

T-424

UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of Survey and Review
Audit Operations

REVIEW OF
INDIVIDUAL INDIAN MONEY ACCOUNTS
BUREAU OF INDIAN AFFAIRS



AUGUST 1972

FINDINGS AND RECOMMENDATIONS

USE OF THE IIM SYSTEM

The Bureau's authority to operate its IIM system and, in particular, the related disbursing function does not rest in a delegation of authority from the Treasury. (We made numerous inquiries and could not find a delegation.) As explained to us, the Bureau's authority is derived from Public Law No. 806, June 25, 1936, which reads as follows:

"That section 20 of the Permanent Appropriations Repeal Act, approved June 26, 1934 (48 Stat. 1233), shall not be applicable to funds held in trust for individual Indians, associations of individual Indians, or for Indian corporations chartered under the Act of June 18, 1934 (48 Stat. 984)."

The literal effect of the above Act was to provide an exception to the general requirement that all trust funds were subject to prior appropriations. But the legislative history shows that the intent was to provide the Bureau with authority to operate its own disbursing (and collection) system for the type of funds designated. This understanding was confirmed by the Comptroller General in correspondence outlining the procedures to be followed by the Bureau.

In the absence of specific legislative criteria and in the absence of a delegation of authority from the Treasury, we relied on the Bureau's own regulations and procedures plus our own conclusions as to reasonableness in assessing the current use of the IIM system. We are questioning two general areas in which the IIM system is being used. These are summarized below and discussed in more detail in the paragraphs which follow:

1. As a permanent depository for tribal funds or funds belonging to Indian groups. In some cases, the IIM system is being used in lieu of commercial banking systems. In other cases, the funds are placed in the IIM system for their interest-bearing potential.

2. As a method of expediting payment on contracts between the Bureau and the tribes (or Indian groups). Our principal point here is that the effect of these arrangements results in bypassing the normal controls associated with disbursement of Federal funds.

Funds Belonging to Tribes
or Tribal Groups

At seven of the locations visited, we identified 110 accounts maintained for the benefit of tribes or tribal organizations. Within the category of liabilities applicable to individuals, tribes, and other groups, these accounts represented only about 1 percent of the total number of accounts but their balances totaled approximately \$4.6 million as of December 31, 1971. This \$4.6 million constituted about 40 percent of the \$11.4 million total balance under this individual account category at that date for these locations (Albuquerque Area Office, Uintah and Ouray Agency, Western Washington Agency, Yakima Agency, Portland Area Office, Fort Apache Agency, and the Flathead Agency whose records are maintained at the Billings Area Office).

Bureau regulations do not specifically identify a policy on these types of funds. However, 25 CFR 104.6, "Voluntary deposits," is quoted below:

"As a general rule, voluntary deposits shall not be accepted. Indians who require banking service shall be encouraged to utilize commercial facilities. If in any case it is determined that an exception to this prohibition should be made to avoid a substantial hardship, the facts in the case shall be considered by the Secretary or his authorized representative and an exception will be allowed or denied."

In our opinion, all funds belonging to tribes or tribal groups are voluntary deposits. In some cases, the funds are in the IIM system to earn interest. In other cases, the Bureau was, in effect, providing commercial banking service for the conduct of tribal business. A few examples of this latter condition follow:

1. At the Yakima Agency the IIM accounts provide banking and accounting services for all or almost all tribal operations, in addition to the accounts that are maintained for individuals. In five accounts alone there was over \$1.1 million for land enterprises, loan funds, council expenses, and law and order expenses.
2. The Portland Area Office maintains accounts for Indian Housing Authorities. The combined accounts balances were in excess of \$153,000.
3. Included in the Uintah and Ouray Agency accounts are one for the tribe (\$615,415), one for the tribal water system (\$70,431), and one for tribal general funds (\$269,211).

The desirability of accepting funds belonging to tribes and tribal groups is, in our opinion, questionable. For one thing, there is

the obvious conflict with the stated policy on voluntary deposits. For another thing, there is the added costs to the Government in providing a commercial banking service and in some cases, accounting services. But probably most important, we think this arrangement tends to perpetuate tribal dependence on the Bureau. If the Bureau continues to provide this service, it is less likely that the tribes will develop their own administrative competence.

We believe the Bureau needs a more comprehensive policy on accepting tribal and group funds into the IIM system. Our suggestions are as follows:

1. We recognize that a unilateral decision to force existing accounts out of the system would be most difficult to apply. However, the Bureau could actively encourage tribes to use commercial banking services and to make their own investments. If the problem is administrative competence, direct or contractual assistance can be provided.

2. No new accounts should be accepted unless need is demonstrated. Our interpretation of need is that the tribe or group lacks the administrative competence, that a financial loss is a possibility, and that other alternatives, such as direct or contractual assistance, are impractical.

Funds Representing Contract Advances

The Bureau is using its IIM system to expedite contract payments to tribes and Indian groups. The procedure works as follows:

1. Bureau awards a contract to a tribe or Indian group and immediately disburses the contract amount (or a portion thereof) through the normal Treasury disbursing network, charging the applicable appropriation.

2. The Treasury check is "deposited" back to the Treasury under the IIM system. A separate IIM account is established for each contract to account for the advance.

3. Thereafter, actual contract payments are made by the Indian Service Special Disbursing Agent (and his deputies). Treasury checks are drawn and charged to the particular IIM account involved but the "paperwork" is not processed through the normal disbursing channels.

Use of the IIM system for contract advances has the advantage of speeding up payments to tribes and Indian groups while maintaining control of funds by the Government. The speedup results from not having to follow the normal Treasury channels, i.e., the Bureau can write a check at the area or agency office level almost immediately upon receipt of the documentation whereas going through the regular channels would require at least several days. If the Bureau were to advance funds directly to tribes and Indian groups, the "adequate security" requirements of 41 U.S.C. 255(c) would be difficult to comply with.

In our opinion, use of the IIM system for contract advances represents an extreme departure from the intended purposes of the system as described in the Bureau's own regulations and its manual procedures (42 IAM 6.3.7). However, it is pragmatic. And since there is no legislative provision or Treasury agreement specifically prohibiting the practice, we find no basis for questioning its propriety--at least not in a legal sense. Furthermore, the procedure was approved by the Secretary of the Interior in December 1963.

Our immediate concern is that, by avoiding the normal disbursing channels for contract payments, those controls associated with certifying officers responsibilities are also avoided. The Bureau is making contract payments (mostly cost reimbursable) for general assistance, housing improvements, training programs, reservation maintenance, law enforcement services, and many other items without the full benefit of the normal voucher examination and certification associated with disbursements through Treasury channels.

We did not specifically examine the administration of individual IIM account payments as part of this audit. However, in connection with a special request, we did review the administration of contract payments for "Judicial, Prevention and Enforcement Services" at one agency. Some of the problems related to this account involved (1) unauthorized loans to individuals, (2) payments from other IIM accounts to cover costs applicable to the contract in question, (3) use of the account to handle receipts and disbursements applicable to other

contracts, and (4) overexpenditure of the account producing a debit balance.

While it cannot be conclusively established, our opinion is that the specific situation described above would not have occurred if the procedures required for processing disbursements through the Treasury had been applied to those processed through the IIM system. Since the Bureau has expanded the IIM system to administratively accommodate its contractual dealings with tribes and Indian groups and since this expansion has resulted in the Bureau using its IIM system for payments which otherwise would be processed through the Treasury, we believe the Bureau should apply essentially the same procedures required for Treasury disbursements. The basic responsibilities of disbursing officers are outlined in the GAO Manual, Title 3, section 27.

Recommendations

We recommend that:

1. ~~With respect to tribal and group funds currently on deposit, the Bureau should actively encourage the use of commercial banking and investment sources in lieu of the IIM system. Additional deposits from these sources should not be accepted unless the need is conclusively demonstrated.~~

2. With respect to "contract advances," we recommend that the Bureau apply essentially the same procedures for disbursements processed through the IIM system as those processed through the Treasury. Basically, this will involve establishing a formal voucher examination methodology, a more refined certification procedure, and appropriate revisions to 42 IAM 6.3.7.

INTEREST EARNED ON TREASURY FUNDS

Except for a few remaining local investments, the IIM investment program is run centrally by the Bureau's Division of Finance in Albuquerque, New Mexico. All available cash is invested in interest-bearing securities and it is impossible to relate any particular source of funds to any particular security. Accordingly, we conclude that all funds invested centrally earn interest at the same rate of interest.

The Federal Government provides deposits to the IIM system in two situations. These are "contract advances" (discussed in the previous section of this report) and the Federal Government's share of revenue from timber sales within the Portland Area. In both cases, the deposits in the IIM system represent general funds of the Treasury and in both cases, the funds earn interest in the same manner as any other source of funds. But in neither case do the general funds of the Treasury receive credit for the interest actually earned. "Contract advances" receive no credit for interest. Interest is computed on the Federal share of timber sales but the interest is credited to the Indian Moneys, Proceeds of Labor (IMPL) Account. This account is used by the Bureau for the benefit of Indians.

Interest on Contract Advances

A guideline memorandum of February 28, 1964, to area office directors stated in part that, "No amount of the funds in this account may be included in the amount deposited in a commercial bank deposit by the ISSDA for interest-earning purposes, nor may any interest be credited

to this particular account." In accordance with these instructions, no interest has been computed on contract advances even though the funds are invested and earn interest in the same manner as any other source of funds.

During the 2-year period ended September 30, 1971, the average monthly balance for all contract advances was \$2.4 million and as of December 31, 1971, the balance was \$3.6 million. We estimate the actual interest earnings for the 2-year period at about \$272,000. And assuming a 6 percent return, the current earnings on the December 31, 1971, balance would be over \$200,000 a year.

The net effect of not computing interest earned on contract advances is to increase the interest paid on all other IIM accounts. Thus, we have a situation where funds are withdrawn from the Treasury (which increases the Federal interest expense) invested in part in interest-bearing securities (sometimes U. S. Government bonds) but are not credited with any of the interest they earn. In our opinion, this is wrong. Interest should be computed on contract advances in the same manner as any other source of funds and the interest so computed should be deposited to Miscellaneous Receipts of the Treasury.

Interest on the Federal
Share of Timber Sales

Ten percent of revenues from timber sales are deposited to Miscellaneous Receipts of the Treasury. And within the Portland Area these funds are