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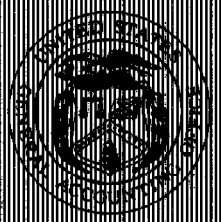
Focused Leadership and Comprehensive Planning Can Improve Interior's Management of Indian Trust Funds



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Accounting and Information
Management Division

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September 22, 1994

The Honorable Mike Synar
Chairman, Subcommittee on Environment,
Energy, and Natural Resources
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

In April 1992, the House Committee on Government Operations concluded its investigation of the management of the Indian trust funds and published its report.[1] The report expressed concern over the limited progress that the Bureau of Indian Affairs (BIA) and, in some cases, the Bureau of Land Management (BLM) and the Minerals Management Service (MMS) had made in resolving persistent trust fund management problems.

Because the Department of the Interior, which oversees these agencies, had not taken action on recommendations in the Committee's report, in March 1993, you asked us to identify options for improving Indian trust fund management, including ways to address related problems in managing fractionated ownerships and natural resource assets. In response to your request, this report (1) provides an update on continuing trust fund management problems, (2) assesses ongoing BIA, BLM, and MMS efforts to correct some of those problems, (3) discusses several options that Interior could consider to make further needed improvements, and (4) identifies major obstacles to trust fund management improvements.

Results in Brief

Interior's Indian trust fund management problems are long-standing and permeate all facets of the trust fund management business cycle. They include (1) the lack of accurate, up-to-date information on ownerships to ensure that revenue is distributed to the correct account and the increasing workload associated with fractionated ownerships, (2) inadequate management of natural resource assets to ensure that all earned revenues are collected, (3) weaknesses in trust fund management systems and internal controls and policies and procedures that do not ensure the accuracy of trust fund balances, and (4) the failure to consistently and prudently invest trust funds and pay interest to account holders.

[1]Misplaced Trust: The Bureau of Indian Affairs' Mismanagement of the Indian Trust Fund (House Report 102-499, April 22, 1992).

Interior has management and systems initiatives planned or under way which, if implemented effectively, could help to improve services to tribes and Indians and also help to improve ownership, resource management, and accounting systems. However, many of the initiatives are in the early stages and a number of them will not be completed for several years. Further, the Secretary's 6-Point Trust Funds and Trust Asset Management Reform Plan, issued in June 1994, does not provide the comprehensive approach needed to address the full range of trust fund and asset management problems that Interior continues to face.

We identified several options that could help Interior make additional improvements in managing the Indian trust funds. These include (1) providing additional resources to eliminate backlogs in land title and beneficial ownership determinations and recordkeeping, (2) obtaining state-of-the-art natural resource asset management systems and services and providing training and assistance to tribes who wish to assume responsibility for managing their natural resources under self-determination initiatives, (3) obtaining reliable trust fund accounting systems and contracting for banking services to ensure that accounts are properly maintained, reports are timely and reliable, and account holders receive comprehensive trust account statements, and (4) contracting for investment advisors and a custodian to settle trades, safeguard securities and track investments, and also consider establishing an index investment fund option for tribes.

A sustained commitment will be needed to carry through on needed improvements. In the past, Interior has not demonstrated the leadership or management commitment needed and many previous corrective action efforts have failed outright or resulted in only incremental improvements. Interior must comprehensively examine its mission and the way it does business to determine how and by whom Indian trust funds can best be managed. It also must develop a comprehensive strategic plan to address the full range of problems needing corrective action, as we recommended in our June 1992 report.[2]

Background

As trustee for tribes and Indians, the Secretary of the Interior is responsible for maintaining official Indian land title and beneficial ownership records and managing natural resource assets, funds, and investments to maximize, within the authority of the law, the benefits to

[2]Financial Management: BIA Has Made Limited Progress in Reconciling Trust Accounts and Developing a Strategic Plan (GAO/AIMD-92-38, June 18, 1992).

the trust holders. BIA performs a number of activities related to these functions. BIA's Office of Trust Responsibilities (OTR) is responsible for determining and certifying Indian land titles and ownerships and maintaining official ownership records. OTR also manages along with BIA's Agency Offices all Indian forestry, agriculture, and mineral leasing activities.

BIA's Office of Trust Funds Management (OTFM) is responsible for ensuring proper control and accountability over each trust account. OTFM maintains tribal and general ledger accounts, reconciles account and system balances, and prepares reports for management and account holders. OTFM also invests trust fund balances in Treasury securities or their derivatives, certificates of deposit at federally insured financial institutions, and Treasury overnight deposits.

BIA's 12 Area Offices and 85 Agency Offices, which are located on or near reservations, support OTR and OTFM by (1) preparing documentation, such as wills and death certificates, to execute conveyances of ownership and providing this documentation to administrative law judges for probate decisions, (2) conducting all preleasing activities, such as valuing resources to determine bidding prices, advertising the bids, and negotiating leases and land use agreements, and (3) collecting and accounting for revenues derived from natural resource assets.

BLM and MMS have responsibility for Indian natural resource assets. BLM inspects and enforces the terms of Indian mineral leases and agreements. MMS collects Indian royalties, monitors payments and production, and performs compliance audits.

In May 1991, BIA undertook, for the first time, an effort to reconcile the Indian trust fund accounts. The objective of this reconciliation project was to identify, to the extent practical, correct account balances for tribal and individual Indian accounts by using source documents to reconstruct trust account transactions to give account holders as accurate an accounting as possible.

In March 1992, BIA decided not to proceed with reconciliations of Individual Indian Money (IIM) accounts, based on its contractor's report that reconciliations of these accounts were not feasible due to the lack of supporting documentation and the level of effort and associated cost to review millions of transaction documents. In January 1993, BIA created a Work Group to study IIM account reconciliation alternatives. By the end of

March 1994, the IIM Work Group had developed alternatives and policy questions for presentation to Interior and BIA management. The Work Group plans to obtain IIM account holder input as a basis for selecting IIM reconciliation approaches or alternatives.

BIA also decided to reconcile tribal accounts for the 20-year period from 1992 back to 1973 and is performing reconciliations between its various trust fund accounting systems and between its general ledger system and Treasury balances.

Our June 1992 report[3] identified a number of trust fund management weaknesses and stated that BIA had not developed a truly comprehensive plan for improving trust fund management. We also stated that BIA's plans had not addressed fundamental problems in BIA's trust accounting operation (such as continued fractionated ownership interests), which have resulted in the need to maintain an increasing number of trust fund accounts, and the need for improvements in MMS' Indian oil and gas royalty accounting systems. We recommended that BIA assess OTFM's mission and comprehensively review the entire trust fund operation, including those trust-related activities outside the control and responsibility of OTFM and BIA, in order to determine how and by whom Indian trust funds can best be managed.

At the end of fiscal year 1993, BIA reported that Indian trust fund balances totaled $2.1 billion, including $1.7 billion for 1,800 tribes and $390 million for nearly 337,000 IIM accounts. Fiscal year 1993 reported receipts totaled $870 million and disbursements totaled over $562 million. The balances in the trust fund accounts have accumulated primarily from payments of claims; oil, gas, and coal royalties; land use agreements; and investment income. (Appendix I contains additional background.)

Scope and Methodology

We identified Interior's trust fund management business functions, including ownership determinations and recordkeeping, natural resource asset management, accounting, and investment functions performed by BIA, BLM, and MMS. We surveyed federal entities that perform related functions and judgmentally selected 12 private sector trust systems and service providers and 6 natural resource management companies to determine the capabilities of these entities to provide systems support or services related to trust management functions performed by BLM, MMS,

[3]See footnote 2.

and BIA. In addition, we met with 15 tribes and Indian groups to obtain their views.

We conducted our review from April 1993 through August 1994 in accordance with generally accepted government auditing standards. We performed our review at the Interior Department, BIA headquarters, and BIA's Office of Trust Responsibilities in Washington, D.C.; BIA's Office of Trust Funds Management in Albuquerque, New Mexico, and various BIA field locations; BLM's headquarters in Washington, D.C., and its Enforcement and Inspection Offices in five states; and MMS' headquarters in Washington, D.C., and its Royalty Management Program Office in Lakewood, Colorado. (Appendix II provides details of our scope and methodology.)

In accordance with your wishes, we did not obtain agency comments on a draft of this report. However, at the end of our field work, we discussed the results of our work with Interior, BIA, BLM, and MMS officials and have incorporated their views where appropriate.

Trust Ownership, Asset, and Fund Management Problems Requiring Corrective Action

Interior has numerous, long-standing trust fund financial management problems.[4] These include (1) serious backlogs in land title ownership determinations and recordkeeping, (2) BIA's inadequate management of Indian land and resources, BLM's failure to adequately inspect and enforce Indian leases and ensure that mineral production reports are accurate, and MMS' failure to adequately enforce regulations governing Indian mineral royalty payments, (3) serious weaknesses in BIA's Indian trust fund accounting and MMS' inability to ensure that royalty payments are accurate, and (4) BIA's inconsistent investment of trust funds and its limited investment program. While BIA, BLM, and MMS have initiatives under way to address many of these problems, progress has been slow and much remains to be done. The following discussion highlights major weaknesses in each of Interior's trust fund management business functions.

Title and Ownership Recordkeeping Backlogs

In 1988, OTR undertook an effort to eliminate the backlog of unrecorded title documents held in BIA's Agency Offices. However, since 1989, funding for the Land Title Records Program has not kept pace with increasing workloads and new backlogs have resulted.

[4]Related GAO products that discuss these problems and other related issues are listed at the end of this report.

For example, our analysis of staff hours expended and remaining backlogs at four of the five Land Title Records Offices (LTROs)[5] showed that BIA would need to double its current resources for up to 2 years to eliminate the backlogs in land title and beneficial ownership determinations and certifications and the backlog in documents to be recorded in the Land Records Information System (LRIS).

While our analysis did not include the Land Title Service Centers, OTR officials said that their data show that backlogs are as great at some Service Centers. OTR officials said that while they recognize the need to supplement current staff until LRIS improvements are implemented, they lack the resources to do so.

In addition, according to OTR officials, Agency Office staff do not always forward requests for ownership changes to probate courts because they believe that the information would become obsolete before being officially recorded due to the extensive probate court and BIA backlogs. We did not identify the number of unsubmitted change requests; however, OTR officials told us that additional workload associated with these changes could be significant. OTR officials also said that although Agency Office staff do not always request ownership changes due to large backlogs, they sometimes record the preliminary information on ownership changes in BIA's trust fund accounting system. However, without administrative review and final determination and certification of ownerships, there is no assurance that the ownership information in BIA's accounting system is accurate.

Problems in Natural Resource Asset Management

BIA, BLM, and MMS have not adequately managed Indian natural resource assets (which are vital to Indian economic development) to ensure that maximum revenue is generated for tribal and individual Indian trust beneficiaries. For example, one tribe told us that in the past, some of their land was destroyed due to poor BIA land management. Another tribe told us that BIA's Billings Area Office had a backlog of about 300 appraisals, which are needed to support lease negotiations, at the end of August 1994. The tribe also told us that BIA has done some appraisals without visiting the land and that this has adversely impacted the tribe's ability to get a fair price on their leases.

[5]BIA maintains LTROs at 5 of its 12 Area Offices, including Aberdeen, which services the Aberdeen and Minneapolis areas; Albuquerque, which services the Albuquerque, Navajo, and Phoenix areas; Billings, which services the Billings area; and Portland, which services the Portland area. In addition, there are 4 Land Title Service Centers in the Eastern, Juneau, Muskogee, and Sacramento Area Offices.

In addition, GAO and Interior Office of Inspector General (OIG) reports have disclosed weaknesses in BIA's forest management. In March 1991, we reported[6] that BIA's 1977 data on backlogs[7] in forest development needs were incomplete, imprecise, and out-of-date. In March 1992, Interior's OIG reported[8] that due to inadequate BIA management of timber harvests and sales, a number of tribes and Indian allottees had lost potential income of $143 million and potential timber growth valued at $5 million to $8 million from 1980 to 1991. The OIG also reported increases in new forest development backlogs.

Another tribe told us that BLM has not inspected many of its leases because BLM has only two inspectors to cover a large geographical area in that state. Tribes are also concerned that MMS has not adequately enforced regulations to ensure that maximum revenues are collected. For example, tribes claim that MMS has not consistently enforced penalties and interest for improper reporting or late payments.

Further, BIA, BLM, and MMS do not have adequate systems to manage natural resources and to ensure that payments are proper. For example, existing BIA, BLM, and MMS lease inspection, production, and payment systems information is not integrated and the full range of management information on a lease or well is not readily available.

While mineral revenues and energy development are vital to Indian social and economic development, many Indian resource owners do not have the technology to explore and replace resources. In addition, very few tribes have the training or expertise necessary to assume inspection and enforcement responsibility from BLM or royalty collection, accounting, and compliance audit responsibility from MMS. BIA and BLM lack the necessary resources to manage Indian leases and to respond to many tribal requests for training and technical and financial assistance.

Trust Fund Accounting Problems

BIA continues to have serious trust fund accounting, control, and system weaknesses. BIA initiated actions during 1994 to provide increased staffing, an interim trust accounting system, and investment expertise for OTFM. In addition, BIA has recently undertaken plans to replace BIA's trust fund

[6]Indian Programs: Use of Forest Development Funds Should Be Based on Current Priorities (GAO/RCED-91-53, March 7, 1991).

[7]In 1977, BIA identified a backlog of about 1 million acres in needed forest development. By the end of fiscal year 1989, BIA reported that it had reduced the identified backlogs by about half.

[8]Selected Forestry Operations, Bureau of Indian Affairs (Report No. 92-I-670, March 31, 1992).

subsidiary and IIM accounting system. However, BIA has not yet addressed improper accounting practices by its field office staff or their failure to maintain leases and other contractual documents to support billing and collections functions and trust fund account reconciliations.

As we stated in April 1994 testimony,[9] BIA lacks consistent, written trust fund management policies and procedures. In addition, field staff in BIA's 12 Area Offices and 85 Agency Offices (who perform most detailed trust fund accounting functions) lack adequate financial management training and supervision. As a result, field staff follow different, and often improper, accounting practices. For example, BIA's field offices follow different procedures to post receipts and calculate and distribute revenue to account holders. Some lease income distributions are accounted for as transfers, while others are posted as collections. This distorts transaction activity data and account balances and hinders reconciliation efforts.

In addition, BIA's field staff, who perform trust fund accounting, report to their respective office heads (who are not trained financial managers) rather than the OTFM Director. No one office or individual manager is accountable for BIA's trust fund accounting operations. This lack of accountability creates numerous opportunities for accounting errors and is a major control weakness.

BIA's field offices have not maintained copies of leases and other beneficial ownership records to support the billing and collection of revenues and ensure distribution of revenue to the correct account. BIA's efforts to reconcile tribal trust fund accounts have shown that many lease documents are not available. For example, under BIA's ongoing trust fund reconciliation project, 28 percent of the lease documents could not be found for one of the five tribes participating in pilot reconciliations of their trust fund accounts. Without these documents, BIA cannot ensure that all earned revenues have been billed and collected or support reconciliations of these data to the trust fund general ledger. In addition, ownership and lease information in BIA's subsidiary and IIM accounting system (which is used to distribute income to trust fund account holders) has never been validated to ensure that revenues are posted to the correct account. Finally, MMS' systems do not provide adequate assurance that all earned mineral revenues are collected.

[9]Financial Management: Status of BIA's Efforts to Reconcile Indian Trust Fund Accounts and Implement Management Improvements (GAO/T-AIMD-94-99, April 12, 1994).

Trust Fund Investment Problems

BIA has not always consistently and prudently invested trust funds and paid interest to account holders. For example, in the past, BIA invested trust funds in excess of insurance ceilings at federally insured financial institutions that subsequently failed. In addition, tribes have stated that BIA's trust fund investment program does not provide them with the opportunity to maximize the return on their investments because trust fund investments are currently limited to government securities or insured or collateralized accounts.

Management Improvement Initiatives Under Way

Interior has acknowledged the range of problems discussed above and has management improvement initiatives under way in BIA, BLM, and MMS to address some of these problems. These initiatives include (1) land records system improvements and efforts to reduce fractionated ownerships, (2) development and enhancement of natural resource asset management systems, (3) establishment of field offices to provide assistance to tribes and Indians allottees (lessors), and (4) contracting for an interim core trust accounting and investment system until a comprehensive system plan is developed.

However, progress has been slow. Many of the initiatives are in the early stages and a number of them will not be completed for several years. In the past, Interior has not always demonstrated the management commitment to ensure that sustained actions needed to correct its serious, long-standing weaknesses are completed.

Land Records Information System Improvements

The ever-increasing number of fractionated ownerships, which result from inheritances, continues to increase BIA's title and lease ownership recordkeeping and trust fund accounting workloads. In 1992, BIA created a Land Records Management Work Group to plan land records system improvements. In January 1993, BIA's OTR began developing enhancements for LRIS. According to OTR officials, these systems improvements will provide for automated chain-of-title information and electronic certification of ownerships, which should help BIA to eliminate backlogs and maintain more accurate, up-to-date land title and beneficial ownership information. OTR officials said that when these improvements are fully implemented, BIA will be able to handle changes in ownerships without significant overtime, additional resources, or contractor services. However, because the system enhancements are not targeted for full implementation until the year 2000, BIA needs to take interim action, such as shifting existing resources, hiring temporary employees, or contracting

for services, to ensure that ownership information is accurate and up-to-date.

Reducing Fractionated Ownerships

In 1992, BIA created an Heirship Task Force to identify effective ways of handling fractionated ownerships. The Heirship Task Force plans to obtain comments from tribes and Indian allottees in the fall of 1994 and BIA plans to propose legislation to reduce fractionation in January 1995.

In addition, the First Nations Development Institute[10] has made several recommendations to BIA that called for systems improvements; meaningful reports on accounting for land and lease revenues; staffing to ensure accurate, up-to-date land records; and BIA policy directives and legislation to reduce fractionation.

Natural Resource Asset Management Improvements

Interior has a number of initiatives under way at BIA, BLM, and MMS to help tribes and Indian allottees manage their natural resources. These initiatives are directed at increasing technical assistance and services to tribes and Indian allottees and improving resource management systems.

In 1992, MMS began implementing system modules to help ensure greater accuracy in Indian royalty payments. Also, in 1992, BLM and MMS began establishing Indian field offices to improve services to tribes and Indian allottees. While some of these Indian field offices appear to be working well, others are not functioning as intended. For example, the Four Corners Office, in Farmington, New Mexico, is intended to be a central location where tribes can get complete information on their land and minerals management, royalty collection and compliance audits, and royalty receipts deposited in their trust fund accounts. However, this office is not yet functioning as the seamless organization that Interior envisions, largely because although BIA, BLM, and MMS staff are co-located they are not yet fully coordinating their work.

In 1993, MMS began efforts, with tribal study group participation, to streamline regulations and reporting. Tribal representatives told us that they had difficulty reaching agreement with MMS on proposed draft changes in gas valuation regulations and that they continue to be concerned about whether and how MMS will use their input in drafting

[10]The First Nations Development Institute is a national Indian economic advocacy group created in 1979 to enhance tribal services and operations by using small-scale economic and enterprise development techniques.

proposed changes to regulations on allowances.[11] MMS officials said the difficulty in reaching agreement on proposed changes to regulations involves balancing the need to maximize revenues to Indians under Interior's trust responsibility with the need to be fair to industry.

Finally, Interior has a number of efforts under way to improve BIA, BLM, and MMS natural resource management systems, including efforts to develop (1) a BIA National Indian Oil and Gas Evaluation and Management System to help tribes perform production verification, (2) a BLM Automated Fluid Minerals Management System to record a complete history of well and inspection activity, and (3) an enhanced MMS Production Accounting and Auditing System and client-server technology to facilitate user access to MMS' data. However, while Interior officials said that these systems are to be interdependent, the details of their relationships have not yet been fully worked out.

Trust Fund Accounting Initiatives

OTFM is in the process of implementing some staffing and systems initiatives to improve trust fund management. On April 4, 1994, Interior approved OTFM's staffing and organization plan. This plan was supported by the results of a workload and staffing analysis that we recommended in our June 1992 report. Under the plan, OTFM will increase its staff by 43 positions to a total of 107 positions. OTFM is in the process of filling an initial 20 positions by September 30, 1994, and plans to fill the remaining 23 positions during fiscal year 1995.

In December 1993, we briefed Interior officials on the preliminary results of our review. We stated that commercially available trust accounting systems could meet OTFM's accounting needs. In March 1994, Interior approved an OTFM proposal to contract for an interim trust fund accounting and investment system. OTFM officials told us that they expect to award a contract in September 1994. The core system will replace OTFM's general ledger and investment systems but will not address OTFM's subsidiary and IIM accounting system needs.

During the summer of 1994, BIA initiated an IIM system planning effort. OTR and OTFM are participating in the effort to determine an approach for trust fund subsidiary and IIM accounting. The plan, which is to be completed in the summer of 1995, is to address how the IIM system will link to ownership information in OTR's LRIS. BIA officials said that an additional

[11]Allowances are deductions that companies may take for certain costs, such as transportation expenses to a point of sale or delivery off the lease.

1-1/2 to 2 years would be needed to develop a system once the plan is completed.

Until BIA corrects its field office accounting problems and obtains a reliable subsidiary and IIM accounting system, it cannot ensure that (1) all earned revenues are collected, (2) revenues are posted to the correct accounts, and (3) trust fund account balances are accurate. Timely implementation of a subsidiary and IIM system will be an important step toward providing these assurances.

Trust Fund Investment Initiatives

Our December 1993 briefing to Interior officials also covered options to improve trust fund investments by contracting for services. In March 1994, Interior approved BIA's initiatives to contract for investment advisors and a custodian for OTFM to address account holder concerns about BIA's ability to maximize returns on investment of trust fund balances. Interior's June 1994 6-Point Reform Plan called for OTFM to contract for these services by June 30, 1995.

However, in August 1994, Interior officials stated that they had determined that trust fund investments could be better handled under a single investment fund option managed by Treasury. This option would be a government securities investment fund, similar to the Thrift Savings Plan G Fund, which provides for investment of federal employees' retirement contributions in government securities. Under this option, Interior officials said that OTFM would not need to contract for investment advisors and a custodian. However, Interior and Treasury officials have not reached a final decision on this option.

Improvement Options

In addition to Interior's management initiatives, we identified several options that could help improve Interior's trust fund business management functions. While a few of these options exist in the federal sector, private sector systems and services provide a wide range of possible options to improve Indian land title and beneficial ownership determinations and recordkeeping, natural resource asset management, trust fund accounting, and investment. Functions being performed under Indian self-determination initiatives provide useful examples of trust management responsibilities that tribes can assume.

Title and Ownership and Recordkeeping Options

To identify possible land title and beneficial ownership determination and recordkeeping improvement options, we judgmentally selected and

contacted two private sector companies that perform title ownership and mapping services. These companies use automated land ownership and mapping features that greatly facilitate timely and accurate services. We believe that BIA could benefit from exploring private sector innovations as part of its continued efforts to enhance OTR's land title and records and geographic data systems. As stated earlier, we also believe that it is important for BIA to take interim action to eliminate backlogs in land title and beneficial ownership determinations and recordkeeping until systems improvements are fully implemented. Appendix III presents a detailed description of land title and beneficial ownership determination and recordkeeping improvement options.

Natural Resource Asset Management Options

While no single private sector entity performs the full range of natural resource management functions currently performed by Interior, we identified several existing management services and systems related to specific resources, such as oil and gas, coal, and timber, that could provide Interior with opportunities to improve its current management of this function. These include private sector market analysis and management systems and services. In addition, the Department of Agriculture's Soil Conservation Service provides services, such as engineering and planning, to Interior agencies and tribes. Interior could explore these and other possible opportunities for expanded soil conservation services. Also, Agriculture's Forest Service and the Department of Energy, which coordinate with Interior to project timber harvests and value energy resources, offer additional opportunities which Interior could explore. Further, natural resource asset management efforts by several tribes under self-determination initiatives indicate increasing tribal capabilities in this area. Appendix IV describes natural resource asset management improvement options in greater detail.

Trust Fund Accounting Improvement Options

We found that most federal entities or agencies did not have the systems capability to handle BIA's trust fund accounting and investments. Further, although the Secretary can contract for assistance in managing the trust funds, the Secretary's trust fund accounting and related financial management functions (particularly the exercise of judgment and decision-making) are a fiduciary responsibility that cannot be transferred to another party or delegated to a contractor. Therefore, we focused on improvements that could be accomplished by contracting for systems or services, making in-house operational improvements, or making greater

use of Indian self-determination initiatives. Potential opportunities that we identified include the following:

- Obtaining Reliable Systems. We do not believe that either upgrading BIA's current accounting systems or developing an in-house trust accounting system is the best option for obtaining reliable systems. Systems modifications already implemented have not addressed the fundamental need for an integrated trust fund accounting system. We believe that developing an in-house system is not feasible given the cost of such an effort, the time required, the lack of in-house trust systems and information resource management expertise, and continuing changes in systems technology and software.

  While we did not identify any federal systems capable of meeting BIA's trust fund accounting and investment systems needs, a number of representatives at banks, brokerage firms, and systems and software companies told us that their systems could handle BIA's trust fund accounting needs. As stated earlier, BIA plans to contract for an interim trust accounting system in September 1994 and has initiated planning efforts for a subsidiary and IIM trust accounting system. BIA could also consider contracting for a subsidiary and IIM accounting system.

- Contracting for Banking Services. Maintaining trust fund cash balances in a bank or other financial institution could help BIA to provide its account holders with comprehensive trust account statements, automatic interest accruals, and reporting of taxable interest earnings to the Internal Revenue Service. If BIA decides to maintain Indian trust funds in financial institutions, it would need to provide instructions, in accordance with its fiduciary responsibility, to the financial institutions on how the accounts are to be managed. OTFM officials told us that they are considering this option.

  Appendix V presents trust fund accounting improvement options in greater detail.

Trust Fund Investment Improvement Options

Tribes have called for expanded trust fund investment opportunities. Pending trust fund legislation would provide for demonstration programs to allow tribes and Indians to direct the investment of their trust funds or to withdraw their funds and manage their own investments.

With regard to tribally directed investments of trust funds, Interior and BIA could consider providing tribes with a variety of additional options. For example, BIA could consider seeking legislative authority to establish investment fund options for the Indian trust funds modeled after the federal employees' Thrift Savings Plan's investment fund options. In addition, under proposed legislation, tribes would have the opportunity to direct their trust fund investments in a manner that they consider to be more responsive to their financial needs.

Further, investment services are available in the private sector and in the Indian community to assist tribes who wish to withdraw their funds and assume responsibility for investing their own money. Appendix V presents investment options in greater detail.

Major Obstacles to Achieving Reliable Trust Fund and Asset Management

Interior has not demonstrated the leadership or the management commitment to ensure that corrective actions for many long-standing problems were effectively implemented. In addition, Interior continues to lack a comprehensive strategic plan for effectively carrying out the Secretary's trust responsibilities. These two long-standing obstacles continue to impede achievement of needed improvements.

Lack of Focused Leadership and Management Commitment

Interior does not have a single manager or office with overall responsibility for Indian trust programs. Such an office could provide high-level, focused leadership for trust responsibilities being carried out by BIA, BLM, and MMS. In addition, Interior managers have lacked the commitment to sustain action for needed improvements, as evidenced by Interior's numerous, long-standing uncorrected weaknesses in managing Indian trust ownerships, natural resource assets, trust fund accounting, and investments.

Pending trust fund reform legislation (H.R. 4833) would establish an Office of Special Trustee in the Department of the Interior, who would be responsible for

- preparing, in consultation with tribes and appropriate Indian organizations, a comprehensive strategic plan for all phases of the trust management business cycle to ensure proper and efficient discharge of the Secretary's trust responsibilities to tribes and individual Indians;
- providing oversight of all reform efforts within BIA, BLM, and MMS relating to the Secretary's trust responsibilities; and

- coordinating the development of policies, procedures, practices, and systems of BIA, BLM, and MMS related to the discharge of the Secretary's trust responsibilities.

The Special Trustee is to have expertise in managing large governmental or business entities and particular knowledge of trust fund management, management of financial institutions, and the investment of large sums of money. Currently, this type of expertise is not available in-house.

Establishing an Office of Special Trustee could provide the necessary leadership and organizational framework to help ensure that trust management improvement initiatives are effectively coordinated and implemented and that they achieve their intended objectives.

Lack of a Comprehensive Strategic Plan

A key responsibility of the Special Trustee would be to develop a comprehensive strategic plan for all phases of the trust management business cycle, including title and ownership determinations and recordkeeping; natural resource asset management; and collecting, accounting for, and investing trust fund revenues. In our June 1992 report[12] and in numerous testimonies, we emphasized the need for such a plan. We stated that Interior needed to reevaluate key program objectives and rethink the basic concept underlying trust fund management, including the Secretary's fiduciary responsibility and the wishes of tribes and Indians under self-determination initiatives.

However, Interior continues to develop piecemeal management improvement plans that do not provide the comprehensive approach to correcting fundamental problems in the way Interior agencies carry out their trust fund management business functions. While the Secretary's recent 6-Point Trust Fund and Asset Management Reform Plan enumerated certain important initiatives already planned or under way in BIA, BLM, and MMS, it does not provide the comprehensive approach needed to resolve the full range of Interior's trust fund management problems.

To develop a comprehensive strategic plan, Interior, BIA, BLM, and MMS managers would first need to analyze the Secretary's overall trust fund management mission. Second, the managers would need to identify all the activities needed to fulfill this mission. This would help to identify any critical activities that are not being performed, other activities that may be unnecessary, and any current problems in performing necessary activities

[12]See footnote 2.

Third, managers would need to identify available, internal and external improvement options, and the feasibility of each, as a means of developing a comprehensive strategy for corrective action. Finally, Interior, BIA, BLM, and MMS would need to establish priorities and milestone dates for completing corrective actions and also assign responsibility and hold managers accountable for completing improvement actions. A department-level official with trust business expertise could help to avoid development of inappropriate or incomplete strategies and fulfill the Secretary's trust responsibility.

Conclusions

For many years, Interior has been unable to correct many serious trust fund financial management weaknesses, including (1) backlogs in land title and beneficial ownership determinations and recordkeeping, (2) inadequate management of natural resource assets to ensure that all earned revenues derived from natural resources are collected, (3) improper accounting practices, and (4) limited trust fund investment options. In addition to recent management initiatives to implement many needed improvements, additional options would more fully address trust fund management problems. Further, more focused leadership, management commitment, and a comprehensive strategic plan would help Interior to effectively address all of its trust fund management responsibilities.

Recommendations

We recommend that the Congress enact proposed trust fund management reform legislation to establish an Office of Special Trustee in the Department of the Interior. This office would help to ensure the proper discharge of the Secretary's trust responsibilities by (1) developing a comprehensive strategic plan for all phases of the Indian trust management business cycle, (2) overseeing reform efforts within BIA, BLM, and MMS, and (3) coordinating the development of BIA, BLM, and MMS policies, procedures, systems, and practices.

We recommend that the Secretary of the Interior direct the Assistant Secretary for Indian Affairs and the Assistant Secretary for Lands and Minerals to fully explore the range of options available in the federal and private sectors to provide input to Interior's comprehensive strategic plan for Indian trust business management.

We also recommend that the Secretary direct the Assistant Secretary for Indian Affairs to take immediate action to

- eliminate title and ownership determination and recordkeeping backlogs by shifting existing resources, hiring temporary employees, or contracting for services;
- correct field office trust fund accounting weaknesses;
- ensure timely action to replace BIA's subsidiary and IIM accounting system with a system that integrates BIA's land records and ownership information and trust fund accounting information; and
- ensure that leases and other contractual information are maintained and validated to ensure that all earned trust fund revenues are billed for, collected, and posted to the correct account.

As agreed with your office, unless you publicly announce the contents of this report earlier, we will not distribute it until 30 days from its date. At that time, we will send copies of the report to the Secretary of the Interior; the Department's Assistant Secretaries for Land and Minerals, Indian Affairs, and Policy, Management, and Budget; the Director of the Office of Management and Budget; cognizant appropriations, authorizing, and oversight committees; and other interested parties.

Please contact me at (202) 512-3406 if you or your staff have any questions concerning this report. Major contributors to this report are listed in appendix VI.

Sincerely yours,

George H. Stalcup
Associate Director
Financial Integrity Issues

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Figure I.1: Interior Trust Asset and Trust Fund Management Business Cycle 24

Abbreviations

AFMMS	Automated Fluid Minerals Management System
AFS	Accounting and Financial System
ALMRS	Automated Land and Mineral Records System
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
CERT	Council of Energy Resource Tribes
FMS	Financial Management Service
FOGRMA	Federal Oil and Gas Royalty Management Act
GDSC	Geographic Data Service Center
GIS	Geographic Information System
IIM	Individual Indian Money
IRMS	Integrated Resources Management System
LRIS	Land Records Information System
LTRO	Land Title Records Office
NASD	National Association of Securities Dealers
NIOGEMS	National Indian Oil and Gas Evaluation and Management System
MMS	Minerals Management Service
OIG	Office of Inspector General
OTFM	Office of Trust Funds Management
OTR	Office of Trust Responsibilities
PAAS	Production Accounting and Audit System

Background

The Secretary of the Interior is responsible for managing the Indian trust funds and related ownership and natural resource management functions. The Secretary delegates these responsibilities to BIA, BLM, and MMS. Although BIA is responsible for a large portion of the Indian trust fund financial management, BLM and MMS are also responsible for certain Indian trust fund financial management and natural resource asset management functions. Together, these agencies perform the four major functions in the Indian trust fund management business cycle.

- Title and Ownership Determinations: BIA's 12 Area Offices and 85 Agency Offices (which are located on, or near, Indian reservations) prepare documentation on ownership conveyances (including wills and death certificates) for use by administrative law judges in making probate decisions. BIA's Office of Trust Responsibilities (OTR), through its five regional Land Title Records Offices, determines and certifies land title and beneficial ownerships and maintains official Indian land title and ownership records in OTR's Land Records Information System.
- Natural Resource Asset Management: OTR is responsible for all preleasing activities for Indian natural resources, including valuation of resources, advertising bids, and negotiating and preparing leases. Real Estate Departments in BIA's Agency Offices also inspect and enforce leases and land use agreements for nonmineral leases (for example, timber, grazing, and right-of-way agreements.) BIA coordinates these activities with BLM.

  BLM's Inspection and Enforcement Office manages mineral resources and BIA's Agency Offices manage Indian nonmineral resources, leases, and agreements. MMS performs compliance audits to ensure that mineral royalty payments and reports are consistent with production reports.

- Trust Fund Accounting: BIA's Area and Agency Offices collect nonmineral lease revenue and mineral bonuses and rental payments, allocate income and maintain accounts for individual Indians. The Agency Offices forward collections to their respective Area Offices for deposit in BIA's depository banks. The Agency Offices record receipts for Individual Indian Money (IIM) accounts and the Area Offices fax information on tribal receipts to BIA's Office of Trust Funds Management (OTFM).

  OTFM performs tribal accounting, records transactions, disburses funds, maintains the trust fund general ledger, reconciles accounts and systems balances, and prepares reports for management and account holders.

MMS collects and accounts for mineral royalty payments and some rental and bonus payments and transfers revenues to OTFM. MMS also reviews payment data for accuracy using a number of system edits and modules in its Accounting and Financial System.

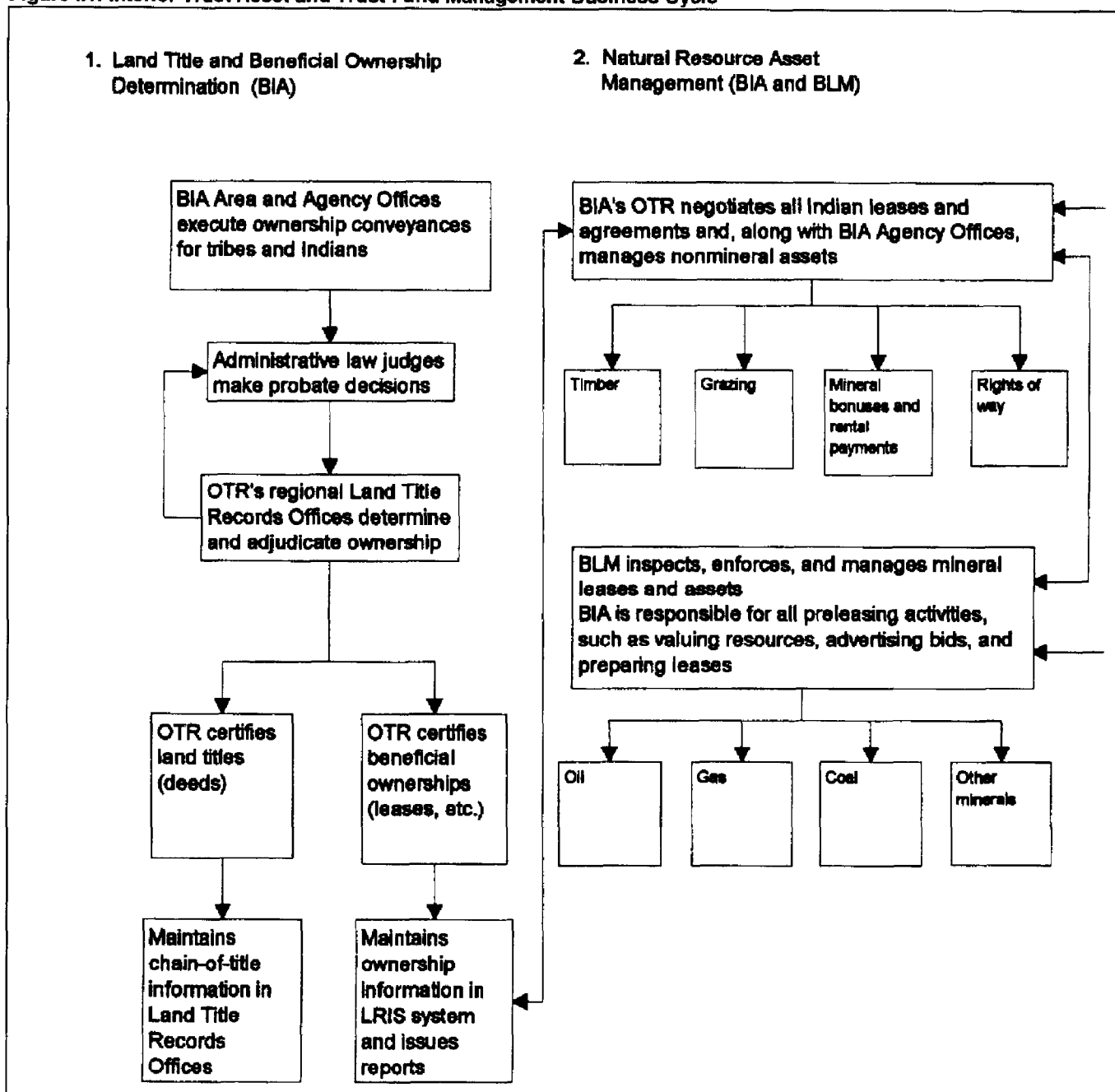
- Investment: OTFM invests tribal and individual Indian trust fund balances in Treasury securities, or their derivatives, certificates of deposit at federally-insured financial institutions, and Treasury overnight deposits. OTFM accounts for and prepares reports on investment activities.

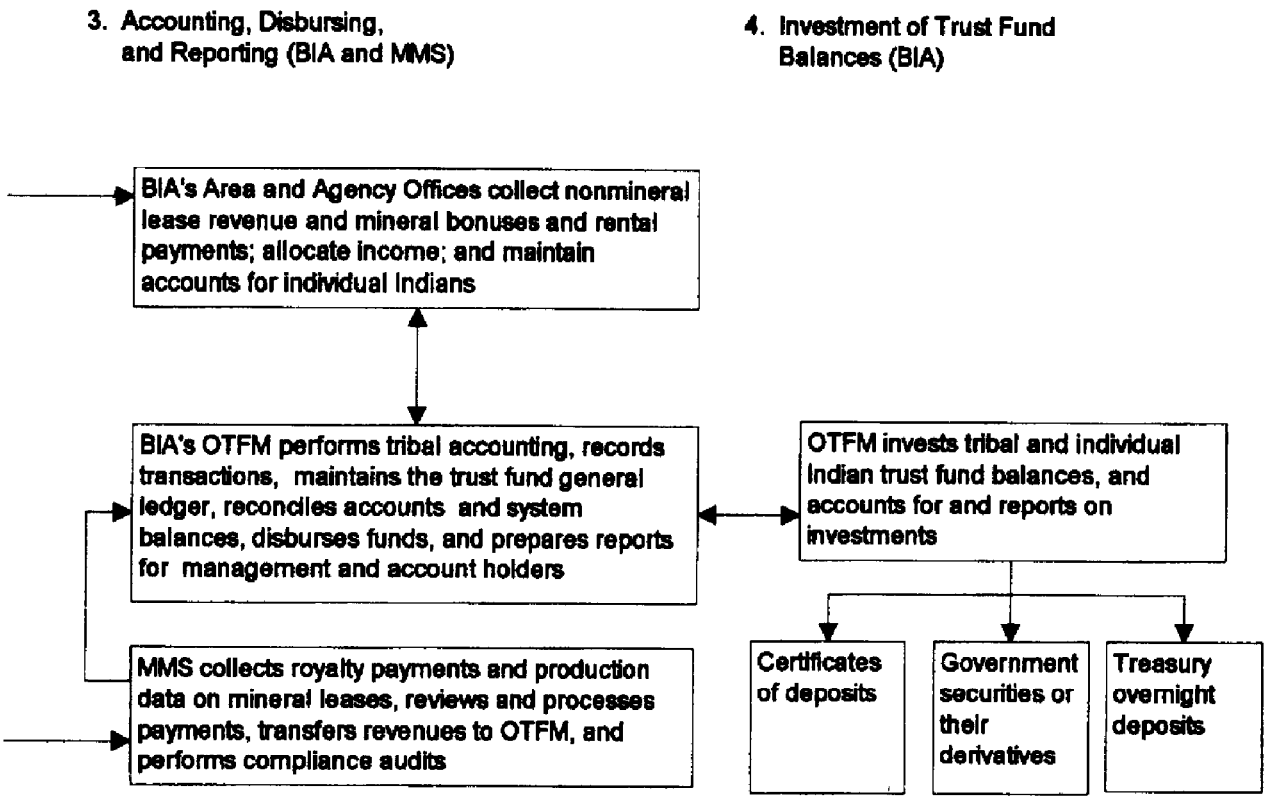
BIA's trust fund accounting systems are operated by Information Management Centers located at 6 of its 12 Area Offices and the National Technical Service Center in Albuquerque, New Mexico. BIA uses three major systems for trust fund accounting: (1) the Finance System, which is used for both tribal and general ledger trust fund accounting, (2) an investment system, which generates summaries of investment securities held on behalf of each tribe, and (3) the Integrated Resources Management System (IRMS), which provides subsidiary accounting for IIM accounts. In addition to IIM accounting information, IRMS has four other components: (1) a land ownership data file, (2) a lease master file, (3) a people file with account holder names, addresses, account numbers, and census data, and (4) subsidiary programs to distribute oil and gas royalties. (These subsidiary programs are also referred to as the Royalty Distribution and Reporting System.) OTFM's trust fund general ledger system (Finance System) generates accounting reports on the results of collections, deposits, accounting, and disbursing functions performed by BIA's Agency and Area Offices.[1]

Figure I.1 shows the trust fund management business functions and the relationships of the activities performed by BIA, BLM, and MMS.

[1]The Albuquerque and Navajo Area Offices use the Treasury Department Regional Disbursing Office to make disbursements to individual Indian account holders. However, they use the Information Management Centers to generate the account statements.

Figure I.1: Interior Trust Asset and Trust Fund Management Business Cycle





Note: This flowchart was developed based on information provided by BIA, BLM, and MMS.

Scope and Methodology

We identified Interior's trust fund management business functions, including ownership determinations and recordkeeping, natural resource asset management, accounting, and investment functions performed by BIA, BLM, and MMS.

We also reviewed 45 previous audits, studies, and testimonies by Interior's Inspector General, other Interior organizations, independent public accounting firms, management consultants, Interior organizations, the Indian community and GAO to identify problems and proposed solutions identified in the past.

To determine whether federal entities could provide title ownership and lease recordkeeping, asset management, trust accounting, or investment services to BIA, we contacted representatives of federal organizations that perform trust fund management-related functions. To determine whether private sector entities could provide systems or services in these areas, we judgmentally selected 12 private sector financial trust systems and service providers and 6 natural resource management companies for review. We contacted company officials to discuss the applicability of their systems and services to Interior's trust fund business functions and reviewed information on systems and services provided by five of these entities.

To obtain the views of the Indian community on the systems and services identified in the federal and private sectors and the systems and services available through Indian groups or tribes, we coordinated our study with the InterTribal Monitoring Association. We also met with officials at 15 selected tribes and Indian groups, including representatives from the Joint Interior/BIA/Tribal Reorganization Task Force, the InterTribal Agriculture Council, the First Nations Development Institute, the Council of Energy Resource Tribes, and Allottee Associations, to determine their resource management, accounting, and investment concerns and what systems and services they use or are developing to meet their needs.

We discussed the applicability of the information we obtained from private sector companies to BIA's trust ownership, natural resource asset management, accounting, and investment functions with BIA's headquarters management, officials in its Offices of Trust Funds Management and Trust Responsibility, and BLM and MMS headquarters management. We also discussed our survey results with representatives of the InterTribal Monitoring Association, the First Nations Development Institute, the Joint Interior/BIA/Tribal Reorganization Task Force, and the

Intertribal Agriculture Council. Finally, we briefed Interior and BIA officials on the results of our survey.

To identify obstacles to improvements, we asked agency managers why some past recommendations were not implemented and why efforts to implement other recommendations did not succeed.

Ownership Determination and Recordkeeping Improvement Options

We identified options for Interior to improve its Indian land title and ownership determinations and recordkeeping. These options include

- providing necessary resources to maintain up-to-date title and beneficial ownership determinations and land records information until Land Records Information System (LRIS) and other related systems improvements are completed and
- reducing the administrative burden associated with continuing fractionation of ownerships.

BIA is the only federal organization that maintains official land title and ownership information and mapping services for federal Indian land. We reviewed systems improvement efforts under way at BIA to improve OTR's land record and ownership and mapping systems. While BIA's ongoing systems improvements could help to ensure the accuracy of land title and beneficial ownership information and provide important mapping services to reservations, progress has been slow and the improvements will not be fully implemented until 2000.

A number of private sector companies also offer title and mapping services. We judgmentally selected two private sector companies and considered the applicability of their systems and services to OTR. We believe that BIA could benefit from considering some unique features of these systems in its efforts to improve its land record and ownership and mapping systems.

We also reviewed the efforts of BIA's Fractionated Heirship Task Force and current Indian initiatives directed at reducing the administrative burden associated with fractionated ownerships.

Obtaining Title Determination and Land Records Expertise

OTR's Land Titles and Records Program is the official federal program for recording and maintaining all land title documents and beneficial ownership data as well as other land records data for all federal Indian lands. OTR has management initiatives underway which, if effectively implemented, could help to ensure more accurate and up-to-date land title and beneficial ownership information and reservation maps. However, because OTR's LRIS improvements are not planned for full implementation until 2000, BIA will need to take interim action to eliminate serious backlogs in ownership determinations and recordkeeping.

BIA's Land Title and Records Program and Systems

We reviewed two major land programs and related systems that OTR uses to provide data on federal Indian lands. They are (1) the Land Titles and Records Program, which records land titles and beneficial ownership information in its Land Records Information System, and (2) the Geographic Data Service Center, which provides automated maps of federal Indian lands using its Geographic Information System (GIS).

Certified Indian ownership information is currently maintained in OTR's LRIS. BIA's July 1993 Land Records Management Work Group draft report estimated that there were 30 million individual page-records maintained in LRIS. This did not include unofficial records that are maintained in BIA's Agency Office systems, which are not yet recorded in the official LRIS system. Title and ownership information must be certified before it is recorded in LRIS. OTR officials told us that, due to inheritances, the number of ownership records is continually increasing.

In addition to LRIS, some Indian ownership and land records information is maintained in BIA's Integrated Resources Management System (IRMS), which handles BIA's subsidiary and IIM trust fund accounting, and on personal computers in BIA's Agency Offices. According to OTR officials, ownership data have often been recorded in these systems without being certified because BIA's Agency Office staff who prepare documentation on ownership conveyances (such as wills and death certificates) for administrative law judges' probate determinations are aware that probate court and OTR backlogs may delay ownership certifications several years.[1] As a result, Agency Office staff update IRMS ownership information based on unverified information that they have developed. While the unverified data may be more accurate than the data it replaces, it may not be consistent with final ownership determinations and certifications. In addition, reliance on unofficial data undermines the maintenance and use of BIA's official certified LRIS data.

In July 1992, we testified[2] that BIA had conducted an informal poll of its five Land Title Records Offices (LTRO) and found that backlogs in updating land records existed at four of the five locations. Reported backlogs ranged from a low of 100 documents in one area to a high of 17,000 documents in another. These backlogs impair the accuracy of BIA's land and beneficial ownership records and the accuracy of distributions to BIA's trust fund account holders.

[1]We did not review current probate court backlogs or options for addressing these backlogs.

[2]Financial Management: Problems Affecting BIA Trust Fund Financial Management (GAO/T-AFMD-92-12, July 2, 1992).

Our current work shows that, even after using overtime and some contractor support, current title determination and recordkeeping backlogs remain essentially unchanged. Our analysis of LTRO backlogs in preparing title status reports and entering documents in LRIS showed that OTR would need to almost double its current resources for a period of 1 to 2 years to eliminate these backlogs and bring land title and beneficial ownership records up-to-date. OTR officials agreed with our assessment. Until these backlogs are eliminated, BIA will not be able to provide account holders with an accurate accounting of their land interests and related revenues.

According to OTR officials, LRIS improvements (which include automating chain-of-title information and electronically certifying ownerships at the time they are recorded in LRIS) are to be phased in between 1996 and 2000. OTR officials said that as these improvements are phased in, there would be a gradual reduction in the need for additional staff. However, until LRIS improvements are in place, BIA could shift its current resources or use additional contractor support or temporary employees to reduce these backlogs.

Further, to eliminate the need to maintain duplicate, unofficial ownership systems information, OTR is working with BIA's Office of Trust Funds Management (OTFM) to plan a trust funds subsidiary and IIM accounting system to replace IRMS. Eliminating redundant systems would help to ensure that only official, certified data are used to distribute trust fund revenue to account holders. OTR officials told us that the IIM system is to provide for an interface with LRIS for ownership information, rather than duplicating this information in an unofficial file. According to OTR and OTFM officials, the IIM system plan is to be completed in the summer of 1995. OTR officials stated that 1-1/2 to 2 years would be needed to develop a system once the plan is completed.

BIA's Geographic Data System and Services

OTR has a Geographic Data Service Center (GDSC), which provides automated data and system support to tribes on spatial information, including maps of boundaries, townships, streams, and roads, and some land title and beneficial ownership data on reservation lands. GDSC operates a computer facility in Denver, Colorado, that can be accessed from other locations by Geographic Information System (GIS) work stations, which use personal computers. GDSC uses U.S. Geological Survey maps as a foundation and, information with the help of other technology, incorporates additional , such as fire fuel and lightening strike maps, to

prepare the detailed maps for tribes. For example, GDSC has developed fire fuel maps and lightening strike maps. The fire fuel maps provide a visual picture of areas containing materials, such as grasslands, trees, and shrubs, that could feed fires should they occur. Similarly, lightening strike maps show areas where lightening has occurred most often, to indicate potential danger areas. GDSC also has the capability to use satellite images to prepare land maps.

According to GDSC officials, GIS can provide as many layers of spatial, or map, data for reservations as the tribes desire. GIS land records information includes land descriptions, such as boundary designations; owners of mineral rights; parcel numbers; and tract ownership. The database is dependent on the amount and type of data provided by a tribe or other user; GIS does not generate original data or make ownership or title determinations.

GDSC officials told us that they actively serve about 100 tribes. As an example, GDSC officials described support provided to a tribe that was having difficulty determining what land it owned. The tribe provided land data to GDSC, which in turn prepared data sets and maps and compared the data to surrounding county data to determine if there were encroachments on the tribe's lands due to titles filed by other parties. In this way, GDSC was able to help the tribe confirm its boundaries.

GDSC officials told us that they are also updating maps for some tribes. While these maps, which were from 8 to 18 years old, had been updated with hand-written changes over the years, new maps had never been prepared. GIS software (which is still being enhanced) transcribes map data into digital form. Maps are then edited on the computer, and new maps are printed.

However, GDSC officials said that they are not currently verifying map data to source documents or verifying the maps to title and ownership records. They said that GIS software, when fully developed, would facilitate the verification of mapping data to source documents over time because of its ability to interface automated data and make comparisons with certified title and ownership records and leasing and mineral use records. In addition, GDSC officials said that they have a project underway to assist OTF in developing software to update the plat maps at the Land Title and Records Offices. Most plat maps are out-of-date because the Land Title and Records Offices do not have cartography capability and because of the

processing backlog on title and ownership determinations and recordkeeping.

Private Sector Title and Land Records Systems and Services

There are numerous private sector title and land records companies. Many of these companies use systems and technology that could be useful to BIA in its systems improvement efforts. We judgmentally selected two private sector companies, including a regional title company and a nationwide land records company that provide title services to counties and the private sector and met with company representatives to discuss the applicability of their systems and services to OTR's land title and records and mapping programs. While neither of these companies currently includes federal Indian lands in its database, we believe that OTR could benefit by reviewing how these companies use automated systems to handle title ownership and mapping information. Such a review could help OTR to (1) improve LRIS, (2) reduce backlogs in title and beneficial ownership determinations and recordkeeping, and (3) interface GIS map data with LRIS ownership information.

Regional Title Company

A representative of a Denver area title corporation told us that the corporation obtains data for its system, including title information, land descriptions, tax assessments, and delinquencies, from the tax assessor and tax collection and recorder offices. The official said that the corporation updates title documents and records as changes occur and disputes are resolved. As a result, the official said that, in certain instances, the corporation's data are more accurate than county records. The official also said that maintaining automated records helps facilitate accurate research and verification and eliminates problems associated with maintaining and controlling manual files. The use of automated data is consistent with BIA's goal to automate chain-of-title information. Exploring private sector title systems may provide additional insights to BIA in its efforts to improve OTR's LRIS.

Nationwide Land Records Company

Officials at a nationwide private sector land records company told us that they maintain databases which cover most of the large counties in over 30 states. They said that the company's database includes over 125 fields of information, including ownership, a unique identifier for each land parcel, tax assessments, document references to titles and mortgage liens, sales, and physical property descriptions.

This company also provides mapping services. The company updates maps for new developments, as houses are built and sold, to show new parcels

and their number identifiers. For the past 3 years, the company has also been piloting electronic imaging for maps for the state of Florida. After the company inputs data into a computer, counties can display a map image on a computer monitor, make changes, and print the result on equipment that produces a sharp, hard copy image of the map. Company officials told us that, once perfected, this technology should allow the counties to manipulate data on the computer and redraw existing maps as changes occur in land use. This will be an advantage over the current microfiche maps.

We believe that BIA could benefit from a review of such private sector technology in OTR's continuing efforts to enhance its Geographic Information System, which provides similar mapping services to tribes.

Reducing Fractionated Ownerships

In 1991, BIA established an Heirship Task Force to identify options for reducing fractionated ownerships and the administrative burden associated with the ever-increasing number of ownership changes caused by inheritances. Reducing fractionation would reduce BIA's related ownership determination and recordkeeping, lease management, and accounting workloads.

In February 1992, we reported[3] that since the Indian Land Consolidation Act of 1983[4] was enacted, the number of small interests (2 percent or less) at the 12 reservations that we reviewed had more than doubled, from about 305,000 to over 620,000 records. BIA estimated that with legislation to eliminate or consolidate fractionated interests of 2 percent ownership or less, over half of the records might be eliminated or consolidated.

In our July 1992 testimony,[5] we stated that fractionation of ownerships had complicated BIA's trust fund account reconciliations. For example, we found that at three BIA Agency Offices, where BIA attempted preliminary reconciliation work, 30 percent of the transactions were for less than $1.00—nickels, dimes, quarters, and even fractions of a penny; another 27 percent were for $1 to $9; and an additional 23 percent were for $10 to $49. Only 20 percent were for amounts of $50 or more.

[3]Indian Programs: Profile of Land Ownership at 12 Reservations (GAO/RCED-92-96BR, February 10, 1992).

[4]The act, as amended, generally provides that an Indian individual's ownership interest of 2 percent or less in a tract of land transfers to the tribe upon the individual's death, provided that the interest is not capable of earning $100 or more in any of the 5 years following the individual's death.

[5]See footnote 2.

BIA plans to obtain comments on proposed Heirship Task Force solutions from tribes and Indians during the fall of 1994. BIA plans to use the comments to draft proposed legislation to reduce fractionated ownerships for submission to the Congress in January 1995.

Indian Initiatives to Reduce Fractionated Ownerships

The First Nations Development Institute has studied and reported on fractionated land ownerships for a number of years as part of its efforts to identify and remove barriers to the development of healthy reservation economies. First Nations has reported that fractionation of trust lands, which affects nearly 80 percent of all tribes, is one of the primary impediments to land and resource development because it severely impacts the ability of tribes and individual Indian owners to effectively use and control their own land. Further, First Nations stated that transactions related to the land, such as negotiating lease agreements, probate, and distribution of lease income, become more complex and costly as fractionation increases. For example, First Nations reported that on many reservations, it is not uncommon to find numerous allotments of land that have 50 or more owners.

First Nations' 1991 to 1992 study of fractionation on the Umatilla Indian reservation assessed administrative costs for 25 agricultural leases. According to the study, administrative costs ranged from $346.50 for a lease with one owner to $2,772.00 for a lease with 78 owners. First Nations also identified two leases where the administrative costs exceeded the lease income.

To address these problems, First Nations has called for solutions directed at improving BIA's land records and ownership systems and combining the number of land records per tract to establish economically viable and manageable tracts of land within reservation boundaries. For example, First Nations supports

- establishing a single, automated, ownership and land records system with timely, certified title status reports;
- providing the capability to access data locally, in order to evaluate and implement plans to address fractionated land titles;
- giving owners a meaningful accounting of their lands (including income derived and associated allotments) to assist in land consolidation and estate planning; and

- revising BIA budget priorities to adequately (1) resolve backlogs in records processing and (2) address the needs of tribes and Indian owners for technical and financial assistance and information.

OTR officials told us that they agree with these goals and that their LRIS system improvement efforts are intended to consolidate land records systems and eliminate redundant, inconsistent data. However, as stated above, until LRIS systems improvements are fully implemented, additional resources will be needed to eliminate title and ownership determination and recordkeeping backlogs. Until these backlogs are eliminated, BIA will not be able to provide account holders with an accurate accounting of their land interests and related revenues.

Natural Resource Asset Management Improvement Options

We identified options for Interior to improve its management of Indian natural resource assets. These options include

- ensuring effective implementation of management initiatives that are already under way and expanding opportunities for initiatives with other federal agencies,
- obtaining natural resource asset systems and services, and
- delegating responsibility to tribes through Indian self-determination initiatives.

Effectively Implementing Management Initiatives

BIA, BLM, and MMS have management improvement initiatives under way which, if effectively implemented, could improve Interior's management of Indian natural resources. Also, Interior coordinates its natural resource management activities with a few federal agencies such as the Departments of Agriculture and Energy, and we believe that Interior may be able to improve its natural resource management through expanded or new initiatives with these agencies.

Federal Agency Resource Management Programs

The Department of Agriculture's Soil Conservation Service provides soil conservation services, including engineering and planning activities, to Interior and to tribes that request these services. We believe that Interior could explore other opportunities with Agriculture for resource management support, such as the Forest Service's forest management programs and its timber cost accounting system. Interior also coordinates with the Department of Energy for studies to value oil and gas resources and to determine the impact of proposed royalty rate reductions. In addition, BLM was able to help tribes gain resource management assistance through Department of Energy fiscal year 1994 fossil fuel grants. Interior could explore further initiatives with Energy to improve its management of Indian energy resources.

Interior's Management Initiatives

We identified management initiatives underway at BIA, BLM, and MMS that are directed at increasing field office services to tribes and Indians and improving resource management systems. While some Indian field offices appear to be working well, others are not functioning as intended. For example, the Four Corners Office is intended to be a central location where tribes can get complete information on their land and minerals management, royalty collection and compliance audits, and royalty receipts deposited in their trust fund accounts. However, this office is not

yet functioning as the seamless organization that Interior envisions because the co-located BIA, BLM, and MMS staff are continuing to work as separate organizations without effective coordination.

Interior also has a number of efforts under way to improve BIA, BLM, and MMS natural resource management systems. The success of these systems efforts will depend upon the effectiveness of their design and implementation.

BIA Energy and Minerals Programs and Systems Initiatives

The Energy and Mineral Resources Division in the Office of Trust Responsibilities (OTR) provides financial and technical assistance to tribes in managing and developing their resources, including financial assistance to locate and quantify mineral resources, technical assistance in reservoir engineering, economic analyses of oil and gas and solid mineral deposits, and monitoring mineral development and production. The Division also coordinates with BLM and MMS to assist tribes in reviewing and negotiating agreements and contracts for mineral development.

In October 1993, Interior's Office of Inspector General (OIG) reported[1] that the Energy and Mineral Resources Division was adequately assisting some Indian landowners in developing their resources. The OIG reported that assistance provided by BIA's Minerals Assessment Program resulted in increased revenues from over $1 million to several million annually for a number of tribes. However, the OIG found that the Division was able to assist less than half of the requesting tribes because of limited funding. The OIG reported that of 46 requests for assistance that met program requirements, BIA partially funded only 19 requests. The OIG recommended that, given the Division's limited funding, BIA consider other options for providing assistance, such as establishing a revolving fund and a user fee arrangement to provide a self-funded Mineral Assessment Program. Legislation would be required to authorize such a revolving fund.

In August 1993, BIA's Energy and Mineral Resources Division began efforts to develop the National Indian Oil and Gas Evaluation and Management System (NIOGEMS). According to a Division official, BIA presented a prototype of the NIOGEMS system at the Indian Minerals Conference in February 1994, and began a 1-year pilot test of NIOGEMS at BIA's Osage Agency Office in June 1994. Currently, the Osage tribe performs its own inspection and enforcement and royalty collection and accounting. An Energy and Mineral Resources Division official said that NIOGEMS is helping

[1]Final Audit Report on Operations of the Division of Energy and Mineral Resources, Bureau of Indian Affairs (No. 94-I-39, October 31, 1993).

the tribe perform production verification by building a software and database structure to support data analysis. The Division is also providing technical assistance in the form of user support and systems modifications.

The Energy and Mineral Resources Division is coordinating its NIOGEMS effort with BLM's Fluid Minerals Division, which is developing an Automated Fluid Minerals Management System (AFMMS). BIA and BLM officials told us that their systems designs are compatible and that they will be able to exchange data. However, BIA officials told us that BLM's systems do not have specific data on federal Indian land and that NIOGEMS will rely on BIA's Land Records Information System for Indian land records data.

Bureau of Land Management Indian Program and Systems Initiatives

The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) requires 100 percent inspections annually of federal and Indian oil and gas leases producing, or expecting to produce, significant quantities[2] of oil or gas in any year or which have a history of noncompliance.[3] BLM officials said that in fiscal year 1993, they completed only 92 percent of BLM's planned federal inspections and 83 percent of its planned Indian inspections because of limited resources.

BLM officials told us that they have a number of management improvement efforts under way to improve services to tribes and allottees. These include (1) improving BLM Indian program office services to tribes and allottees, (2) helping tribes obtain assistance through Department of Energy fossil fuel grants, and (3) improving minerals management systems. BLM officials told us that, under a BLM National Performance Review initiative, they have opened the Four Corners Laboratory in Farmington, New Mexico, with co-located BIA, BLM, and MMS staff. While BLM officials told us that the Four Corners Office is not yet operating as the organization that Interior envisions, the concept is for Interior to provide a central location where tribes can get complete information on their land and minerals management, royalty collection and compliance audits, and royalty receipts deposited in their trust fund accounts. BLM officials told us that they also have efforts underway to consolidate and improve other Indian program offices.

[2]Under BLM's inspection criteria, significant production is defined as production for leases, communitization agreements, gas storage agreements, etc., that meets or exceeds 12,000 barrels of oil per month or 120 million cubic feet per month.

[3]Under BLM's inspection criteria, a potential for noncompliance is based on a history of at least two major or six minor FOGRMA-related production accountability violations, including site security, within the preceding 2 fiscal years.

According to BLM officials, limited funding has also impaired their ability to provide training and technical assistance to tribes that wish to assume responsibility for inspection and enforcement. However, officials said that they are trying some innovative approaches to provide minerals management support to tribes. For example, BLM officials said that at their request, the Department of Energy funded 14 fossil fuel program grants in five states during fiscal year 1994, all of which would provide some benefit to Indians. These grants included joint arrangements with tribes, direct arrangements with tribal governments to assess drawing capability of oil and gas reservoirs on tribal lands, and technology transfers.

In addition, BLM officials told us that they have efforts underway to develop the Automated Fluid Minerals Management System (AFMMS) to replace obsolete nonintegrated minerals management systems, including BLM's Automated Inspection Records System. AFMMS is also to interface with BLM's Automated Land and Mineral Records System (ALMRS) (Interior's official land records system for the entire United States) and with MMS' Production Accounting and Audit System. According to a BLM Fluid Minerals Management official, the AFMMS concept is to provide a complete history of well information, including information on leases and agreements, well applications, well activity, production, and inspections. BLM is piloting AFMMS at its New Mexico State Office and full conversion from BLM's lease data system and its inspection records system is targeted for the end of 1996.

BLM officials told us that they are working with the American Petroleum Institute's Petroleum Data Exchange in the design of AFMMS. For example, BLM hopes that industry will download some of their data into AFMMS or provide electronic access to their data. BLM officials told us that they plan to develop a logical data model that will benefit the federal government, tribes, and industry by using international standards and new technology, such as that used by international petroleum companies. They said that by working with the Petroleum Institute to incorporate international standards in AFMMS, they also should be able to participate in standards-setting in the future.

Minerals Management Service Indian Program and Systems Initiatives

According to MMS officials, 22.4 percent of MMS' budget is directed at collecting Indian mineral revenues, which constitute 4.3 percent of MMS' total mineral revenues. During the past 3 years, MMS has taken several actions to provide increased royalty management assistance to tribes and individual Indian allottees. For example, in 1991, MMS increased its funding for tribal royalty compliance audits under cooperative agreements from

50 percent to 100 percent. In 1992, MMS opened several Indian program field offices to respond to Indian royalty management concerns. Also, in 1992, MMS began implementing automated systems modules to ensure greater accuracy of payments and reporting on Indian leases. In 1993, MMS established study groups to streamline and improve royalty program regulations and reporting requirements.

MMS officials told us that their new field offices are devoted specifically to improving their Indian program. Indian offices include three Indian Royalty Assistance Offices—in Oklahoma City, Oklahoma; Farmington, New Mexico; and Denver, Colorado. These offices perform research on issues and questions received from tribes and Indian lessors on a walk-in or phone-in basis. MMS also established two field offices with Indian Audit Teams (in Oklahoma City and Albuquerque) to perform spot audits requested by Indians.

MMS also created study groups to provide input to changes in regulations related to allowances[4] and gas valuation. These groups included representatives of tribes, states, and industry. Tribal representatives participating in the study groups told us that after making compromises to reach consensus with states and industry on proposed changes to gas valuation regulations, they had difficulty reaching agreement with MMS on language to be used in MMS' advance notice of proposed rulemaking. The representatives said that they continue to be concerned about whether and how MMS will use their input in drafting proposed changes to regulations on allowances.

Tribal representatives also told us that they are concerned about MMS' enforcement of royalty payment regulations and the quality of data in MMS's royalty accounting system. For example, tribal auditors said that MMS does not always assess penalties or charge interest for improper reporting or late payments. Under FOGRMA, any person who fails or refuses to comply with the act may be assessed a penalty if the violation is not corrected within 20 days after due notice. The act also requires the Secretary to charge interest on payments that are not received by the payment due date.

MMS officials said that interest payments are now automatically charged by the Accounting and Financial System (AFS). They also said that relatively few penalties are imposed because the payor has 20 days to correct the error. The officials said that they believe stronger penalties could be a

[4]See footnote 11 in the letter.

significant incentive for companies to accurately report and pay royalties. They also said that MMS has proposed legislation to establish penalties of 20 percent, without a grace period, for certain thresholds of underreporting on oil and gas and on coal royalties.

Tribal royalty auditors are concerned that MMS' royalty audit tracking system is not user friendly and that the tribes either did not have the equipment to access MMS' audit tracking system or that they had difficulty doing so. Tribal royalty auditors also said that they could not currently download MMS data to their systems for audit purposes. In addition, they said that they had difficulty reading and interpreting unedited data that they receive from MMS on magnetic tapes. MMS officials said that they are developing client-server technology, using Interior's computer network, to facilitate user access to MMS' data. They said that the three tribes with the largest royalty revenues who have cooperative royalty compliance audit agreements with MMS will receive client-server hardware and hookups in September 1995 and that additional tribes will be added to the network as funds become available. MMS expects its client-server technology to be fully available to requesting users within 10 years.

MMS officials said that as more tribes and states begin to use MMS' systems data, problems are being identified and corrected. For example, in 1992, MMS began implementing automated AFS modules to perform additional verifications solely on Indian lease payments. The modules are designed to (1) identify improper recoupments,[5] severance tax deductions, and royalty rates, (2) assure that an actual payment has been made before an adjustment can be processed, and (3) monitor rent and mineral royalty and valuation. According to an MMS official, the valuation monitoring module is being phased in by geographic area and it is operational in MMS' Oklahoma City Office. We are currently reviewing MMS' recoupment module to determine whether it is effective in preventing excessive recoupments. The continuing need to develop system controls to address improper payments raises serious concerns about the reliability of MMS system.

MMS officials told us that when MMS and BLM mineral production and inspection systems improvements are fully implemented, they will complement each other. For example, they said that after MMS installs its new client-server technology and AFMMS is fully implemented, it should be possible for MMS to compare well data on industry reports contained in its

[5]Recoupments are recoveries of previous overpayments. MMS' system control flags recoupments of more that 50 percent for Indian lessors and 100 percent for tribes for review.

Production Accounting and Auditing System (PAAS) directly to well activity and inspection data in BLM's AFMMS. However, an MMS official told us that the systems would only perform effectively if BLM management ensured that its field offices consistently update AFMMS. Otherwise, PAAS could erroneously reject industry data and essentially void the data in MMS' system. According to the MMS official, inconsistency in BLM field office updates of systems data has been a serious problem in the past. BLM and MMS cooperation will be needed to help ensure that these systems are effectively implemented.

Oversight of minerals management systems improvements is to be provided by Interior's new Indian Minerals Steering Committee, rather than its Office of Information Resources Management. We are concerned that the Steering Committee, which includes BIA, BLM, and BIA management, does not have the technical systems or information resource management expertise to properly oversee these systems efforts, or the authority to resolve disputes where agreements can not be reached.

Obtaining Improved Natural Resource Asset Systems and Services

Private sector systems and services exist to handle specific resources such as timber, coal, oil and gas, farming or grazing, and real estate. We judgmentally selected and contacted several related industry associations and consulting firms to review the types of systems and services that are available.

Timber companies and consulting firms have systems and services that could assist BIA or tribes in developing timber management and marketing plans. For example, a company official at a timber company told us that the company has performed a complete survey of lands, encompassing 200,000 acres, for one tribe. The company sampled for timber volume, size of trees, decay rates, etc., and used a computer mapping database to develop a harvest plan and determine a sustained yield level for harvesting that would not deplete the forests. According to the company official, the plan included designated buffer lands, such as wet lands, and identified expected revenue from forestry activities. In addition, the company official said that there are many economic and business software packages on the market that can be purchased and adapted for timber management purposes.

With regard to oil and gas resources, private sector firms could provide engineering and operating services, such as collecting payments and distributing revenues that could be useful to BIA and tribes. Appendix V

discusses commercially available lease-based oil and gas royalty accounting systems.

We also contacted a mining industry representative who told us that mining companies could provide services, such as negotiating and managing coal leases and depositing and distributing lease payments. However, if Interior decides to contract for these services, it would be important for BIA, BLM, and MMS to consider potential conflicts of interest, because these companies may also be conducting mining operations on Indian lands.

We did not identify any single private sector firm that could handle all of BIA's current range management functions, which include appraising land and its grazing capacity; negotiating and processing leases; collecting, accounting for, and disbursing revenues; and monitoring consumption. However, there are individual private sector firms that could provide appraisal services for range lands or assist tribes with certain range management functions, such as lease negotiations; day-to-day supervision of lands; or collecting, accounting for, and disbursing revenues. In addition, an industry association representative, and a representative of the Intertribal Agriculture Council, told us that land grant colleges can provide assistance in range surveys and land use. Appendix V discusses commercially available lease-based realty accounting systems that could be helpful to BIA in its rangeland accounting functions.

Indian Self-Determination Initiatives

According to Interior's procurement system data, nearly 150 tribes have contracted with BIA, under Public Law 93-638, Indian Self-Determination and Educational Assistance Act, to perform selected land and resource management functions. Tribal representatives that we met with described a number of resource management capabilities they are developing or contracting for, including timber management, oil and gas royalty accounting, and land management. For example, one of the tribes we visited uses a consulting firm to develop a sustainable yield plan for its timber.

Tribal representatives told us that they believe they have benefited from increased revenues and better control over documents and data in instances where they have assumed greater responsibility for managing their natural resource assets. There may be additional opportunities, under self-determination programs, for tribes to assume more of these functions.

A Council of Energy Resource Tribes (CERT)[6] official told us that he believes tribes could manage their resources at less cost than the Interior Department because tribes have lower personnel and overhead costs.

Of the tribes we met with, one tribe, which manages its own natural gas resources, has nearly completed development of a royalty accounting system, another has purchased a system from a major public accounting firm, and a number of other tribes have expressed an interest in purchasing royalty management systems or accessing MMS royalty management systems. MMS officials told us that, under a National Performance Review initiative for commercialization of data, they plan to provide tribes with direct access to their systems or to download their database to the tribes within the next 10 years. BIA's NIOGEMS effort, discussed above, could provide tribes with production data even earlier. For example, BIA already has a pilot test of NIOGEMS under way at its Osage Agency Office.

Representatives of tribes and Indian groups that we met with told us that they would like to manage their own resources. However, they emphasized that most tribes would need technical and/or financial assistance to manage their resources successfully.

[6]CERT's membership includes tribes with oil and gas resource production. CERT provides technical assistance to these tribes in resolving problems with federal agencies or oil and gas companies.

Trust Fund Accounting and Investment Improvement Options

BIA can improve its trust fund accounting and investment operations by

- obtaining reliable systems to ensure that accounts are properly maintained and that reports are timely and reliable;
- contracting for trust banking services, including account maintenance; and
- contracting for investment advisors, and a custodian to settle trades, provide security over investment instruments, and track investments between financial institutions.

Obtaining Reliable Accounting Systems

In assessing options for improving BIA's trust fund accounting systems, we considered the feasibility and appropriateness of (1) upgrading BIA's current systems or developing an in-house system, (2) using another federal system, and (3) contracting for accounting systems.

Upgrading or Developing an In-House Trust Accounting System

Upgrading BIA's current systems would not achieve the modern trust accounting system that BIA needs because numerous past system modifications, including automated interfaces between various trust fund accounting systems that use different software, have not resulted in efficient, reliable systems. Further, BIA's trust fund general ledger system was designed as a budgetary accounting system, and it does not calculate interest or generate bank-type statements needed by BIA and its account holders. Given the cost, the time required, the lack of in-house trust systems and information resource management expertise, and continuing changes in systems technology and software, developing an in-house trust fund accounting system is not the best option.

Using Another Federal Agency System

We discussed BIA's trust fund accounting needs with officials at federal financial organizations that we believed may have similar types of operations, including the Federal Reserve, the U.S. Treasury, and the Federal Retirement Thrift Investment Board.[1] None of these organizations appears viable as a means for improving BIA's trust funds accounting systems. For example, Federal Reserve officials told us that they do not have a trust accounting system and that they would need to contract for such a system in order to handle BIA's trust fund accounting. They also told us that they would need to contract for services to develop a trust accounts receivable system.

[1]The Board invests participants' retirement contributions to the Thrift Savings Plan for federal employees.

Treasury currently performs some accounting and disbursement functions for BIA's Office of Trust Funds Management (OTFM). However, OTFM officials told us that Treasury's system does not meet Indian trust fund accounting needs because it does not (1) maintain data by each tribal and individual Indian account, (2) record checks by account holder name or account number, (3) accrue interest, or (4) provide the comprehensive account statements that are needed by BIA and its account holders. Treasury officials agreed that their system does not fully meet BIA's needs and that a commercial trust accounting system would better meet OTFM's Indian trust accounting requirements.

An official at the Federal Retirement Thrift Investment Board's Office of Investments told us that the Thrift Savings Plan for federal employees system is not designed to capture the range of income associated with BIA's trust fund receipts. Further, the Federal Employees' Retirement System Act of 1986, which established the Plan, limited the Plan's investments to before tax federal employee payroll deductions and interest earnings. As a result, the Plan cannot accept other deposits.

Contracting for Accounting Systems

In December 1993, we briefed Interior management on the interim results of our review. We stated that based on information that we obtained from 12 judgmentally selected major private sector trust accounting systems vendors, service providers, and financial institutions, there are commercially available trust accounting systems that could help BIA meet its overall trust collection, accounting, investment,[2] and reporting needs. These systems are used by many banks, brokerage firms, and institutions that manage private trusts and include money manager features which could be used to move funds between BIA's depository and investment banks and brokerage firms. In addition, these systems can operate in a centralized, decentralized, or combination mode and they can be operated by contractors, run in-house by BIA's OTFM, or operated by tribes who assume accounting responsibility for their trust funds under Indian self-determination initiatives.

In March 1994, Interior approved a BIA proposal for OTFM to contract for an interim trust fund general ledger and investment system. OTFM officials told us that they plan to select a contractor by September 30, 1994, and have begun preliminary efforts to plan an approach for solving their subsidiary and IIM trust fund accounting system needs.

[2]An accounting system supports investments by recording balances available for investments and recording the investments in the general ledger.

Minerals and Realty Management Systems

Commercially available minerals and realty management lease-based subsidiary trust accounting systems could provide BIA or tribes with opportunities to (1) automate the trust funds accounts receivables function and (2) collect mineral royalties directly from lessees. These systems could also be used by tribes who choose to assume responsibility for their mineral royalty collection and accounting functions.

We judgmentally selected and contacted two companies with lease-based oil and gas and realty systems that appear to be representative of commercially available, state-of-the-art systems. These systems are designed to interface with most major commercial trust accounting systems. Both companies' realty systems account for real estate, farm, timber, and range property. Officials at both companies told us that they believed that their oil and gas systems and realty systems are capable of handling BIA's trust fund accounting, including IIM account transactions. In addition, company officials told us that converting BIA's ownership, lease, and IIM account files to their systems would not be difficult.

Information we reviewed indicated that these systems could handle multiple ownership of trust assets and distribute revenues and expenses to multiple owners. The systems maintain an inventory of account holders along with the amount of assets owned, revenues earned, and percentage of ownerships. Officials at one company we visited told us that their oil and gas system provides for user-definable data fields and records information by well. Both companies' systems track accounts receivable and generate delinquency reports. In addition, the systems produce tickler reports which aid in asset management, such as reports that track lease renewals and appraisal dates.

In addition, MMS could assist tribes who choose to assume responsibility for their royalty collection and accounting functions by providing access to MMS' royalty systems or downloading data to the tribes' systems. MMS officials told us that their Indian royalty program initiatives will provide these opportunities to tribes over the next 10 years.

Systems Planning Services

Private sector firms also offer the capability to match an agency's information needs and systems requirements to trust accounting and investment systems currently available in the private sector. The firms that we visited are familiar with the major trust systems and subsystems on the market and they have assisted banks and trust institutions in selecting and integrating trust systems packages. Such firms could assist BIA in determining its information needs and systems requirements and in

identifying systems on the market which might best meet OTFM's requirements. They could also assist BIA in developing an overall strategic plan for trust fund financial management.

Contracting for Banking Services

Currently, BIA maintains Indian trust fund cash balances in the U.S. Treasury. Because Treasury does not have a trust banking system, it cannot provide the comprehensive account statements and reports that BIA and its Indian account holders need. A banking institution could help BIA better meet its fund accounting and reporting needs.

For example, a banking arrangement could provide BIA and its account holders with comprehensive trust account statements, automatic interest accruals and postings, and reporting of taxable interest earnings to the Internal Revenue Service. Further, standardized computer software used throughout the banking system facilitates cash management and fund movement, including electronic transfers of information and funds between banks and the Federal Reserve and processing of checks and receipts. The common language also allows account holders to easily transfer their funds to another bank. This would be an advantage to trust fund account holders who decide to withdraw their money from BIA's trust funds.

Interior and BIA can contract for banking or financial management services. However, because the Secretary of the Interior is the fiduciary, management responsibility, including the exercise of judgment and discretion, must remain within Interior. In this regard, Interior or BIA would need to establish policies and provide instructions on matters such as the following: (1) how tribal and individual Indian accounts will be maintained—as investments or as checking and savings accounts, (2) whether the financial institution would collect oil and gas, grazing, timber, and other revenues, (3) ownership and income distribution formulas, (4) payment of account maintenance fees, (5) handling of supervised accounts for minors and incompetents and accounts restricted due to child support or other requirements, (6) reporting requirements to account holders and BIA management, and (7) how the financial institution would relate to account holders.

Officials at two banks that we judgmentally selected for review told us that they believed their banks could meet most of the minimum BIA trust fund requirements. In addition, officials at two brokerage firms told us that they could provide both accounting and investment services for BIA's trust

funds. Both bank and brokerage firm officials told us that the administration and reporting for BIA's 327,000 individual Indian accounts would be costly.

In developing a plan to transfer account maintenance responsibilities for BIA's IIM accounts, we believe that BIA would benefit from a review of those accounts to identify and close any that are inactive, thus reducing management fees. We have identified IIM accounts by category and have suggested that BIA reduce a significant number of the 337,000 IIM accounts that it maintains by cleaning up "hold" accounts related to probates and incorrect addresses and determining an alternative way of handling royalty distributions. BIA's OTFM is currently exploring how it would handle income collections and distributions, such as oil and gas royalties and related interest earnings, that are merely passed through the trust fund accounts because, for the most part, there would be no residual balances in these accounts. According to the OTFM Director, OTFM plans to use the information we provided to begin to reduce the number of IIM accounts in the fall of 1994. Depending upon BIA's approach, 33 percent to 65 percent of the accounts could be eliminated or handled more efficiently.

With regard to account holder reporting, quarterly statements on tribal investments may be sufficient, while monthly statements would most likely be required if individual Indian trust accounts are handled as checking or savings accounts. BIA and its account holders would need to agree on appropriate reporting requirements based on the type of account and activity involved and BIA's management information needs. In addition, BIA would need to consider whether OTFM customer service representatives or bank personnel would be responsible for communicating directly with account holders.

Investment Advisors and Custodian Services

A variety of investment services are available in the federal and private sectors and the Indian community. However, federal sector services are limited to Treasury. Tribes that wish to withdraw their money from BIA's trust funds would also have the option of using investment services, including advice, training, and asset management services available through either the private sector or the Indian community.

Federal Sector Advice and Investment Services

Treasury is the only federal entity that provides investment services. Federal Reserve Board officials told us that the Federal Reserve does not have a federal agency investment function. According to the Deputy

Director for the Thrift Savings Plan Investments, the Thrift Investment Board's investments are limited by law to federal employee payroll contributions and interest earnings, and the law does not permit them to invest other revenues.

Treasury's Financial Management Service (FMS) officials told us that they issue Treasury securities to federal agencies for investment purposes. FMS officials also told us that FMS could participate, as an advisor, on a BIA trust fund investment board. As an example of FMS' investment advisory services, FMS officials told us that FMS is a member of the Air Force welfare fund's investment committee. They said that FMS has acted in an advisory role to direct the Air Force to investment funds, cash/money managers, and pension funds and that FMS has helped the Air Force Board make decisions regarding these services. FMS officials told us that they could assist BIA by providing standards or guidelines to help BIA select industry experts as advisors, review contracts with the advisors, and review advice that BIA receives from its advisors.

According to a Thrift Savings Plan Investment Office official, the Thrift's investment board hired an outside consultant only during its first year of operation, in 1987, to assist in evaluation of asset management proposals. The Thrift currently makes its investments through a contracted asset manager and custodian and it hires a consulting firm to monitor its custodian's performance.

In determining how OTFM would use contract advisors and a custodian (either to advise BIA and OTFM management directly or to advise a BIA or Interior Department investment board) BIA may want to discuss with Treasury's FMS and Thrift Retirement Investment Board officials their experience with investment advisors and custodians. In addition, the Thrift Investment Board's experience in setting up the federal employee retirement investment program could be beneficial to BIA in developing a basic framework for trust fund investment options.

Additional BIA Investment Options

Indian representatives told us that tribes would like the opportunity to designate investment of their funds to more than one portfolio. Pending trust fund legislation would provide for demonstration programs to allow tribes and Indians to direct the investment of their trust funds or to withdraw their funds and manage their own investments.

With regard to tribes' direction of their trust fund investments, Interior and BIA could also consider other types of investment fund options. For

example, BIA may wish to use the Thrift Savings Plan's legislation as a basis for requesting similar authority to set up investment options in addition to government securities for the Indian trust funds. Officials from a major bank and associated asset management company that we met with also suggested creation of various types of investment options for BIA's short, intermediate, and long-term investment of the Indian trust funds.

The Thrift Plan provides a select number of investment fund options, limits the number of interfund transfers that a participant may make in 1 year, and requires participants who wish to invest in other than government securities to sign a risk statement. Pending trust fund reform legislation would also limit the government's liability under the demonstration projects, so long as the Secretary prudently implements the demonstration.

BIA currently limits its investments of Indian funds to government securities, or collateralized accounts, which provide security similar to that of the Thrift Savings Plan G Fund. The G Fund consists of investments in short-term nonmarketable U.S. Treasury securities, which are specially issued to it. But the Thrift plan offers two additional options—the C and F Funds. For both of these Funds, the Thrift uses index funds. This allows the Thrift to use a "passive" investment strategy of duplicating the performance of the index, rather than an "active" investment strategy, which bases the selection of stocks or funds on economic, financial, and market analyses.

The Thrift's C Fund consists of the commingled Standard & Poor's 500 stock index fund, which is representative of 70 percent of the U.S. stock markets. In a commingled fund, the assets of many plans are combined and invested together.

The Thrift Plan's F Fund consists of a bond index fund, which represents the U.S. government sector, the corporate sector, and the mortgage-backed securities sector of the U.S. fixed-income market. It is the index used by private managers of the commingled fixed-income funds. These securities, which include bonds, notes, and debentures, usually pay interest semiannually until maturity.

The Thrift Savings Plan limits participant designations of future contributions to twice a year and interfund transfers to four times a year. This reduces the paperwork burden and management fees associated with numerous interfund transfers.

Private Sector Investment Services

We judgmentally selected two banks and two brokerage firms for our review of private sector investment services. Officials we met with who represented banks' and brokerage firms' investment and trust departments and asset management companies told us that they believed their institutions could handle Indian trust fund investments. Most of them also said that they could handle BIA's trust fund accounting and reporting. In addition, officials at some financial institutions told us that they have the capability to provide training and investment advice and services directly to tribes, which may decide to withdraw their money from BIA's trust funds and manage their own investments.

As stated above, if BIA, as the fiduciary, chooses to contract for investment services, it would need to establish policies and procedures and provide instructions on how the accounts that remain in the government trust funds would be maintained and invested. In this regard, BIA's instructions on account maintenance could reflect tribes' requests that their funds be invested in certain ways, while BIA's instructions on individual Indian accounts would need to reflect BIA's and the account holders' decisions to maintain these accounts as checking accounts or as investment accounts. For example, if BIA and individual Indian account holders decide that individual Indian accounts would be handled as individual checking or savings accounts with automatic teller machine card access or as cash management accounts, then BIA would need to provide instructions appropriate to those types of accounts.

BIA and individual Indian account holders could also decide to maintain the individuals' accounts as investments in a variation of pooled 401k pension funds or in pooled mutual funds. In pooled funds, a share value is determined for each account holder and the number of shares determines the value of the individual account. Interest earnings are calculated based on the share value of the account. If individual Indian accounts were to be maintained as investments, BIA would need to provide instructions on participation, including deposits and withdrawals, management fees, whether participants could borrow against their shares, etc. Officials told us that the requirement that federal funds be collateralized would limit their ability to invest these funds for the maximum return.

Management fees and reporting requirements would also vary depending upon how the trust fund accounts are to be maintained and/or invested. Some bank and brokerage firm officials told us that it would be costly to maintain individual Indian accounts as 401k accounts due to the governing rules for such accounts and the management fees associated with the

volume of transactions and small balances in these accounts. However, these officials also told us that if BIA is able to reduce the number of IIM accounts, it might be feasible to handle them as a variation of 401k pension funds or as pooled mutual funds for investment earnings. Under such an arrangement, management fees could be deducted from the accounts, or the government could pay the full cost of administration, plus a reasonable profit margin.

Native American Investment Advisors

Native American financial institutions are another source of investment advice and services for tribes. The First Nations Development Institute has prepared a list of Native American financial institutions and services that these institutions provide to American Indians. First Nations has also developed an investment manual, based on one tribe's experience, as a guide for tribes in assessing risk and return on various investment options. In the manual's case study, a tribe obtained special legislation permitting it to withdraw a portion of its judgment funds from BIA's trust funds. The manual details the advice and consultation given to the tribe on (1) investment fundamentals and (2) a process for selecting investment advisors. It also discusses the tribe's decision to invest its funds through two separate investment managers to (1) reduce their risk and (2) have access to two advisors to assist in the development of investment plans. The First Nations manual also highlights the investment experience of seven additional tribes.

In addition, officials from a newly formed Native American asset management company told us that they are interested in providing training, asset management, and investment advice to tribes and Indians. Under Public Law 93-638, Indian Self-Determination and Education Assistance Act grants, tribes could contract with Native American or private sector financial institutions for asset management and investment training and/or advice. Indian representatives and private financial institutions' officials have stated on numerous occasions that training, technical, and financial assistance are critical to the success of Indian financial management self-determination initiatives.

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