



**U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF INSPECTOR GENERAL**

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**INDEPENDENT AUDITORS' REPORT  
ON THE TRIBAL AND OTHER TRUST FUNDS  
AND INDIVIDUAL INDIAN MONIES TRUST  
FUNDS FINANCIAL STATEMENTS FOR  
FISCAL YEARS 2005 AND 2004  
MANAGED BY THE  
OFFICE OF THE SPECIAL TRUSTEE  
FOR AMERICAN INDIANS**



# United States Department of the Interior

OFFICE OF INSPECTOR GENERAL  
Washington, D.C. 20240

November 22, 2005

## Memorandum

To: The Special Trustee for American Indians  
Office of the Special Trustee for American Indians

From: Anne L. Richards   
Assistant Inspector General for Audits

Subject: Independent Auditors' Report on the Tribal and Other Trust Funds and Individual Indian Monies Trust Funds Financial Statements for Fiscal Years 2005 and 2004 Managed by the Office of the Special Trustee for American Indians. (Report No. Q-IN-OST-0002-2005).

The Office of the Special Trustee for American Indians (OST) contracted with KPMG LLP, (KPMG) an independent certified public accounting firm, to audit the OST's financial statements as of September 30, 2005, and for the year then ended. The OST's financial report contains separate financial statements and notes for Tribal and Other Trust Funds and Individual Indian Monies Trust Funds. The contract required that KPMG conduct its audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States.

In its Independent Auditor's Report dated November 10, 2005, (Attachment) KPMG issued a qualified opinion on OST's financial statements because inadequacies in certain Department of the Interior trust-related systems and processes made it impracticable to extend auditing procedures sufficiently to satisfy auditors as to the fairness of trust fund balances. Also, certain parties for whom OST holds assets in trust (i) do not agree with balances recorded by OST, and certain of these parties have filed, or are expected to file, claims against the United States Government, or (ii) have filed a class action lawsuit for an accounting of the individuals' trust funds which may or may not lead to claims against the United States Government. KPMG identified two reportable conditions related to internal controls over financial reporting: (1) reliance by OST on processing of trust transactions at the Bureau of Indian Affairs; and (2) unresolved financial reporting issues from prior periods. KPMG considers the reportable conditions to be material weaknesses. With regard to tests of compliance with laws and regulations described in the Compliance section of the report, KPMG found no instances of noncompliance that are required to be reported under the *Government Auditing Standards*.

In its response, which was incorporated into the report, OST concurred with the report's findings and recommendations and indicated that corrective actions would be taken. We consider the recommendations resolved but not implemented. The recommendations will be

referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

KPMG is responsible for the auditors' report and for the conclusions expressed in the report. We do not express opinions on OST's financial statements, the effectiveness of internal controls, or on compliance with laws and regulations.

The legislation, as amended, creating the Office of Inspector General, (5 U.S.C.A. App. 3) requires semiannual reporting to Congress on all audit reports issued, actions taken to implement audit recommendations, and recommendations that have not been implemented. Therefore, this report will be included in our next semiannual report.

We appreciate the cooperation and assistance of OST personnel during the audit. If you have any questions, please contact me at (202) 208-5512.

Attachment



**TRIBAL AND OTHER TRUST FUNDS AND  
INDIVIDUAL INDIAN MONIES TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**



**ANNUAL REPORT 2005**

**TRIBAL AND OTHER TRUST FUNDS AND  
INDIVIDUAL INDIAN MONIES TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

**Contents**

**Letter from the Special Trustee**

**Tribal and Other Trust Funds Financial Statements**

**Individual Indian Monies Trust Funds Financial Statements**

**Independent Auditors' Report on Internal Control over Financial Reporting and  
on Compliance and Other Matters**

**Management Response to the Audit Report on Internal Control over  
Financial Reporting and on Compliance and Other Matters**

## **Letter from the Special Trustee**

# Letter from the Special Trustee

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I am pleased to present the Office of the Special Trustee for American Indians' (OST) fiscal year 2005 audited financial statements. This letter provides information about trust reforms our office has accomplished throughout this past fiscal year. Providing services to trust beneficiaries has remained a primary focus of OST.

Interior is committed to fulfilling its trust responsibilities to American Indians and Alaska Natives effectively and efficiently. It also is committed to providing excellent service to the beneficiaries of that trust. To fulfill its trust responsibilities, Interior, through OST, created an overall strategic plan to guide the design and implementation of the trust reform efforts. The Comprehensive Trust Management Plan (CTM) guides and describes the vision, goals, and objectives of trust reform and the operation of the trust program for all bureaus and offices within Interior.

Achieving the goals that are at the heart of the CTM will result in enhanced beneficiary services, ownership information, and administrative services; improved management of land and natural resource assets, and trust fund assets; and increased support for Indian self-governance and self-determination. The CTM also considers the trends that influence trust management, the role of relevant stakeholders, and the interaction of Interior agencies. OST supports its goal to fulfill Indian fiduciary trust responsibilities by implementing the following strategies:

- Improve Indian Fiduciary Trust Beneficiary Services
- Support Indian Self-Governance and Self-Determination
- Improve Indian Trust Ownership and Other Information
- Manage Trust Fund Assets for Timely and Productive Use
- Improve Management of Land and Natural Resource Assets

The CTM laid the groundwork for the development of the Fiduciary Trust Model (FTM). The FTM is designed to enhance beneficiary services for Tribes and individuals, ownership information, land and natural resources assets, trust funds assets, Indian self-governance and self-determination, and administrative services. Below are some of OST's fiscal year 2005 FTM highlights:

- Developed interfaces between the Trust Asset and Accounting Management System (TAAMS) and the Trust Funds Accounting System (TFAS) effective June 30, 2005 at two Pilot Agencies (Anadarko and Concho). This effort included the development and implementation of a Trust Funds Receivable (TFR) module designed to track and report funds due from trust surface activities.
- Issued enhanced beneficiary statement of performance (for Pilot Agencies) that included real property holdings and related surface encumbrance (e.g. lease, permits, contracts, etc.) information.
- Began implementation of commercial lockbox processing. Lockbox processing will improve the timeliness of collections and provide for greater control and accountability.
- Provided more opportunities for direct interaction with Tribal and individual Indian beneficiaries through Fiduciary Trust Officers located throughout Indian Country.
- Launched the Trust Beneficiary Call Center, a nationwide toll-free telephone number (1-888-678-6736 Ext. 0) where Indian trust beneficiaries are able to obtain trust account information and related services. Notable performance included:
  - ✓ During the first nine months of operation received 51,206 calls and provided First Line Resolution for 90.5% (46,341) of these calls.
  - ✓ Saved Interior field staff more than 2,841 hours, enabling them to focus on other trust-related issues.
- Reconciled more than 8,000,000 trust related cash transactions with Treasury.
- Prepared and mailed approximately 670,000 beneficiary statements of performance.

- Disbursed over 60,000 electronic payments and over 500,000 checks to beneficiaries.
- Negotiated self-determination and self-governance contract and compact agreements for 39 Tribes and 42 programs.
- Assisted 2 Tribes in the withdrawal of trust funds pursuant to the American Indian Trust Fund Management Reform Act of 1994.
- Finalized the development and implemented courses for an Indian Fiduciary Trust certification program. Courses were developed through Cannon Trust Institute, a leader in trust industry training. Available certifications include *Certified Indian Fiduciary Trust Analyst*, *Certified Indian Fiduciary Trust Specialist*, and *Certified Indian Trust Examiner*.
- Developed and distributed informational brochures and handouts to beneficiaries (e.g. OST General Information, Withdrawing Tribal Trust Funds from Trust, Whereabouts Unknown, and informational brochures through statement of performance mailings).
- Trained OST and BIA staff and held outreach meetings to assist in complying with the new American Indian Probate Reform Act (AIPRA).
- Contributed funding, participated in curriculum development, and served on the governance board of the new National Indian Programs Training Center.
- Located over 12,000 whereabouts unknown beneficiaries representing approximately \$15 million that was subsequently distributed to those beneficiaries.

One of the biggest challenges we face is the continuation of the court-ordered disconnection from the Internet. In spite of such technological challenges, OST has improved its ability to serve its trust beneficiaries. In keeping with the business objectives outlined in the FTM, OST will pursue the following initiatives during Fiscal Year 2006:

- Validate data, adjudicate probates and update into an integrated system, including a trust fund receivable module, 80% of recurring trust dollars and 70% of accounts.
- Complete the nationwide implementation of commercial lockbox processing.
- Expand the Trust Beneficiary Call Center operating hours to pilot evening and weekend availability.
- Continue the rollout of enhanced beneficiary statements of performance to include real property holdings and related surface encumbrance information.

I hope you find this year's Annual Report informative and useful. We welcome your help, comments, or suggestions for continued improvement.

  
 Ross O. Swimmer  
 Special Trustee for American Indians



**Tribal and Other Trust Funds  
Financial Statements**



**TRIBAL AND OTHER TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Financial Statements

September 30, 2005 and 2004

(With Independent Auditors' Report on Financial Statements Thereon)



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PO Box 3990  
Albuquerque, NM 87190

## Independent Auditors' Report on Financial Statements

The Special Trustee for American Indians  
U.S. Department of the Interior Office of the Special Trustee for American Indians

We have audited the accompanying statements of assets and trust fund balances – cash basis of the Tribal and Other Trust Funds managed by the U.S. Department of the Interior Office of the Special Trustee for American Indians (OST) as of September 30, 2005 and 2004 and the related statements of changes in trust fund balances – cash basis for the years then ended. These financial statements are the responsibility of management of OST. Our responsibility is to express an opinion on these financial statements based on our audits.

Except as discussed in the fourth paragraph of this report, we conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control over financial reporting of the Tribal and Other Trust Funds managed by OST. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As described in note 2, these financial statements were prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

It was not practicable to extend our auditing procedures sufficiently to satisfy ourselves as to the fairness of trust fund balances in the accompanying financial statements as of September 30, 2005 and 2004 due to inadequacies in certain Department of the Interior trust-related systems and processes, which provide required trust financial information to OST. Trust fund balances enter into the determination of financial position and changes in trust fund balances. Certain parties for whom OST holds assets in trust do not agree with balances recorded by OST, and certain of these parties have filed, or are expected to file, claims against the United States Government.

In our opinion, except for the effects on the financial statements of such adjustments, if any, as might have been determined to be necessary had we been able to apply adequate procedures to determine the fairness of trust fund balances and related changes in trust fund balances, as discussed in the preceding paragraph, the financial statements referred to in the first paragraph above present fairly, in all material respects, the financial position of the Tribal and Other Trust Funds managed by OST as of September 30, 2005 and 2004, and the changes in trust fund balances for the years then ended in conformity with the basis of accounting described in note 2.

In accordance with *Government Auditing Standards*, we have also issued our report dated November 10, 2005, on our consideration of internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, and contracts of the Tribal and Other Trust Funds managed by OST. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audits.

KPMG LLP

November 10, 2005

**TRIBAL AND OTHER TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Statements of Assets and Trust Fund Balances – Cash Basis

September 30, 2005 and 2004

(In thousands)

<b>Assets</b>	<b>2005</b>	<b>2004</b>
Cash and cash equivalents (note 3)	\$ 501,596	490,380
Due from other Federal agencies (note 4)	—	7,800
Investments (note 5)	<u>2,380,222</u>	<u>2,477,052</u>
Total assets	<u>\$ 2,881,818</u>	<u>2,975,232</u>
<b>Trust Fund Balances</b>		
Held for Indian tribes (notes 7 and 9)	\$ 2,604,516	2,708,869
Held by the Department of the Interior and considered to be U.S. Government funds (note 7)	<u>277,302</u>	<u>266,363</u>
Total trust fund balances	<u>\$ 2,881,818</u>	<u>2,975,232</u>

See accompanying notes to financial statements.

**TRIBAL AND OTHER TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Statements of Changes in Trust Fund Balances – Cash Basis

Years ended September 30, 2005 and 2004

(In thousands)

	<b>2005</b>	<b>2004</b>
Increases:		
Receipts	\$ 352,921	300,960
Interest received on invested funds	146,330	106,348
Gain on disposition of investments, net	18,487	6,359
	517,738	413,667
Decreases:		
Disbursements to and on behalf of Indian tribes and other trust funds and withdrawal of trust funds by Indian tribes (note 9)	(611,152)	(318,447)
(Decrease) increase in trust fund balances, net	(93,414)	95,220
Trust fund balances, beginning of year	2,975,232	2,880,012
Trust fund balances, end of year (notes 7 and 9)	\$ 2,881,818	2,975,232

See accompanying notes to financial statements.

**TRIBAL AND OTHER TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Notes to Financial Statements

September 30, 2005 and 2004

**(1) Background and Description of the Trust Funds**

**(a) Overview of the Trust Funds**

**Establishment and Management of the Trust Funds** – The legislation which authorizes the Secretary of the United States Department of the Interior (Secretary) to manage the Tribal and Other Trust Funds (Trust Funds) recognizes the unique trust relationship that exists between the Indian tribes, individual Indians, and the United States Government (U.S. Government). Agreements between the U.S. Government and the various Indian tribes, many of these in the form of treaties, recognize the sovereignty of tribes. During the course of the Nation’s history and the U.S. Government’s evolving policies toward Indian tribes, the trust relationship has retained characteristics based upon tribal sovereignty. The United States Congress has designated the Secretary as the trustee delegate with responsibility for the monetary and nonmonetary resources held in trust on behalf of American Indian tribes, individual Indians, and other trust funds. In carrying out the management and oversight of the Indian trust assets, the Secretary has a fiduciary responsibility to ensure monies are received for the use of Indian lands and the extraction of natural resources from Indian lands, distribute such monies collected to the appropriate beneficiaries, ensure that trust accounts are properly maintained and invested, and ensure that accurate and complete reports are provided to the trust beneficiaries in accordance with applicable law.

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, and investment income.

The accompanying financial statements include only the assets held in trust by the Office of the Special Trustee for American Indians (OST) for trust beneficiaries and do not include: (i) the operating account balances of OST (e.g., Fund Balance with Treasury, Property, Plant, and Equipment) or (ii) other Indian trust assets, including but not limited to, Indian lands, buildings, or other nonmonetary assets managed by the United States Department of the Interior (Department).

**The Reform Act** – The American Indian Trust Fund Management Reform Act of 1994 (Public Law 103-412) (the Reform Act) authorized the establishment of OST which is headed by the Special Trustee for American Indians (Special Trustee) who reports to the Secretary. Under this legislation, the Special Trustee is responsible for oversight, reform, and coordination of the policies, procedures, systems, and practices used by various bureaus and offices of the Department, including but not limited to the Bureau of Indian Affairs (BIA), the Minerals Management Service (MMS), and the Bureau of Land Management (BLM), in managing Indian trust assets.

**Office of the Special Trustee for American Indians** – Indian trust assets, including the Trust Funds, are primarily managed under the delegated authority of OST and BIA. Management of Indian trust assets on behalf of the trust beneficiaries is dependent upon the processing of trust-related transactions within certain information systems of the Department, including but not limited to OST, BIA, MMS, and other Departmental bureaus and offices. BIA and other Departmental bureaus and offices are responsible for managing the natural resources located within the boundaries of Indian reservations and trust lands, as well as the processing of data regarding the ownership and leasing of

**TRIBAL AND OTHER TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Notes to Financial Statements

September 30, 2005 and 2004

Indian lands. The allocation and distribution of receipts and disbursements by OST to trust beneficiaries is significantly dependent and reliant upon the receipt of timely and accurate information derived from records maintained by BIA, MMS, and other Departmental bureaus and offices (see note 8).

**Regional Offices** – OST and BIA maintain staff at regional offices located throughout the United States.

**Agency and Field Offices** – OST and BIA maintain staff at agency and field offices located throughout the United States, which are generally located near the tribes and individual Indians served. OST and BIA personnel located at most of the agency and field offices perform various functions related to trust fund activities.

**(b) Description of the Trust Funds**

Certain of the Trust Funds are subject to legal, regulatory, budgetary, court-ordered, or other restrictions (see note 7). A brief description of the Trust Funds follows:

- **Tribal Trust Funds** – Approximately 1,450 accounts comprise the Tribal Trust Funds, which totaled approximately \$2,604,516,000 and \$2,708,869,000 as of September 30, 2005 and 2004, respectively.

Tribal Trust Funds realize receipts from a variety of sources, including judgment awards, settlement of claims, land use agreements, royalties on natural resource depletion, other proceeds derived directly from trust resources, and investment income.

- **Other Trust Funds** – Other Trust Funds are comprised of those funds classified as *Held by the Department of the Interior and considered to be U.S. Government funds* (see note 7). Other Trust Funds totaled approximately \$277,302,000 and \$266,363,000 as of September 30, 2005 and 2004, respectively.

Other Trust Funds realize receipts from a variety of sources including leases, rights-of-way, settlement of Indian claims, donations and bequests, and investment income.

**(c) Investment of Trust Funds**

Authorizing legislation and a substantial body of case law specify how Indian trust funds should be managed and which financial instruments constitute appropriate investments for Indian trust funds. The Trust Funds are invested in U.S. Government securities, including U.S. Department of the Treasury (U.S. Treasury) issues, U.S. Government agency issues, and U.S. Government-sponsored entity issues.

**TRIBAL AND OTHER TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Notes to Financial Statements

September 30, 2005 and 2004

**(2) Summary of Significant Accounting Policies**

**(a) *Basis of Accounting***

OST uses the cash basis of accounting for the Trust Funds, which is a comprehensive basis of accounting other than generally accepted accounting principles. The cash basis of accounting differs from generally accepted accounting principles in that receivables and payables are not accrued and premiums and discounts are not amortized or accreted. Receipts are recorded when received and disbursements are recorded when issued. Investments are stated at historical cost. Interest received on invested funds reported in the statements of changes in trust fund balances reflects interest received during the fiscal year.

**(b) *Cash and Cash Equivalents***

Management considers all highly liquid financial instruments with maturities of three months or less when purchased to be cash equivalents.

**(c) *Investments***

Investment securities at September 30, 2005 and 2004 consist of U.S. Treasury issues, U.S. Government agency issues, and U.S. Government-sponsored entity issues. Investment securities are recorded at historical cost. Interest income is recognized when received.

The Trust Funds' investments have a concentration of credit risk in U.S. Government securities, as mandated by 25 USC 162.

**(d) *Receipts***

Receipts from various leasing activities, mineral royalties and sales of extracted minerals, timber and other forest products, fees and fines, and the granting of easements are generated from a variety of nonmonetary assets that are held in trust by the U.S. Government and managed by BIA and other Departmental bureaus and offices on behalf of tribes. Receipts on hand at the regional and agency offices at September 30, 2005 and 2004, if any, awaiting deposit to the U.S. Treasury are not included in the financial statements.

Receipts also include payments from the U.S. Government for judgment awards and the settlement of claims.

**(e) *Disbursements***

Payments disbursed from the Trust Funds consist of accumulations of funds from various income-producing activities such as leasing, royalty receipts, minerals extraction, timber and other forest product sales, judgment awards, settlement of claims, and investment income. Under certain conditions, tribes disburse per capita payments to their enrolled members.

Public Law 103-412 specifically allows for the voluntary withdrawal of judgment awards and settlement of claims funds from the Trust Funds. Except where prohibited by statute, an Indian tribe

**TRIBAL AND OTHER TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Notes to Financial Statements

September 30, 2005 and 2004

may submit a plan to withdraw some or all funds held in trust for the tribe in accordance with 25 CFR 1200.

*(f) Use of Estimates*

The preparation of the financial statements requires management to make estimates and assumptions that affect the reported amounts of assets at the date of the financial statements and the reported amounts of increases and decreases in trust fund balances during the reporting period. Actual results could differ from those estimates.

**(3) Cash and Cash Equivalents**

Cash equivalents of approximately \$499 million and \$486 million at September 30, 2005 and 2004, respectively, consist primarily of overnight investments with the U.S. Treasury.

**(4) Due From Other Federal Agencies**

Due from other Federal agencies of \$7,800,000 as of September 30, 2004 represents an amount that the BIA erroneously transferred from the Trust Funds' account at the U.S. Treasury into the BIA's account at the U.S. Treasury. This amount was transferred on September 30, 2004 and was returned to the proper U.S. Treasury account in October of 2004. The erroneous transfer, which was discovered through OST's reconciliation and internal control process, did not impact the interest earnings to the Trust Funds as the Trust Funds continued to report and receive the appropriate interest on the full \$7,800,000.

**TRIBAL AND OTHER TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Notes to Financial Statements

September 30, 2005 and 2004

**(5) Investments**

The historical cost, gross unrealized holding gains, gross unrealized holding losses, and fair value of investment securities by major class of security at September 30, 2005 and 2004 were as follows (amounts exclude investments in U.S. Treasury overnight securities discussed in note 3):

	<u>Historical cost</u>	<u>Gross unrealized holding gains</u>	<u>Gross unrealized holding losses</u>	<u>Fair value</u>
		(in thousands)		
At September 30, 2005:				
U.S. Treasury and agency securities	\$ 2,212,027	11,329	(29,939)	2,193,417
Mortgage-backed securities	168,195	387	(2,186)	166,396
	<u>\$ 2,380,222</u>	<u>11,716</u>	<u>(32,125)</u>	<u>2,359,813</u>
At September 30, 2004:				
U.S. Treasury and agency securities	\$ 2,393,690	90,229	(13,725)	2,470,194
Mortgage-backed securities	83,362	1,415	(206)	84,571
	<u>\$ 2,477,052</u>	<u>91,644</u>	<u>(13,931)</u>	<u>2,554,765</u>

Maturities of investment securities were as follows at September 30, 2005:

	<u>Historical cost</u>	<u>Fair value</u>
	(in thousands)	
Due in one year or less	\$ 355,186	353,809
Due after one year through five years	1,035,229	1,020,109
Due after five years through ten years	483,707	481,875
Due after ten years	506,100	504,020
	<u>\$ 2,380,222</u>	<u>2,359,813</u>

**(6) Contingencies**

Certain Indian tribes for whom OST holds assets in trust do not agree with balances recorded by OST, and certain of these Indian tribes have filed, or are expected to file, claims against the U.S. Government for failure to fulfill its fiduciary responsibilities and for other related charges. Twenty-five tribal trust cases currently are pending in various Federal district courts and the U.S. Court of Federal Claims. The cases, which were brought by nineteen different tribes, involve claims for trust fund and asset mismanagement, accounting, and other declaratory relief. A substantial number of the cases are stayed pending settlement negotiations. Neither OST nor the Office of the Solicitor for the Department can presently determine the

**TRIBAL AND OTHER TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Notes to Financial Statements

September 30, 2005 and 2004

outcome of these actions nor the total amount, responsibility, and funding source of the potential liability. Any settlement resulting from an adverse outcome of the contingencies described above is not expected to be satisfied with trust fund balances. No amounts have been recorded in the accompanying Trust Funds' financial statements for potential claims from the U.S. Government.

**(7) Trust Fund Balances**

Trust fund balances are the aggregation of assets held in trust and represent the amounts owed to beneficiaries as of September 30, 2005 and 2004 for which OST has a fiduciary responsibility.

The Trust Funds contain the following Trust Fund balance categories for U.S. Government budget purposes, which are reflected as separate components in the accompanying financial statements:

- *Held for Indian tribes* -- These represent funds held on behalf of Indian tribes. These funds are considered non-Federal monies.
- *Held by the Department of the Interior and considered to be U.S. Government funds* -- These represent funds, some of which will be transferred to the *Held for Indian tribes* category provided certain conditions are satisfied, and for others, the corpus of the fund may be nonexpendable. These funds are considered U.S. Government monies.

A portion of trust fund balances represents estimated payments on production-type leases for which certain tribes and individual Indians hold an interest (see note 8). When any adjustments to production are identified, estimated payments in excess of production are returned to the depositor.

Included in the Trust Funds are certain balances which are presently not identified to specific Indian tribes because judgment awards were granted to several Indian tribes in a particular geographic area for settlement of claims related to certain lands.

**(8) Related-Party Transactions With Other Government Organizations**

**(a) U.S. Department of the Interior Bureau of Indian Affairs**

BIA is responsible for the collection of certain monies resulting from the management and use of Indian trust lands and other trust resources. In processing collections for deposit, certified Collection Officers must obtain trust accounting information from BIA program staff. Upon deposit of the trust funds, deposit and related trust accounting information is forwarded either manually or via electronic transfer to OST. Upon receipt, OST records the deposit of trust funds to trust accounts based on the information received from BIA.

**(b) U.S. Department of the Interior Minerals Management Service**

For certain trust leases, MMS is responsible for the collection of royalty payments on behalf of Indian tribes and individual Indians holding mineral rights. MMS deposits the royalty payments with the U.S. Treasury and electronically transfers to OST the related accounting information, generally the next business day.

**TRIBAL AND OTHER TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Notes to Financial Statements

September 30, 2005 and 2004

The accounting information received from MMS provides OST an allocation of 100% tribally owned lease royalties, enabling OST to record trust deposits directly into tribal accounts. For tribally/individually co-owned leases, and individually owned leases, allocation and accounting data is forwarded to OST via electronic interface through the Royalty Distribution Reporting System that is maintained by BIA. Pursuant to established procedure and appropriate authorization, the data is recorded by OST. MMS and BLM both perform verification and other monitoring procedures of mineral assets. Oil and gas companies sometimes forward payments to MMS based on estimated mineral production in order to comply with the Federal Oil and Gas Royalty Management Act of 1982 that requires timely distribution of royalties. These estimated payments may be disbursed by OST to the beneficiaries. Typically, the oil and gas companies adjust future payments for excess or shortfall amounts, if any, based on actual production.

**(c) Other**

The U.S. Treasury holds cash and certain investments and in certain instances disburses for OST.

The Department's Office of the Solicitor serves as legal counsel for OST.

**(9) Transfers of Trust Funds**

OST, pursuant to information provided by BIA, utilizes special deposit accounts maintained within the Individual Indian Monies (IIM) Trust Funds for both tribal and IIM beneficiaries as suspense accounts, whereby funds are temporarily posted when allocation information is not provided when the funds are received. Following receipt of allocation information from BIA, the funds are transferred from the special deposit accounts to the designated tribal and/or IIM account(s). Special deposit accounts totaled approximately \$40 million and \$46 million as of September 30, 2005 and 2004, respectively. The majority of the special deposit account monies held in the IIM Trust Funds relates to historical balances and has not been distributed because the ultimate disposition of the funds has not been determined. Since the ultimate disposition is unknown at September 30, 2005, the portion attributable to the Tribal and Other Trust Funds is unknown. In addition, certain per capita disbursements authorized by tribes result in transfers from the Tribal and Other Trust Funds to the IIM Trust Funds while certain oil and gas distributions may result in transfers to/from the IIM Trust Funds from/to the Tribal and Other Trust Funds. Net transfers of trust funds from the Tribal and Other Trust Funds to the IIM Trust Funds totaled approximately \$34.1 million and \$10.9 million during the years ended September 30, 2005 and 2004, respectively. These transfers are reflected as disbursements in the accompanying statements of changes in trust fund balances.

**Individual Indian Monies Trust Funds  
Financial Statements**



**INDIVIDUAL INDIAN MONIES TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Financial Statements

September 30, 2005 and 2004

(With Independent Auditors' Report on Financial Statements Thereon)



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## Independent Auditors' Report on Financial Statements

The Special Trustee for American Indians  
U.S. Department of the Interior Office of the Special Trustee for American Indians

We have audited the accompanying statements of assets and trust fund balances – modified cash basis of the Individual Indian Monies Trust Funds managed by the U.S. Department of the Interior Office of the Special Trustee for American Indians (OST) as of September 30, 2005 and 2004 and the related statements of changes in trust fund balances – modified cash basis for the years then ended. These financial statements are the responsibility of management of OST. Our responsibility is to express an opinion on these financial statements based on our audits.

Except as discussed in the fourth paragraph of this report, we conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control over financial reporting of the Individual Indian Monies Trust Funds managed by OST. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As described in note 2, these financial statements were prepared on the modified cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

It was not practicable to extend our auditing procedures sufficiently to satisfy ourselves as to the fairness of trust fund balances in the accompanying financial statements as of September 30, 2005 and 2004 due to inadequacies in certain Department of the Interior trust-related systems and processes, which provide required trust financial information to OST. Trust fund balances enter into the determination of financial position and changes in trust fund balances. Certain parties for whom OST holds assets in trust have filed a class action lawsuit for an accounting of the individuals' trust funds which may or may not lead to claims against the United States Government.

In our opinion, except for the effects on the financial statements of such adjustments, if any, as might have been determined to be necessary had we been able to apply adequate procedures to determine the fairness of trust fund balances and related changes in trust fund balances, as discussed in the preceding paragraph, the financial statements referred to in the first paragraph above present fairly, in all material respects, the financial position of the Individual Indian Monies Trust Funds managed by OST as of September 30, 2005 and 2004, and the changes in trust fund balances for the years then ended in conformity with the basis of accounting described in note 2.

In accordance with *Government Auditing Standards*, we have also issued our report dated November 10, 2005, on our consideration of internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, and contracts of the Individual Indian Monies Trust Funds managed by OST. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audits.

KPMG LLP

November 10, 2005

**INDIVIDUAL INDIAN MONIES TRUST FUNDS  
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OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Statements of Assets and Trust Fund Balances – Modified Cash Basis

September 30, 2005 and 2004

(In thousands)

<b>Assets</b>	<b>2005</b>	<b>2004</b>
Cash and cash equivalents (note 3)	\$ 28,333	21,373
Investments (note 4)	388,586	371,723
Accrued interest receivable	2,950	3,601
Total assets	\$ 419,869	396,697
<b>Trust Fund Balances</b>		
Held for individual Indians (notes 6 and 8)	\$ 419,869	396,697

See accompanying notes to financial statements.

**INDIVIDUAL INDIAN MONIES TRUST FUNDS  
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Statements of Changes in Trust Fund Balances – Modified Cash Basis

Years ended September 30, 2005 and 2004

(In thousands)

	<b>2005</b>	<b>2004</b>
<b>Increases:</b>		
Receipts (note 8)	\$ 275,569	183,776
Interest earned on invested funds	18,197	20,216
Gain on disposition of investments, net	7,813	590
	301,579	204,582
<b>Decreases:</b>		
Disbursements to and on behalf of account holders	(278,407)	(220,953)
Increase (decrease) in trust fund balances, net	23,172	(16,371)
Trust fund balances, beginning of year	396,697	413,068
Trust fund balances, end of year (notes 6 and 8)	\$ 419,869	396,697

See accompanying notes to financial statements.

**INDIVIDUAL INDIAN MONIES TRUST FUNDS  
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Notes to Financial Statements

September 30, 2005 and 2004

**(1) Background and Description of the Trust Funds**

**(a) Overview of the Trust Funds**

**Establishment and Management of the Trust Funds** – The legislation, which authorizes the Secretary of the United States Department of the Interior (Secretary) to manage the Individual Indian Monies Trust Funds (IIM Trust Funds), recognizes the unique trust relationship that exists between the Indian tribes, individual Indians, and the United States Government (U.S. Government). Agreements between the U.S. Government and the various Indian tribes, many of these in the form of treaties, recognize the sovereignty of tribes. During the course of the Nation’s history and the U.S. Government’s evolving policies toward individual Indians and Indian tribes, the trust relationship has retained characteristics based upon tribal sovereignty. The United States Congress has designated the Secretary as the trustee delegate with responsibility for the monetary and nonmonetary resources held in trust on behalf of American Indian tribes, individual Indians, and other trust funds. In carrying out the management and oversight of the Indian trust assets, the Secretary has a fiduciary responsibility to ensure monies are received for the use of Indian lands and the extraction of natural resources from Indian lands, distribute such monies collected to the appropriate beneficiaries, ensure that trust accounts are properly maintained and invested, and ensure that accurate and complete reports are provided to the trust beneficiaries in accordance with applicable law.

The balances that have accumulated in the IIM Trust Funds have resulted generally from 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.

The accompanying financial statements include only the assets held in trust by the Office of the Special Trustee for American Indians (OST) for trust beneficiaries and do not include: (i) the operating account balances of OST (e.g., Fund Balance with Treasury, Property, Plant, and Equipment) or (ii) other Indian trust assets, including but not limited to, Indian lands, buildings, or other nonmonetary assets managed by the United States Department of the Interior (Department).

**The Reform Act** – The American Indian Trust Fund Management Reform Act of 1994 (Public Law 103-412) (the Reform Act) authorized the establishment of OST which is headed by the Special Trustee for American Indians (Special Trustee) who reports to the Secretary. Under this legislation, the Special Trustee is responsible for oversight, reform, and coordination of the policies, procedures, systems, and practices used by various bureaus and offices of the Department, including but not limited to OST, the Bureau of Indian Affairs (BIA), the Minerals Management Service (MMS), and the Bureau of Land Management (BLM), in managing Indian trust assets.

**Office of the Special Trustee for American Indians** – Indian trust assets, including the IIM Trust Funds, are primarily managed under the delegated authority of OST and BIA. Management of Indian trust assets on behalf of the trust beneficiaries is dependent upon the processing of trust-related transactions within certain information systems of the Department, including but not limited to OST, BIA, MMS, and other Departmental bureaus and offices. BIA and other Departmental bureaus and

**INDIVIDUAL INDIAN MONIES TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Notes to Financial Statements

September 30, 2005 and 2004

offices are responsible for managing the natural resources located within the boundaries of Indian reservations and trust lands as well as the processing of data regarding the ownership and leasing of Indian lands. The allocation and distribution of receipts and disbursements by OST to trust beneficiaries is significantly dependent and reliant upon the receipt of timely and accurate information derived from records maintained by BIA, MMS, and other Departmental bureaus and offices (see note 7).

**Regional Offices** – OST and BIA maintain staff at regional offices located throughout the United States.

**Agency and Field Offices** – OST and BIA maintain staff at agency and field offices located throughout the United States, which are generally located near the tribes and individual Indians served. OST and BIA personnel located at most of the agency and field offices perform various functions related to trust fund activities.

**(b) Description of the Trust Funds**

Certain of the IIM Trust Funds described below are subject to legal, regulatory, budgetary, court-ordered, or other restrictions. Approximately 277,000 and 266,000 open accounts, held primarily for the benefit of individual Indian account holder beneficiaries and tribal entities, comprise the IIM Trust Funds as of September 30, 2005 and 2004, respectively. The IIM Trust Funds contain certain special deposit accounts that will ultimately be distributed to tribal and other entities.

The IIM Trust Funds are primarily funds on deposit for individual Indians with a beneficial interest in those funds. IIM account holders realize receipts primarily from settlement of claims, land use agreements, royalties on natural resource depletion, other proceeds derived directly from trust resources, judgment and tribal per capita distributions, and investment income.

**(c) Investment of Trust Funds**

Authorizing legislation and a substantial body of case law specify how Indian trust funds should be managed and which financial instruments constitute appropriate investments for Indian trust funds. The IIM Trust Funds are pooled and invested in U.S. Government securities, including U.S. Department of the Treasury (U.S. Treasury) issues, U.S. Government agency issues, and U.S. Government-sponsored entity issues.

**(2) Summary of Significant Accounting Policies**

**(a) Basis of Accounting**

OST uses the cash basis of accounting with certain modifications for the IIM Trust Funds, which is a comprehensive basis of accounting other than generally accepted accounting principles. Receipts are recorded when received with the exception of interest earned on invested funds (including discount accretion and premium amortization), and disbursements are recorded when issued. Investments are stated at amortized cost. Accrual adjustments to reflect interest earned but not received, and to record any applicable accretion of discounts and amortization of premiums over the terms of the

**INDIVIDUAL INDIAN MONIES TRUST FUNDS  
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OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Notes to Financial Statements

September 30, 2005 and 2004

investments, have been recorded in the accompanying financial statements. Interest income reported in the statements of changes in trust fund balances reflects interest earned, net of any premium amortization or discount accretion recognized during the fiscal year.

**(b) Cash and Cash Equivalents**

Management considers all highly liquid financial instruments with maturities of three months or less when purchased to be cash equivalents.

**(c) Investments**

Investment securities at September 30, 2005 and 2004 consist of U.S. Treasury issues, U.S. Government agency issues, and U.S. Government-sponsored entity issues. IIM Trust Funds are pooled and invested. Investment securities are recorded at amortized cost, adjusted for the amortization or accretion of premiums or discounts. Premiums and discounts are amortized or accreted over the expected life of the related investment security as an adjustment to yield using the effective-interest method. Interest income is recognized when earned.

The IIM Trust Funds' investments have a concentration of credit risk in U.S. Government securities, as mandated by 25 USC 162.

**(d) Receipts**

Receipts from various leasing activities, mineral royalties and sales of extracted minerals, timber and other forest products, fees and fines, and the granting of easements are generated from a variety of nonmonetary assets that are held in trust by the U.S. Government and managed by BIA and other Departmental bureaus and offices on behalf of individual Indians. Receipts on hand at the regional and agency offices at September 30, 2005 and 2004, if any, awaiting deposit to the U.S. Treasury are not included in the financial statements.

Receipts also include payments from the U.S. Government for judgment awards and the settlement of claims.

**(e) Disbursements**

Payments disbursed from the IIM Trust Funds consist of accumulations of funds from various income-producing activities such as leasing, royalty receipts, mineral extraction, timber and other forest product sales, judgment awards, tribal per capita distributions, and investment income.

**(f) Use of Estimates**

The preparation of the financial statements requires management to make estimates and assumptions that affect the reported amounts of assets at the date of the financial statements and the reported amounts of increases and decreases in trust fund balances during the reporting period. Actual results could differ from those estimates.

**INDIVIDUAL INDIAN MONIES TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Notes to Financial Statements

September 30, 2005 and 2004

**(3) Cash and Cash Equivalents**

Cash equivalents of approximately \$22 million and \$19 million at September 30, 2005 and 2004, respectively, consist primarily of overnight investments with the U.S. Treasury.

**(4) Investments**

The amortized cost, gross unrealized holding gains, gross unrealized holding losses, and fair value of investment securities by major class of security at September 30, 2005 and 2004 were as follows (amounts exclude investments in U.S. Treasury overnight securities discussed in note 3):

	<u>Amortized cost</u>	<u>Gross unrealized holding gains</u>	<u>Gross unrealized holding losses</u>	<u>Fair value</u>
	(in thousands)			
At September 30, 2005:				
U.S. Treasury and agency securities	\$ 345,786	2,686	(3,157)	345,315
Mortgage-backed securities	42,800	—	(926)	41,874
	<u>\$ 388,586</u>	<u>2,686</u>	<u>(4,083)</u>	<u>387,189</u>
At September 30, 2004:				
U.S. Treasury and agency securities	\$ 371,723	14,777	(1,487)	385,013

Maturities of investment securities were as follows at September 30, 2005:

	<u>Amortized cost</u>	<u>Fair value</u>
	(in thousands)	
Due in one year or less	\$ 35,000	34,719
Due after one year through five years	115,413	114,642
Due after five years through ten years	72,924	72,515
Due after ten years	165,249	165,313
	<u>\$ 388,586</u>	<u>387,189</u>

**(5) Contingencies**

Certain parties for whom OST holds assets in trust have filed a class action lawsuit for an accounting of the individuals' trust funds which may or may not lead to claims against the U.S. Government. The lawsuit alleges that the Department and U.S. Treasury have breached their trust obligations with respect to management of funds in the IIM accounts. Neither OST nor the Office of the Solicitor for the Department can presently determine the outcome of these actions nor the total amount, responsibility, and funding source of the potential liability. Any settlement resulting from an adverse outcome of the contingencies

**INDIVIDUAL INDIAN MONIES TRUST FUNDS  
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Notes to Financial Statements

September 30, 2005 and 2004

described above is not expected to be satisfied with trust fund balances. No amounts have been recorded in the accompanying IIM Trust Funds' financial statements for potential claims from the U.S. Government.

**(6) Trust Fund Balances**

Trust fund balances are the aggregation of assets held in trust and primarily represent the amounts owed to beneficiaries as of September 30, 2005 and 2004 for which OST has a fiduciary responsibility.

The net total of the balances reflected in the IIM account holders' subsidiary detail of accounts is less than the trust fund balances reported in the financial statements as of September 30, 2005 and 2004 due to certain cumulative differences.

Historically, the aggregate sum of positive account balances in the IIM subsidiary detail of account holders' balances has exceeded the trust fund balances reported in the financial statements. As of September 30, 2005 and 2004, this difference was approximately \$6 million. As of September 30, 2005 and 2004, there are certain accounts with negative balances in the IIM account holders' subsidiary detail aggregating approximately \$44 million (of which approximately \$192,000 and \$238,000 is attributed to individual Indian accounts as of September 30, 2005 and 2004, respectively).

The subsidiary detail of IIM account balances contains approximately 20,000 special deposit accounts with balances totaling approximately \$40 million and \$46 million as of September 30, 2005 and 2004, respectively. The majority of the special deposit account monies held in the IIM Trust Funds relates to historical balances and has not been distributed because the ultimate disposition of the funds has not been determined. Since the ultimate disposition is unknown at September 30, 2005, the portion attributable to the IIM Trust Funds is unknown.

The subsidiary detail of IIM account balances contains certain oil and gas holding accounts with balances totaling approximately \$7.9 million and \$7.0 million as of September 30, 2005 and 2004, respectively, which have not been distributed to beneficiaries. Upon receipt of the allocation and accounting data, provided by MMS and BIA, the monies will be distributed to IIM account holders' accounts (see note 7).

A portion of trust fund balances represents estimated payments on production-type leases for which certain individual Indians and tribes hold an interest (see note 7). When any adjustments to production are identified, estimated payments in excess of production are returned to the depositor.

**(7) Related-Party Transactions With Other Government Organizations**

**(a) U.S. Department of the Interior Bureau of Indian Affairs**

BIA is responsible for the collection of certain monies resulting from the management and use of Indian trust lands and other trust resources. In processing collections for deposit, certified Collection Officers must obtain trust accounting information from BIA program staff. Upon deposit of the trust funds, deposit and related trust accounting information is forwarded either manually or via electronic transfer to OST. Upon receipt, OST records the deposit of trust funds to trust accounts based on the information received from BIA.

**INDIVIDUAL INDIAN MONIES TRUST FUNDS  
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Notes to Financial Statements

September 30, 2005 and 2004

**(b) *U.S. Department of the Interior Minerals Management Service***

For certain trust leases, MMS is responsible for the collection of royalty payments on behalf of Indian tribes and individual Indians holding mineral rights. MMS deposits the royalty payments with the U.S. Treasury and electronically transfers to OST the related accounting information, generally the next business day. For tribally/individually co-owned leases, and individually owned leases, the allocation and accounting data to distribute the monies to the proper IIM account is forwarded to OST via electronic interface through the Royalty Distribution Reporting System that is maintained by BIA. Pursuant to established procedure and appropriate authorization, the data is recorded by OST. MMS and BLM both perform verification and other monitoring procedures of mineral assets. Oil and gas companies sometimes forward payments to MMS based on estimated mineral production in order to comply with the Federal Oil and Gas Royalty Management Act of 1982 that requires timely distribution of royalties. These estimated payments may be disbursed by OST to the beneficiaries. Typically, the oil and gas companies adjust future payments for excess or shortfall amounts, if any, based on actual production.

**(c) *Other***

The U.S. Treasury holds cash and certain investments and in certain instances disburses for OST.

The Department's Office of the Solicitor serves as legal counsel for OST.

**(8) *Transfers of Trust Funds***

OST, pursuant to information provided by BIA, utilizes special deposit accounts (see note 6) maintained within the IIM Trust Funds for both tribal and IIM beneficiaries as suspense accounts, whereby funds are temporarily posted when allocation information is not provided when the funds are received. Following receipt of allocation information from BIA, the funds are transferred from the special deposit accounts to the designated tribal and/or IIM account(s). In addition, certain per capita disbursements authorized by tribes result in transfers from the Tribal and Other Trust Funds to the IIM Trust Funds while certain oil and gas distributions may result in transfers to/from the IIM Trust Funds from/to the Tribal and Other Trust Funds. Net transfers of trust funds to the IIM Trust Funds from the Tribal and Other Trust Funds totaled approximately \$34.1 million and \$10.9 million during the years ended September 30, 2005 and 2004, respectively. These transfers are reflected as receipts in the accompanying statements of changes in trust fund balances.

**Independent Auditor's Report on  
Internal Control over Financial Reporting and on  
Compliance and Other Matters**



**TRIBAL AND OTHER TRUST FUNDS AND  
INDIVIDUAL INDIAN MONIES TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Independent Auditors' Report on Internal Control Over  
Financial Reporting and on Compliance and Other Matters

September 30, 2005



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## **Independent Auditors' Report on Internal Control Over Financial Reporting and on Compliance and Other Matters**

The Special Trustee for American Indians  
U.S. Department of the Interior Office of the Special Trustee for American Indians

U.S. Department of the Interior Office of Inspector General:

We have audited the accompanying statements of assets and trust fund balances – cash basis of the Tribal and Other Trust Funds as of September 30, 2005 and 2004, and the related statements of changes in trust fund balances – cash basis for the years then ended, and the statements of assets and trust fund balances – modified cash basis of the Individual Indian Monies Trust Funds as of September 30, 2005 and 2004, and the related statements of changes in trust fund balances – modified cash basis for the years then ended (collectively referred to as the Trust Funds Financial Statements) managed by the U.S. Department of the Interior Office of the Special Trustee for American Indians (OST) and have issued our reports thereon dated November 10, 2005. The objective of our audits was to express opinions on the fair presentation of the Trust Funds Financial Statements. In connection with our audits, we also considered OST's internal control over financial reporting and tested OST's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on the Trust Funds Financial Statements.

### **Summary**

Our audit reports on the Trust Funds Financial Statements were qualified because it was not practicable to extend our auditing procedures sufficiently to satisfy ourselves as to the fairness of trust fund balances in the Trust Funds Financial Statements as of September 30, 2005 and 2004. Trust fund balances enter into the determination of financial position and changes in trust fund balances, and inadequacies in certain Department of the Interior trust-related systems and processes, which provide required trust financial information to OST, raise questions about the fairness of trust fund balances. Also, certain parties for whom OST holds assets in trust have filed a class action lawsuit for an accounting of the individuals' trust funds which may or may not lead to claims against the United States Government, and other parties do not agree with the balances recorded by OST and have filed, or are expected to file, claims against the United States Government.

Our reports also state that the Trust Funds Financial Statements are prepared in accordance with a basis of accounting which is a comprehensive basis of accounting other than generally accepted accounting principles as described in notes 2 to the Trust Funds Financial Statements.

Our consideration of internal control over financial reporting resulted in the following conditions being identified as reportable conditions:

Reportable Conditions Considered to be Material Weaknesses

- A. Reliance on processing of trust transactions at the Bureau of Indian Affairs
- B. Financial reporting – unresolved matters from prior periods

The results of our tests of compliance with certain provisions of laws, regulations, and contracts disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards*, issued by the Comptroller General of the United States.

The following sections present an overview of the Trust Funds Financial Statements, discuss our consideration of OST's internal control over financial reporting, our tests of OST's compliance with certain provisions of applicable laws, regulations, and contracts, and management's and our responsibilities.

**Overview – Trust Funds Financial Statements**

The financial information systems and internal control procedures used in the processing of Indian trust transactions have suffered historically from a variety of system and procedural internal control weaknesses. In addition, current management is burdened with the ongoing impact of decades of accumulated discrepancies in the accounting records.

The United States Congress has designated the Secretary of the Department of the Interior (the Secretary) as the trustee delegate with responsibility for the monetary and nonmonetary resources held in trust on behalf of American Indian tribes, individual Indians, and other trust funds. In carrying out the management and oversight of the Indian trust assets, the Secretary has a fiduciary responsibility to ensure monies are received for the use of Indian lands and the extraction of natural resources from Indian lands, distribute such monies collected to the appropriate beneficiaries, ensure that trust accounts are properly maintained and invested, and ensure that accurate and complete reports are provided to the trust beneficiaries in accordance with applicable law.

The American Indian Trust Fund Management Reform Act of 1994 (Public Law 103-412) (the Reform Act) authorized the establishment of OST which is headed by the Special Trustee for American Indians (Special Trustee) who reports to the Secretary. Under this legislation, the Special Trustee is responsible for oversight, reform, and coordination of the policies, procedures, systems, and practices used by various bureaus and offices of the Department of the Interior (Department), including but not limited to the Bureau of Indian Affairs (BIA), the Minerals Management Service (MMS), and the Bureau of Land Management (BLM), in managing Indian trust assets.

Indian trust assets, including the Trust Funds, are primarily managed under the delegated authority of OST and BIA. Management of Indian trust assets on behalf of the trust beneficiaries is dependent upon the processing of trust-related transactions within certain information systems of the Department, including but not limited to OST, BIA, MMS, and other Departmental bureaus and offices. BIA and other Departmental bureaus and offices are responsible for managing the natural resources located within the boundaries of Indian reservations and trust lands, as well as the processing of data regarding the ownership and leasing of Indian lands. The allocation and distribution of receipts and certain disbursements by OST to trust beneficiaries is significantly dependent and reliant upon the receipt of timely and accurate information derived from records maintained by BIA, MMS, and other Departmental bureaus and offices.

## **Internal Control Over Financial Reporting**

Our consideration of internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect OST's ability to record, process, summarize, and report financial data consistent with the assertions by management in the financial statements.

Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements, in amounts that would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

In our fiscal year 2005 audits, we noted certain matters, described below, involving internal control over financial reporting and its operation that we consider to be reportable conditions. We believe that the reportable conditions are material weaknesses.

### **A. Reliance on Processing of Trust Transactions at the Bureau of Indian Affairs**

#### ***Condition***

Indian trust assets, including the trust funds, are primarily managed under the delegated authority of OST and BIA. Management of Indian trust assets on behalf of the trust beneficiaries is dependent upon the processing of trust-related transactions within certain information systems of the Department, including but not limited to OST, BIA, MMS, and other Departmental bureaus and offices. BIA and other Departmental bureaus and offices are responsible for managing the natural resources located within the boundaries of Indian reservations and trust lands, as well as the processing of data regarding the ownership and leasing of Indian lands. The allocation and distribution of receipts and certain disbursements by OST to trust beneficiaries is significantly dependent and reliant upon the receipt of timely and accurate information derived from records maintained by BIA, MMS, and other Departmental bureaus and offices.

The independent auditors' report on internal control over financial reporting and compliance and other matters for the year ended September 30, 2005 at BIA contained a reportable condition, which was considered a material weakness, in connection with controls over Indian trust transactions. The presence of this material weakness directly impacts OST's ability to process trust transactions on behalf of trust beneficiaries and to provide accurate information to account holders due to the interrelationship between BIA and OST.

The regional and agency offices of BIA perform a critical role in the initial input and subsequent changes to Indian trust financial information. Weaknesses in the following areas were noted:

- a. Trust Systems – BIA had not consistently implemented automated systems for tracking and processing activities of the Indian trust assets. Agency offices use “off-the-shelf” software, internally developed software, in-house databases, and manual processes to manage ownership records, track lease activity, account for receivables/revenue, and determine distribution amounts. BIA had developed an automated system for certain activities; however, BIA had not yet fully implemented this new system in all agency offices. This situation increases the risk that transactions are recorded inaccurately and untimely.
- b. Segregation of Duties – The responsibilities for Indian trust processing are not properly segregated to prevent or detect errors. BIA did not segregate realty and land management

activities (i.e., lease compliance) from accounting activities (i.e., collecting, depositing, and sending instructions to OST to create, record, and distribute receipts). Also, in limited cases, the same employee was responsible for all activities associated with trust transactions, including initiating lease agreements, generating billings, collecting funds, making deposits, and sending instructions to OST to create accounts and distribute funds.

- c. Accounts Receivable – BIA had not fully developed and communicated standardized policies and procedures for establishing, tracking, and pursuing accounts receivable for the Indian trust funds. This results in inconsistent processes and increases the risk that amounts due to Indian trust funds are not identified and ultimately collected. Several agency offices prepared bills after receiving payments rather than sending bills in advance of the payment due date. In addition, certain agency offices did not identify or pursue past-due receivables and instead relied on landowners/lessors to inquire of overdue payments before pursuing the receivable. Furthermore, several agency offices did not maintain a listing of leases and permits against which receivables could be established.
- d. Probate Backlog – BIA did not consistently enter probate orders for land title into the trust management systems timely. Although BIA made progress in reducing the backlog, as of September 30, 2005, BIA had probate orders that had not been recorded. This increases the potential for untimely distributions of income to the account holders of the Indian trust funds.
- e. Untimely Deposits – Several BIA agency offices did not consistently forward trust receipts in a timely manner to OST to be deposited. As a result, in certain instances, deposits of trust receipts were delayed for up to five business days, and in others, delays were up to twelve days. In one instance, we noted a delay of thirty-eight days.
- f. Supervised and Restricted Accounts – BIA did not consistently maintain documentation for supervised accounts, including social service assessment and evaluation forms, disbursement documentation, annual review documentation, court orders, and notification of restriction letters. Furthermore, BIA did not consistently perform annual reviews of active accounts.
- g. Appraisal Review – One of the key elements in performing realty trust transactions is the requirement to obtain appraisals for realty transactions. Current laws allow the appraisal function to be compacted by tribes, who are often the named parties involved in realty transactions. BIA is responsible for assisting trust beneficiaries in the negotiation and execution of realty transactions. Office of Appraisal Services (OAS) is responsible for conducting reviews of appraisals that are completed by tribes for the benefit of trust beneficiaries. BIA controls were not in place to ensure that all appraisals, conducted under compacts or contracts, completed by tribes for the benefit of trust beneficiaries had been approved by OAS.

### ***Recommendation***

We recommend management continue to work collaboratively with the BIA to correct the weaknesses identified above such that OST may fulfill its fiduciary responsibility to the trust fund beneficiaries.

### *Management's Response*

Management has prepared an official response presented as a separate attachment to this report. In summary, management agreed with our findings and their comments were responsive to our recommendations.

## **B. Financial Reporting – Unresolved Matters From Prior Periods**

### *Condition*

As of September 30, 2005, several significant financial reporting differences from prior periods have not been resolved. These items have a material effect on the Trust Funds Financial Statements as of September 30, 2005 and 2004, and for the years then ended. These differences from prior periods, which have not been resolved, include the following:

#### *Lack of Reliable IIM Balance – IIM*

The Trust Funds Accounting System (TFAS) control account for IIM account holders is purported to represent the aggregate net balance of trust funds held on behalf of IIM account holders as reflected in the detailed subsidiary ledger of IIM accounts (subsidiary ledger) also in TFAS. The balance per the control account has historically not agreed to the sum of the balances per the subsidiary ledger, and it cannot be determined which balance, if either, is correct. Consequently, the balance of funds invested for IIM account holders may not be correct. The amount invested for IIM is based on the IIM control account balance in TFAS. As of September 30, 2005 and 2004, the aggregate sum of all positive balances included in the subsidiary ledger exceeded the control account by approximately \$6,000,000. Accordingly, IIM account holders with positive balances may be penalized by lower interest earnings. In addition, as of September 30, 2005 and 2004, the subsidiary ledger contained negative account balances totaling approximately \$43,800,000 and \$44,300,000, respectively (of which approximately \$192,000 and \$238,000 was attributed to individual Indian accounts as of September 30, 2005 and 2004, respectively).

#### *Trust Fund Balances – Tribal*

An historical “undistributed interest” house account of approximately \$1,800,000 existed at September 30, 1995. The balances as of September 30, 2005 and 2004 were approximately \$1,817,000 and \$1,756,000, respectively. Interest earned on these funds was allocated to the house account. It is our understanding that during fiscal year 2005, OST commissioned a report to assist in determining the recipients of these funds.

#### *Cash – Tribal*

As of September 30, 2005 and 2004, there were twelve accounts in TFAS with negative balances totaling approximately \$724,000 carried forward from the previous trust funds accounting system prior to the conversion to TFAS.

#### *Special Deposit Accounts – Inconsistent Practices – Tribal and IIM*

As of September 30, 2005 and 2004, there were approximately 20,000 special deposit accounts reflected in the subsidiary ledger in TFAS with balances totaling approximately \$40 million and \$46 million, respectively. In accordance with Title 25 of the Code of Federal Regulations and as directed by BIA, OST records receipts into special deposit accounts within the subsidiary ledger when the recipient trust fund account is unknown at the time of receipt. When BIA identifies the trust fund account(s), OST transfers the amount from the special deposit account(s) to the designated trust fund account(s) in accordance with BIA instructions. A significant number of special deposit

accounts have remained inactive for the past several years and new accounts continued to be established during the years ended September 30, 2005 and 2004. During fiscal years 2002 and 2001, we understand management of OST, together with BIA and a contractor, developed and put in place a formal plan to address special deposit accounts. Beginning in calendar year 2003, the Office of Historical Trust Accounting began working with OST and BIA to distribute funds in special deposit accounts that were opened on or before December 31, 2002. Special deposit account activity after that date will be addressed by BIA, with instructions for distributions being provided to OST. At September 30, 2005, a significant number of special deposit accounts continue to require resolution.

#### *Trust Fund Balances – IIM*

An historical “undistributed interest” house account of approximately \$1,205,000 existed at September 30, 1990. The balances as of September 30, 2005 and 2004 were approximately \$2,110,000 and \$1,979,000, respectively. Interest earned on these funds is recorded in the house account. The allocation of these funds has not been determined.

During fiscal years 2002 and 2004, approximately \$922,000 and \$375,000, respectively, was transferred from certain special deposit accounts to “undistributed interest” house accounts in connection with the review of certain special deposit accounts performed by OST, together with BIA and a contractor. At September 30, 2005 and 2004, these funds remained in the house accounts. Interest earned on these funds was recorded in current IIM accounts through September 30, 2005. Beginning October 1, 2005, interest earned will be recorded in the respective undistributed interest accounts. The allocation of these funds has not been determined.

#### *Recommendation*

We recommend that management of OST continue to work to resolve these matters as soon as practicable. In situations where actions or inputs from Department officials are needed to resolve a matter, we recommend management of OST continue to work with appropriate Department officials such that all matters are resolved as soon as practical.

#### *Management’s Response*

Management has prepared an official response presented as a separate attachment to this report. In summary, management agreed with our findings and their comments were responsive to our recommendations.

A summary of the status of prior-year reportable conditions is included as Exhibit I. We also noted certain additional matters that we reported to the management of OST in a separate letter dated November 10, 2005.

#### **Compliance and Other Matters**

The results of our tests of compliance with certain provisions of laws, regulations, and contracts disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards*.

We noted other matters involving compliance with laws, regulations, and contracts that, under *Government Auditing Standards*, were not required to be included in this report, that we have reported to OST management in a separate letter dated November 10, 2005.

## **Responsibilities**

### ***Management's Responsibilities***

The American Indian Trust Fund Management Reform Act of 1994 requires that the Secretary shall cause to be conducted an annual audit on a fiscal year basis of all funds held in trust by the U.S. Government for the benefit of an Indian tribe or an individual Indian, which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

Management is responsible for the financial statements, including:

- Preparing the financial statements in conformity with the basis of accounting described in notes 2 of the Trust Funds Financial Statements;
- Establishing and maintaining internal control over financial reporting; and
- Complying with laws, regulations, and contracts.

In fulfilling this responsibility, management is required to make estimates and judgments to assess the expected benefits and related costs of internal control policies. Because of inherent limitations in internal control, misstatements due to error or fraud may nevertheless occur and not be detected.

### ***Auditors' Responsibilities***

Our responsibility is to express opinions on the fiscal year 2005 and 2004 Trust Funds Financial Statements based on our audits. Except as discussed in the fourth paragraph of our auditors' reports, we conducted our audits in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control over financial reporting of the Tribal and Other Trust Funds and IIM Trust Funds managed by OST. Accordingly, we express no such opinion.

An audit also includes:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- Assessing the accounting principles used and significant estimates made by management; and
- Evaluating the overall financial statement presentation.

We believe that our audits provide a reasonable basis for our opinions.

In planning and performing our fiscal year 2005 audits, we considered OST's internal control over financial reporting by obtaining an understanding of OST's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls in order to determine our auditing procedures for the purpose of expressing our opinions on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in *Government Auditing Standards*. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*. The objective of our audits was not to provide assurance on OST's internal control over financial reporting. Consequently, we do not provide an opinion thereon.

As part of obtaining reasonable assurance about whether the fiscal year 2005 Trust Funds Financial Statements are free of material misstatement, we performed tests of OST's compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws, regulations, and contracts applicable to OST. However, providing an opinion on compliance with laws, regulations, and contracts was not an objective of our audits, and accordingly, we do not express such an opinion.

**Distribution**

This report is intended solely for the information and use of the Department's management, the U.S. Department of the Interior Office of Inspector General, Office of Management and Budget, the Government Accountability Office, and the U.S. Congress, and is not intended to be, and should not be, used by anyone other than these specified parties.

KPMG LLP

November 10, 2005

**TRIBAL AND OTHER TRUST FUNDS AND  
INDIVIDUAL INDIAN MONIES TRUST FUNDS  
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

**Status of Reportable Conditions, Reported as of September 30, 2004**

**September 30, 2005**

<b>Ref</b>	<b>Condition</b>	<b>Current-Year Status</b>
OST-2004-A*	Reliance on Processing of Trust Transactions at the Bureau of Indian Affairs	Repeated, with certain modifications in current-year report – see reportable condition A, considered a material weakness.
OST-2004-B*	Financial Reporting – Unresolved Matters from Current and Prior Periods	Repeated, with certain modifications in current-year report – see reportable condition B, considered a material weakness.
OST-2004-C	Improve Controls over Information Technology Systems	Not repeated.

\* The nature of these issues have been reported in prior years by KPMG and the prior auditor.

**Management Response to the Audit Report  
on Internal Control over Financial Reporting  
and on Compliance and Other Matters**



United States Department of the Interior  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS  
Washington, D.C. 20240

NOV 10 2005

To: KPMG LLP  
6565 Americas Parkway Northeast, Suite 700  
Albuquerque, New Mexico 87110

Mr. Earl Devaney  
Inspector General  
Department of the Interior  
Washington, D.C. 20240

From: Ross O. Swimmer   
Special Trustee for American Indians

Subject: Management Response to the Independent Auditors' Report on Internal Control Over Financial Reporting and on Compliance and Other Matters for the Tribal and Other Trust Funds and Individual Indian Monies Trust Funds Managed by the U.S. Department of the Interior Office of the Special Trustee for American Indians as of September 30, 2005

The Office of the Special Trustee for American Indians (OST) has reviewed the subject report and provides its responses to the findings and recommendations. OST appreciates the recognition in the findings and recommendations of the progress achieved in fiscal year 2005 and looks forward to taking additional corrective actions and achieving additional reform in fiscal year 2006.

**Reportable Conditions that are considered to be Material Weaknesses**

A. Reliance on processing of trust transactions at the Bureau of Indian Affairs

OST concurs, recognizes and acknowledges that, as reported, its ability to process (i.e. account for) trust fund receipts and disbursements for trust beneficiaries is significantly dependent and critically reliant upon the financial information derived from trust records that are maintained and provided by the Bureau of Indian Affairs (BIA). OST understands the reportable condition reported as a material weakness in BIA's Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters. OST and BIA remain committed to work towards trust management reform and expect to validate data, enter all adjudicated probates, and update into an integrated system, including a trust fund receivable module, 80% of recurring trust dollars and 70% of accounts during fiscal year 2006. Additionally, effective October 1, 2005, all trust remittances received from trust surface activities will be processed through a commercial lockbox facility.

effective October 1, 2005, all trust remittances received from trust surface activities will be processed through a commercial lockbox facility.

Also, through an October 6, 2005 memorandum from the Director of the BIA, Agency Superintendents, Regional Directors, and other BIA personnel with the authority to approve a trust or natural resource transaction will ensure that land appraisals conducted by a compact or contract Indian tribe have been reviewed by the Office of Appraisal Services.

**B. Financial reporting – unresolved matters from prior periods**

OST concurs, and during fiscal year 2006 plans to continue addressing each of the findings as described below.

*Lack of Reliable IIM Balance – IIM*

OST will continue to pursue funding to address the finding related to the Individual Indian Money imbalance.

*Trust Fund Balances – Tribal*

OST will finalize the draft report that was commissioned to identify and propose entries to distribute the \$1,800,000 Undistributed Interest account. Upon finalization and approval, OST plans to distribute the balance of the account.

*Cash – Tribal*

OST will continue to pursue recovery of amounts that are causing the negative balances.

*Special Deposit Accounts – Inconsistent Practices – Tribal and IIM*

OST and BIA will continue to implement strategies and work processes which result in the reduction of funds held in special deposit accounts (SDA), aged over 30 days. As of September 30, 2005, for funds deposited in SDA after December 31, 2002, Interior reduced the principal amount, aged over 30 days, to \$1.457 million, a 33% reduction from the September 30, 2004 level. Interior plans to discontinue the use of SDA by December 31, 2007.

*Trust Fund Balances – IIM*

OST plans to meet with solicitors to review options and obtain approval for resolving the balances in the “undistributed interest” house accounts related to Individual Indian Monies.

If you have any questions, please contact [REDACTED] at [REDACTED]

# Report Fraud, Waste, Abuse, and Mismanagement



Fraud, waste, and abuse in government concerns everyone: Office of Inspector General staff, Departmental employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and abuse related to Departmental or Insular Area programs and operations. You can report allegations to us in several ways.



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