

T-2079

Bob
C-IA-BIA-14-88(h)

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF INSPECTOR GENERAL

AUDIT REPORT

MEMORANDUM AUDIT REPORT

REVIEW OF MESCALERO APACHE TRIBE AND RELATED BANDS
(LIPAN AND CHIRICAHUA APACHE) JUDGEMENT AWARD FUNDS



**This report may not be disclosed to anyone other than the auditee
except by the Assistant Inspector General for Administration,
Office of Inspector General, U.S. Department of the Interior,
Washington, D.C. 20240.**

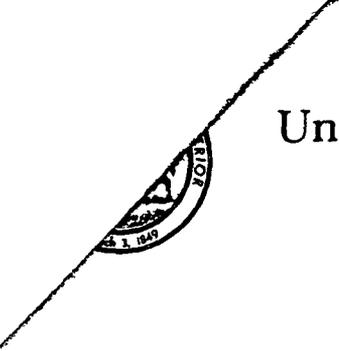
REC'D BIA
ACCTG. MGMT.
CENTRAL OFFICE
JAN 10 1989

REPORT NO. 89-34
JANUARY 1989

AIRR, 75-05-0590 Box 563
"IG Audit Reports, Misc"

DATE

COPY



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL

CENTRAL REGION
134 UNION BLVD, SUITE 510
LAKEWOOD, COLORADO 80228



January 4, 1989

MEMORANDUM AUDIT REPORT

To: Director, Albuquerque Area Office, Bureau of Indian Affairs

From: Regional Audit Manager

Subject: Review of Mescalero Apache Tribe and Related Bands (Lipan and Chiricahua Apache) Judgment Award Funds (No. 89-34)

Introduction

The Office of Inspector General reviewed the judgment funds awarded to the Mescalero Apache Tribe and related Bands as part of an overall review of Bureau of Indian Affairs trust fund management. Appendix 1 is a list of the judgment awards, including the dates awarded, the appropriation numbers, and the award amounts. This is one of a series of audit reports being issued for each fund reviewed. The objective of this review was to determine if (1) judgment award funds were being expended in accordance with approved plans and (2) the Bureau was properly fulfilling its trust responsibilities in monitoring, investing, and accounting for judgment award funds.

Background

The Mescalero, Lipan, and Chiricahua Apache Indians who reside on the Mescalero Apache Reservation received seven judgment awards which totaled over \$37 million. The net awarded after legal fees was \$34 million. The judgment awards were made for land taken, timber mismanagement, and accounting mismanagement. Each judgment award was required to be accompanied by a congressionally approved plan for use of the funds. As of June 30, 1988, the judgment award funds totaled \$25 million.

Scope of Audit

We reviewed the Bureau's management of the judgment award funds from fiscal year 1980 through June 1988. We reviewed legal documentation authorizing the funds, the approved plans for the use of the funds, and accounting transactions affecting fund balances. We also performed a limited review of Tribal accounting records to determine if the funds were expended in accordance with the approved plans. Our review was performed at the Bureau's Division of Trust Funds Management, the Branch of Trust Fund Accounting, and the Albuquerque Area Office, all located in Albuquerque, New Mexico. Additionally, we met with Tribal representatives on the Mescalero Reservation and with the Tribe's Certified Public Accountant in Roswell, New Mexico.

Part of our review, we performed a limited evaluation of internal controls related to these funds. Because our scope was limited, we are not discussing internal control weaknesses in this report. The Bureau has contracted with a certified public accounting firm to review and report on internal control weaknesses over trust fund accounting and management.

Our review was made, as applicable, in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary.

Prior Audit Coverage

The Office of Inspector General has not previously audited these specific funds.

Results of Review

In reviewing the Bureau's management of the judgment award funds, we identified two problems. For one judgment award, a permanent investment account did not have the minimum balance as required by the approved plan. Also, there were two inactive dockets with funds remaining. From our review of Tribal accounting records relating to the judgment awards, we concluded that, except for the permanent investment account mentioned above, the funds were used in accordance with the congressionally approved plans.

Minimum Balance

The Bureau did not have the minimum balance in a permanent investment account as required by the approved plan. This occurred because Albuquerque Area Office finance personnel who approved disbursements from the fund were not aware of the required minimum balance. Consequently, interest earnings from the permanent investment fund may not be sufficient to meet future Tribal needs.

At the beginning of our fieldwork, there were significant differences between Bureau and Tribal activity account balances within each fund. The overall Bureau balances for each fund, however, were in agreement with the Tribal accounts. Based on our review, Albuquerque Area Office finance personnel, with Tribal concurrence, reconciled the differences in the activity accounts to the June 30, 1988, balances of the Tribal accounts. Adjusting the Bureau's account balances, however, reduced the balance in one permanent investment account (Docket 22-B, Appropriation 14X9067, Tribal Investment Program--activity code 2620) to \$3,418,726 which was \$623,474 less than the required minimum balance of \$4,042,200 per the approved plan (Appendix 2). Additionally, the Tribe obtained approval for and the Bureau made a dividend distribution to tribal members from this same permanent investment fund, which was posted to the Bureau account in July 1988. This dividend distribution further increased the account shortage to \$1,278,000. Area Office finance personnel were not aware that this account had a required minimum

ance. The shortage will have to be restored to bring the Tribe into compliance with the approved plan, or the approved plan will have to be revised to allow for a lower permanent investment amount.

Inactive Dockets

There were two inactive dockets (Appropriations 14X9552 and 14X9554) with fund balances of \$83 and \$282, respectively. Prior attempts to close out these appropriations were not successful which resulted in the residual amounts shown. These accounts should be closed out by transferring the funds to other active judgment award accounts.

Recommendations

We recommend that the Albuquerque Area Director request the Area Finance Officer to:

1. Require a certification from the approving official that disbursement requests from judgment award accounts are in accordance with approved plans.

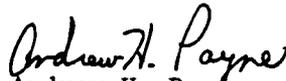
2. Coordinate with the Tribe on selecting fund sources to restore the required balance in permanent investment account 14X9067, activity code 2620, or request the Tribe to revise the approved plan to reflect a lower required permanent investment balance.

We also recommend that the Albuquerque Area Director request the Chief, Branch of Trust Fund Accounting, to:

3. Obtain agreement from the Tribe to transfer the funds remaining in Appropriations 14X9552 and 14X9554 to other accounts and eliminate the accounts to preclude future use.

In accordance with the Departmental Manual (360 DM 5.3), we are requesting a written response to this report by March 3, 1989. The legislation creating the Office of Inspector General requires semiannual reporting to the Congress on all reports issued, actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been implemented.

If you have any questions regarding this report, please contact Mr. Donald Kautzman, Regional Audit Supervisor, or me on FTS 776-9243.


Andrew H. Payne

cc: Chief, Division of Accounting Management,
Bureau of Indian Affairs
Audit Liaison Officer, Indian Affairs
Audit Liaison Officer, Bureau of Indian Affairs

MESCALERO APACHE TRIBE AND RELATED BANDS(LIPAN AND CHIRICAHUA APACHE)JUDGMENT AWARDS

<u>Account Number</u>	<u>Appropriation Numbers</u>	<u>Award Date</u>	<u>Award Amount</u>	<u>Legal Fees</u>	<u>Net Award</u>	<u>Balance as of 6/30/88</u>
*	14X9052/14X9552	*	*	*	*	\$ 8
-79L	14X9054/14X9554	8/27/84	\$ 1,646,500	\$ 164,650	\$ 1,481,850	28
,48,30-A,48-A	14X9056/14X9556	9/19/73	11,377,476	1,137,748	10,239,728	9,690,13
-C	14X9060/14X9560	2/19/76	10,000,000	1,064,314	8,935,686	5,216,53
-B	14X9067/14X9567	4/27/67	8,500,000	807,500	7,692,500	6,281,98
2,182-A	14X9068/14X9568	4/06/79	4,140,000	425,177	3,714,823	2,285,11
-G	14X9069/14X9569	1/16/81	<u>2,000,000</u>	<u>216,233</u>	<u>1,783,767</u>	<u>1,382,47</u>
			<u>\$37,663,976</u>	<u>\$3,815,622</u>	<u>\$33,848,354</u>	<u>\$24,856,60</u>

ward information could not be located.

JUDGMENT AWARD
DOCKET 22-B
APPROPRIATIONS 14X9067 and 14X9567

On April 27, 1967, the Indian Claims Commission awarded the Mescalero Apache Tribe the sum of \$8,500,000. This award represented payment for land taken from the Tribe in 1873. The net award and approved plan for these funds follow:

Award	\$8,500,000
Less: Attorney fees	<u>(807,500)</u>
Net Award	<u><u>\$7,692,500</u></u>

Approved Plan

1. Land Acquisitions	\$ 450,000
2. Scholarship Fund	600,000
3. Credit Expansion Trust Fund	200,000
4. Apache Summit	29,420
5. Rental Housing	200,000
6. Claims Research	35,000
7. Community Center	152,068
8. Recreation Areas	5,000
9. Industrial Promotion & Development	30,000
10. Liquor Licenses	34,000
11. Tribal Store Complex	30,000
12. Per Capita Distribution	1,650,000
13. Tribal Development Contingency Fund	192,312
14. Permanent Investment Fund	<u>4,042,200</u>
	<u><u>\$7,650,000*</u></u>

*Plan total differs from net award by \$42,500.