, a person with knowledge of traditional fiduciary conduct and the current trust management process used within the Department.

Training is an ongoing statutory obligation of the Department. The Training subproject will terminate with the successful implementation of trust reform. It will be replaced by a commitment of the Department to comply, in a productive way, with the requirements of 25 U.S.C. 162 a(d)(7).

**c. EDS Observation**

**Current State**

The HLIP definition and scope of the Training Subproject differs from the direction of the current subproject leadership. Despite the needs analysis and the proposed training curriculum and plan, the subproject's effort has been scaled back to cover one non-systems training course – Trust Foundations: An Introduction to Trust Reform and Change. This was the only course implemented from the 1999 contractor-training plan. As a result of this sole focus on the Trust Foundations course, there is not a central, designated training group or facility coordinating trust-related training. In addition, there is no comprehensive Trust Management training plan in place. Other trust-related training courses exist and have been conducted (e.g., Probate) – but are developed independently of the subproject. This makes it difficult to identify and manage all trust-related training courses that are available to DOI Trust employees.

Interviewees told EDS that there is not enough money for training, not enough trainers, and a lack of a consistent approach to trust training throughout the Trust Management organizations. Very little job specific training is provided centrally, almost all training today is done on-the-job, one-on-one, and this is not sufficient nor does it ensure consistent practices across DOI.

Initial system training for TFAS has been completed and TAAMS training is under development; however, system training such as these are not coordinated or monitored by the Training subproject. System training is viewed as the responsibility of the system subproject (e.g., TAAMS).

**Recommendation Summary**

EDS recommends that DOI designate one training organization responsible for the coordination of all trust-related training, system and non-system, and develop a school of Trust Management. Delivery of the curriculum will be provided by DOI University. This will be accomplished by:

- A renewed focus and priority set on training and a corresponding increase in the training budget is necessary. Trust staff are often recruited with little to no experience in the Trust Management functions they will support, and then are required to conduct complex transactions.
- Another review of the Trust Foundations: An Introduction to Reform and Change should be undertaken. A major revamp in the design, content, and approach to educating staff on Trust Principles is needed. Also, advanced training in trust management is needed to continue to develop more experienced employees.
- Incorporate business processes into any system implementation undertaken in the future. Without the business process context, users will be lost when they are asked to begin integrating a new system into their work procedures.

**Subproject Managers Comment**

The EDS Recommendations should be given serious consideration for the design of the ultimate commitment to training as required by the Reform Act. I do not believe a major revamp in the design, content and approach of Trust Foundations: An Introduction to Trust Reform and Change is warranted at the present time since its initial class was held on January 7, 2002. This training will be reviewed on a continuing basis to identify weaknesses. Training of an advanced nature will be identified in the future. It may be recommended that the most senior managers be required to attend the trust courses offered by the American Bankers Association. Training, systems, nonsystems, and technical training, is an integral part of trust reform. Trust Foundations training is a first, general and introductory course. Job or task-specific training will follow and be developed in consultation with those knowledgeable in the area. Systems training can only be successful once the particular system is actually designed.

**d. Assurance Statement**

I believe that the information provided by me in section VI. F. 2. Training is an objective analysis of that subproject as of December 31, 2001. My belief is based on my knowledge and review of credible evidence.

January 11, 2002

*Signature on File*  
Richard V. Fitzgerald

**G. TRUST POLICIES AND PROCEDURES**

**1. Summary:**

Proper management of Indian trust assets has been hampered by a lack of comprehensive, consistent, up-to-date regulations, policies, and procedures covering the entire trust cycle, from managing resources that produce trust income to accounting for and reporting on income to trust beneficiaries. This has resulted in program gaps and divergent practices both within and across bureaus and offices that are responsible for various aspects of the management of Indian trust assets. Moreover, numerous laws and regulations remain on the books that reflect the paternalism of earlier federal policies and fail to recognize the appropriate role of tribal governments in managing tribal affairs.

The goals of this subproject are to –

- Interpret the principles that guide the Department's trust operations;
- Work with appropriate program offices to systematically identify and update regulations to ensure that the official policies comport with the trust principles;
- Work with appropriate program offices to develop or revise program manuals and handbooks so that internal guidance and operational procedures reflect current policies and technologies;
- Propose changes in legislation to modernize Indian trust statutes; and
- Assist trust management offices on an ongoing basis to identify and rectify problems in their policies and procedures.

The subproject was moved to the BIA in 1999 after a Departmental decision to focus primarily on updating BIA regulations and related authorities. These authorities and programs relate primarily to the Secretary's trust responsibilities, as provided in the Trust Reform Act, to "appropriately manag[e] the natural resources within the boundaries of Indian reservations and trust lands." See 25 U.S.C. 162a(d)(8).

As described below and in previous Quarterly Reports, the subproject has addressed broader Department-wide policies and procedures, as well as specific programs in other bureaus and offices, while it continues to work intensively with BIA trust management programs and offices. The subproject either drives the revision or development efforts directly or provides assistance and trust principle oversight to the bureau or program office undertaking the effort.

**2. Subproject Manager's Observations**

**Steps Completed During Reporting Period:**

**Note:** The items identified below are grouped generally in the categories of work addressed by the subproject: regulatory revisions, statutory revisions, and internal guidance (such as handbooks, manuals, etc.)

**Regulatory Revisions:**

**43 CFR 4 - Office of Hearings and Appeals (OHA) Probate Regulations**

On December 31, 2001, OHA published a final rule in the Federal Register, Trust Management Reform: Probate of Indian Trust Estates (Vol. 66 Fed. Reg. 67652), to take effect on January 30, 2002. The revisions make OHA's probate regulations consistent with those published by the Bureau of Indian Affairs in 2001 and accommodate BIA's re-assumption of responsibility for some probate cases. OHA's updated rule ensures that BIA and OHA apply the same standards and criteria for determining heirs and paying claims, and that the two organizations coordinate procedures to expedite the probate process.

**Statutory Revisions**

**25 U.S.C. 372 and 373:** The TPP subproject and the Probate subproject developed language that would amend these statutory provisions: To clarify the authority of the Secretary to provide an opportunity for a hearing for intestate succession of a trust estate; to pay creditors' claims out of trust estates for both testate and intestate succession; and to exempt trust estates from any priority of a claim of the United States against the decedent under the Debt Collection Act. This language was submitted to the BIA Congressional and Legislative Affairs staff in October 2001 for inclusion in a future proposal to the Senate Indian Affairs Committee for technical corrections to enacted laws.

**Progress on Remaining Uncompleted Steps**

**DOI Cross-Cutting Issues**

During the reporting period the subproject worked with the Office of Policy Analysis (PPA) to distribute the final report, entitled "Cross-Departmental Review of Programs and Functions that Affect Indian Trust Matters" (completed on July 31, 2001, reported in the *Seventh Quarterly Report*), to each of the affected Departmental bureaus and offices for their comments. The Special Trustee offered no specific comments on the report, but requested that further consideration of the recommendations contained in the report be postponed pending completion of the EDS report. PPA received comments from the Office of American Indian Trust, the Bureau of Reclamation, the National Park Service, Minerals Management Service, United States Geological Survey, the Office of Surface Mining, the Fish and Wildlife Service and the Office of the Solicitor. Comments ranged from agreement with the contents of the report to requests for substantive revisions. The TPP Subproject continues to work with PPA and OST to determine appropriate next steps for this initiative. As the review is finalized and priorities are identified, TPP will work with the relevant Bureau, office or program to coordinate, plan and complete the necessary work.

**Regulatory Revisions:**

**Minerals Management Service**

MMS has completed its internal review of the proposed rule on the valuation of oil produced from leases on Indian trust lands. At the end of the reporting period, the Office of the Solicitor was reviewing the rule. MMS expects to publish the proposed rule during the next reporting period.

**Bureau of Indian Affairs**

**Note on the timetable for BIA regulatory revisions:** As reported in the *Sixth Quarterly Report*, in April 2001, BIA submitted a report to Departmental executive management that identified and scheduled for review and revision more than 60 separate instances where new regulations are needed or where existing regulations should be repealed or revised (BIA April 2001 Report). BIA will adjust the schedule, as necessary, based on the availability of staff and budgetary resources and to reflect changed policy goals and priorities. An example of changing priorities is that as a result of the President's goal to increase domestic energy supplies, BIA has begun work on revising several energy-related regulations earlier than initially planned. Specific schedules for completing the regulations will be established for each initiative as policy priorities and goals are finally established, the scope of each initiative is assayed, and budgetary and staff resources are identified.

**25 CFR 2 – Appeals from Administrative Action --** In this reporting period, BIA initiated tribal consultation through a September 7, 2001, letter to all tribal leaders. Between October 16<sup>th</sup> and October 24<sup>th</sup>, BIA held six tribal consultation sessions in Miami, FL, Minneapolis, MN, Oklahoma City, OK, Phoenix, AZ, Portland, OR, and Rapid City, SD. The deadline for tribes to submit written comments was November 30, 2001. At the end of the reporting period, the draft regulations were being revised to reflect the items raised during the consultation sessions and the results of a review by the Office of Hearings and Appeals.

**25 CFR 183 – Use and Distribution of the San Carlos Apache Tribe Development Trust Fund and San Carlos Apache Tribe Lease Fund --** In April 2001, BIA issued an interim rule with a request for comments that established criteria for the use of two trust funds established pursuant to the *San Carlos Apache Tribe Water Settlement Act*, Pub. L. 102-575. The deadline for submission of public comments on the interim rule was June 26, 2001. As no comments were received, the BIA has determined that it will not need to revise the April rule.

**25 CFR 161 – Navajo Partitioned Lands Grazing Permits --** Following consultations between the Assistant Secretary – Indian Affairs and the Navajo Nation, TPP staff and the Solicitor's Office reviewed this pending rule, which was published in the Federal Register as a proposed rule in 1995. TPP staff met with the Navajo Nation Grazing Committee in December 2001 to discuss how to best proceed with this rule. As a result of that meeting, the Navajo Nation Grazing Committee has opted to seek tribal approval for significant revisions to the proposed rule, and will continue to work with TPP staff to finalize the regulation as quickly as possible.



**25 CFR 162 Subparts C and D – Residential Leases and Business Leases**

In commenting on the BIA's proposed regulations to update Part 162, which addresses all leasing on Indian lands, several tribes stressed that business, agricultural and residential leases are substantially different from one another and should be treated as such in the regulations. Additionally, statutory changes affecting non-agricultural leases were enacted after the close of the comment period. BIA therefore published final regulations in January 2001 governing only agricultural leases and agreed to develop new regulations for residential and business leases. During the reporting period TPP formed a work group for each subpart, composed of BIA and Solicitor's Office staff and tribal representatives. The work groups met in November 2001, identified general scope of the regulations and developed a preliminary schedule for completing the regulations by mid-2003.

**25 CFR 162.500 – Crow Reservation; 25 CFR 162.503 – San Xavier and Salt River Pima-Maricopa Reservations** --TPP subproject staff consulted the BIA Rocky Mountain and Western Regions on the need to update these regulations. With respect to the Crow Reservation, TPP and Solicitor's Office staff are reviewing the tribal - specific leasing laws against the provisions of the American Indian Agriculture Resource Management Act to identify any potential conflicts that may require regulatory revision. The statutory review should be completed during the next quarter, after which a schedule for completing this initiative will be established. For the San Xavier and Salt River Pima-Maricopa Reservations, TPP subproject and Western Regional Office staff drafted revisions to this subsection and the Regional Office met and consulted with the tribes in September. Based on tribal consultation, BIA is revising the draft. The revised proposal will be sent to the two affected tribes for further review during the next quarter. A schedule for completion of this regulatory provision will be developed following the tribal review.

**25 CFR 124 – Deposits of Proceeds of Lands Withdrawn for Native Selection under the Alaska Native Claims Settlement Act** -- TPP subproject staff continued to work with OTFM to establish an appropriate schedule for updating this regulation to move it from the BIA chapter of Title 25 CFR to the Office of the Special Trustee chapter. Changes are also needed to identify the Office of Trust Funds Management rather than the Division of Accounting Management, BIA, as the responsible office.

**Energy Initiatives** -- In response to the Administration's goal of increasing domestic supplies of energy, the BIA established an Energy Planning Group, which held an Indian Energy Summit in December 2001 in Denver, Colorado. In connection with the Summit, the subproject staff reviewed the following draft revised regulations for consideration for expedited review:

- Part 212 – Leasing of Allotted Lands for Mineral Development;
- Part 213 – Leasing of Restricted Lands of Members of Five Civilized Tribes, Oklahoma, for Mining; and
- Part 216 – Surface Exploration, Mining, and Reclamation

During this reporting period, subproject staff began working with appropriate program offices to coordinate and plan work on these regulations.

**Repeal of Outdated Regulations** -- BIA is proceeding with an initiative to repeal a number of trust-related regulations because all activities associated with the particular authorizing statute and its implementing regulations have been completed (i.e., the regulation is obsolete) or because the regulations do not comport with current Federal Indian policy:

- Part 112 – Pro Rata Shares of Tribal Funds
- Part 116 – Trusts for the Five Civilized Tribes
- Part 121 – Osage Judgment Funds
- Part 123 – Alaska Native Fund
- Part 125 – Payment of Sioux Benefits
- Part 154 – Osage Roll, Certificate of Competency
- Part 156 – Reallotment of Lands to Unallotted Children
- Part 178 – Resale of Lands within the Badlands Air Force Range
- Part 243 – Reindeer in Alaska

TPP subproject staff prepared the draft repeal package based on tribal comments received during the previous quarter, as reported in the *Seventh Quarterly Report*, and Solicitor's Office review. At the end of the reporting period the regulatory package was in the formal Departmental surname/signature process prior to submission to the *Federal Register*.

### **Internal Program Guidance**

**Note:** The BIA April 2001 Report identified almost 70 trust-related manuals and/or handbooks within BIA that need to be written or revised. In all but a few cases, under the current management structure, BIA program staff is responsible for this work and the TPP subproject staff monitor progress and provide a trust management review.

**Interagency Handbook** - Under the direction of senior BIA and OTFM staff, TPP subproject staff and the Solicitor's Office continued work on the Interagency Handbook, addressing a number of comments submitted as part of the final review process. The Handbook is based on the existing organizational structure of BIA and OTFM/OST and will be needed for day-to-day operations even when the proposed reorganization is implemented. The handbook is expected to be issued during the first quarter of 2002.

**Financial Conflicts of Interest** - The 1994 amendments to the Ethics in Government Act amended Title 18 U.S.C. (Crimes and Criminal Procedures) in Chapter 11 (Bribery, Graft, and Conflicts of Interest) by including within "acts affecting a personal financial interest" those activities that affect the financial interests of the Indian tribe in which the employee or the employee's spouse is a member. In November 2001, TPP subproject staff wrote a briefing paper for BIA senior management, drafted a manual chapter that would establish policy guidance in this area, and met with senior BIA management, the Department's Deputy Assistant Secretary for Human Resources, and the Department's Ethics Office. In the next reporting period, the Deputy Assistant Secretary will request a

Solicitor's Office opinion on the appropriate applications of these statutory provisions within the Department.

**Supervised Individual Indian Money Accounts (IIM): Distribution Plans-** Staff from the TPP subproject, BIA, OTFM, and the Solicitor's office developed a new form and instructions that will be used to record distribution plans for supervised IIM accounts. Under 25 CFR 115, approved distribution plans identify how funds in a supervised account may be disbursed for the benefit of the account holder. The BIA Office of Tribal Services initiated training on the new guidance and will disseminate the updated guidance through an Indian Affairs Manual release.

**Delegations of Authority / Organizational Series - Departmental Manual --** TPP subproject staff wrote delegations of authority and organizational provisions to update the Departmental Manual. The sections pertain to the Assistant Secretary – Indian Affairs, the Deputy Assistant Secretaries – Indian Affairs, the Deputy Commissioner of Indian Affairs, and the Director, Office of Indian Education Programs. At the end of the reporting period, senior BIA management was reviewing these documents. The Manual provisions are based on the existing organizational structure of BIA. In light of the proposed reorganization of Indian trust functions, finalization of the delegations is to be determined.

**Inter-Tribal Monitoring Association Fall Meeting --** The TPP subproject manager attended and participated in the Fall meeting of the Inter-Tribal Monitoring Association and discussed current and future plans for the subproject.

**Self-Governance Compacts and Self-Determination Contracts --** The TPP staff continued to meet regularly with officials of BIA's Self-Governance Office and "638" Contracting Office to discuss trust reform initiatives and necessary provisions for compacts and contracts. The provisions to be addressed in such instruments include the use of DOI trust systems and system security requirements.

**Steps Remaining to Completion of Project:**

While the subproject has completed most of the milestones established in the HLIP, it is clear that the work of the subproject has just begun. Completion of the initial steps has assisted the Department, and in particular OST and BIA, to gain the first insights and understanding of what specific further steps are needed. As an example, with the exception of the Interagency Handbook currently being completed, BIA does not maintain a formal process for preparing and publishing manuals, handbooks or similar internal guidance for day-to-day trust operations. Moreover, in its response to the Cross-Departmental Review, OST indicated that no revisions to any policies or procedures were necessary, in marked contrast to BIA's extensive inventory. Along with other responses to the Cross-Departmental Review, it is clear, consistent with the EDS recommendations, that there is not yet sufficient Departmental recognition at the program levels of the importance of maintaining current, accurate internal trust policies and procedures, or assigning the necessary staff to address the deficiencies in this area.

Looking beyond the immense inventory of BIA regulatory and programmatic guidance that must be updated, at this point the next most important step remaining to be completed is following up on the Cross-Departmental Review of Trust Policies, through which the subproject and DOI management will gain insight into the breadth of the Department-wide coordination that must occur with respect to trust policies and procedures. As this important step is completed, along with reorganization of the trust reform and trust management efforts, further steps will be identified along with a structure for overseeing and managing this complex task.

The effort to address statutory revisions initially established a planned completion date of December 31, 2002. That date no longer appears realistic. In the annotated version of the United States Code, the portion of Indian law that is codified spans four volumes and there are hundreds of Indian statutes that are not codified. As reported in the *Sixth Quarterly Report*, in the BIA's April 2001 Report, TPP subproject staff identified 180 provisions in Title 25 of the United States Code that should be repealed or amended. This initial review, however, was essentially limited to the most antiquated of the laws still on the books. Further progress in this area necessarily must be planned and executed as specific priorities are identified.

**Shortfalls, Failures and Obstacles to Progress:**

Other than routine and expectable bureaucratic delays (such as in final clearance of the OHA probate regulation), no specific shortfalls or failures were noted during the reporting period. However, the subproject's ability to address the immense scope of work facing it is directly related to budgetary and staffing resources available to it, and to organizational issues, as discussed below.

**Staffing:** Work on this subproject has been hampered due to the fact that the subproject manager has also been serving as Acting Director of the BIA Trust Management Improvement Project (TMIP) office since February 2001, and the senior subproject staff member is frequently assigned to act for the Acting TMIP Director when he is on travel or leave. In addition, another experienced staff member was detailed part-time to another BIA office and was on extended leave for several months. The subproject manager and two staff employees are serving under term appointments that will expire in 2002. A decision regarding future staffing must be made in consultation with Departmental officials in conjunction with review of the EDS report on management of trust reform efforts.

**Organizational Structure:** A major impediment to expeditious progress is the lack of an effective regulatory affairs or trust policy review/development structure in the BIA. As noted above, the structural issue of the subproject having to essentially perform the policy/procedure development function for BIA while also attempting to oversee and manage the function across all trust related programs and offices is the single greatest obstacle. This is addressed to some extent by the EDS report.

Further, it became evident in this reporting period that there is a lack of coordination between the limited BIA regulatory affairs staff and the TPP subproject. Outside of the TPP subproject office and associated staff in the

Department's Office of Regulatory Affairs (funded by TPP under an interagency agreement), the only staff in BIA devoted to regulatory affairs is an Information Collections Officer and another employee who certifies copies for the Federal Register publication and maintains regulatory files. As an example of the lack of coordination, the BIA submission to the Department for the Semi-Annual Regulatory Agenda included 23 pending or planned regulations that affect trust functions. The TPP subproject office had prepared twelve of the submissions, while staff from various headquarters and regional offices had submitted the other 11. None of these other submissions was provided to TPP for review prior to being forwarded to the Department. The TPP subproject will take steps to improve coordination by requesting that all BIA submissions regarding trust-related regulatory scheduling be circulated to TPP for review and surname.

**Legal Review:** The Office of the Solicitor has provided attorneys with subject matter expertise to serve on the TPP work groups in drafting regulations. While the pro-active involvement of the program attorneys has been extremely helpful, because of extremely limited budget and human resources in the Solicitor's Office, exacerbated by the drain of legal staff to the Cobell litigation, legal review of draft regulations, statutes and handbooks is very time-consuming. For example, the initial review of a draft to repeal outdated regulations took more than two months. Since each regulation generally goes to the Solicitor's Office at least three times before it becomes final, the time encompassed by the legal review has a significant impact on the subproject schedule.

**Budget:** In May 2001, the TPP subproject sent the Special Trustee a revised budget for FY 2002 that was based on the work identified in the BIA April 2001 Report. The bulk of the additional funds requested would support tribal consultation meetings and local BIA workgroups. While the Special Trustee never directly responded to this request, the funding limitations that have been imposed for the first half of the current fiscal year severely restrict the ability of the subproject to provide support for BIA Regional/Agency Offices and Regional Solicitor's Offices in the development of revised regulations.

**Proposed Reorganization:** The uncertainty surrounding implementation of the Secretary's proposal to establish a Bureau of Indian Trust Assets Management may have a greater impact on this subproject than any of the others. First, the ability to develop or revise Bureau-wide trust regulations is extremely difficult given the national attention focused on the proposed reorganization and recent litigation developments. For example, for its December 2001 convention in Spokane, Washington, the National Congress of American Indians initially scheduled a discussion of trust policies and procedures, to which the subproject manager was invited to speak to discuss current and future project plans. The planned session was cancelled and the time was used to discuss the proposed reorganization.

Many of the structural obstacles will be addressed through the restructuring of the subproject in accordance with the EDS recommendations. Additional funds and staff will be necessary as specific projects pick up speed after executive decisions are made on the EDS "roadmap" and trust management reorganization proposal. The amount of additional funds and staff will need to be specifically determined according to the nature of the work to be scheduled.

As noted above, the full extent of problems facing this subproject will not be known until the completion of the Cross-Departmental Review, which necessarily must follow strategic executive decisions on the EDS "roadmap" and the Secretary's proposed reorganization of Indian trust functions.

**Training:** As noted above, BIA initiated training in coordination with TPP on supervised IIM account distribution plans. Additionally, subproject staff provided input into the course materials and attended the BIA Indian Land Consolidation Act (ILCA) training sponsored by the Western Region and the Office of Trust Responsibility. The provisions of the ILCA are integral to the subproject's ongoing development of regulations pertaining to probate and leasing and permitting on Indian lands.

### **3. EDS Observations**

#### **Current State**

An important first step was taken by the subproject that developed overarching Trust Principles to better define Trust reform. Activities of the subproject (for the past two years) have been based on these Trust Principles and progress has been made. Due to the length of time required and lack of resources available for procedure development, there are many regulations yet to be written that are required to carry out Trust Management responsibilities. In 2002, the subproject intends to return to three areas it was unable to complete in 2000/2001. These regulations include Leasing (business and residential leases), Probate (work that was not completed in FY 2001), and Supervised Accounts.

Trust-related policy and procedure development is disjointed and uncoordinated across all bureaus and offices providing Trust Management functions. The subproject has had very little coordination with trust-related organizations outside of BIA that are also developing policies and procedures. The current focus of the subproject is primarily on BIA policies and procedures. As part of the HLIP, the subproject undertook an examination of cross-cutting issues and problems related to Trust Management programs across the Department. The HLIP did not define who was to correct these issues and problems and no actions have been taken on the results.

The current BIA/OST organizational structure does not promote the implementation of, or adherence to, policies and procedures. Since the inception of OST, roles and responsibilities between BIA and OST have not been clearly defined, causing conflict. An Interagency Handbook is in the process of being developed to address these areas of conflict, but it has taken over a year to develop and is not yet in place. The HLIP does not discuss the Handbook, but the subproject has been directly involved in its development.

Many old out-of-date regulations still remain as part of the 25 CFR (Code of Federal Regulations), as well as out-dated manuals and handbooks. This causes confusion in the field in the use of the old ones versus using the new ones replacing them. The subproject has identified this area as a priority for 2002.

### **Recommendation Summary**

EDS recommends DOI manage all Trust related policies, procedures, and regulation development through one organization within the proposed Indian Trust organization. Actions required to support this recommendation include:

- Bring all policy and procedure development and coordination into one organization that is responsible for all Trust Management practices.
- Provide oversight of policy and procedure development and implementation through a central governing body to ensure compliance with OCC directives. Manage compliance with policies and procedures by developing a measurement system.
- Appoint an effective, permanent leader over the organization to provide leadership and direction to all Trust related policy and procedure development. Provide this leader with a small team of people to support development of policies and procedures and the removal of outdated regulations.
- Redesign processes used to develop, as well as those for updating policies and procedures.
- Complete the Interagency Handbook to better define the roles and responsibilities between the current BIA/OST organizations.

4. **Special Trustee's Observations.** *The following is an extract from the Special Trustee's observations, which pertains to Trust Policies and Procedures. The Special Trustee's observations are included in complete form in Section III of this report. Care should be taken to read the entire observations and not to take this specific comment below out of context with the overall Special Trustee observations.*

#### *Policies and Procedures*

The Special Trustee agrees with the subproject manager that the executive responsibility for trust-related policies and procedures should be relocated from the BIA to the new proposed trust organization and provided the authority to promulgate such policies and procedures as necessary across the activities of the Department.

5. **Subproject Manager's Comments**

#### **Comments on EDS Report**

As a general matter, EDS has offered sound observations and recommendations. But with the scope of the new trust management organization as yet undefined, EDS should examine actual Departmental capabilities to achieve the recommended synthesis of trust policies and procedures across the Department. For example, much concentrated attention will have to be paid to how precisely to give the Director of Policy and Procedures sufficient authority to reach across bureau lines. This is something not easily accomplished in DOI's decentralized organizational structure.

Additionally, EDS's vision for the Directorate of Policy and Procedures would have the office responsible for actually developing and writing regulations and other policy/procedure documents. The experience of this subproject to date demonstrates both the extreme difficulty of such centralization, due primarily to the lack of subject matter expertise and line authority, and the advantage of gaining the buy-in of program staff when they are made responsible for their own policy development. Thus, EDS should examine the lack of a permanent organization *within* both the BIA and the OST to staff the development of appropriate regulations, policies, and procedures for trust management functions. EDS focuses exclusively on the larger coordinative body under the Director of Policy and Procedures and ignores the historic – and likely future -- lack of funding and staffing in BIA (and likely in other agencies) to achieve these important goals. BIA and OST have no functioning regulatory affairs office outside of the TPP staff. This function must be expanded and institutionalized in BIA, OST, and any interim or other trust management organization that comes into existence.

EDS' proposal to place responsibility for implementation of policies and procedures under the Director of Policy and Procedures likely is unworkable. Implementation inherently involves day-to-day operations under the direction of program and/or field offices, functions that are entirely qualitatively different from policy formulation and development. The responsibility for adherence to established policies and procedures is properly placed with the operational managers with line authority. Compliance reviews should be accomplished by the Internal Controls staff and through the annual certifications required under the Federal Managers Financial Integrity Act and related authorities. EDS acknowledges that performance measurement should be coordinated through the Performance Measures and Reporting Center it has recommended. This is the right idea, but the function should be entirely within this center. To also place it under the Director of Policy and Procedures appears to be duplicative. Additionally, the sheer size of the staff that would be necessary to monitor and enforce compliance would create an unwieldy organization that does not fit well together. Finally, it is not at all clear *how* the Director of Policy and Procedures would be able to enforce compliance.

The Subproject Manager has no comments on the Special Trustee's observations.

**6. Assurance Statement**

I concur with the content of the information in Sections 1, 2, and 5 of the Subproject manager's report for Trust Policies and Procedures. The information in those sections is accurate to the best of my knowledge.

Date January 15, 2002

*Signature on File*  
Arthur E. Gary  
Subproject Manager



**H. RISK MANAGEMENT / INTERNAL CONTROLS**

**1. SUMMARY DESCRIPTION**

For decades, Tribes and individual Indians voiced concerns over the Department's management of trust assets and accountability for their trust funds. Several oversight groups, both public and private, have confirmed the Indian's concerns and repeatedly reported internal control and management deficiencies in the Trust Asset Management Program.

The trust principles specified in Secretarial Order 3215 require the Department as trustee to provide oversight and review of the performance of the Secretary's trust asset and investment management programs, operational systems, and information systems. In August 2000 the Special Trustee, issued a policy statement addressing this principle. The policy statement further addressed the fiduciary decision processes and any other risk management assessments deemed necessary to maintain the integrity of the overall performance of the Department's trust responsibilities.

This subproject 's objectives are to (1) systematically address and resolve internal control deficiencies and (2) design and implement a comprehensive Risk Management Program, including extensive internal and management controls to monitor and evaluate the effectiveness of the Department's Trust Asset Management Program. Preliminary work addressing these objectives was ongoing when the above cited trust principles and policies were issued. Pursuant to these, the Risk Management Program plan was issued and in September 2000 and in December 2000, the Risk Management Handbook to provide overall guidance for developing a comprehensive risk assessment and internal control program was issued to all Departmental entities involved in Trust Asset Management activities.

**2. SUBPROJECT MANAGER'S OBSERVATIONS**

153 primary offices have been identified for surveys to determine the extent to which they have or need to develop formal internal control programs. These offices were selected because they were directly involved in performing key trust asset management functions such as realty, leasing, revenue collection and trust fund disbursements. The surveys and coordination visits were designed to identify specifically what programs were the responsibility of these offices and to what extent they had implemented and were practicing internal control programs. To date 71 of those locations have been visited - -16 were conducted this reporting period. The majority of the offices visited were BIA regions and agencies. Other visits were to MMS, BLM, and OST offices.

MMS is developing its risk management program and the OST's Office of Trust Funds Management began implementing its program in FY 2002.

Analyses of the results of the visits to BIA field locations disclosed that effective control or risk programs did not exist. Therefore, additional visits have been de-emphasized and will be replaced with the development of pilot risk management and control programs in a BIA region that operates many of the major trust

revenue programs. Risk management and internal control awareness training for managers, supervisors, and employees will precede the pilot program. When the pilot is successfully completed, the control programs developed will be used to create and implement risk assessment and internal control packages in similar programs (forestry, grazing, etc.) in other BIA locations. This should reduce the total time for program implementation, which is a concern of ours and was confirmed by EDS in its recent report.

Minor tasks planned in the original subproject, analyzing the adequacy of control features designed into TAAMS and the new MMS system, were deferred because the systems had not been implemented. That MMS system work is now scheduled FY2002. Work will be scheduled for TAAMS when future system decisions are completed.

The internal control concepts embodied in the Risk Management Program parallels the practices followed by many corporations, particularly trust and financial organizations, in the private sector. However, it is more detailed and formal than the Department's previously implemented management control programs. The formality of the program has created some reluctance to accept and endorse the process. Interest in and acceptance of the process is improving as evidenced by some offices taking the initiative to develop new programs in accordance with the Handbook.

The greatest impediments to this program have been budget resources and hiring staff. Attempts to employ staff with realty and trust management backgrounds have been only moderately successful. Additional pools of candidates will be identified and pursued. Authorized budget resources, both positions and funds, have been less than requested. Substantial increases have been recommended for FY 2003, but the final budget has not been submitted to Congress.

### **3. EDS OBSERVATIONS**

#### **Current State**

The HLIP identifies two key objectives for the Internal Controls subproject - systematically resolving internal control deficiencies, and designing and implementing an overall Risk Management Program. Efforts to meet the second objective have been substantial. However, internal control deficiencies remain, in some cases years after being identified in audit reports. However, OTRM has decided to concentrate most of its efforts on development of the Risk Management program. The resolution of control deficiencies is being left to the successful completion of other Trust Reform efforts. The OTRM staff indicated significant internal control deficiencies continue because some of these other Trust Reform projects are lagging behind schedule.

There are attempts to address critical internal control problems that have received fast track resolution. For example efforts related to Cash Management and Cadastral Surveys are two key areas where there is work toward resolution

The subproject has made steady progress toward accomplishing the first piece of the risk objective—designing an overall risk management program. However, implementation of the program has not progressed significantly and is likely to take a substantial amount of time to rollout. The program as envisioned is extensive, requiring a substantial investment in time and resources to train affected staff and build necessary risk management plans at the 250-300 field locations.

Coordination with overall Trust policies and procedures appears to have been accorded limited effort to date. Interviews revealed that the interaction between those responsible for policy and the OTRM has been limited, but renewed efforts have been undertaken in the past several months to increase inter-project coordination and communication.

Currently, OTRM is conducting an assessment of the state of internal controls for approximately 250 field offices. This effort is planned for completion by the end of calendar year 2001. After the assessment has been completed, OTRM will embark on the process of training appropriate staff in the field offices and assisting in developing individual risk management plans. At present, OTRM estimates that the rollout effort will require four to five years to complete.

OTRM staff indicated during interviews that 55 field surveys of the approximately 150 priority locations have been completed. In these field surveys, no effective internal control programs were identified. During the interviews, OTRM staff also indicated that they are taking steps to accelerate implementation of the Risk Management Program. A pilot project has been initiated for a BIA field activity that operated many of the major Trust Asset Management Programs. The pilot will include the development of Risk Management Programs for all Trust asset management activities operated in the region. Once developed, OTRM will use the lessons learned from the pilot to create plans for similar programs across the country, thereby reducing anticipated implementation timeframes.

### **Recommendation Summary**

The following recommendations are made to enhance the current Internal Controls subproject:

OTRM should continue with its current Risk Management Program and accelerate the implementation schedule. The Risk Management Program is key to the methodology to prevent Internal control Issues in the future.

OTRM should immediately initiate an extensive redesign effort aimed at identifying and addressing high priority internal control deficiencies. This recommendation is designed to “jumpstart” the Risk Management Program. And will help to fill the gap between the current situation and the point in the future where the Risk Management Program begins to pay dividends.

**4. SUBPROJECT MANAGER'S COMMENTS ON EDS OBSERVATIONS**

We generally agree with the EDS portrayal of the status of this subproject. It recognizes the same impediments, resource shortages and length of time to realize benefits of program implementation, which we believe have impacted to subproject progress.

We also agree with the first recommendation. While we do not necessarily disagree with the second, we do have a philosophical difference. OST decided early in this process that it did not have the resources or time to resolve or fix existing control weaknesses. We decided instead to ensure that trust reform initiatives in place or planned were sufficient to, upon completion, cure the deficiencies. We then planned to concentrate our resources on developing a long-term program that when implemented would prevent reoccurrence of the deficiencies.

We are again reviewing certain of the existing internal control deficiencies and considering strategies and resource requirements in the event the Department decides to implement EDS's second recommendation.

**5. ASSURANCE STATEMENT**

The Information contained in this subproject report for Risk Management and Internal Controls is, to the best of my knowledge and belief, a true and complete summarization of the information provided to me relating the results of data gathered to date. It was objectively developed and key subordinates and I have reviewed it in a manner and to an extent sufficient for me to concur with its contents.

Date: January 14, 2002

*Signature on File*  
Kenneth M. Moyers  
Subproject Manager