

U.S. Department of the Interior  
Office of the Special Trustee for American Indians  
FMFIA Trust Fund Management – Request for Removal of Mission Critical Material Weakness  
09/02/2004

**Overview of Fiduciary Trust Fund Responsibility:** The Department of the Interior (Interior) acts as trustee for tribes and individual Indians with fiduciary assets held in trust or restricted status. This includes being responsible for natural resource management, maintaining Indian land titles, maintaining and updating lease and ownership information and being accountable for the financial management of Tribal and Individual Indian Money (IIM) accounts. As a whole, Interior has a responsibility to manage approximately 56 million acres of Indian trust land and approximately \$3.3 billion of financial trust assets held in over 1,400 trust accounts for about 300 Tribes and about 250,000 open accounts for individual Indians.

On October 26, 1989, Interior established the Office of Trust Funds Management (OTFM) to combine trust funds accounting and investment functions into one office within the Bureau of Indian Affairs (BIA). In response to accumulating concerns, Congress passed the American Indian Trust Fund Management Reform Act of 1994 (Reform Act). Among its various mandates, the Reform Act authorized the establishment of the Office of the Special Trustee for American Indians (OST). As a result of the passage of the Reform Act and in response to the House appropriation report of September 21, 1995 for FY1996, Interior promulgated Secretarial Order No. 3197 (dated February 9, 1996) which transferred OTFM along with certain trust functions, from BIA to OST.

OST is charged with the responsibility for overseeing and coordinating Departmental reforms relating to the management and discharge of the fiduciary trust responsibilities to Indian tribes and individual Indians. These responsibilities include accounting for and reporting trust fund balances, providing adequate controls over receipts into and disbursements from accounts, investing trust funds consistent with Departmental policies and applicable laws.

The balances that have accumulated in the Trust Funds have resulted generally from judgment awards, settlement of claims, land use agreements, royalties on natural resource depletion, other proceeds derived directly from trust resources, receipt of judgment and tribal per capita distributions, and investment income.

**Description of FMFIA Material Weakness:** *(As stated in the Annual Report on Performance and Accountability – FY2003, pg 64)*

**Trust Fund Management** Beginning balances in the trust funds accounts may not be portrayed fairly due to inadequacies in certain Department of the Interior trust related systems and procedures. The remaining items to correct this material weakness includes OHTA's historical accounting and strengthening the existing system of controls to ensure that BIA ownership and distribution information is correct."

In the opinion of the Special Trustee for American Indians a more accurate depiction is that the beginning balances in the trust fund accounts are portrayed fairly. However an account may, in the future, have money added or subtracted as a result of OHTA's historical accounting project. This would not affect the beginning balance of account holders contained on the quarterly statements of account, which often begin with a balance of \$0 as income is disbursed as it is received in many instances. Additional measures to assure compliance with objectives of FMFIA and to mitigate risk are further described below.

**Strategic Plan on Trust Reform Efforts:** The issue of trust fund management remains a priority. The Interior continues to devote significant resources to mitigating inherent risks. Interior completed the Comprehensive Trust Management Plan (CTM) dated March 28, 2003, to guide the design and implementation of the trust reform effort. The goals and objectives of CTM align with the Departmental Strategic Plan and incorporate project components and actions required to fulfill fiduciary trust responsibilities to American Indians and Alaska Natives. The CTM is intended to provide guidance, oversight, management, and administration of trust assets. This will require a strong collaborative partnership between Departmental Bureaus/Offices and Indian tribes that manage the fiduciary Indian trust programs.

The mission statement contained in the CTM is "To perform our fiduciary trust responsibilities to American Indian tribes, individual Indians, and Alaska Natives by incorporating a beneficiary focus and beneficiary participation while providing effective competent stewardship and management of trust assets."

**Pace of Corrective Action:**

**Year Identified:** FY 1989

**Correction Date in Last Year's Performance and Accountability Report (PAR):** FY 2007

**Current Correction Date:** FY 2004 (Removal)

**Reason for Removal of FMFIA Material Weakness:** The basic reason for removal is OST's current self assessment has determined that the FMFIA mission critical material weakness is no longer valid. At this time, OST must assume that the beginning account balances are accurate.

In the FY1998 Audit Report 00-I-434 (pg 57), the independent auditor, Griffin and Associates, stated

OST has made considerable efforts towards improving the accounting systems and internal controls in place within the Office of Trust Fund Management (OTFM). We have considered this as ongoing reform efforts and have adjusted certain past 'Material Weaknesses' to Reportable Conditions.

**High Level Overview of Mitigating Actions and Management Improvements:**

In the past, accounting for trust funds was performed on systems not designed for trust fund accounting. Accounting and reporting for trust funds was performed via multiple systems, none of which were regularly reconciled. OST launched an effort to develop a comprehensive approach for improving Indian trust fund management. Interior efforts to improve fiduciary Indian trust management includes the following

1. Established the Office of Trust Funds Management (OTFM) to combine trust funds accounting and investment functions into one office within BIA. As a result of the establishment of OTFM, staff was dedicated to performing trust fund management (*October 1989*),
2. Developed and instituted periodic reconciliations with the U.S. Treasury (*October 1993*),
3. Converted to an interim commercial-off-the-shelf software system (Omni-Trust) for tribal accounts and the IIM investment pool (*March 1995*);
4. Provided the Tribes with a monthly statement with information on account financial performance and balances (*with conversion of Omni-Trust in FY1995 to current with the TFAS system*);
5. Developed and instituted daily reconciliations of all cash activities (*March 1995*);
6. Confirmed Paul Homan as the first Special Trustee for American Indians (*July 1995*),
7. Appointed initial membership of the Special Trustee's Advisory Board (*December 1995*),
8. Transferred financial management functions from the Bureau of Indian Affairs through Secretarial Order No. 3197 (*February 1996*);
9. Isolated the out-of-balance conditions with the U.S. Treasury (*June 1996*);
10. Implemented policies and procedures regarding the management of IIM and tribal accounts including on-going development of Desk Operating Procedures (*first policy implemented October 1996*),
11. Initiated administrative IIM jacket folder clean-up (*December 1997 and completed April 2000*),
12. Converted to SEI's Trust 3000 Accounting System effectively converting the system of record for IIM accounts from BIA's Integrated Records Management System (IRMS) to SEI (*August 1998 through March 2000*),
13. Provided individual Indian account holders a quarterly statement with financial information on account performance and balances (*on-going from conversion to TFAS*),
14. Accepted resignation from Paul Homan and appointed Tom Thompson as Acting Special Trustee (*January 1999*),

- 15 Issued Secretarial Order No 3208 to strengthen and clarify OST management responsibilities through creation of a Principal Deputy Special Trustee and establish the Office of Trust Litigation Support and Records *(January 1999)*,
- 16 Issued 1099 reporting to the Internal Revenue Service (IRS) and to account holders of the Five Civilized Tribes *(reported January 1999 for calendar year 1998)*,
- 17 Converted to SEI Trust 3000 Tribal accounts and investment activity *(February 1999)*,
- 18 Established partnership with the National Archives and Records Administration (NARA) and the Indian Affairs Records Management program (IARM) through a directive signed by the Department's Assistant Secretary for Policy, Management and Budget under the NARA Targeted assistance Program *(May 1999)*,
19. Reached agreement (i.e., as of adjustments) with U.S Treasury so that trust funds deposited after the normal Treasury daily deadline would earn overnight interest *(July 1999)*;
20. Established Tribal Account Managers to ensure tribal budgets were prepared and adhered to in accordance with Public Laws and Tribal resolution *(August 1999)*;
21. Worked with the IRS to develop an IRS Determination Notice Regarding reporting requirements for nontaxable mineral royalties *(December 1999)*;
22. Centralized data entry for the accounts from the field locations to the central office, thus ensuring that adequate source documents and proper authorizations are present on trust transactions and establishing management controls in the receipt and disbursement process *(March 2000)*;
- 23 Developed and issued the "Principles for the Discharge of the Secretary's Trust Responsibilities" by Secretarial Order No. 3215 *(April 2000)*;
- 24 Initiated Customer StrataStation (CSS) electronic forms system for users in the field to enter account transactions into electronic worktickets *(May 2000)*;
- 25 Initiated the IIM whereabouts unknown account holder process and focused work on top 100 account holders with balances of over \$50,000 *(May 2000 to present)*,
- 26 Confirmed Thomas Slonaker as the second Special Trustee for American Indians *(June 2000)*,
- 27 Developed Risk Management Handbook published by the Office of Trust Risk Management for Indian trust operations *(November 2000)*,
- 28 Developed Trust Foundations I and II training *(August 2000 and initiated training January 2001)*,
- 29 Outsourced 1099 interest income report production and mailing *(reported January 2001 for calendar year 2000)*,

- 30 Identified mandatory documentation necessary to manage trust accounts (*February 2001*),
- 31 Updated pertinent regulations including 25 CFR 115 (*February 2001*),
- 32 Implemented Tribal credit documentation requirements for IIM funds used as security/collateral for a contract (*February 2001*),
- 33 Initiated clean up of historical special deposit accounts (SDA) (*June 2001*),
- 34 Created the Office of Historical Trust Accounting (OHTA) by Secretarial Order No 3231, to perform historical accounting (*July 2001*),
- 35 Created Deputy Special Trustee to oversight "Trust Reform" by Secretarial Order No 3232 (*July 2001*);
36. Developed and implemented internal management controls for Federal Managers' Financial Integrity Act (FMFIA) reviews (*applied October 2001 for FY2002*),
37. Created the Office of Indian Trust Transition (OITT) by Secretarial Order No. 3235 to oversee trust reform initiatives (*November 2001*);
38. Transferred the Office of Appraisal Services from BIA to OST under Secretarial Order No. 3240 to ensure the independence, accountability, and oversight of Indian trust lands valuation (*March 2002*);
39. Developed and implemented "The Historical Accounting Plan for Individual Indian Money Accounts" (*July 2002*);
- 40 Accepted resignation from Thomas Slonaker and appointed Donna Erwin as Acting Special Trustee (*July 2002*),
41. Developed and issued BIA-OST Interagency Procedures Handbook (*July 2002*),
- 42 Provided comprehensive training on BIA-OST Interagency Procedures Handbook (*2002-2003*);
- 43 Identified the land title, realty and account Critical Data Elements (CDE) through the Data Quality and Integrity Project (DQI) to make accurate and timely payments to beneficiaries; provide an accurate and timely inventory of trust assets to beneficiaries, and to effectively manage the beneficiaries' trust assets (*July 2002 to present*),
- 44 Implemented six strategies to achieve an effective records management program for Office of Trust Records (OTR) (1) records retention schedules; (2) record-keeping requirements, (3) safeguarding records, (4) training programs, (5) evaluation of records programs, and (6) record retrieval and document production requirements (*implemented October 2002 for FY2003*),

- 45 Outsourced the development of a one central database for all retired Indian Affairs records *(entered into agreement October 2002 and began December 2002)*,
- 46 Developed Fiduciary Compliance Obligations Report by OHTA *(January 2003)*,
- 47 Developed a customized course on Indian Trust comparing and contrasting to the private sector trust *(completed end of 2002 and initiated training March 2003)*,
- 48 Developed and monitor an automated tool for receipts deposited to special deposit accounts (SDA) and worked with the BIA agency level staff to identify the undistributed funds greater than 30 days old to facilitate the distribution of the funds *(January 2003 to current)*,
- 49 Facilitated adjustments to bring U.S. Treasury and OST balances into agreement *(March 2003)*,
- 50 Finalized the Comprehensive Trust Management Plan *(March 2003)*;
51. Confirmed Ross O Swimmer as the third Special Trustee for American Indians *(April 2003)*;
52. Reorganized OST and BIA by Department Manual 110 chapter 26 to support the goals and objectives of the CTM *(April 2003)*;
53. Established a Memorandum of Understanding (MOU) signed by Secretary Norton with NARA to establish an American Indian Records Repository to consolidate and preserve designated records at the National Archive's records storage facility in Lenexa, Kansas *(September 2003)*;
- 54 Developed a archival and records management studies program at Haskell Indian Nations University by MOU signed by Secretary Norton with NARA *(September 2003)*;
- 55 Established and hired Trust Officers to provide a primary point of contact for trust beneficiaries and supervise field accounting staff *(initial hire October 2003)*,
- 56 Implemented an expanded performance audit by Office of Inspector General to ensure collection of all funds are managed appropriately and that internal controls are in place and being followed by all agencies collecting funds on behalf of IIM account holders and tribes *(implemented October 2003 for FY2004 and to be reported September 2004)*;
- 57 Established a Memorandum of Understanding (MOU) between OTR and BIA was signed to formalize the partnership with regard to the management of general records used by BIA *(December 2003)*,
- 58 Appointed the membership of the 2004-2006 Special Trustee's Advisory Board *(February 2004)*,
- 59 Established and hired Regional Trust Administrators (RTA) to provide first-line supervision of trust officers and assist BIA regional directors as needed *(initial two positions confirmed March 2004)*,

- 60 Completed OST IT systems certification and accreditation (*June 2004*),
- 61 Finalized the "To-Be" model with an implementation plan for trust reengineering (*June 2004*),
- 62 Outsourced the investment security selection and execution functions of the IIM investment pool (*August 2004*),
- 63 Received approval of the "To-Be" Trust Business Model by Secretary Norton (*August 2004*), and
- 64 Provided IT systems security developments with on-going awareness training (*on-going efforts*)

**Future Trust Reform Efforts:**

Secretary Norton approved the final "To-Be" Trust Business Model on August 11, 2004. The model supports the Department of the Interior's Strategic Plan under the goal Serving Communities – Fulfill Indian Fiduciary Trust Responsibilities, and supports the Secretary of Interior's key initiatives; trust reform and improving services to Native Americans. The "To-Be" Model will focus on five major Trust Business Processes as we move forward in implementing our Trust Initiatives for the 21<sup>st</sup> Century:

- Beneficiary Relationship Development and Management (BDRM): to provide beneficiaries with accurate and timely trust asset information and counseling on asset management/use options;
- Financial Operations (FO): to assure the timely identification, collection, deposit, investment and distribution of income due or held on behalf of Tribal and individual beneficiary account holder;
- Ownership (O): to ensure the inventory of trust or restricted ownership interests are current, accurate and accessible. This process ensures the identification of all beneficiary ownership interests for accurate and timely distribution of income, as well as distribution of trust assets to current and future beneficiaries,
- Land and Natural Resources Planning (LNRP): to provide beneficiaries with support necessary to develop wide-area plans that enhance and expedite the management and utilization of trust land and natural resources; and
- Land and Natural Resources Use and Management (LNRUM) to ensure lands and natural resources are productive, managed in accordance with accepted conservation and preservation practices and monitored for compliance and enforcement.

Elements of Corrective Action Plan  
 "To-Be" Phase 1 Implementation Schedule

Planned Date

Beneficiary Relationship Development and Management (BDRM)

- Establish Primary Point of Contact, FY2004-2005
- Nationwide Beneficiary Request and Inquiry Tracking; FY2004-2005
- Conduct Department-wide Outreach; FY2005
- Beneficiary Asset Counseling for Individual Indian Trust Agreement, and FY2005
- Beneficiary Involvement in Ownership Transactions FY2005

Financial Operations (FO):

- Lockbox Operations, FY2004-2006
- Enhanced Beneficiary Statements; and FY2004-2006
- Receipt of Funds. FY2005-2006

Ownership (O):

- Standardize and Streamline Conveyance Processes; FY2004-2007
- Surveyor Certification Program; FY2005
- Provide Survey Services Assistance; FY2004-2008
- Survey Records Maintenance; FY2004-2008
- Funding for Surveys and Maintenance of Public Land Survey System; FY2004-2005
- Probate Standardization; FY2004-2006
- Establish Single Adjudicating Office; FY2004-2006
- Individual Indian Trust Agreement; FY2004-2005
- Title Integration and Standardization; FY2004-2006
- Nationwide Title System; and FY2004-2006
- Standardized Recordation Procedures. FY2004-2006

Land and Natural Resources Planning (LNRP):

- Develop Wide Area Plans, FY2004-2006
- Valuations, and FY2004-2006
- Mineral Valuation. FY2004-2005

Land and Natural Resources Use and Management (LNRUM)

- Standardized Land Use Contracting, FY2004-2006
- Standardized Land Use Contract Form; and FY2004-2005
- Eliminate Direct Pay for Individual Beneficiaries FY2004

<b>Elements of Corrective Action Plan "To-Be" Phase 2 Implementation Schedule</b>	<b>Planned Date</b>
<u>Beneficiary Relationship Development and Management (BDRM)</u>	
<ul style="list-style-type: none"> <li>• Conduct Beneficiary Follow-up, and</li> <li>• Conduct Beneficiary Account Administration.</li> </ul>	FY2005-2007 FY2005-2007
<u>Financial Operations (FO):</u>	
<ul style="list-style-type: none"> <li>• Disbursements</li> </ul>	FY2005-2007
<u>Ownership (O):</u>	
<ul style="list-style-type: none"> <li>• Consolidate and Simplify Conveyance Regulations</li> </ul>	FY2005
<u>Land and Natural Resources Use and Management (LNRUM)</u>	
<ul style="list-style-type: none"> <li>• Monitor all Trust Lands</li> </ul>	FY2005-2006

<b>Elements of Corrective Action Plan "To-Be" Phase 3 Implementation Schedule</b>	<b>Planned Date</b>
<u>Beneficiary Relationship Development and Management (BDRM):</u>	
<ul style="list-style-type: none"> <li>• Beneficiary Asset Counseling (other than Individual Indian Trust Agreement)</li> <li>• Beneficiary Involvement in Use and Management Transactions; and</li> <li>• Beneficiary Access to their Asset/Account Information via Kiosk, Internet</li> </ul>	FY2006 FY2006-2007 FY2006-2008
<u>Financial Operations (FO):</u>	
<ul style="list-style-type: none"> <li>• Omnibus Reconciliation</li> </ul>	FY2006-2007
<u>Ownership (O):</u>	
<ul style="list-style-type: none"> <li>• Provide Support for Conveyance and Owner-Managed Trust</li> </ul>	FY2006-2008
<u>Land and Natural Resources Use and Management (LNRUM):</u>	
<ul style="list-style-type: none"> <li>• Document Beneficiary Rights; and</li> <li>• Comprehensive Project and Land Status Reporting</li> </ul>	FY2006-2007 FY2006-2007

<b>Elements of Corrective Action Plan (outside of To-Be)</b>	<b>Planned Date</b>
<u>The Historical Accounting Plan for Individual Indian Money Accounts</u>	
<ul style="list-style-type: none"> <li>• Historical Accounting for about 260,000 Individual Indian Money (IIM) accounts</li> </ul>	To be completed FY2007