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INDIAN ISSUES

The Office of the
Special Trustee Has
Implemented Several
Key Trust Reforms
Required by the 1994
Act, but Important
Decisions about Its
Future Remain

**G A O**Accountability * Integrity * Reliability



Highlights of [GAO-07-104](#), a report to congressional requesters

Why GAO Did This Study

The American Indian Trust Fund Management Reform Act of 1994 established the Office of the Special Trustee for American Indians (OST), within the Department of the Interior, to oversee the implementation of management reforms for funds—derived primarily from Interior’s leasing of Indian lands—that Interior holds in trust for many Indian tribes and individuals. Specifically, the act directs that an integrated information system be developed that interfaces the trust fund accounting system with the land title records and asset management systems maintained by Interior’s Bureau of Indian Affairs (BIA). GAO examined (1) OST’s progress in implementing the trust fund management reforms and (2) the extent to which OST has used contractors in implementing these reforms. GAO reviewed OST’s strategic plans and contracting documents and interviewed OST and BIA managers.

What GAO Recommends

GAO is recommending that Interior (1) provide the Congress with a timetable for completing the trust reforms and a plan for future trust fund operations once reforms are completed and (2) develop a workforce plan that proposes staffing levels and funding needs once trust reforms are completed. In commenting on a draft of the report, Interior agreed with GAO’s recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-07-104.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robin M. Nazzaro at (202) 512-3841 or nazzaror@gao.gov.

INDIAN ISSUES

The Office of the Special Trustee Has Implemented Several Key Trust Reforms Required by the 1994 Act, but Important Decisions about Its Future Remain

What GAO Found

OST has implemented several key trust fund management reforms, but has not prepared a timetable for completing its remaining trust reform activities and a date for OST’s termination, as required by the 1994 Act. OST estimates that almost all key reforms needed to develop an integrated trust management system and to provide improved trust services will be completed by November 2007 (see table). Specifically, OST implemented a new trust funds accounting system for processing trust account funds, and BIA and OST are currently validating data for the trust asset and accounting management system for managing Indian land title records and leases for land with recurring income. However, the Special Trustee estimates that data verification for leasing activities will not be completed for all Indian lands until December 2009. OST’s most recent strategic plan, issued in 2003, did not include a timetable for implementing trust reforms or a date for OST’s termination. The Special Trustee notes that many OST functions, including trust fund operations, trust records management, and appraisal services, need to be performed after reforms are completed. If OST is terminated, these responsibilities would have to be transferred to another Interior office. OST plans to reduce expenditures primarily by terminating contracts once trust reforms are completed. However, OST has not yet developed a workforce plan that reexamines the expenditures and staffing levels needed for trust fund operations once trust reforms are completed.

OST has used contractors to perform many of its trust reform activities as a way to minimize the size of its permanent staff. In fiscal years 2004 and 2005, OST allocated \$89.7 million, or nearly 21 percent, of its appropriated funds to contracting. About 66 percent of contracting dollars from these 2 fiscal years went to two firms. Over \$31 million during this period went to the largest contractor, an Indian-owned 8(a) small business, by adding task orders through an existing contract. OST has primarily relied on Interior’s National Business Center to award and manage contracts.

OST’s Key Trust Fund Management Reforms

Reform	Actual/Estimated completion date
Trust funds accounting system	May 2000
Trust beneficiary call center	December 2005
Trust portal	May 2006
Risk management program	March 2007
Trust funds receivable	November 2007
Trust asset and accounting management system:	
Land title system	January 2006
Leasing: Lands with recurring income	October 2007
Leasing: Lands without recurring income	December 2009
Appraisal management system	March 2007
Probate management system	June 2007

Source: OST.

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Abbreviations

BIA	Bureau of Indian Affairs
CD&L	Chavarria, Dunne, & Lamey
CNI	Chickasaw Nation Industries
DQ&I	Data Quality and Integrity
ERB	Executive Resources Board
FPDS-NG	Federal Procurement Data System-Next Generation
NBC	National Business Center
OST	Office of the Special Trustee for American Indians
SES	Senior Executive Service
TAAMS	Trust Asset and Accounting Management System
TFAS	Trust Funds Accounting System

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United States Government Accountability Office
Washington, DC 20548

December 8, 2006

The Honorable Byron L. Dorgan
Vice-Chairman
Committee on Indian Affairs
United States Senate

The Honorable Daniel K. Inouye
United States Senate

The Honorable Tim Johnson
United States Senate

The Bureau of Indian Affairs (BIA), within the Department of the Interior (Interior), for many years was responsible for managing the income that Indians derived primarily from Interior's leasing of rights to minerals, timber, and grazing on Indian lands. However, BIA experienced long-standing problems in managing this income, which it had received and held in trust.¹ Specifically, BIA's Office of Trust Funds Management, which was responsible for providing accounting and investment services and managing the accounting system that recorded the receipt and disbursement of Indian trust funds to tribal and individual Indian account holders, did not have adequately trained personnel or adequate accounting and information systems to ensure that lease income was deposited in the correct trust accounts and that trust balances were accurate. Moreover, each of BIA's 12 regional offices has been responsible for recording land title ownership and tracking lease revenues. Several BIA regional and agency offices created their own automated systems for tracking this information, while some offices performed this function manually. As a result, these regional information systems were not integrated, and the regional offices could not ensure that their information was regularly updated, accurate, and complete.

In response to these problems, the Congress enacted the American Indian Trust Fund Management Reform Act of 1994 (the 1994 Act).² Among other

¹GAO, *Financial Management: Focused Leadership and Comprehensive Planning Can Improve Interior's Management of Indian Trust Funds*, [GAO/AIMD-94-185](#) (Washington, D.C.: Sept. 22, 1994).

²Pub. L. No. 103-412, 108 Stat. 4239 (1994).

things, the 1994 Act established the Office of the Special Trustee for American Indians (OST) to oversee and coordinate Interior's implementation of trust fund management reforms. To improve information systems and accounting practices, the 1994 Act directs OST to oversee the development of an integrated information system that interfaces the trust funds accounting system with BIA's land title records and asset management systems for Indian lands. These systems are to be integrated with asset management systems that Interior's Minerals Management Service and Bureau of Land Management are developing. The 1994 Act also requires OST to develop a comprehensive strategic plan with a timetable for implementing the identified reforms and a date when OST will be terminated. The 1994 Act directs that the Special Trustee provide the Secretary of the Interior and the Congress with a 30-day notice prior to the termination date, and authorizes the Special Trustee to recommend either the continuation or permanent establishment of OST if necessary for the efficient discharge of Interior's trust responsibilities. The 1994 Act states that OST will be terminated 180 legislative days after reforms are completed, unless the Congress extends the Special Trustee's authorities.

Subsequently, in response to direction in the conference report accompanying Interior's fiscal year 1996 appropriations bill,³ the Secretary of the Interior directed, through Secretarial Order 3197, that the Office of Trust Funds Management and other financial trust services be transferred from BIA to OST. This transfer effectively expanded OST's responsibilities from overseeing and coordinating Interior's implementation of trust fund management reforms to also include managing tribal and individual Indian trust fund accounts and providing financial services. OST reports that it currently maintains about 1,450 accounts for more than 250 tribal entities with assets of about \$2.9 billion and about 300,000 individual Indian accounts with financial assets of about \$400 million.

Between fiscal years 1997 and 2006, OST's staff increased from 245 to 590, and total funding grew from \$34.1 million to \$222.8 million. In April 2003, the Secretary of the Interior reorganized OST to create three separate divisions that are responsible for (1) implementing trust reform activities, (2) providing financial trust services, and (3) providing trust fund management and beneficiary services in the field through the creation of 6 regions that are aligned with BIA's 12 regional offices. The reorganization

³H.R. Rep. No. 104-259, at 43-44 (1995).

also doubled the number of OST's Senior Executive Service (SES) positions to 14.

Over the years, OST and BIA have used contractors to help implement their trust fund management reforms. In 2003, Interior's Office of Inspector General began investigating allegations that senior OST managers had given Chavarria, Dunne, & Lamey (CD&L) favorable treatment in awarding contract work. The Inspector General's May 2006 report presented facts showing that (1) senior OST managers had created an appearance of preferential treatment of CD&L by socializing and exchanging gifts with firm officials, in violation of government ethical standards, and (2) OST contract personnel felt pressured by these senior OST managers to continue to award work to CD&L.⁴ The Inspector General referred the matter to Interior to take the appropriate administrative action and review the performance of the contract. Independent of the Inspector General's investigation, OST began using Interior's National Business Center (NBC), located in Denver, Colorado, in 2003 and Fort Huachuca, Arizona, in 2004 to provide contracting services. NBC's Fort Huachuca branch administers a contract with an Indian small business contractor. The contract, which was awarded noncompetitively under the Small Business Administration's 8(a) program, allows OST and other agencies to place task orders for activities within the contract's scope.⁵ BIA also provides contracting services for OST in addition to funding its own contracts for trust reform activities.

In recent years, representatives of several tribal organizations have expressed concern to the Congress about the extent, duration, and cost of OST's reforms, noting that OST has not provided the Congress with a timetable for completing these reforms as the 1994 Act requires. These representatives are also concerned that OST has taken an increasingly larger role in the management of the trust, rather than limiting itself to overseeing trust reform efforts.

⁴Department of the Interior, Office of Inspector General, *Transmittal of Report of Investigation: Allegations Concerning Senior Officials of the Office of the Special Trustee for American Indians* (Washington, D.C.: May 16, 2006).

⁵Under the Small Business Administration's 8(a) program, small businesses that are socially or economically disadvantaged can be awarded contracts without competition below certain dollar thresholds. Alaska Native Corporations and Indian tribes, among others, are exempted from the \$3.5 million threshold (\$5.5 million for manufacturing contracts) above which contracts must be competed.

In this context, we examined (1) OST's progress in implementing the American Indian Trust Fund Management Reform Act of 1994 and (2) the extent to which OST has used contractors in implementing these reforms. In addition, appendix I provides information on retention allowances and performance awards provided to OST managers in SES positions.

To examine OST's progress in implementing the 1994 Act, we reviewed laws, regulations, and legislative history pertaining to trust reforms at Interior. We also reviewed OST's trust reform planning documents and interviewed OST and BIA officials to determine the status of the implementation of trust reforms; however, we did not analyze the adequacy of OST's and BIA's implementation of trust reforms. To identify the extent to which OST has used contractors in implementing its trust reforms, we obtained data from the Federal Procurement Data System-Next Generation (FPDS-NG) for fiscal years 2004 and 2005 and tested these data for reliability by comparing them with procurement data from NBC.⁶ Where discrepancies were found, we corrected the FPDS-NG data to ensure completeness of the data. In addition, we interviewed contracting officers at NBC and contracting officers' technical representatives at OST. On the basis of our testing and correction of FPDS-NG data, we are sufficiently confident of the reliability of the data we are reporting. We conducted our review from February 2006 through October 2006 in accordance with generally accepted government auditing standards.

Results in Brief

OST has implemented several key trust fund management reforms, but OST has not prepared a timetable for completing its remaining trust reform activities or identified a date for its termination under the 1994 Act. OST estimates that almost all of the key trust reforms needed to develop an integrated trust management system and to provide improved trust services will be completed by November 2007, but OST believes some additional improvements are important to make. Specifically, in May 2000, OST implemented a new trust funds accounting system for processing trust account funds. In addition, BIA has developed a centralized trust asset and accounting management system for managing land title records

⁶FPDS-NG is the central repository of statistical information on federal contracting maintained by Global Computer Enterprises, Inc., under contract with the General Services Administration. For our assessment of FPDS-NG, see GAO, *Improvements Needed to the Federal Procurement Data System-Next Generation*, [GAO-05-960R](#) (Washington, D.C.: Sept. 27, 2005).

and leasing activities for Indian lands. OST and BIA are currently verifying the accuracy of the leasing information by comparing data in BIA's trust asset and accounting management system with BIA's local land records for each tract of Indian land that has recurring income from leasing the rights to natural resources. The agencies plan to finish this verification by October 2007. However, the Special Trustee does not expect that verification activities will be completed for land tracts without recurring income until the end of 2009. OST's most recent strategic plan, issued in 2003, did not include a timetable for implementing trust reforms or a date when OST will be terminated, as the 1994 Act required. The 1994 Act also allows the Special Trustee to propose to the Congress that OST continue operations. The Special Trustee told us that Interior will need OST's staff to continue to perform their functions after trust reforms are completed, whether or not OST is terminated, because the Secretary of the Interior transferred staff and responsibilities to OST to, for example, manage trust fund accounts and provide account holders with better trust services after the passage of the 1994 Act. While OST plans to reduce its appropriated funding request by phasing out contractors when trust reform activities are complete, the Special Trustee believes that OST's current staff is about at the right size needed for future trust fund operations. However, OST has not developed a workforce plan that reexamines the expenditures and staffing levels needed for trust fund operations once reforms are completed. Opportunities may exist to realign or further reduce expenditures and staffing levels because, for example, there are OST staff who either are responsible for implementing trust reforms or have responsibilities that will decrease once trust reforms are completed and accounting functions are automated. We are making recommendations to the Secretary of the Interior to provide the Congress with a timetable for completing trust fund management reforms and with a plan for future trust fund operations. Also, we are recommending that the Secretary develop a workforce plan that identifies future staffing and funding needs as trust reforms are completed. Interior agreed with our recommendations.

Since its inception, OST has used contractors to perform many of its trust reform activities as a way to minimize the size of its permanent staff. In fiscal years 2004 and 2005, OST obligated nearly 21 percent of its total appropriated funds to contracting. The trust reform activities performed and products provided by the nearly 350 firms that OST has worked with vary and include operating and maintaining software systems to track and manage accounts, modeling trust processes, drafting handbooks and procedural documents, and providing records management services. About 66 percent of the fiscal years 2004 and 2005 contracting dollars went to 2 firms. Over \$31 million during this period was awarded to the largest

contractor, an Indian-owned 8(a) small business, through task orders under an existing contract. This type of contract allows for task orders to be awarded quickly. In addition, OST has awarded about \$14 million annually to the second largest contractor to operate and maintain the trust funds accounting system. OST awarded and managed contracts in-house for nearly 2 years before turning the contracting function over to NBC's Denver branch in October 2003.

Background

The federal government has held funds in trust for Indian tribes since 1820. Enacted in 1887, the General Allotment Act, also known as the Dawes Act, provided for the division of Indian tribal lands into allotments of up to 160 acres for individual tribal members and families. Subsequently, the Indian Reorganization Act, enacted in 1934 and also known as the Wheeler-Howard Act, ended the allotment of tribal lands and extended indefinitely the period that the federal government would hold allotted lands in trust. Many of these allotments remain in trust today, now jointly owned in common by hundreds and, in many cases, thousands of individual Indians, each with an undivided—or fractionated—interest in the whole parcel. As trustee for tribes and Indians, the Secretary of the Interior is required to account for the revenue generated by each interest (amounting, in some cases, to less than 1 cent per year), invest the trust funds, and provide other trust services to the beneficiaries. The Secretary also is responsible for maintaining official Indian land title and ownership records, managing natural resource assets, and probating estates. Much of this responsibility has been delegated to BIA, which has 12 regional offices and 85 agency offices that are located on or near reservations.

Beginning in April 1997, Interior has issued several strategic plans for implementing trust reforms. Concerned that Interior had not achieved the desired improvement in trust management, the Secretary in January 2002 initiated an effort to develop a comprehensive, departmentwide approach for improving Indian trust management. On March 28, 2003, Interior issued the *Comprehensive Trust Management Plan*, which presented a strategic plan to guide the design and implementation of integrated trust reform efforts. Interior's performance of fiduciary trust business practices nationwide was documented and reported in the *As-Is Trust Business Model Report*.⁷ The information contained in the *Comprehensive Trust*

⁷Department of the Interior, *DOI Trust Reform: As-Is Trust Business Model Report* (Washington, D.C.: Mar. 21, 2003).

Management Plan and the *As-Is Report* is the foundation for the recommendations for reengineered business processes that appear in the *To-Be Model*—or *Fiduciary Trust Model*.⁸ The *Fiduciary Trust Model* contains implementation strategies for major business processes, and currently serves as Interior’s guide for trust reform.

As a basis for revising the department’s approach for improving Indian trust management, Interior contracted with Electronic Data Systems in 2001 to determine how trust reforms were then being conducted and how they could be improved. The firm’s recommendations included both improvements in trust management and a reorganization of Interior’s agencies carrying out trust management and improvement.⁹ In response to these recommendations, the Secretary of the Interior reorganized BIA and OST in April 2003. The reorganization increased OST’s SES positions from 7 to 14 by (1) creating 6 OST regional trust administrators, located at OST’s Albuquerque headquarters, who are responsible for providing account holders with trust services and with overseeing fiduciary trust officers and other personnel in the field and (2) adding an SES position in realigning OST’s management structure by creating three divisions.

As shown in table 1, OST’s budget has grown from \$34.1 million in fiscal year 1997 to \$222.8 million in fiscal year 2006. Similarly, OST’s full-time equivalent positions have increased from 245 employees in fiscal year 1997 to 590 employees in fiscal year 2006. While the growth in budget and staff mainly reflect OST’s efforts to implement reforms and its growing responsibility for trust fund management, OST’s funding also supports other Indian-related activities. For example, in fiscal year 2006, OST transferred (1) \$54.4 million to the Office of Historical Trust Accounting, (2) \$34.0 million for implementing the Indian Land Consolidation Act activities, (3) \$7.6 million to the Office of Hearings and Appeals, (4) \$5.6 million to the Interior Solicitor’s Office to cover costs associated with the *Cobell v. Kempthorne* lawsuit,¹⁰ (5) \$1.3 million to BIA for tribal contract and compact appraisals, and (6) \$300,000 to Interior’s Chief Information Officer. OST began funding the Office of Historical Trust Accounting in

⁸Department of the Interior, *Fiduciary Trust Model* (Washington, D.C.: Dec. 30, 2004).

⁹Department of the Interior, *DOI Trust Reform: Trust Reform Final Report and Roadmap* (Washington, D.C.: Jan. 24, 2002).

¹⁰*Cobell v. Kempthorne* (formerly *Cobell v. Norton*) is a class action lawsuit filed in 1996 by Elouise Cobell, a member of the Blackfeet Tribe, and others against the federal government concerning Interior’s management of Indian trust fund accounts.

fiscal year 2001 and activities related to the Indian Land Consolidation Act in fiscal year 2000. Responsibility for Indian land appraisals was transferred from BIA to OST in 2002 and is currently managed by OST's Office of Appraisal Services.

Table 1: OST's Appropriations, Full-Time Equivalents, and SES Positions, Fiscal Years 1997 through 2006

Dollars in millions

Fiscal year	OST appropriations			Full-time equivalents	SES positions
	Total OST funding	Funds transferred to other offices	Funds available to OST after transfers		
1997	\$34.1	\$0	\$34.1	245	5
1998	38.6	0	38.6	281	5
1999	57.0	0	57.0	312	6
2000	95.0	5.0	90.0	357	5
2001	119.0	47.7	71.3	362	7
2002	110.2	45.5	64.7	415	7
2003	148.3	46.4	101.9	437	7
2004	209.0	106.9	102.1	507	14
2005	228.1	104.7	123.3	565	14
2006	222.8	103.2	119.6	590	14

Sources: Interior's OST and Minerals Management Service.

In addition to its trust reform activities, OST is responsible for maintaining trust-related Indian records and developing trust investment strategies for beneficiaries. In 1999, OST created the Office of Trust Records to ensure that Indian records are maintained and safeguarded. In September 2003, Interior signed a Memorandum of Understanding with the National Archives and Records Administration to create a national repository for American Indian records, including fiduciary trust records, in Lenexa, Kansas. OST's Division of Trust Funds Investment is responsible for managing and investing individual Indian and tribal assets. OST is allowed to invest trust funds only in securities backed by the federal government, including U.S. Treasuries and securities from government-sponsored agencies.

OST Estimates that Almost All of Its Key Trust Reforms Will Be Completed by November 2007, but Has Yet to Prepare a Timetable for Completing Its Remaining Reforms

OST has implemented several key trust fund management reforms, but OST has not prepared a timetable for completing its remaining trust reform activities or identified a date for its termination under the 1994 Act. OST estimates that almost all of the key reforms needed to develop an integrated trust management system and to provide improved trust services will be completed by November 2007, but OST believes some additional improvements are important to make. In particular, once the validation of BIA's new trust asset and accounting management system (TAAMS) leasing information for Indian lands with recurring income is completed, BIA and OST plan to validate the leasing information for Indian lands that do not have recurring income. The Special Trustee expects these validation activities will be completed by December 2009. Despite the 1994 Act's requirement, OST has not proposed a termination date for the office once trust reforms are completed. The Special Trustee noted that Interior will need OST's staff to continue to perform their functions after trust reforms are completed, whether or not OST is terminated, because OST was given responsibility for managing trust fund operations and other trust-related activities after the 1994 Act was enacted. The Special Trustee also added that OST will reduce its expenditures once key trust reforms are completed by terminating contracts, but he believes that OST's current staff is about the right size needed to manage OST's operations after trust reforms are completed. However, because OST has not developed a workforce plan that reexamines the expenditures and staffing levels needed for trust fund operations once trust reforms are completed, additional opportunities may exist to further reduce expenditures and OST staff.

Almost All of OST's Key Reforms Are Scheduled for Completion by November 2007

OST has made important progress in implementing trust fund management reforms and plans to complete almost all of the key reforms by November 2007. Specifically, OST is responsible for trust reforms associated with the trust funds accounting system and the overall integration of the various trust reform automated systems. BIA and OST are responsible for trust reforms associated with its implementation of the TAAMS system for managing land title records and leasing activities for Indian lands. NBC is responsible for developing a management system for Indian land appraisals.

OST is responsible for implementing the following trust reforms:

- *Trust Funds Accounting System (TFAS)*. In March 1998, OST awarded a contract to SEI Investments to use a modified version of its commercial trust accounting system that provides basic collection, accounting,

investing, disbursing, and reporting functions. TFAS replaced a module in BIA's Integrated Records Management System and two OST systems, which could not fully perform trust accounting functions. TFAS was deployed in August 1998 and was fully operational in May 2000. OST continues to contract with SEI Investments at a cost of about \$14 million per year for operations and general maintenance, which includes system upgrades twice annually.

TFAS is an accounting and investment system that enables the automated production of account statements for individual Indians and tribal account holders. It also allows, for example, automated trade settlements, automated payments of financial asset income, daily securities pricing, and automated reconciliation. In addition, landownership and leasing accounts will be included in TFAS as part of BIA's and OST's TAAMS conversion project to ensure that both systems contain accurate and complete information.

- *Trust Funds Receivable.* In 2004, OST awarded a contract to Bank of America to centralize the collection of trust payments through a single remittance-processing center, also known as a lockbox, to minimize the risk of loss or theft. Under phase I of the new system, which became effective in October 2005, trust payments are sent to the processing center in Prescott, Arizona, for deposit into trust fund accounts. Previously, BIA and OST personnel in agencies for each of the 12 regions collected trust payments for trust fund account holders and then mailed or deposited the payments.

Phase II of this project is to have all collections and distributions automated in TFAS. However, implementation requires the completion of the validation of the land title and leasing data in TAAMS. According to OST officials, full automation of all collections and distributions is scheduled for November 2007. OST officials said that two agencies in BIA's Southern Plains region completed Phase II by the end of June 2005—the remaining agencies in BIA's Southern Plains region and one agency in BIA's Eastern Oklahoma region completed Phase II by the end of January 2006. Several agencies in BIA's Great Plains region completed Phase II by the end of June 2006—the remaining agencies in BIA's Great Plains region and several agencies in BIA's Northwest region completed Phase II by the end of August 2006. BIA's Rocky Mountain region completed Phase II by the end of July 2006, and BIA's Navajo region and several agencies in BIA's Western regions completed Phase II by the end of September 2006. In addition, OST has completed its desktop procedures for handling the

receipt of trust funds, and BIA is completing its desktop standardization procedures, with some assistance from OST.

- *Trust Beneficiary Call Center.* In December 2004, OST established the Trust Beneficiary Call Center, a centralized call center in its headquarters office in Albuquerque, New Mexico. Through a toll-free telephone number, the call center provides timely responses to beneficiaries' questions and allows them to access account information. In addition, the call center operators and staff have recently received training and access to TAAMS through OST's trust portal to enable them to better answer questions about beneficiaries' assets. If a beneficiary's question cannot be answered, the call center operator is to refer the question to an OST Fiduciary Trust Officer, generally colocated at the BIA field agencies, to research and respond accordingly. The call center was fully operational by December 2005.

In establishing the call center, calls were redirected from preexisting toll-free telephone numbers at BIA field agencies. OST officials told us that the Trust Beneficiary Call Center has helped to relieve some of the workload from OST and BIA staff in the field. OST data show that, as of July 2006, the call center had received over 135,000 calls from beneficiaries, with a first-line resolution rate of about 89 percent.

- *Trust Portal.* OST completed the implementation of its trust portal in May 2006. OST's trust portal provides employees with a single point of access to applications and other resources, such as the trust funds receivable system and the intranet. Currently, the trust portal is available to OST employees and some BIA employees. According to an OST official, various contractors developed the trust portal and OST staff maintain it.
- *Risk Management Program.* Beginning in 1999, OST has contracted with CD&L to develop and refine the risk management program for establishing management controls to monitor and evaluate the effectiveness of Interior's trust operations. The risk management program has evolved over the past few years—the original risk management product was a stand-alone compact disk application that provided an assessment tool to evaluate OST's business operations. Since then, a Web-based risk management tool, the RM-Plus tool, has been developed to facilitate data collection and reporting for all Interior bureaus and offices with Indian trust responsibilities. OST implemented the RM-Plus in August 2004 and has contracted with Chickasaw Nation Industries (CNI) to operate and maintain the tool. BIA used the RM-Plus tool in 2006 to produce its financial assurance statement at the Southern Plains pilot location.

OST officials said that additional revisions are being made to the RM-Plus tool in response to the new requirements in the Office of Management and Budget's Circular A-123 for ensuring the accountability and cost-effectiveness of agency programs. The RM-Plus is currently being revised to incorporate the circular's requirements and is scheduled to be completed by March 2007. If other Interior bureaus and offices with trust responsibilities decide to use the RM-Plus tool, OST will assist them by providing advice and access to the RM-Plus tool.

BIA and OST are implementing the following trust reforms to develop centralized systems for managing land title records and leasing activities as well as managing and tracking probates for Indian lands:

- *TAAMS*. In December 1998, Interior awarded a contract to Artesia to develop TAAMS, a centralized system with two components for managing Indian trust assets: the TAAMS land title system and the leasing module. Over the years, Artesia was bought out by several contractors. Currently, the TAAMS contract is with CGI-AMS. BIA's TAAMS land title system maintains both current and historical titles—some of these historical titles in the system date back to the original land grant. This system was completed in January 2006.

The TAAMS leasing module tracks leases of Indian assets. BIA and OST are currently converting leasing data from BIA's old legacy systems to TAAMS and integrating TAAMS with TFAS to ensure that both systems have accurate and complete title and leasing information. As a region's system is converted, OST will provide beneficiaries with asset statements that identify the source of the funds and a listing of assets owned in that region and any active encumbrances, as required by the 1994 Act. Prior to the conversion, the statements that beneficiaries receive will only include information on account balances and account transactions.

Before leasing data are converted into TAAMS, BIA's Land Titles and Records Offices and OST—primarily through a contract with CNI—are implementing the data quality and integrity (DQ&I) project to verify the completeness and accuracy of the TAAMS title and leasing information for Indian lands. As part of the verification, the DQ&I teams compare the TAAMS information with the information contained in the BIA region's legacy realty system for land tract allotments with recurring income. For each land tract allotment for which the owner(s) and the interest they own

do not match,¹¹ the DQ&I teams compare the TAAMS information against source documents to identify (1) conveyances of title through probate records, deeds, and gift conveyances and (2) active encumbrances, including lease permits, rights of way, and timber sale agreements. This verification is scheduled to be completed in all BIA regions by October 1, 2007, covering land tracts with recurring income for which the legacy lease and title systems do not match.

OST also plans to verify the accuracy of the land and leasing records for which TAAMS and the legacy realty system have matching information by comparing the TAAMS information with source documents for a sample of these records. OST and BIA plan to verify title and leasing data for tracts of land without recurring income after October 2007, but a schedule for implementing and completing this work has not yet been developed.

OST officials noted that the DQ&I project is labor-intensive. The land validation took about 1 hour per tract in BIA's Southern Plains region because there are about 12 owners per tract. This validation requires more time in BIA's Great Plains region, which has about 32 owners per tract, and in BIA's Rocky Mountain region, which has over 100 owners for some tracts.

- *Probate Case Management and Tracking System.* BIA used a modified off-the-shelf software program to develop the probate case management and tracking system, also known as ProTrac, for use by BIA, OST, and Interior's Office of Hearings and Appeals to manage and track probate cases from initiation to closing. BIA constructed the ProTrac database from manual records, spreadsheets, and trust fund records and, according to a BIA official, has verified its accuracy. BIA is currently developing a paperless version of ProTrac that is scheduled to be implemented by June 2007.

NBC is implementing the following trust reform to improve the management of Indian land appraisals:

- *Appraisal Management System.* NBC is working with OST to adapt its appraisal request and review tracking system to develop the Indian trust appraisal request system. This new system will centralize the appraisal process and track appraisal requests across Indian country, including the

¹¹OST and BIA use the most current of either the last certified Title Status Report or the information going back 15 years for title validation.

period of time it takes to process a request. NBC and OST completed pilot testing the appraisal management system in the Western region in October 2006. OST estimates that the appraisal management system will be fully implemented by March 2007.

OST and BIA managers have overseen the progress of each of the key trust reforms scheduled for implementation by November 2007. OST managers also plan to implement two additional trust reforms. First, the managers plan to verify the accuracy and completeness of TAAMS information for (1) a statistical sample of the tracts of land for which the data in TAAMS and the BIA regional legacy systems match and (2) tracts of Indian land without recurring income. The Special Trustee estimates that this work will be completed by the end of 2009. Second, the OST managers plan to work with BIA to replace the oil and gas distribution system within BIA's Integrated Records Management System that tracks oil and gas revenue from Indian lands. The new system will, among other things, interface with TFAS and the Minerals Management Service's system. This system is estimated to cost \$2.5 million per year and to be implemented by December 2009.

Furthermore, Interior is exploring the conversion of Land Title Mapper to the department's National Integrated Lands System for standardization purposes. The Land Title Mapper uses satellite imagery and geographic information systems to link the data in the integrated computer system with the physical site. The Special Trustee said the mapper could be completed by 2009 or 2010 and noted that, while the mapper is not a component of the 1994 Act's trust reforms, it would provide an important service to trust account beneficiaries. Additionally, as trust reforms are completed, OST will conduct employee training, promulgate trust-related regulations, prepare internal procedures, and prepare handbooks.

OST Has Not Provided a Timetable for Completing Trust Reforms or Identified a Termination Date

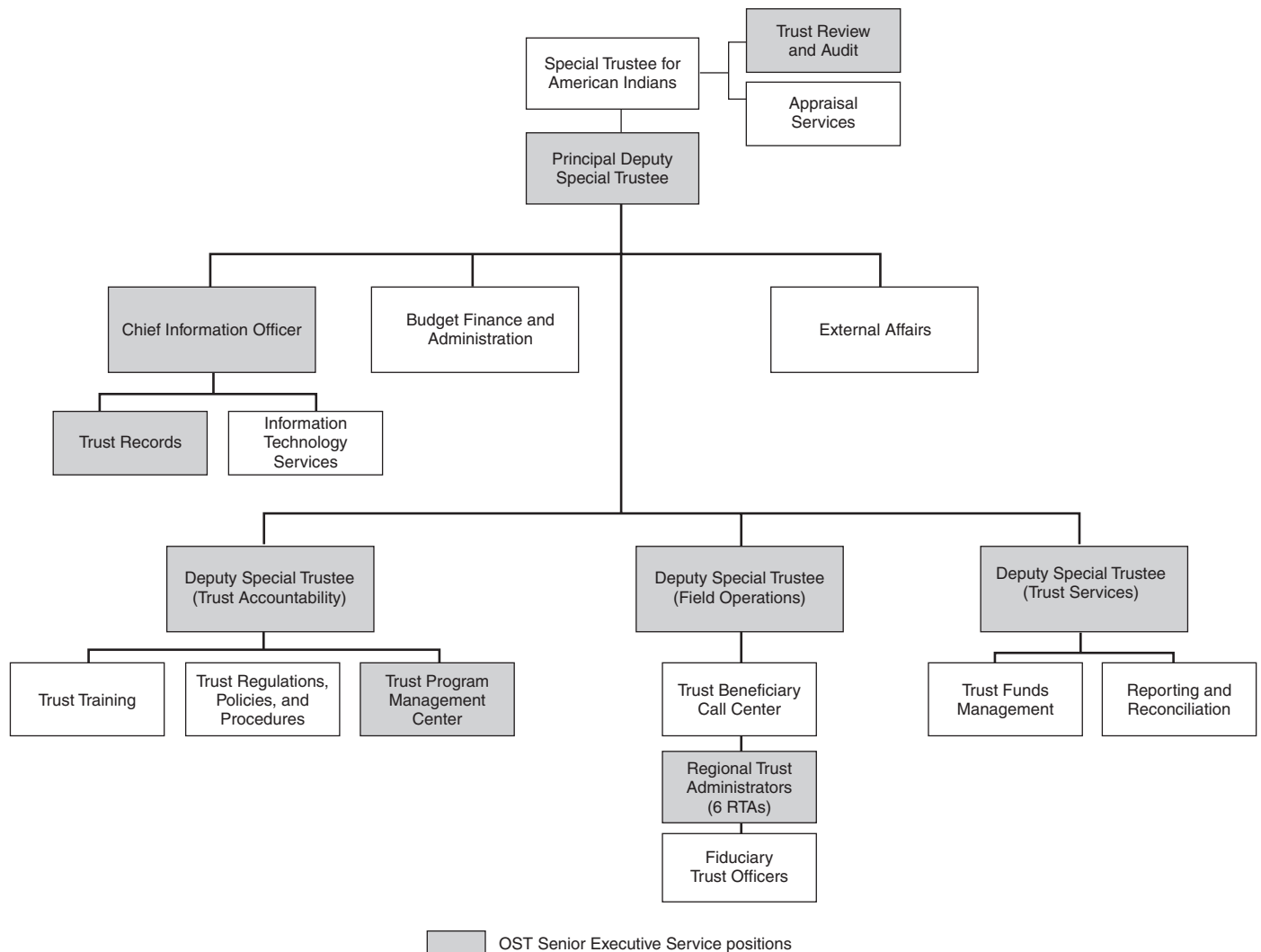
The 1994 Act directed the Special Trustee, within 1 year of appointment, to provide the Congress with a comprehensive strategic plan that, among other things, identifies a timetable for implementing the plan's trust reforms and a date for OST's termination once reforms have been implemented. However, the Special Trustee has yet to provide the Congress with a timetable for completing the remaining trust reform activities and a date for OST's termination, even though OST's most recent strategic plan—the *Comprehensive Trust Management Plan*—issued in March 2003, stated that OST would be able to forecast a date for termination within the next 14 months. The lack of a timetable for completing the remaining trust reforms has hindered the ability of the

Congress, tribal organizations, and the public to fully assess the status of OST's trust reforms or to plan for trust fund operations once reforms are completed.

The 1994 Act includes a sunset provision for OST but allows the Special Trustee to recommend to the Congress that OST continue operations if it is needed for the efficient discharge of Interior's trust responsibilities. The Special Trustee told us that Interior will need OST's staff to continue to perform their functions after trust reforms are completed, whether or not OST is terminated, because the Secretary of the Interior transferred additional staff and responsibilities to OST for managing tribal and individual Indian trust fund accounts and providing other trust services after the passage of the 1994 Act. Specifically, in response to direction in the conference report accompanying Interior's fiscal year 1996 appropriations bill, Secretarial Order 3197 transferred the Office of Trust Funds Management and other financial trust services from BIA to OST. Subsequently, the Secretary transferred BIA's land appraisal staff to OST. If OST is terminated, it is unclear where OST responsibilities—including trust fund management and accounting operations, beneficiary services, trust records management, and land appraisals—will be transferred.

The Special Trustee told us that OST had decided to use contractors, rather than hire additional OST staff, to implement many of the trust reforms as a way to minimize the size of its permanent staff—the contracts will end once key trust reforms are completed. The Special Trustee also said OST's SES positions will be reduced from 14 to 13 in the near future, and he noted that Interior is studying whether efficiencies might exist by combining the Chief Information Officer positions in BIA and OST (see fig. 1 for OST's current organizational chart and SES positions). However, the Special Trustee believes the size of OST's staff, including the number of SES positions, is about the right size needed to manage OST's future operations.

Figure 1: OST's Current Organizational Structure and SES Positions



Source: OST.

OST has not developed a workforce plan that reexamines the expenditures and staffing levels needed for trust fund operations—including managing and accounting for trust funds, providing trust services, maintaining trust records, and conducting land appraisals—once trust reforms are completed. The following opportunities may exist to realign or further reduce expenditures and staffing levels:

-
- The Trust Program Management Center, which is responsible for implementing trust reforms, currently has 23 staff whose work will be completed when trust reforms are implemented. However, one OST manager noted that, in some cases, the staff members responsible for implementing a given reform were then reassigned to the OST office with operational responsibilities to ensure continuous improvements are made.
 - OST currently has 131 accounting technicians located in many of BIA's field agencies whose responsibilities for processing the collections and disbursements of account funds will decrease once trust reforms are completed and accounting functions are automated. However, OST managers noted that it is important to have the accounting technicians in the field to perform account maintenance and research accounts. In addition, a BIA manager noted that many account technicians may still be needed to handle checks that might be given to a local BIA office instead of being mailed to OST's lockbox facility in Prescott, Arizona. Regardless, no plans have been developed to determine either the appropriate number of the accounting technicians needed to carry out future operations or their roles and responsibilities.
 - The Deputy Special Trustee for Field Operations, the six Regional Trust Administrators, and the Fiduciary Trust Officers have been actively involved in implementing trust reforms by coordinating DQ&I and other activities. It is unclear whether seven SES positions will continue to be needed to provide tribal and individual Indian account holders with trust services and to oversee field operations once trust reforms are completed; especially with OST's 52 Fiduciary Trust Officers generally colocated in BIA's field agencies and with the Trust Beneficiary Call Center now in place. However, the Special Trustee noted that each of the Regional Trust Administrators has trust banking or legal expertise for providing tribal and individual Indian account holders with important services, and the administrators will expand their outreach to trust account holders as the reforms are completed.

OST Has Relied on Contractors to Implement Many of Its Trust Reform Activities

Since its inception, OST has relied on contractors to perform many of its trust reform activities as a way to minimize the size of its permanent staff. In fiscal years 2004 and 2005, OST obligated nearly 21 percent of its appropriated funds to contracting. The trust reform activities performed and products provided by the nearly 350 firms with which OST has contracted vary widely. About 66 percent of contracting dollars from fiscal years 2004 and 2005 went to 2 firms. Since 2003, OST has relied primarily on NBC to award and manage contracts. In a May 2006 report, Interior's Office of Inspector General found that senior OST managers had created

an appearance of preferential treatment of a contractor in violation of the standards of ethical conduct. In response, the Special Trustee required that all OST employees in grades GS-12 and above complete a special 2-hour ethics training course, in addition to the annual mandatory ethics training.

OST Has Used Contractors to Perform Various Trust Reform Activities

OST has relied extensively on contractors to perform many of its trust reform activities. During fiscal years 2004 and 2005, OST spent about \$89.7 million, or nearly 21 percent, of its total appropriated funds on contracts.¹² Because 48 percent of these appropriated funds was transferred to other offices, such as the Office of Historical Trust Accounting, the amount OST spent on contracting comprised nearly 40 percent of its available funding for these 2 years. During this period, OST paid about \$58.8 million, or 66 percent, of these funds to 2 of the nearly 350 firms it used—CNI received \$31.1 million and SEI Investments received \$27.7 million. (See table 2 for OST’s obligations to its 10 leading contractors.)

Table 2: OST’s Top 10 Contractors, by Obligations, Fiscal Years 2004 and 2005

Dollars in millions		
Contractor	Work description	Obligations
CNI	Implementation of trust reforms, including data cleanup and risk management projects, and development of policy and procedures manuals	\$31.1 ^a
SEI Investments	Operations and maintenance of trust accounting software	27.7
Cannon Financial	Trust training	3.0
Electronic Data Systems	Trust process modeling	2.0
KPMG	Auditing services	2.0
CD&L	Risk management and accounting services	1.7
Moss Adams	Auditing services	1.7 ^b
Dell	Computer hardware	1.5
Bank of America	Accounting and banking services	1.2
Fire King International	Office furniture	0.9

Source: General Services Administration’s FPDS-NG database.

Note: This table excludes, among other things, expenditures through grants and cooperative agreements and micropurchases using a government purchase card.

¹²These totals for contracting exclude, among other things, expenditures through grants and cooperative agreements and micropurchases using a government purchase card.

^aAmount includes obligations for contract work performed by DataCom Sciences, which CNI acquired in 2003.

^bAmount includes obligations for contract work performed by Neff & Ricci, which Moss Adams acquired in 2005.

CNI provides a variety of trust reform work for OST, including risk management, trust data cleanup and encoding, and the development of policy and procedures manuals. Most of the contracting with CNI, an Indian-owned 8(a) small business, was based on an indefinite delivery, indefinite quantity contract.¹³ (See app. II for a description of the work that CNI performed under each task order.) An advantage of using this type of contract is that contract task orders can be awarded quickly because there is no requirement for competition. OST also pays SEI Investments about \$14 million a year to operate and maintain a version of its commercial trust fund accounting system adapted to meet OST's needs.

Table 3 shows the 10 leading product or service types for which OST used contractors. Most of OST's obligations to contractors, about \$30.3 million, were for data processing and telecommunications services. For example, the DQ&I project for ensuring the accuracy and completeness of the TAAMS database focuses on (1) assisting BIA with document encoding into the trust systems, (2) validating and correcting critical data elements to their respective source documents, and (3) implementing postquality assurance processes. Other major data processing and telecommunications services include developing OST's Trust Beneficiary Call Center, identifying the owners of whereabouts unknown accounts, and developing risk management processes. Another major service or product type for which contracting funds were allocated was for financial services, at about \$28 million. About 99 percent of these funds went to SEI Investments to operate and maintain TFAS. Contractors also provided products and services to OST that were not directly related to trust reform, such as supplying office furniture or providing guard and security services.

¹³The CNI contract provides for an indefinite quantity, within stated limits, of supplies or services during a fixed period. A federal agency can then contract with CNI by placing noncompetitive task or delivery orders for individual requirements.

Table 3: Top 10 Product or Service Types Contracted for OST, by Obligations, Fiscal Years 2004 and 2005

Dollars in millions	
Product or service type	Obligations
Other automated data processing and telecommunications services ^a	\$30.3
Financial services	28.0
Other management support services ^b	5.5
Appraisal services	3.4
Educational services	3.0
Auditing services	2.5
Office furniture	1.7
Banking services	1.1
Automated data processing systems analysis services ^c	1.0
Guard services	1.0

Source: General Services Administration's FPDS-NG database.

Note: This table excludes, among other things, expenditures through grants and cooperative agreements and micropurchases using a government purchase card.

^aThis service includes data cleanup, statement processing, development of the Trust Beneficiary Call Center, and the processing of whereabouts unknown accounts.

^bThis service includes records preservation, trust investment services, and trust process modeling.

^cThis service includes risk management services.

As trust reform activities are completed, OST plans to reduce funding for contracting accordingly. For example, OST's fiscal year 2007 budget request proposed to reduce funding by about \$4.9 million as a result of the completion of certain contract efforts, including the following reductions:

- \$1,400,000 from the Office of Trust Accountability for contract costs related to defining, developing, facilitating, and delivering trust training programs;
- \$1,050,000 from the Office of Trust Accountability for contract costs related to the development of policies and procedures and upgrades of systems for the reengineering of trust processes;
- \$885,000 from the Office of Trust Accountability for contract costs related to the modeling of business practices for the purposes of risk management;
- \$675,000 from the Office of Trust Review and Audit for contract costs related to the development of the Indian Trust Examiner certification; and

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- \$425,000 and \$450,000 from the Offices of Field Operations and Trust Services, respectively, for contractors that were providing accounting services, such as data cleanup and encoding.

OST Has Primarily Relied on NBC for Contracting Services

Prior to 2001, OST relied on NBC to provide contracting services through an interagency agreement. However, at OST's request, Interior delegated contracting authority to OST in January 2001. This delegation was conditioned on (1) the retention of authority by Interior's Office of Acquisition and Property Management to oversee and approve specified actions and (2) a subsequent evaluation of OST's operations. In March 2002, the Office of Acquisition and Property Management conducted an acquisition management review that found several problems with OST's contracting operations. The review team said that many of the problems they found could easily be fixed, and noted that OST's contracting office was not fully staffed and was still experiencing "growing pains." The review team's draft report, which had three broad recommendations, was provided to OST for comment and OST responded in June 2002. However, the report was never issued in final.

Subsequently, in July 2003, OST conducted its own study to (1) evaluate the functioning of OST's contracting office, (2) assess customer satisfaction with contracting services provided, and (3) determine the feasibility (including a cost/benefit and qualitative analysis) of outsourcing acquisition services to either NBC or another Interior office. The internal review found that, although the contracting office had made substantial improvements in response to the acquisition management review, the office still was not operating as effectively as it could. On the basis of proposals received from organizations that provide contracting services and a qualitative evaluation of these organizations, OST found that NBC's branch in Denver, Colorado, offered the best value for providing contracting services for OST.

As a result, OST signed a 5-year interagency agreement with NBC's Denver branch to provide contracting services beginning on October 1, 2003. NBC's headquarters conducted an acquisition management review of NBC Denver's contracting practices in April 2005 and found that, overall, the office was highly effective in providing contracting services.

In 2004, OST also began using NBC's branch in Fort Huachuca, Arizona, because it is responsible for managing the indefinite delivery, indefinite quantity contract with CNI, as we previously discussed. The contract had been originally awarded to CNI on a sole-source basis, which is allowable

under Small Business Administration regulations to provide special procurement advantages to businesses owned by Indian tribes that participate in the 8(a) program. OST has used the contract by placing task or delivery orders for implementing several of the trust reforms.

In addition to funding contracts for their own trust reform activities, such as TAAMS, BIA also has administered contracts for OST. For example, since fiscal year 2005, BIA has served as the contracting office for a contract with CD&L for risk management. A BIA official stated that this contract is set to expire in December 2006. Finally, GovWorks, one of several federal government franchise funds designated by the Director, Office of Management and Budget, also has provided contracting services for OST.

An Investigation by Interior's Office of Inspector General Found Evidence of an Appearance of Preferential Treatment by OST Management

In July 2003, Interior's Office of Inspector General received allegations that senior OST officials had given CD&L favorable treatment in awarding contract work. The Inspector General's May 2006 report found that senior OST officials created an appearance of preferential treatment of CD&L, in violation of both the Standards of Ethical Conduct for Employees of the Executive Branch¹⁴ and an internal OST memorandum directing "Arms Length Dealings with Contractors." The report documents that over several years, OST awarded and continued to extend, without competition, a contract with CD&L for trust fund accounting and risk management services; while at the same time, senior OST officials engaged in extensive outside social activity and exchanged gifts with CD&L executives. The report also stated that OST contract personnel felt pressured by these senior OST officials to continue to award work to CD&L.

The Inspector General referred the matter to Interior to take appropriate administrative action and to review the performance of the CD&L contract. In response, the Special Trustee has required that all OST employees at grades GS-12 or above take a special 2-hour ethics training course. The Special Trustee stated that he was satisfied with CD&L's trust accounting and risk management services.

From January 2001 through September 2003, OST had procurement authority and in-house staff were servicing OST's contracts. In February

¹⁴The report cited 5 C.F.R. pt. 2635 and Executive Order 12731 (Principles of Ethical Conduct for Government Officers and Employees).

2004, after the contracting function was turned over to NBC's Denver branch, OST attempted to get a follow-on sole-source contract with CD&L for the risk management program. OST officials were anxious to get a follow-on contract to meet a court-ordered June 2004 deadline for implementing the risk management system for all agencies involved with trust records. However, due to a lack of documentation to support a valid justification and because of prior apparent improprieties, NBC officials refused to award a follow-on sole-source contract. Rather than wait 4 to 5 months to award a new contract under the competitive bidding process at NBC's Denver branch, OST officials went to BIA and placed an order under the General Services Administration's Mission Oriented Business Integrated Services program, which required a shorter time period to get a contract awarded. The order was placed with CNI in April 2004, and CNI subsequently hired CD&L as a subcontractor through September 2004 to continue the risk management design work. In January 2005, a competitive contract for additional risk management work was awarded to CNI and CD&L, with BIA as the contracting office.

Conclusions

OST is in the final stages of implementing the trust fund management reforms that the 1994 Act required. However, the Special Trustee has not provided the Congress with a timetable for completing these reforms, as required by the act. Without a timetable, the Congress cannot readily oversee OST's implementation of the trust reforms or plan for trust fund operations once reforms are completed. OST also has not developed a plan for future trust fund operations once reforms are completed. Whether or not OST is terminated, the Special Trustee believes that OST's staff will need to continue to perform their functions after trust reforms are completed because, after the passage of the 1994 Act, the Secretary of the Interior transferred to OST the Office of Trust Funds Management and other offices and personnel responsible for trust fund operations. In addition, OST has not developed a workforce plan that reexamines the responsibilities and needs for trust fund operations. While the Special Trustee plans to reduce OST's budget by terminating contracts as reforms are completed, he believes that OST's current size is about right for trust fund operations once reforms are completed. However, a reexamination of OST's workforce needs might identify opportunities for realigning or further reducing expenditures and staffing levels because, for example, certain job responsibilities may decrease once trust reforms are completed and accounting functions are automated.

Recommendations for Executive Action

To improve congressional oversight of the trust reforms and ensure that trust fund accounting operations, once implemented, are economically staffed, we recommend that the Secretary of the Interior direct the Special Trustee to take the following three actions:

- Provide the Congress with a timetable for completing the trust fund management reforms.
- In anticipation of completing the trust reforms, provide the Congress with a plan for future trust fund operations, including, if the decision is made to terminate OST, a determination of where these operations will reside.
- As trust reforms are completed and contracts are terminated, develop a workforce plan that reexamines and proposes staffing levels and funding needs.

Agency Comments and Our Evaluation

We provided Interior with a draft of this report for its review and comment. In its written response, Interior agreed with our recommendations, stating that it expects to have a timetable by late-June 2007 for implementing the remaining trust reforms, including a date for the proposed termination or eventual disposition of OST. (See app. III.) However, Interior disagreed with the number of key reforms we identified and attached to its letter a list of 47 additional reforms that OST has completed. We reviewed the 47 reform efforts on Interior's list and, while they are important activities for the implementation of OST's trust reforms, we believe they are not key components of OST's integrated information system that interfaces the trust funds accounting system with BIA's land title records and asset management systems for Indian lands. Accordingly, we did not revise our report. In addition, Interior provided comments to improve the draft report's technical accuracy, which we have incorporated as appropriate.

Scope and Methodology

To examine OST's progress in implementing the American Indian Trust Fund Management Reform Act of 1994, we reviewed (1) the 1994 Act and its legislative history; (2) Interior's appropriations legislation; and (3) relevant Interior documents, including secretarial orders and OST's March 2003 *Comprehensive Trust Management Plan* and prior strategic plans that provide the basis for OST's current reform efforts. We also reviewed various documents showing OST's progress in implementing trust reforms and interviewed OST and BIA officials regarding the status of trust reform efforts. However, we did not analyze the adequacy of OST's efforts to

ensure that the reforms will result in an integrated computer system with complete and accurate information. In addition, to gain insight into the concerns that tribal organizations have expressed about OST's trust reform performance, we interviewed executives of the Intertribal Monitoring Association on Indian Trust Funds, the National Congress of American Indians, the Great Plains Tribal Chairman's Association, the United South and Eastern Tribes, and the Affiliated Tribes of Northwest Indians. Although the tribal organizations we selected reflect some variation in geography and their members include numerous individual Indian tribes, our selections were not intended to be representative of all tribes.

To examine OST's use of contractors in implementing its trust reforms, we obtained specific data elements for fiscal years 2004 and 2005 from the General Services Administration's FPDS-NG database.¹⁵ These data elements include the amount obligated, the types of goods or services purchased, and various vendor characteristics. FPDS-NG does not include (1) assistance actions, such as grants and cooperative agreements; (2) imprest fund transactions, training authorizations, and micropurchases valued at \$2,500 or less that were obtained through the use of a government purchase card; (3) interagency agreements with other federal agencies and organizations; or (4) actions involving transfer of supplies within and among agencies. Finally, total dollars for fiscal year 2006 are incomplete and were not included in this report.

To ensure the completeness and accuracy of the FPDS-NG contracting data, we examined NBC contracting documents and interviewed contracting officers at BIA and NBC's Denver and Fort Huachuca branches as well as selected contracting officer's technical representatives at OST. We obtained data from FPDS-NG by searching on OST as the funding agency. However, because NBC officials told us this field was not always completed, we also obtained FPDS-NG data by searching on NBC's contracting office and identifying, by the product or service description, contracts most likely associated with trust reform efforts. In addition, we compared these data with NBC's procurement tracking system and made adjustments to the FPDS-NG data as necessary. Where discrepancies were found, we corrected the FPDS-NG data to ensure completeness of the

¹⁵ FPDS-NG data for OST are incomplete before fiscal year 2004. OST had procurement responsibility from fiscal years 2001 through 2003, but OST could not readily update the data system because a federal court order has directed OST and BIA to stop using the Internet until the court approves their security procedures.

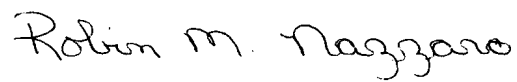
data. On the basis of our testing and correction of FPDS-NG data, we are sufficiently confident of the reliability of the data we are reporting. Furthermore, we reviewed the report and associated workpapers of Interior's Office of Inspector General regarding allegations that senior OST officials had given CD&L preferential treatment in contracting for risk management services.

To assess the performance awards and retention allowances that SES officials at OST had received, we analyzed data for fiscal years 2001 through 2005 from the Office of Personnel Management's Central Personnel Data File, which contains records for most federal employees and is the primary governmentwide source for information on federal employees. Specifically, we examined the number and dollar amount of performance awards and retention allowances provided to OST and compared them with those of other Interior bureaus and other federal agencies. In addition, we obtained documents from Interior's Minerals Management Service, which is responsible for providing OST with human resources support services—including (1) processing performance awards and retention allowances provided to SES officials at OST and (2) ensuring compliance with the appropriate procedures for determining such awards and allowances.

We conducted our review from February 2006 through October 2006 in accordance with generally accepted government auditing standards.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the report date. At that time, we will send copies to interested congressional committees, the Secretary of the Interior, the Special Trustee for American Indians, the Director of the Office of Management and Budget, and other interested parties. We will also make copies available to others upon request. This report will also be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact me at (202) 512-3841 or nazzaror@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IV.

A handwritten signature in black ink that reads "Robin M. Nazzaro". The signature is written in a cursive, flowing style.

Robin M. Nazzaro
Director, Natural Resources
and Environment

Appendix I: Retention Allowances and Performance Awards Provided to OST Senior Executive Service Managers

The Department of the Interior (Interior) has provided a retention allowance to one Senior Executive Service (SES) manager at the Office of the Special Trustee for American Indians (OST)—the Principal Deputy Special Trustee. In addition, 7 of the 13 SES managers currently at OST received at least two major awards in 2 years or more.¹ However, from fiscal years 2001 to 2005, the average performance award amounts that SES managers received were generally lower than the average amounts provided to other bureaus and offices within Interior and other federal agencies. Interior's Executive Resources Board (ERB), currently chaired by the Secretary of the Interior and comprising senior Interior managers, made the final determination on all performance awards and retention allowances provided to SES managers.

Retention Allowance

Each calendar year from 1999 through 2005, Interior has provided OST's Principal Deputy Special Trustee with a retention allowance because, according to agency justifications, her historical knowledge and managerial ability are needed to ensure Interior's trust oversight and reform success. Specifically, from 1999 to 2005, Interior's ERB has reviewed and approved the justification for the retention allowance, which raises the Principal Deputy Special Trustee's total compensation to the maximum allowable for SES employees—excluding 1999 and 2005, when the Principal Deputy Special Trustee's compensation was slightly under the total maximum allowable. According to officials of Interior's Minerals Management Service,² retention allowances are reserved for special talent and have been provided to only two Interior SES managers—the other SES manager received a retention allowance in 2002 and 2004. In each year, the Principal Deputy Special Trustee's retention allowance was lower than the maximum amount provided to an SES manager at all other federal agencies (see table 4). The Special Trustee stated that as OST's trust reforms are completed, the total compensation provided to the Principal Deputy Special Trustee will be reevaluated.

¹While OST has 14 SES positions, the position of Deputy Special Trustee for Trust Services was vacant as of November 2006.

²Under an interagency agreement, Interior's Minerals Management Service provides human resources support services to OST.

Table 4: Comparison of the Retention Allowance Provided to the Principal Deputy Special Trustee with the Maximum Retention Allowance Provided to an SES Manager at All Other Federal Agencies, Calendar Years 1999 through 2005

	Calendar year						
	1999	2000	2001	2002	2003	2004	2005
Principal Deputy Special Trustee ^a	\$25,370	\$26,800	\$27,500	\$27,500	\$29,400	\$30,100	\$30,861
Other federal agencies ^b	29,600	30,600	31,425	32,500	33,500	36,400	40,525

Sources: Interior's Minerals Management Service and GAO analysis of the Office of Personnel Management's Central Personnel Data File.

^aThe Principal Deputy Special Trustee assumed this position in May 2003. From 1996 through 2001, the Principal Deputy Special Trustee was the Director of the Office of Trust Funds Management. From July 2002 through April 2003, the Principal Deputy Special Trustee was the Acting Special Trustee for American Indians.

^bThis category includes all federal agencies, except Interior.

Performance Awards

Seven of OST's SES managers received at least two major awards—a performance award, a special act award, an individual cash award, or a time-off award—in 2 years or more, as follows:³

- The Principal Deputy Special Trustee, who has been in the SES since 1993, received three major awards from fiscal years 2000 to 2006. Specifically, the Principal Deputy Special Trustee received two time-off awards of 80 hours each in fiscal years 2000 and 2004 and a performance award of about \$9,700 in fiscal year 2006. In addition to these major awards, the Principal Deputy Special Trustee received the Presidential Rank Award in 2002, one of the government's most prestigious awards. While the Principal Deputy Special Trustee received cash with the award, the full cash amount could not be provided in 2002 because her total compensation was at the maximum allowable for a federal employee. As a result, she received part of the award in 2002 and the rest of the award in 2003.
- A manager, who has been in the SES since 1996, received eight major awards from fiscal years 1999 through 2006, including at least one award in 7 of the 8 years. Specifically, in fiscal years 1999 and 2000, this manager received three special act awards that ranged from \$1,750 to \$10,000. In fiscal years 2002 through 2006, this manager received either a performance award or an individual cash award in each year, ranging from \$5,000 to \$13,000.

³For the purposes of this report, major awards include time-off awards of at least 40 hours and individual cash and special act awards of at least \$1,000.

- A manager, who has been in the SES since 2002, received six major awards from fiscal years 2003 through 2006, including at least one award in each year. Specifically, this manager received two special act awards of \$5,000 and \$10,000, two time-off awards of 40 hours each, an individual cash award of \$5,000, and a performance award of about \$7,200.
- A manager, who has been in the SES since 2002, received three major awards—one award per year from fiscal years 2004 through 2006. This manager received a performance award of \$6,900 and two time-off awards of 40 hours and 80 hours.
- A manager, who has been in the SES since 2004, received two major awards—performance awards of about \$12,000 in fiscal year 2005 and about \$11,500 in fiscal year 2006.
- A manager, who has been in the SES since 2004, received two major awards—individual cash awards of \$4,300 in fiscal year 2005 and \$5,000 in fiscal year 2006.
- A manager, who has been in the SES since 2004, received two major awards—a performance award of about \$8,900 in fiscal year 2005 and an individual cash award of \$5,000 in fiscal year 2006.

OST's six other current SES managers have received, at most, one major award. In fiscal year 2005, about 54 percent of OST's SES managers received at least one major award. In fiscal year 2006, about 69 percent of OST's SES managers received at least one major award.

Table 5 compares the average performance award amounts for SES managers at OST with the average amounts at other bureaus and offices within Interior and other federal agencies. The average performance award amount of OST's SES performance awards was higher than the average amounts of other bureaus and offices within Interior and other federal agencies in fiscal year 2001—according to the Special Trustee, the performance awards recognized these managers' many hours of efforts to validate data for the implementation of the trust funds accounting system in 2000. However, the average amounts of OST's performance awards for fiscal years 2002 through 2005 were generally lower than the average amounts provided to other bureaus and offices within Interior and other federal agencies—excluding fiscal year 2003, when the average amount of OST's performance awards was slightly higher than the average amount provided to other bureaus and offices within Interior.

Table 5: Comparison of the Average Performance Award Amounts Provided to SES Managers at OST with the Average Amounts Provided to Other Bureaus and Offices within Interior and Other Federal Agencies, Fiscal Years 2001 through 2005

Agency	Average performance award amounts, by fiscal year				
	2001	2002	2003	2004	2005
OST	\$13,447	\$7,542	\$10,400	\$8,040	\$11,360
Interior ^a	10,760	9,515	10,242	9,351	13,710
Other federal agencies ^b	11,291	11,923	12,440	12,955	13,591

Sources: Interior's Minerals Management Service and GAO analysis of the Office of Personnel Management's Central Personnel Data File.

^aCategory includes all of Interior's bureaus and offices, excluding OST.

^bCategory includes all federal agencies, except Interior.

Interior's ERB approved each of the major awards provided to OST's SES managers. Minerals Management Service officials told us that ERB considers supporting documentation and recommendations provided by the Performance Review Board, which is an Interior board that reviews only performance awards, in making its final determination.

Appendix II: OST's Task Orders Issued to Chickasaw Nation Industries for Trust Reform Work, Fiscal Years 2004 and 2005

Dollars in millions		
Task order	Description of order	Obligations
0001	Titles to Youpee interests—updated in BIA's Land Titles and Records Offices	\$0.9
0002	Quality service survey processing project	0.3
0003	Updating and maintaining individual Indian money account information contained in the trust funds accounting system	1.9
0004	Funds receivable project	0.5
0005	Office of Chief Information Officer continuing operations plan	0.05
0006	Audit log consolidation tool research	0.7
0007	Trust call center prototype	2.3
0008	Oversight of reforms to bring the operation of the Indian trust into full compliance with fiduciary, statutory, and regulatory requirements	19.2
0009	Deploy virtual private network and OST active directory to all locations	0.4
0010	Automate data gathering, transaction clarification data recording, and calculations to generate Treasury's Financial Management Service	0.2
0011	Review and preparation of documentation to enable the proper posting and processing of probate distributions from estate accounts of heirs	0.6
0012	Indian Land Consolidation Act processes	0.04
0013	Fiduciary trust funds receipt project	0.8
0014	Preparation of the status report to the court	0.1
0015	Screening and scheduling project	0.04
0017	Historical query modification	0.03
0018	Automate routine file maintenance audit report	0.03
0019	Personnel security system reinvestigation process	0.05
0020	Plans of action and milestones project	0.04
0025	Data cleanup project for BIA's trust asset and accounting management system	1.7
0030	Statement processing and mailing software	0.06

Sources: General Services Administration's FPDS-NG database and GAO analysis of documents obtained from the National Business Center's Fort Huachuca branch.

Appendix III: Comments from the Department of the Interior



United States Department of the Interior

OFFICE OF THE ASSISTANT SECRETARY
POLICY, MANAGEMENT AND BUDGET
Washington, DC 20240

NOV 21 2006

Ms. Robin Nazzaro
Director, Natural Resources and Environment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Nazzaro:

This letter is in response to GAO's draft report entitled "Office of the Special Trustee Has Implemented Several Key Trust Reforms Required by the 1994 Act but Important Decisions about Its Future Remain". In addition to the more technical comments previously submitted we have the following comments on the draft report.

The significant items within the draft report are: 1) a timetable for implementing the remaining reforms, including a date for the proposed termination or eventual disposition of the Office, 2) the trust reform accomplishments of OST and 3) the growth of OST's staff and budget and absence of a workforce plan and timetable for ultimate disposition of the office.

The potential timetable for implementing the remaining reforms identified in the plan, including a date for the proposed termination or eventual disposition of the Office, was repetitively cited in the draft report.

1) It is important to realize that the American Indian Trust Fund Management Reform Act of 1994, while requiring "A timetable for implementing the reforms identified in the plan, including a date for the proposed termination of the Office" (Section 4043(a)(2)(C)), first requires that the Special Trustee "ensure that reform of such practices in the Department is carried out in a unified manner and that reforms of the policies, practices, procedures and systems of the Bureau, Minerals Management Service, and Bureau of Land Management, which carry out such trust responsibilities, are effective, consistent, and integrated;" and "ensure the implementation of all reforms necessary for the proper discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians." (Section 4041(2) and (3)). In addition, Section 4042 (C)(1) entitled "Conditioned upon implementation of reforms" states "The Special Trustee, in proposing a termination date under Section 4043(a)(2)(C) of this title, shall ensure continuation of the Office until all reforms identified in the strategic plan have been implemented to the satisfaction of the Special Trustee."

When the 2003 Comprehensive Trust Management Plan (CTM) was developed it was impossible to know the integrity of the data and how much work would be involved in making the transition

to a completely new set of systems to replace systems that dated back to the 1960's. At that time, it was not possible to list the remaining trust reforms needed or establish the timetable for termination or ultimate disposition of the office.

New systems are now being implemented as a result of OST funding and support to the BIA to validate and encode tens of thousands of documents that must be included in the new systems. A plan to have all remaining reform efforts completed, including data validated, encoded and fully operational will be determined during FY 2007. This is just one of the initial steps in developing the type of information necessary to create a realistic timetable for Department-wide trust reform efforts. We now expect to have a timetable by late June 2007 for implementing the remaining trust reforms including a date for the proposed termination or eventual disposition of the Office.

2) GAO's draft report suggests that "implementation of all reforms necessary for the proper discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians" within the Department involve only five trust reforms (page 10 of the Draft Report). Attachment 1 provides a non-exhaustive list of 47 additional completed significant trust reforms. We estimate that over 50 significant or "key" reforms have taken place and estimate that at the very least there are many more "key" reforms to accomplish.

3) OST has a current workforce plan in place. This and many other plans (see Appendix 2) have detailed the extent and robustness of the required reforms necessary to transform the current status of Indian Affairs. Obtaining the estimated staffing levels and budget necessary to reform Indian Affairs has always been considered a monumental undertaking. By the end of FY 2007, OST expects to have a comprehensive list of trust reforms that still need to be accomplished and a timetable to complete them. At that time OST will develop a workforce plan that identifies future staffing and funding needs for both OST and BIA.

OST's budget and staffing have increased for many reasons. Congress has chosen to establish OST as the Department's office to coordinate and implement Departmental trust reform. Congress has routinely added programs and funding to OST due to its ability to accomplish important reform goals.

OST has been tasked with implementing significant trust reforms including bringing on new accounting systems and reforming Indian trust business processes throughout Interior. As such Departmental Offices dealing with Indian trust reform are funded through OST appropriations. Several programs, such as BIA's Office of Trust Funds Management (OTFM) and Office of Appraisal Services (OAS) have been transferred to OST to maintain independence. These services will continue after trust reform is completed. Other Interior offices dealing with trust reform such as the Office of Historic Trust Accounting (OHTA), the Indian Lands Consolidation Office (ILCO), and the Office of Hearings and Appeals (OHA) are included in the OST budget. In addition, the Office of Trust Records (OTR) was created in OST to serve all Interior trust records management needs as well as all BIA records management needs, both trust and non-trust.

Together, these items make up over half of OST's budget. For example in FY 2006 OST's budget was \$222.8 million. Of this amount approximately \$112.8 million was transferred to

Indian Affairs trust programs. The only programs developed and added by OST as part of trust reform, have been the beneficiary call center (which handles beneficiary inquiries in a timely manner) and the hiring and deployment of trust officers with fiduciary experience to be primary points of contact for beneficiaries and to be Ombudsmen for the beneficiaries.

In addition, funding is provided to support other Indian Affairs programs by OST, periodically. For example, in FY 2006 an additional \$1.3 million was provided to BIA for trust reform and in FY 2005 over \$2.4 million was provided to BIA. During the same fiscal years, over \$1 million was provided to BLM.

Other items for clarification to the draft report:

1) It was mentioned in the draft report that there was an Office of the Inspector General (OIG), report completed in May 2006 which made allegations of an appearance of preferential treatment toward a contractor by a few senior managers. The OIG did not report a finding of any preferential treatment, however.

2) The draft report often implies that re-engineering of trust business processes is simply a one-time process. Ongoing reform is not a one-time re-engineering and implementation process but requires continuous re-engineering to keep pace with new business processes, systems and technology. If there is not dedicated staff to continually review and update processes, policies, procedures and systems, business practices will become outdated and systems will not keep pace with business needs.

3) TFAS is a state-of-the-art accounting/investment system that enables scheduled, automated production of account statements and disbursements for individual Indians and tribal accountholders. It also allows for automated trade settlements, automated payments of financial asset income on due dates, daily securities pricing and automated reconciliation. In addition, land ownership and leasing accounts will be included in TFAS as part of BIA's and OST's TAAMS conversion project to ensure that both systems contain accurate and complete information.

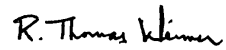
In general we agree with GAO's recommendations. (1) A timetable for completing trust reforms should be completed by the end of FY 2007. (2) A plan for future trust fund operations once reforms are completed will also be completed by the end of FY 2007. (3) A workforce plan that re-examines and proposes staffing levels and funding needs once trust reforms are completed incorporating items (1) and (2) will be completed by the end of FY 2008.

We disagree however that there are only 5 key trust reforms required by the 1994 Act. In fact as Attachment 1 shows we have already completed at least 47 other major reforms and many more reforms are yet to be completed.

**Appendix III: Comments from the Department
of the Interior**

Thank you for this opportunity to comment on the draft report. If you have any questions please feel free to contact Ross Swimmer, Special Trustee for American Indians at (202) 208-4866.

Sincerely,



R. Thomas Weimer
Assistant Secretary

Attachments

Attachment 1

Additional (non-exhaustive) list of OST's reform efforts

1. Implemented an automated sweeping and investment of daily cash.
2. Converted to a commercial off-the-shelf trust funds accounting system (TFAS) in 1995 for tribal accounts and all investments. In FY2000 completed conversion of IIM accounts.
3. Implemented system that provides for automated scheduling of statements and disbursements.
4. Implemented annual independent audits of trust funds.
5. Initiated daily, weekly and monthly reconciliations.
6. Established the first investment policy.
7. Established the Federal/Tribal/Allottee team to prioritize IIM issues after meetings that were held across Indian country with IIM account holders to help establish priorities.
8. Eliminated Certificates of Deposits (CDs) as investments.
9. Established internal controls to mitigate risks.
10. Completed the Strategic Plan, consulted with Tribes and submitted the plan to Congress as required by the Reform Act.
11. Created high level implementation based on secretary's decision paper for implementation of specific parts of the strategic plan.
12. Developed process and completed clean-up of administrative files for IIM accounts.
13. Awarded contract and implemented a centralized custodian for financial assets.
14. Piloted and implemented Automated Clearing House (direct deposit for beneficiaries).
15. Centralized encoding of financial transactions.
16. Initiated Customer Strata Station (CSS); an electronic work-ticket application initiated at field locations.
17. Piloted and implemented the Treasury system to enable electronic check retrieval and cancellation.
18. Implemented automated Treasury system for reporting of daily Treasury activity.
19. Developed and implemented the BIA/OST Interagency Procedures Handbook.
20. Contracted for a review of TAAMS to provide a comprehensive independent assessment of the efficacy of the Department's trust reform efforts to date in accordance with the Secretary's July 10, 2001 directive.
21. Created and implemented financial statement preparation currently prepared monthly.
22. Established the Office of Trust Review and Audit to perform internal reviews of the Department's fiduciary trust operations and activities.
23. Developed and published the Comprehensive Trust Management Plan (CTM).
24. Developed and published the "As-Is" and "To-Be" studies.
25. Developed and implemented new policies and procedures for all OST business processes.
26. Implemented the Box Index Search System (BISS) records database to provide automated index of records.
27. Entered into an agreement between the Secretary of the Interior and National Archives and Records Administration (NARA) for the development and construction of the American Indian Records Repository (AIRR) the State-of-the-Art records storage and retrieval system in Lenexa, Kansas.

28. Established a records management and archival certification program at Haskell Indian Nations University.
29. Developed automated special deposit account tracking and reporting.
30. Hired dedicated records management staff at Headquarters and placed records management program specialists in the BIA regions to provide assistance to BIA and OST personnel.
31. Hired staff of Regional Trust Administrators and Fiduciary Trust Officers with fiduciary experience to be primary point of contact for beneficiaries and to be Ombudsman for the beneficiary.
32. Developed and implemented a beneficiary Out-Reach program throughout Indian country.
33. Completed A-130 Certification and Accreditation for TFAS and OST's General Support System (OSTNET).
34. Developed and published the Fiduciary Trust Model (FTM).
35. Developed metrics for workforce planning and measurement.
36. Coordinated the re-engineering of Indian Affairs business processes.
37. Contracted with Cannon Financial Institute for the development a professional certification program for:
 - Certified Indian Fiduciary Trust Analyst
 - Certified Indian Fiduciary Trust Specialist
 - Certified Indian Trust Examiner
38. Implemented BIA/OST commercial lockbox for trust resource remittances.
39. Developed and implemented an automated risk management system (RM-Plus).
40. Collaborated with DOI University and BIA to create the National Indian Program Training Center (NIPTC).
41. Performed Data Quality & Integrity process prior to conversion to leasing module.
42. In collaboration with BIA, implemented single ownership data system and initiated conversions to leasing module.
43. Implemented assets statements that provide beneficiaries with a listing of land and subsurface interests owned and encumbrances on the land.
44. Developed and distributed computer based training for BIA and OST employees in records management and the Privacy Act and published the Privacy Act notice for the Box Index Search System (BISS).
45. Developed and implemented a Trust Funds Receivable (TFR) module.
46. Implemented the requirements of the revised OMB Circular A-123.
47. Eliminated use of Special Deposit Accounts (SDAs) as each agency converts to TAAMS leasing module.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Robin Nazzaro, (202) 512-3841 or nazzaror@gao.gov

Staff Acknowledgments

In addition to the individual named above, Richard Cheston, Assistant Director; Nathan A. Morris; Ashanta Williams; and Nancy Crothers made key contributions to this report. Also contributing to this report were Doreen Feldman, Kevin Jackson, Julia Kennon, Greg Wilmoth, and Bill Woods.

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