



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

## **WHEREABOUTS UNKNOWN**

An evaluation of actions taken to locate Whereabouts Unknown individuals by the Office of the Special Trustee for American Indians



Cover photo: Office of the Special Trustee, Albuquerque, NM




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

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Memorandum

To: Larry EchoHawk  
Assistant Secretary for Indian Affairs

Donna M. Erwin  
Acting Special Trustee for American Indians

From: Mary L. Kendall   
Acting Inspector General

Subject: Whereabouts Unknown: An evaluation of actions taken to locate Whereabouts Unknown individuals by the Office of the Special Trustee for American Indians (Report No. WR-IS-OST-0006-2009)

This memorandum transmits our report detailing the results of our evaluation of the Office of the Special Trustee for American Indians' (OST) actions to locate Individual Indian Money (IIM) accounts holders known as Whereabouts Unknown individuals. Specifically, our objective was to determine the Whereabouts Unknown status of those top 100 account holders located by private investigators during 2005 through 2007.

The Department of the Interior Office of Inspector General (OIG) reviewed OST's 2005-2007 contract with the private investigation firms that worked to locate the top 100 account holders and found that 10 of the 31 located account holders still appeared on the Whereabouts Unknown list 3 years later. One of the account holders had already received access to their account but OST had not yet removed them from the list. The remaining nine individuals had trust accounts totaling approximately \$660,000; their accounts ranged from \$40,000 to \$150,000. The majority of these individuals suffer from mental disabilities and physical impairments, adding to the complexity of the reconciliation process as it requires additional coordination with the Bureau of Indian Affairs (BIA) or Tribal Social Services. After sharing our initial results with Departmental officials, we verified that OST has reconciled eight of these accounts and contacted the guardians of the ninth account holder informing them that the account is available should the funds be needed.

Although OST and other DOI agencies have addressed the cases identified by the OIG, the underlying issue of poor communication between these agencies continues to impede OST's ability to reconcile its Whereabouts Unknown list. Specifically, we found that while OST fiduciary trust officers are responsible for resolving Whereabouts Unknown accounts, their ability to do so is dependent upon communication with, and actions from, a variety of BIA and Tribal offices. Without timely communication and action, heavy workloads and competing priorities in these

agencies result in cases being lost or abandoned, leading to the perpetuation of Whereabouts Unknown status for located individuals.

Complicating resolution of some of these cases, we found that guardians of Whereabouts Unknown account holders are sometimes hesitant to resolve the cases as eligibility determinations for Supplemental Security Income and Medicaid benefits vary among states. While the American Recovery and Reinvestment Act provides that supervised IIM accounts should be excluded when determining Medicaid eligibility, an official at Health and Human Services confirmed that some states are not complying with the law.

The report contains three recommendations which, if implemented, will serve to improve individuals' access to their IIM accounts.

Should you have any questions about this report, please do not hesitate to contact me at (202) 208-5745.

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## Results in Brief

Between 2005 and 2007, the Department of the Interior's (DOI) Office of the Special Trustee for American Indians (OST) paid private investigation firms Lamar Associates and the Vander Weele Group more than \$1 million to track down high-dollar account holders on its "Whereabouts Unknown" list. The list includes individual Indian trust account holders who OST cannot locate. Lamar Associates focused on locating the top 100 Whereabouts Unknown account holders, and the Vander Weele Group looked at the top 4,000.

To determine the Whereabouts Unknown status of the located top 100 account holders, the DOI Office of Inspector General (OIG) reviewed OST's 2005-2007 contract with the private investigation firms and found that 10 of the 31 missing account holders still appeared on the list 3 years later. One of the account holders had already received access to their account but OST had not yet removed them from the list. The majority of the remaining nine individuals suffer from mental disabilities and physical impairments, adding to the complexity of the reconciliation process as it requires additional coordination with the Bureau of Indian Affairs (BIA) or Tribal Social Services.

We shared our initial findings with the Acting Special Trustee for American Indians and the Deputy Assistant Secretary for Management at Indian Affairs. We have since verified that OST has reconciled the Whereabouts Unknown status for 8 of these 9 account holders. The one account that is still on the Whereabouts Unknown list is there because of the account holder's sensitive situation. BIA Social Services and OST have informed the account holder's guardians, however, that the account is available should they need it.

Although OST and other DOI agencies have addressed the cases identified by the OIG, the underlying issue of poor communication between these agencies continues to impede OST's ability to reconcile its Whereabouts Unknown list. Without timely communication, heavy workloads and competing priorities in these agencies result in cases being lost or abandoned, leading to the perpetuation of Whereabouts Unknown status for located individuals.

Complicating resolution of these accounts, we found that guardians of Whereabouts Unknown account holders are sometimes hesitant to resolve the cases as eligibility determinations for Supplemental Security Income (SSI) and Medicaid benefits vary among states. In one case we reviewed, SSI and Medicaid benefits were terminated because of the existence of a supervised Individual Indian Money (IIM) account.

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# Introduction

## Objective

The objective of our evaluation was to determine the Whereabouts Unknown status of those top 100 account holders located by private investigators during 2005 through 2007.

## Background

### Interior's Trust Responsibility

In 1994, the American Indian Trust Fund Management Reform Act established the Department of the Interior's (DOI) Office of the Special Trustee for American Indians (OST) to improve DOI's management of the Indian fiduciary trust. The Bureau of Indian Affairs (BIA) manages the largest land trust in the United States, consisting of approximately 56 million acres of land. About \$3.4 billion in trust funds generated from these lands through leases, use permits, land sales, and interest is managed by OST for approximately 378,000 trust account holders.

Trust accounts can be restricted or unrestricted. Unrestricted accounts are those for which the account holders manage the money. Trust accounts are commonly restricted when a "representative payee" or guardian has been appointed to an account, when an adult account holder is deemed in need of assistance, or when a court finds that an account holder is not of sound mind. Restricted accounts may also be supervised, in which case BIA must approve all disbursements from the account.

For supervised accounts, either BIA or Tribal Social Services is required to conduct an assessment of the individual and develop a distribution plan that outlines allowable expenses. Social Services must also give the account holder notice that it intends to restrict the account, giving the account holder the opportunity to request a hearing to challenge the restriction.

Accounts for which the location of the account holder is unknown are put on a "Whereabouts Unknown" list. As of December 31, 2009, there were 82,638 accounts on the list. Over 80 of the Whereabouts Unknown accounts have balances over \$50,000 (see Figure 1). Some names end up on the list when mail is returned to OST after people move or when estates go to probate and the location of heirs is undetermined. This list is accessible to the public at <http://www.doi.gov/ost>.



## Whereabouts Unknown Accounts (December 31, 2009)

Account Balance	Number of Accounts
Equal to or over \$100,000	24
Under \$100,000 and equal to or over \$50,000	58
Under \$50,000 and equal to or over \$5,000	3,146
Under \$5,000 and equal to or over \$1,000	7,035
Under \$1,000 and equal to or over \$100	14,594
Under \$100 and equal to or over \$1	26,203
Under \$1	31,578
<b>Total</b>	<b>82,638</b>

Figure 1. Stratification of Whereabouts Unknown IIM accounts as of December 31, 2009. Data obtained from OST's Status Report to the Court, Number Thirty-Nine.

OST struggles to keep up with the Whereabouts Unknown list as it is often growing and always changing. In an attempt to reconcile the list of Whereabouts Unknown, in 2005 through 2007, OST paid private investigation firms Lamar Associates and the Vander Weele Group more than \$1 million to track down high-dollar account holders. OST also established a beneficiary call center and a returned mail program.

According to the OST employee who manages the call center, it has received over 443,000 calls since its inception, and 92 percent of those were resolved immediately. OST trust officers in the field also actively conduct outreach at local events to locate Whereabouts Unknown account holders.

OST implemented an information system that is used to track the status of Whereabouts Unknown cases and to ensure accounts are properly closed out. According to OST, between 2006 and 2009, it located over 91,000 account holders with accounts totaling \$101.5 million. In 2009, for the first time in almost 5 years, OST was able to resolve more accounts than those added (see Figure 2).



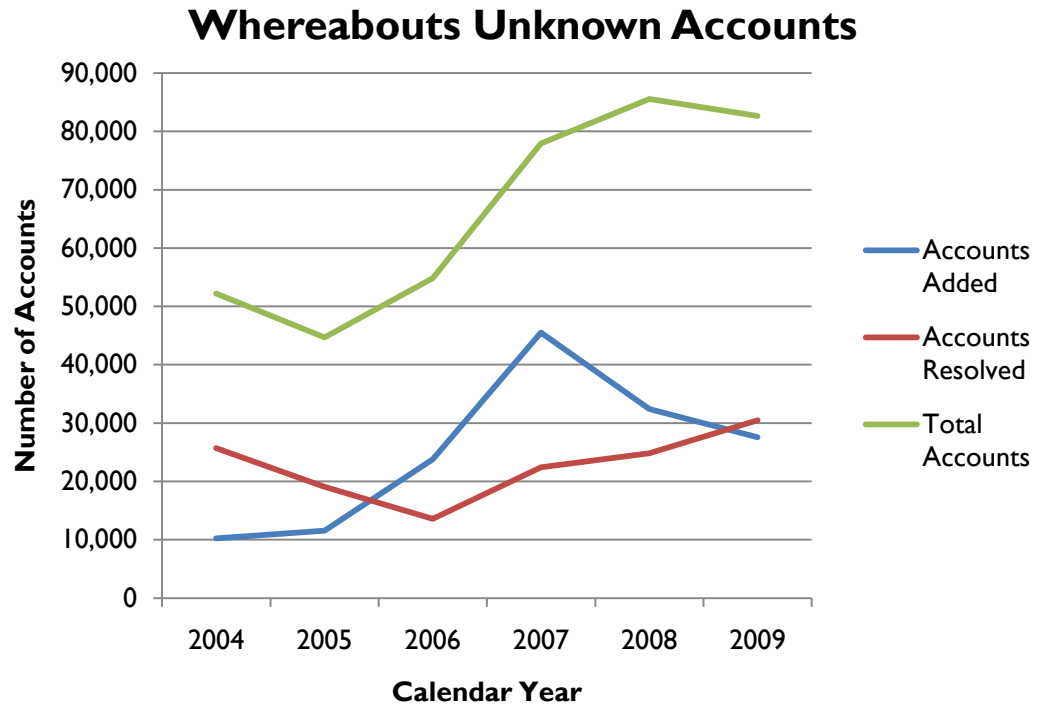


Figure 2. Number of Whereabouts Unknown accounts added and resolved between 2004 and 2009. Data obtained from OST's quarterly Status Reports to the Court.

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# Findings

## **Lack of Communication among Interior Agencies Perpetuates Whereabouts Unknown Status**

We found a pervasive lack of communication among DOI agencies, resulting in cases being lost or abandoned. While OST fiduciary trust officers are responsible for resolving Whereabouts Unknown accounts, their ability to do so is dependent not only upon BIA and Tribal Social Services for assessments, but also the DOI's Office of Hearings and Appeals (OHA) for probates and BIA's Land Title and Records Office (LTRO) for title changes. Without consistent communication to share information, heavy workloads and competing priorities in these agencies result in the perpetuation of Whereabouts Unknown status for located individuals.

In six of the nine cases we reviewed, the failure of Social Services to conduct assessments in a timely manner was the contributing factor to OST's inability to reconcile the Whereabouts Unknown accounts. Such delays spanned up to 3 years from the time that the individual was located to the time OST removed the individual from the Whereabouts Unknown list.

We found that the failure of Social Services to conduct assessments in a timely manner was largely caused by the fact that BIA and the Tribes do not have a system to track trust account holders who need assessments. After we began questioning OST and BIA about the delays, assessments were eventually completed for five of the six cases. In three instances, Social Services had lost the case files. All occurred within a single field office and were found only after we requested information. In two instances, social workers simply failed to act on OST's requests for assessments. In the sixth case, OST determined that an assessment was not necessary and resolved the account directly with the account holder. Consequently, these six cases are now considered resolved and the account holders were removed from the Whereabouts Unknown list.

OST and BIA have been participating in joint meetings with the intent to improve communication and cooperation between the organizations, including creating an interagency handbook. In addition, both trust officers and social workers say that one solution to communication problems is allowing BIA to access OST's call center tracking system. The database could be used by both groups to document their work and prevent cases from being lost or abandoned.

We also identified a lack of communication between OST and DOI's OHA and BIA's LTRO. The OHA probates Indian trust estates, ensuring that individual Indian interests in allotted lands, their proceeds, and other trust assets are conveyed to the rightful heirs and beneficiaries. The LTRO, in direct support of the trust responsibility, is responsible for maintaining the Indian Land Record of Title and reporting the status of title to Indian trust and restricted lands. As with

Social Services, OST has no control over the extensive delays that are caused by competing priorities and backlogs in OHA and LTRO.

For example, one account that went to OHA involved an individual in the top 100 that investigators had located and provided to OST in August 2006. The case went to OHA for settlement. OHA took 6 months to issue a ruling. OHA then referred the case to LTRO for a title change. Nearly three years later, LTRO finally reversed the title for the estate, thus allowing OST to remove the account from its Whereabouts Unknown list.

### **Recommendations**

1. Develop and implement procedures that improve the quality and frequency of communication between OST, BIA, and Tribal Social Services to settle unresolved supervised trust accounts. This includes developing and implementing procedures that provide BIA Social Services offices across the country access to the OST beneficiary call center's tracking system.
2. Identify located Whereabouts Unknown high-dollar account holders who are waiting for assessments by Social Services or title changes by LTRO, and prioritize resolution of these cases.

## **Eligibility Requirements for SSI and Medicaid Applied Inconsistently**

We also found that guardians of some Whereabouts Unknown account holders are hesitant to resolve the cases as eligibility determinations for Supplemental Security Income (SSI) and Medicaid benefits vary among states. SSI is provided by the Social Security Administration, and Medicaid is provided by the Department of Health and Human Services (HHS). According to OST and BIA, supervised IIM accounts should not affect SSI or Medicaid eligibility because account holders do not have direct access to their accounts. In California, Oregon, and Washington, we identified supervised IIM account holders that retained their SSI and Medicaid benefits confirming OST and BIA's assertions. Conversely, we identified an account holder in North Dakota who had SSI and Medicaid benefits terminated due to the existence of a supervised IIM account. According to OST and BIA officials, supervised IIM accounts are treated similarly in Idaho and New Mexico.

Effective July 1, 2009, the American Recovery and Reinvestment Act (Recovery Act) amended the Social Security Act to clarify the eligibility requirements for Medicaid. In January 2010, the HHS Center for Medicaid and State Operations sent out the first in a series of guidance memos to state Medicaid directors regarding implementing the Recovery Act amendments. The guidance states:

“If an individual does not have the legal right, authority, or power to liquidate resources or to use income or resources that the individual owns, that income or resource is not counted for Medicaid...eligibility because the individual is not free to access and spend it.”

An official at the HHS Center for Medicaid and State Operations confirmed that some states are not complying with the requirements of the Recovery Act.

Recommendation
3. Coordinate with top officials at Health and Human Services and the Social Security Administration to ensure that Medicaid and SSI eligibility requirements are applied consistently for restricted trust account holders with supervised accounts.

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# Conclusion and Recommendations

## Conclusion

Although OST and other DOI agencies have addressed the cases identified by the OIG, the underlying issue of poor communication between these agencies continues to impede OST's ability to reconcile its Whereabouts Unknown list. Specifically, we found that while OST fiduciary trust officers are responsible for resolving Whereabouts Unknown accounts, their ability to do so is dependent upon communication with, and actions from, a variety of BIA and Tribal offices. Without timely communication and action, heavy workloads and competing priorities in these agencies result in the perpetuation of Whereabouts Unknown status for located individuals.

Complicating resolution of some of these cases, we found that guardians of Whereabouts Unknown account holders are sometimes hesitant to resolve the cases as eligibility determinations for Supplemental Security Income and Medicaid benefits vary among states. While the American Recovery and Reinvestment Act states that supervised IIM accounts should be excluded when determining Medicaid eligibility, an HHS official confirmed that some states are not complying with the law.

## Recommendations

The Acting Special Trustee for American Indians and the Assistant Secretary for Indian Affairs should:

1. Develop and implement procedures that improve the quality and frequency of communication between OST, BIA, and Tribal Social Services to settle unresolved supervised trust accounts. This includes developing and implementing procedures that provide BIA Social Services offices across the country access to the OST beneficiary call center's tracking system.
2. Identify located Whereabouts Unknown high-dollar account holders who are waiting for assessments by Social Services or title changes by LTRO, and prioritize resolution of these cases.
3. Coordinate with top officials at Health and Human Services and the Social Security Administration to ensure that Medicaid and SSI eligibility requirements are applied consistently for restricted trust account holders with supervised accounts.

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# Appendix I: Scope and Methodology

We conducted our initial review from February 2009 through July 2009, which included the review of OST's 2005-2007 contract with private investigation firms Lamar Associates and the Vander Weele Group. Lamar Associates focused on locating the top 100 Whereabouts Unknown account holders, and the Vander Weele Group looked at the top 4,000. After comparing the list of individuals reportedly found by Lamar Associates in the top 100 to the current Whereabouts Unknown list posted on OST's website, the OIG discovered that 10 out of 31 people reportedly found were still on the list.

During the course of the review, the OIG found that 9 of the 10 located account holders remained Whereabouts Unknown due to preventable delays within OST, BIA, and OHA. One of the 10 individuals had actually received access to his account and should not have been on the list. Due to the sensitive nature of this review, in July 2009, we shared our initial results with the Acting Special Trustee for American Indians and the Deputy Assistant Secretary for Management at Indian Affairs. In March 2010, after sharing these results, we verified that OST had reconciled the Whereabouts Unknown status for 8 of these 9 account holders. The one account that is still on the Whereabouts Unknown list is there because of the account holder's sensitive situation. BIA Social Services and OST have informed the account holder's guardians that the account is available should they need it.

The scope of our review covered trust account holders that were located between 2005 and 2007. We conducted our evaluation in accordance with the Quality Standards for Inspections as put forth by the President's Council on Integrity and Efficiency. Accordingly, we included such tests of records and other procedures that were considered necessary under the circumstances.

To accomplish our objective, we conducted the following activities:

- Reviewed applicable regulations, policies, and practices as they relate to IIM accounts and efforts to resolve Whereabouts Unknown cases. Additionally, we reviewed Social Security Administration and Health and Human Services policies as they relate to eligibility requirements for Supplemental Security Income and Medicaid.
- Determined the universe of account holders located by the private investigation firms that remained on OST's top 100 Whereabouts Unknown list and reviewed these cases to determine why individuals located several years ago were still considered Whereabouts Unknown.
- Interviewed officials from the Department (i.e., Office of Hearings and Appeals), OST, BIA (i.e., Social Services and the Land Titles and Records Office), and Tribal Social Services. Additionally, we also interviewed located top 100 account holders, their guardians, their representative payees, and care facility staff.

- Reviewed DOI's quarterly Status Reports to the Court that present the accounting of individual Indian beneficiary funds managed by DOI and the obstacles to trust reform activities.
- Reviewed the OST's Strategic Plan, which identifies that OST has committed to resolving 20 percent of the Whereabouts Unknown accounts by fiscal year 2012.
- Reviewed prior audits by the OIG and the Government Accountability Office but did not find any in recent years that directly relate to Whereabouts Unknown IIM accounts.
- Reviewed testimony of the DOI's Associate Deputy Secretary and the Special Trustee for American Indians before the Senate Committee on Indian Affairs on the Fiscal Year 2007 President's Budget Request for Indian Programs, dated February 14, 2006, which outlines budget priorities of adding Fiduciary Trust Officers and Regional Trust Administrators to its staff and regularly conducting beneficiary outreach at different agencies to provide information on trust reform and locate Whereabouts Unknown account holders. The testimony also identified that OST had hired a contractor to assist in located Whereabouts Unknown individuals. As of December 31, 2005, there were 44,692 Whereabouts Unknown accounts with a combined balance of about \$64.3 million.



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