

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



ANNUAL REPORT 2012

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

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



November 9, 2012

The Fiscal Year (FY) 2012 independent audit of the financial statements for *Tribal and Other Trust Funds and Individual Indian Monies Trust Funds Managed by the U.S. Department of the Interior, Office of the Special Trustee for American Indians (OST)* has been completed. I am pleased to present the findings of the auditors.

OST takes great pride in how it manages the significant financial assets of tribal and Individual Indian Money (IIM) accounts. In FY 2012:

- \$1.9 billion was received into and \$1.3 billion was disbursed from tribal and individual Indian beneficiaries' accounts (76 percent of these funds were disbursed electronically).
- 822,000 periodic performance statements (showing sources of funds, encumbrance information, and listings of trust property owned) were provided to beneficiaries.
- Approximately \$4.4 billion of trust fund assets were invested to help meet the needs and objectives of tribal and individual Indian beneficiaries.

Also in FY 2012, OST had the following major accomplishments related to financial processing and beneficiary services:

- Broadcast messaging was implemented to provide beneficiaries an electronic means to receive more timely notification of disbursements that were directly deposited in their checking account, savings account, or debit card.
- Fiduciary Trust Officers (FTO), in coordination with law schools and other legal service experts, provided American Indian Probate Reform Act presentations and estate planning sessions in an effort to reduce and prevent further land fractionation by informing beneficiaries of various purchase-at-probate options available to them.
- FTOs and staff presented 268 financial empowerment courses that helped beneficiaries achieve a level of understanding of financial management that supports and promotes financial self-sufficiency.
- Strataweb (an Internet based product for tribes to access their tribal accounts online) training resulted in 34 tribes using the product that reduces paper and promotes green initiatives.
- Mailing addresses for 18,837 Whereabouts Unknown IIM accountholders with a balance of \$21 million were verified and updated.
- The Trust Beneficiary Call Center obtained an overall first-line resolution rate of 95 percent, outperforming the industry average of 49 percent.

Every day, OST employees skillfully execute their duties in support of tribal and individual Indian trust beneficiaries. Their work is guided by the OST mission statement — “to perform our fiduciary trust responsibilities to American Indian tribes, individual Indians, and Alaska Natives by incorporating a beneficiary focus and beneficiary participation while providing effective, competent stewardship and management of trust assets.”

As OST moves forward in FY 2013, the focus will be to continue to provide efficient and cost effective beneficiary services; to collect, invest, disburse and accurately account for Indian trust funds; to collaborate with other federal agencies to achieve operational efficiencies; to support and promote self-governance; and to partner with other bureaus and offices within the Department of the Interior to fulfill the Department’s trust responsibility. OST is ready for the challenges ahead and looks forward to improving the lives of beneficiaries by delivering on the government’s promise to manage the financial assets of the Indian trust.

I hope you find this year’s audited financial statements informative and useful. We welcome your help, comments, or suggestions for continued improvement.

Please do not hesitate to contact me about the audit and OST’s work. I can be reached at (202) 208-4866 or at the address listed below:

Office of the Special Trustee for American Indians
Department of the Interior
1849 C Street NW
Mail Stop 2306
Washington, DC 20240

Regards,

A handwritten signature in black ink that reads "Michele F. Singer". The signature is written in a cursive, flowing style.

Michele F. Singer
Principal Deputy Special Trustee



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

NOV 09 2012

Memorandum

To: Michele F. Singer
Principal Deputy Special Trustee for American Indians

From: Mary L. Kendall *Mary L. Kendall*
Deputy Inspector General

Subject: Independent Auditors' Report on the Office of the Special Trustee for American Indians Tribal and Other Trust Funds and Individual Indian Monies Trust Funds Financial Statements for Fiscal Years 2012 and 2011
Report No. X-IN-OST-0005-2012

This memorandum transmits the KPMG LLP's (KPMG) auditors' reports of the Office of the Special Trustee for American Indians (OST) financial statements for fiscal years (FYs) 2012 and 2011. The OST financial reports contain financial statements and notes for Tribal and Other Trust Funds (Tribal) and Individual Indian Monies Trust Funds (IIM).

The American Indian Trust Fund Management Reform Act of 1994 requires audits of the Tribal and IIM financial statements. Under a contract issued by OST and monitored by the Office of the Inspector General (OIG), KPMG, an independent public accounting firm, performed audits of OST's FY2012 and FY2011 financial statements. The contract required the audits be performed in accordance with "Government Auditing Standards" issued by the Comptroller General of the United States.

In its audit reports, dated November 9, 2012, KPMG issued qualified opinions on the Tribal and IIM financial statements because KPMG was unable to satisfy themselves as to the fairness of the trust fund balances. To fulfill our monitoring responsibilities, the OIG:

- reviewed KPMG's approach and planning of the audits;
- evaluated the qualifications and independence of the auditors;
- monitored the progress of the audits at key points;
- attended periodic meetings with OST management and KPMG to discuss audit progress, findings, and recommendations;
- reviewed KPMG's audit reports; and
- performed other procedures we deemed necessary.

KPMG is responsible for the attached auditors' reports and the conclusions expressed therein. We do not express an opinion on the OST financial statements, internal controls, or compliance with laws and regulations.

The legislation, as amended, creating the OIG requires semiannual reporting to Congress on all audit reports issued, actions taken to implement audit recommendations, and recommendations that have not been implemented. Therefore, we will include the information in the attachment in our next semiannual report. The distribution of this report is not restricted, and copies are available for public inspection.

The OIG appreciates the courtesies and cooperation extended to KPMG and our staff during this audit. If you have any questions regarding the report, please contact me at 202–208–5745.

Attachment



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

Financial Statements

September 30, 2012 and 2011

(With Independent Auditors' Report on Financial Statements Thereon)



KPMG LLP
Suite 700
Two Park Square
6565 Americas Parkway NE
PO Box 3990
Albuquerque, NM 87190

Independent Auditors' Report on Financial Statements

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

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

We have audited the accompanying statements of assets and trust fund balances – cash basis of the Tribal and Other Trust Funds managed by the U.S. Department of the Interior Office of the Special Trustee for American Indians (OST) as of September 30, 2012 and 2011, and the related statements of changes in trust fund balances – cash basis for the years then ended. These financial statements are the responsibility of management of OST. Our responsibility is to express an opinion on these financial statements based on our audits.

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

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

It was not practicable to extend our auditing procedures sufficiently to satisfy ourselves as to the fairness of trust fund balances in the accompanying financial statements as of September 30, 2012 and 2011 due to the effects of certain parties for whom OST holds assets in trust disagreeing with balances recorded by OST and/or having requested an accounting of their trust funds, and of which certain of these parties have filed claims against the United States Government. Trust fund balances enter into the determination of financial position and changes in trust fund balances.

In our opinion, except for the effects on the financial statements of such adjustments, if any, as might have been determined to be necessary had we been able to apply adequate procedures to determine the fairness of trust fund balances and related changes in trust fund balances, as discussed in the preceding paragraph, the financial statements referred to in the first paragraph above present fairly, in all material respects, the financial position of the Tribal and Other Trust Funds managed by OST as of September 30, 2012 and 2011, and the changes in trust fund balances for the years then ended in conformity with the basis of accounting described in note 2.



In accordance with *Government Auditing Standards*, we have also issued our report dated November 9, 2012 on our consideration of internal control over financial reporting and on our tests of compliance with certain provisions of applicable laws and regulations for the Tribal and Other Trust Funds managed by OST. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in assessing the results of our audits.

KPMG LLP

November 9, 2012

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Statements of Assets and Trust Fund Balances – Cash Basis

September 30, 2012 and 2011

(In thousands)

Assets	2012	2011
Cash and cash equivalents (note 3)	\$ 870,541	881,998
Investments (note 4)	2,889,208	2,341,379
Total assets	<u>\$ 3,759,749</u>	<u>3,223,377</u>
Trust Fund Balances		
Held for Indian tribes (notes 7 and 9)	\$ 3,457,423	2,918,764
Held by the Department of the Interior and considered to be U.S. Government funds (note 7)	302,326	304,613
Total trust fund balances	<u>\$ 3,759,749</u>	<u>3,223,377</u>

See accompanying notes to financial statements.

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Statements of Changes in Trust Fund Balances – Cash Basis

Years ended September 30, 2012 and 2011

(In thousands)

	<u>2012</u>	<u>2011</u>
Increases:		
Receipts	\$ 1,330,807	500,131
Interest received on invested funds	95,545	103,921
Gain on disposition of investments, net	<u>6,636</u>	<u>4,886</u>
	1,432,988	608,938
Decreases:		
Disbursements to and on behalf of Indian tribes and other trust funds and withdrawal of trust funds by Indian tribes (note 9)	<u>(896,616)</u>	<u>(486,396)</u>
Increase in trust fund balances, net	536,372	122,542
Trust fund balances, beginning of year	<u>3,223,377</u>	<u>3,100,835</u>
Trust fund balances, end of year (notes 7 and 9)	<u><u>\$ 3,759,749</u></u>	<u><u>3,223,377</u></u>

See accompanying notes to financial statements.

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Notes to Financial Statements

September 30, 2012 and 2011

(1) Background and Description of the Trust Funds

(a) *Overview of the Trust Funds*

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

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

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

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

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

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other Departmental bureaus and offices are responsible for managing the natural resources located within the boundaries of Indian reservations and trust lands, as well as the processing of data regarding the ownership and leasing of Indian lands. The allocation of receipts and disbursements by OST to trust beneficiaries are significantly dependent and reliant upon the receipt of timely and accurate information derived from records maintained by BIA, ONRR, and other Departmental bureaus and offices (see note 8).

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

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

(b) Description of the Trust Funds

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

- **Tribal Trust Funds** – As of September 30, 2012 and 2011, approximately 3,000 and 2,900 accounts, respectively, comprise the Tribal Trust Funds, which totaled approximately \$3,457,423,000 and \$2,918,764,000, respectively.

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

- **Other Trust Funds** – Other Trust Funds are comprised of those funds classified as *Held by the Department of the Interior and considered to be U.S. Government funds* (see note 7). Other Trust Funds totaled approximately \$302,326,000 and \$304,613,000 as of September 30, 2012 and 2011, respectively.

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

(c) Investment of Trust Funds

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

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(2) Summary of Significant Accounting Policies

(a) *Basis of Accounting*

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

(b) *Cash and Cash Equivalents*

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

(c) *Investments*

Investment securities at September 30, 2012 and 2011 consist of U.S. Treasury issues, U.S. Government agency issues, and U.S. Government-sponsored entity issues. Investment securities are recorded at historical cost. Investment income is recognized when received.

The Tribal and Other Trust Funds are invested in U.S. Government securities, as mandated by 25 USC 162a.

(d) *Fair Value Measurements*

Financial Accounting Standards Board's Accounting Standards Codification (ASC) Topic 820, *Fair Value Measurements* (ASC Topic 820), establishes an authoritative definition of fair value, sets out a framework for measuring fair value, and requires additional disclosures about fair value measurements. ASC Topic 820 applies only to fair value measurements already required or permitted by other accounting standards and does not impose requirements for additional fair value measures. Since the Tribal and Other Trust Funds use the cash basis of accounting (see note 2(a)), ASC Topic 820 only affects note disclosures related to fair value.

(e) *Receipts*

Receipts from various leasing activities, mineral royalties and sales of extracted minerals, timber and other forest products, fees and fines, and the granting of easements are generated from a variety of nonfinancial assets that are held in trust by the U.S. Government and managed by BIA and other Departmental bureaus and offices on behalf of tribes. Receipts on hand at the regional and agency offices, and/or in transit at September 30, 2012 and 2011, if any, awaiting deposit to the U.S. Treasury, are not included in the accompanying financial statements.

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

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(f) *Disbursements*

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

Public Law 103-412 specifically allows for the voluntary withdrawal of judgment awards and settlement of claims funds from the Tribal and Other Trust Funds. Except where prohibited by statute, an Indian tribe may submit a plan to withdraw some or all funds held in trust for the tribe in accordance with 25 CFR 1200.

(g) *Use of Estimates*

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

(h) *Subsequent Events*

Subsequent events are evaluated by management through the date that the financial statements are available to be issued, which is November 9, 2012.

(3) *Cash and Cash Equivalents*

Cash equivalents of approximately \$802 million and \$857 million at September 30, 2012 and 2011, respectively, consist primarily of overnight investments with the U.S. Treasury.

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(4) Investments

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

	<u>Historical cost</u>	<u>Gross unrealized holding gains</u>	<u>Gross unrealized holding losses</u>	<u>Fair value</u>
	(In thousands)			
At September 30, 2012:				
U.S. Treasury and agency securities	\$ 2,397,347	100,033	(216)	2,497,164
U.S. Government entity issued mortgage-backed securities	<u>491,861</u>	<u>24,666</u>	<u>—</u>	<u>516,527</u>
	<u>\$ 2,889,208</u>	<u>124,699</u>	<u>(216)</u>	<u>3,013,691</u>
At September 30, 2011:				
U.S. Treasury and agency securities	\$ 1,832,690	87,241	(813)	1,919,118
U.S. Government entity issued mortgage-backed securities	<u>508,689</u>	<u>29,999</u>	<u>(13)</u>	<u>538,675</u>
	<u>\$ 2,341,379</u>	<u>117,240</u>	<u>(826)</u>	<u>2,457,793</u>

The investments above held by the Tribal and Other Trust Funds at September 30, 2012 and 2011 consist of fixed income securities, some of which are mortgaged-backed debt securities, issued by the U.S. Treasury, U.S. Government agencies, or U.S. Government-sponsored entities. All of these securities are either explicitly or implicitly backed by the U.S. Government. Given the backing by the U.S. Government, current market conditions have not had a significant adverse impact on the fair value of these securities.

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Maturities of investment securities were as follows at September 30, 2012:

	Historical cost	Fair value
	(In thousands)	
Due in one year or less	\$ 152,199	155,647
Due after one year through five years	231,015	249,049
Due after five years through ten years	218,951	241,762
Due after ten years	2,287,043	2,367,233
	\$ 2,889,208	3,013,691

(5) Fair Value Disclosure Measurements

ASC Topic 820 defines fair value as the price that would be received from the sale of an asset or paid to transfer a liability (an exit price) in an orderly transaction between market participants on the measurement date in the principal or most advantageous market for the asset or liability. For measuring fair value, ASC Topic 820 establishes a hierarchy that places the highest priority on unadjusted quoted market prices in active markets for identical assets or liabilities (Level 1 measurements), and the lowest priority on unobservable inputs (Level 3 measurements). The three levels of inputs within the fair value hierarchy are defined as follows:

Level 1: Quoted prices (unadjusted) for identical assets or liabilities in active markets that the Tribal and Other Trust Funds have the ability to access as of the measurement date.

Level 2: Significant other observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data.

Level 3: Significant unobservable inputs that reflect the Tribal and Other Trust Funds' own assumptions about the assumptions that market participants would use in pricing an asset or liability.

In many cases, a valuation technique used to measure fair value includes inputs from multiple levels of the fair value hierarchy. The lowest level of significant input determines the placement of the entire fair value measurement in the hierarchy.

The carrying value of cash and cash equivalents reflected in the statements of assets and trust fund balances approximates fair value, which is valued using Level 1 inputs.

All of the investment securities held by the Tribal and Other Trust Funds at September 30, 2012 and 2011 are valued using Level 2 inputs. The fair value of investment securities disclosed in note 4 represents the best estimate of prices that the securities could be sold for in the open market as of September 30, 2012 and 2011. Those fair values are measured using pricing services, pricing models, or broker quotes. Inputs into the pricing models include the securities' par values, interest rates and maturity dates. If broker quotes are used to value investment securities the fair value is estimated as the average of three broker quotes.

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The fair value methods described above may produce fair value disclosures that may not be indicative of net realizable value or reflective of future fair values. Furthermore, while management believes that the valuation methods used on the Tribal and Other Trust Funds are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the disclosed fair value of investment securities could result in a different fair value measurement at the reporting date.

(6) Contingencies

Certain Indian tribes for whom OST holds assets in trust do not agree with balances recorded by OST and/or have requested an accounting of their trust funds, and certain of these Indian tribes have filed claims against the U.S. Government for failure to fulfill its fiduciary responsibilities. The cases involve claims for breaches of trust concerning the Government's management of funds, and natural resources asset mismanagement. The relief sought in these cases range from declaratory and injunctive relief to perform an accounting, money damages, and other unspecified declaratory injunctive, or equitable, relief. At September 30, 2012, fifty-two tribal trust cases were pending in various federal district courts and the U.S. Court of Federal Claims. Settlement offers have been made in approximately forty of the pending cases. Subsequent to September 30, 2012 and through November 9, 2012, eleven of these cases have been settled. Overall, the Government contests liability on the claims asserted and disputes that the Plaintiffs are entitled to the relief sought. Although the Government believes it has valid legal defenses to the claims, the Government continues to engage in various forms of formal and informal dispute resolution in an effort to resolve the claims without the need for protracted litigation. Any settlement resulting from an adverse outcome of the claims described above will not be satisfied with trust fund balances. Certain of these settlements have resulted in increases to receipts during the year ended September 30, 2012. No amounts have been recorded in the accompanying Tribal and Other Trust Funds' financial statements for potential claims from the U.S. Government.

(7) Trust Fund Balances

Trust fund balances are the aggregation of financial assets held in trust and represent the amounts owed to beneficiaries as of September 30, 2012 and 2011 for which OST has a fiduciary responsibility.

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

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

A portion of trust fund balances represents estimated payments on production-type leases for which certain tribes and individual Indians hold an interest. When certain adjustments to production are identified,

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estimated payments received in excess of production are returned to the depositor or adjusted for in future payments.

(8) Related-Party Transactions with Other Government Organizations

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

BIA is responsible for the collection of certain monies resulting from the management and use of Indian trust lands and other trust resources. Upon receipt, OST records the deposit of trust funds to trust accounts based on the information received from BIA.

(b) *U.S. Department of the Interior Office of Natural Resources Revenue*

For certain trust leases, ONRR is responsible for the collection of royalty payments on behalf of Indian tribes and individual Indians holding mineral rights. ONRR deposits the royalty payments with the U.S. Treasury and electronically transfers to OST the related accounting information, generally the next business day. The accounting information received from ONRR provides OST an allocation of 100% tribally owned lease royalties, enabling OST to record trust deposits directly into tribal accounts. For tribally/individually co-owned leases, allocation and accounting data is forwarded, generally twice a month, to OST via electronic interface through the Mineral Royalty Accounting Distribution module that is maintained by BIA. Pursuant to established procedure and appropriate authorization, the data is recorded by OST. ONRR and BLM both perform verification and other monitoring procedures of mineral assets. Oil and gas companies sometimes forward payments to ONRR based on estimated mineral production in order to comply with the Federal Oil and Gas Royalty Management Act of 1982 that requires timely distribution of royalties. These estimated payments may be disbursed by OST to the beneficiaries. Typically, the oil and gas companies adjust future payments for excess or shortfall amounts, if any, based on actual production.

(c) *Other*

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

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

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(9) Transfers of Trust Funds

Certain per capita disbursements authorized by tribes result in transfers from the Tribal and Other Trust Funds to the Individual Indian Monies (IIM) Trust Funds while certain oil and gas distributions may result in transfers to/from the IIM Trust Funds from/to the Tribal and Other Trust Funds. Net transfers of trust funds from the Tribal and Other Trust Funds to the IIM Trust Funds totaled approximately \$447.5 million and \$79.8 million during the years ended September 30, 2012 and 2011, respectively. Amounts transferred to the IIM Trust Funds increased as a result of settlements with certain Indian tribes. These transfers are reflected as disbursements in the accompanying statements of changes in trust fund balances. In addition, pursuant to information provided by BIA, OST historically utilized special deposit accounts maintained within the IIM Trust Funds for both tribal and IIM beneficiaries as suspense accounts, whereby funds are temporarily posted when allocation information is not provided when the funds are received. Following receipt of allocation information from BIA, the funds are transferred from the special deposit accounts to the designated tribal and/or IIM account(s). Special deposit accounts totaled approximately \$23 million as of September 30, 2012 and 2011. Substantially all of the special deposit account monies held in the IIM Trust Funds relate to historical balances and has not been distributed because the ultimate disposition of the funds has not been determined. Since the ultimate disposition is unknown at September 30, 2012, the portion attributable to the Tribal and Other Trust Funds is unknown.



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

Financial Statements

September 30, 2012 and 2011

(With Independent Auditors' Report on Financial Statements Thereon)



KPMG LLP
Suite 700
Two Park Square
6565 Americas Parkway NE
PO Box 3990
Albuquerque, NM 87190

Independent Auditors' Report on Financial Statements

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

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

We have audited the accompanying statements of assets and trust fund balances – modified cash basis of the Individual Indian Monies Trust Funds managed by the U.S. Department of the Interior Office of the Special Trustee for American Indians (OST) as of September 30, 2012 and 2011, and the related statements of changes in trust fund balances – modified cash basis for the years then ended. These financial statements are the responsibility of management of OST. Our responsibility is to express an opinion on these financial statements based on our audits.

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

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

It was not practicable to extend our auditing procedures sufficiently to satisfy ourselves as to the fairness of trust fund balances in the accompanying financial statements as of September 30, 2012 and 2011 due to the effects of certain parties for whom OST holds assets in trust having filed a class action lawsuit for an accounting of the individuals' trust funds. Trust fund balances enter into the determination of financial position and changes in trust fund balances.

In our opinion, except for the effects on the financial statements of such adjustments, if any, as might have been determined to be necessary had we been able to apply adequate procedures to determine the fairness of trust fund balances and related changes in trust fund balances, as discussed in the preceding paragraph, the financial statements referred to in the first paragraph above present fairly, in all material respects, the financial position of the Individual Indian Monies Trust Funds managed by OST as of September 30, 2012 and 2011, and the changes in trust fund balances for the years then ended in conformity with the basis of accounting described in note 2.



In accordance with *Government Auditing Standards*, we have also issued our report dated November 9, 2012 on our consideration of internal control over financial reporting and on our tests of compliance with certain provisions of applicable laws and regulations for the Individual Indian Monies Trust Funds managed by OST. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in assessing the results of our audits.

KPMG LLP

November 9, 2012

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

Statements of Assets and Trust Fund Balances – Modified Cash Basis

September 30, 2012 and 2011

(In thousands)

Assets	2012	2011
Cash and cash equivalents (note 3)	\$ 40,599	83,083
Investments (note 4)	552,403	402,737
Accrued interest receivable	3,616	3,178
Total assets	\$ 596,618	488,998
Trust Fund Balances		
Held for individual Indians (notes 7 and 9)	\$ 596,618	488,998

See accompanying notes to financial statements.

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

Statements of Changes in Trust Fund Balances – Modified Cash Basis

Years ended September 30, 2012 and 2011

(In thousands)

	<u>2012</u>	<u>2011</u>
Increases:		
Receipts (note 9)	\$ 915,702	462,743
Interest earned on invested funds	18,724	18,006
Gain on disposition of investments, net	<u>368</u>	<u>443</u>
	934,794	481,192
Decreases:		
Disbursements to and on behalf of account holders	<u>(827,174)</u>	<u>(462,613)</u>
Increase in trust fund balances, net	107,620	18,579
Trust fund balances, beginning of year	<u>488,998</u>	<u>470,419</u>
Trust fund balances, end of year (notes 7 and 9)	<u>\$ 596,618</u>	<u>488,998</u>

See accompanying notes to financial statements.

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

Notes to Financial Statements

September 30, 2012 and 2011

(1) Background and Description of the Trust Funds

(a) *Overview of the Trust Funds*

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

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

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

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

Office of the Special Trustee for American Indians – Indian trust assets, including the IIM Trust Funds, are primarily managed under the delegated authority of OST and BIA. Management of Indian trust assets on behalf of the trust beneficiaries is dependent upon the processing of trust-related

**INDIVIDUAL INDIAN MONIES TRUST FUNDS
MANAGED BY THE U.S. DEPARTMENT OF THE INTERIOR
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Notes to Financial Statements

September 30, 2012 and 2011

transactions within certain information systems of the Department, including but not limited to OST, BIA, ONRR, and other Departmental bureaus and offices. BIA and other Departmental bureaus and offices are responsible for managing the natural resources located within the boundaries of Indian reservations and trust lands as well as the processing of data regarding the ownership and leasing of Indian lands. The allocation of receipts and disbursements by OST to trust beneficiaries are significantly dependent and reliant upon the receipt of timely and accurate information derived from records maintained by BIA, ONRR, and other Departmental bureaus and offices (see note 8).

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

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

(b) *Description of the Trust Funds*

The IIM Trust Funds are comprised of approximately 387,000 and 384,000 accounts, held primarily for the benefit of individual Indian account holder beneficiaries and tribal entities, as of September 30, 2012 and 2011, respectively. Included within the IIM Trust Funds are certain special deposit accounts that are subject to legal, regulatory, budgetary, court-ordered, or other restrictions that may ultimately result in funds being distributed to tribal and/or other entities.

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

(c) *Investment of Trust Funds*

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

(2) *Summary of Significant Accounting Policies*

(a) *Basis of Accounting*

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

**INDIVIDUAL INDIAN MONIES TRUST FUNDS
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September 30, 2012 and 2011

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

(b) *Cash and Cash Equivalents*

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

(c) *Investments*

Investment securities at September 30, 2012 and 2011 consist of U.S. Treasury issues, U.S. Government agency issues, and U.S. Government-sponsored entity issues. IIM Trust Funds are pooled and invested. Investment securities are recorded at amortized cost, adjusted for the amortization or accretion of premiums or discounts. Premiums and discounts are amortized or accreted over the expected life of the related investment security as an adjustment to yield using the effective-interest method. Investment income is recognized when earned.

The IIM Trust Funds are invested in U.S. Government securities, as mandated by 25 USC 162a.

(d) *Fair Value Measurements*

Financial Accounting Standards Board's Accounting Standards Codification (ASC) Topic 820, *Fair Value Measurements* (ASC Topic 820), establishes an authoritative definition of fair value, sets out a framework for measuring fair value, and requires additional disclosures about fair value measurements. ASC Topic 820 applies only to fair value measurements already required or permitted by other accounting standards and does not impose requirements for additional fair value measures. Since the IIM Trust Funds use the cash basis of accounting with certain modifications (see note 2(a)), ASC Topic 820 only affects note disclosures related to fair value.

(e) *Receipts*

Receipts from various leasing activities, mineral royalties and sales of extracted minerals, timber and other forest products, fees and fines, and the granting of easements are generated from a variety of nonfinancial assets that are held in trust by the U.S. Government and managed by BIA and other Departmental bureaus and offices on behalf of individual Indians. Receipts on hand at the regional and agency offices, and/or in transit at September 30, 2012 and 2011, if any, awaiting deposit to the U.S. Treasury, are not included in the accompanying financial statements.

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

(f) *Disbursements*

Payments disbursed from the IIM Trust Funds consist of accumulations of funds from various income-producing activities such as leasing, royalty receipts, mineral extraction, timber and other

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September 30, 2012 and 2011

forest product sales, judgment awards, tribal per capita distributions, settlement of claims, and investment income.

(g) Use of Estimates

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

(h) Subsequent Events

Subsequent events are evaluated by management through the date that the financial statements are available to be issued, which is November 9, 2012.

(3) Cash and Cash Equivalents

Cash equivalents of approximately \$31 million and \$68 million at September 30, 2012 and 2011, respectively, consist of overnight investments with the U.S. Treasury.

(4) Investments

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

	<u>Amortized cost</u>	<u>Gross unrealized holding gains</u>	<u>Gross unrealized holding losses</u>	<u>Fair value</u>
	(In thousands)			
September 30, 2012:				
U.S. Treasury and agency securities	\$ 381,604	22,520	(29)	404,095
U.S. Government entity issued mortgage-backed securities	<u>170,799</u>	<u>6,927</u>	<u>(5)</u>	<u>177,721</u>
	<u>\$ 552,403</u>	<u>29,447</u>	<u>(34)</u>	<u>581,816</u>
September 30, 2011:				
U.S. Treasury and agency securities	\$ 260,684	18,952	(63)	279,573
U.S. Government entity issued mortgage-backed securities	<u>142,053</u>	<u>9,239</u>	<u>—</u>	<u>151,292</u>
	<u>\$ 402,737</u>	<u>28,191</u>	<u>(63)</u>	<u>430,865</u>

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The investments above held by the IIM Trust Funds at September 30, 2012 and 2011 consist of fixed income securities, some of which are mortgaged-backed debt securities, issued by the U.S. Treasury, U.S. Government agencies, or U.S. Government-sponsored entities. All of these securities are either explicitly or implicitly backed by the U.S. Government. Given the backing by the U.S. Government, current market conditions have not had a significant adverse impact on the fair value of these securities.

Maturities of investment securities were as follows at September 30, 2012:

	Amortized cost	Fair value
	(In thousands)	
Due in one year or less	\$ 3,602	3,601
Due after one year through five years	56,336	58,002
Due after five years through ten years	137,168	148,035
Due after ten years	355,297	372,178
	\$ 552,403	581,816

(5) Fair Value Disclosure Measurements

ASC Topic 820 defines fair value as the price that would be received from the sale of an asset or paid to transfer a liability (an exit price) in an orderly transaction between market participants on the measurement date in the principal or most advantageous market for the asset or liability. For measuring fair value, ASC Topic 820 establishes a hierarchy that places the highest priority on unadjusted quoted market prices in active markets for identical assets or liabilities (Level 1 measurements), and the lowest priority on unobservable inputs (Level 3 measurements). The three levels of inputs within the fair value hierarchy are defined as follows:

Level 1: Quoted prices (unadjusted) for identical assets or liabilities in active markets that the IIM Trust Funds have the ability to access as of the measurement date.

Level 2: Significant other observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data.

Level 3: Significant unobservable inputs that reflect the IIM Trust Funds' own assumptions about the assumptions that market participants would use in pricing an asset or liability.

In many cases, a valuation technique used to measure fair value includes inputs from multiple levels of the fair value hierarchy. The lowest level of significant input determines the placement of the entire fair value measurement in the hierarchy.

The carrying value of cash and cash equivalents and accrued interest receivable reflected in the statements of assets and trust fund balances approximates fair value, which is valued using Level 1 inputs.

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September 30, 2012 and 2011

All of the investment securities held by the IIM Trust Funds at September 30, 2012 and 2011 are valued using Level 2 inputs. The fair value of investment securities disclosed in note 4 represents the best estimate of prices that the securities could be sold for in the open market as of September 30, 2012 and 2011. Those fair values are measured using pricing services, pricing models, or broker quotes. Inputs into the pricing models include the securities' par values, interest rates and maturity dates. If broker quotes are used to value investment securities the fair value is estimated as the average of three broker quotes.

The fair value methods described above may produce fair value disclosures that may not be indicative of net realizable value or reflective of future fair values. Furthermore, while management believes that the valuation methods used on the IIM Trust Funds are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the disclosed fair value of investment securities could result in a different fair value measurement at the reporting date.

(6) Contingencies

Certain parties for whom OST holds funds in trust filed a class action lawsuit in 1996, seeking an accounting of their individual trust funds. Although plaintiffs sought \$58 billion from the District Court in lieu of the accounting, the District Court awarded \$456 million. In July 2009 the Court of Appeals reversed and vacated that judgment. On December 7, 2009, Attorney General Eric Holder and Interior Secretary Kenneth Salazar announced that the parties had reached a \$3.4 billion settlement subject to Congressional approval. On December 8, 2010, the President signed H.R. 4783, the Claims Resolution Act of 2010, which approved the settlement. A Final Judgment was entered by the Court on August 4, 2011, and affirmed by the Court of Appeals on May 22, 2012. Two petitions for certiorari were pending before the U.S. Supreme Court as of September 30, 2012. One petition was denied on October 29, 2012, and the other petition was dismissed on November 6, 2012. The period for additional petitions to be filed expires November 23, 2012. Neither the settlement, nor any future judgment award, should the settlement fail to be upheld by the Court, will be satisfied with individual trust funds. No amounts have been recorded in the accompanying IIM Trust Funds' financial statements for potential claims from the U.S. Government.

(7) Trust Fund Balances

Trust fund balances are the aggregation of financial assets held in trust and primarily represent the amounts owed to beneficiaries as of September 30, 2012 and 2011 for which OST has a fiduciary responsibility.

The subsidiary detail of IIM account balances contains approximately 11,500 and 11,600 special deposit accounts with balances totaling approximately \$23 million as of September 30, 2012 and 2011. Substantially all of the special deposit account monies held in the IIM Trust Funds relates to historical balances and has not been allocated because the allocation information for the funds has not been provided by BIA. Since the ultimate allocation is unknown at September 30, 2012, the portion attributable to the IIM Trust Funds is unknown.

The subsidiary detail of IIM account balances contains certain oil and gas holding accounts with balances totaling approximately \$15.9 million and \$22.8 million as of September 30, 2012 and 2011, respectively, which have not been distributed to beneficiaries. Upon receipt of the allocation and accounting data, to be

**INDIVIDUAL INDIAN MONIES TRUST FUNDS
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provided by ONRR and BIA, the monies will be distributed to the proper beneficiaries' accounts (see note 8).

A portion of trust fund balances represents estimated payments on production-type leases for which certain individual Indians and tribes hold an interest. When certain adjustments to production are identified, estimated payments received in excess of production are returned to the depositor or adjusted for in future payments.

(8) Related-Party Transactions with Other Government Organizations

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

BIA is responsible for the collection of certain monies resulting from the management and use of Indian trust lands and other trust resources. Upon receipt, OST records the deposit of trust funds to trust accounts based on the information received from BIA.

(b) *U.S. Department of the Interior Office of Natural Resources Revenue*

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

(c) *Other*

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

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

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September 30, 2012 and 2011

(9) Transfers of Trust Funds

Certain per capita disbursements authorized by tribes result in transfers from the Tribal and Other Trust Funds to the IIM Trust Funds while certain oil and gas distributions may result in transfers to/from the IIM Trust Funds from/to the Tribal and Other Trust Funds. Net transfers of trust funds to the IIM Trust Funds from the Tribal and Other Trust Funds totaled approximately \$447.5 million and \$79.8 million during the years ended September 30, 2012 and 2011, respectively. Amounts transferred from the Tribal and Other Trust Funds increased as a result of settlements with certain Indian tribes. These transfers are reflected as receipts in the accompanying statements of changes in trust fund balances. In addition, pursuant to information provided by BIA, OST historically utilized special deposit accounts (see note 7) maintained within the IIM Trust Funds for both tribal and IIM beneficiaries as suspense accounts, whereby funds are temporarily posted when allocation information is not provided when the funds are received. Following receipt of allocation information from BIA, the funds are transferred from the special deposit accounts to the designated tribal and/or IIM account(s).



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

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

September 30, 2012



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

U.S. Department of the Interior Office of the Special Trustee
for American Indians; and
U.S. Department of the Interior Office of Inspector General:

We have audited the statements of assets and trust fund balances – cash basis of the Tribal and Other Trust Funds as of September 30, 2012 and 2011, and the related statements of changes in trust fund balances – cash basis for the years then ended, managed by the U.S. Department of the Interior Office of the Special Trustee for American Indians (OST), and have issued our report thereon dated November 9, 2012. The objective of our audit was to express an opinion on the fair presentation of the Tribal and Other Trust Funds Financial Statements. In connection with our fiscal year 2012 audit, we also considered internal control over financial reporting for the Tribal and Other Trust Funds managed by OST and tested compliance with certain provisions of applicable laws and regulations that could have a direct and material effect on the Tribal and Other Trust Funds Financial Statements.

Summary

Our audit report on the Tribal and Other Trust Funds Financial Statements was qualified because it was not practicable to extend our auditing procedures sufficiently to satisfy ourselves as to the fairness of trust fund balances in the Tribal and Other Trust Funds Financial Statements as of September 30, 2012 and 2011 due to the effects of certain tribal parties for whom OST holds assets in trust disagreeing with the balances recorded by OST, and/or having requested an accounting of their trust funds, and of which certain of these parties have filed, or are expected to file, claims against the United States Government. Trust fund balances enter into the determination of financial position and changes in trust fund balances.

Our audit report states that the Tribal and Other Trust Funds Financial Statements are prepared in accordance with a basis of accounting that is a comprehensive basis of accounting other than generally accepted accounting principles, as described in note 2 to the Tribal and Other Trust Funds Financial Statements.

Our consideration of internal control over financial reporting was not designed to identify all deficiencies in the internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. However, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses as defined in the Internal Control over Financial Reporting section of this report.



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

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

Overview – Tribal and Other Trust Funds Financial Statements

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

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

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



Internal Control over Financial Reporting

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A significant deficiency is a deficiency, or combination of deficiencies in internal control, that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. A material weakness is a deficiency, or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the financial statements will not be prevented, or detected and corrected, on a timely basis.

Our consideration of the internal control over financial reporting was for the limited purpose described in the Responsibilities section of this report and was not designed to identify all deficiencies in the internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses.

In our fiscal year 2012 audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses as defined above.

We did, however, note certain other matters that we have reported to OST management in a separate letter dated November 9, 2012.

Compliance and Other Matters

The results of our tests of compliance as described in the Responsibilities section of this report disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards*.

We did, however, note certain other matters that we have reported to OST management in a separate letter dated November 9, 2012.

Responsibilities

Management's Responsibilities

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

Management is responsible for the Tribal and Other Trust Funds Financial Statements, including:

- Preparing the financial statements in conformity with the basis of accounting described in note 2 to the Tribal and Other Trust Funds Financial Statements;



- Establishing and maintaining effective internal control over financial reporting; and
- Complying with laws and regulations applicable to the Tribal and Other Trust Funds managed by OST.

Auditors' Responsibilities

Our responsibility is to express an opinion on the fiscal year 2012 and 2011 Tribal and Other Trust Funds Financial Statements based on our audit. Except as discussed in the fourth paragraph of our auditors' report, we conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control over financial reporting of the Tribal and Other Trust Funds managed by OST. Accordingly, we express no such opinion.

An audit also includes:

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

We believe that our audit provides a reasonable basis for our opinion.

In planning and performing our fiscal year 2012 audit, we considered internal control over financial reporting for the Tribal and Other Trust Funds managed by OST by obtaining an understanding of the internal controls, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the internal control over financial reporting for the Tribal and Other Trust Funds managed by OST. Accordingly, we do not express an opinion on the effectiveness of the internal control over financial reporting for the Tribal and Other Trust Funds managed by OST. We did not test all controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.



As part of obtaining reasonable assurance about whether the fiscal year 2012 Tribal and Other Trust Funds financial statements are free of material misstatement, we performed tests of the compliance with certain provisions of laws and regulations for the Tribal and Other Trust Funds managed by OST, noncompliance with which could have a direct and material effect on the determination of the financial statement amounts, and certain provisions of other laws and regulations. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws and regulations applicable to the Tribal and Other Trust Funds managed by OST. However, providing an opinion on compliance with laws and regulations was not an objective of our audit, and accordingly, we do not express such an opinion.

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

KPMG LLP

November 9, 2012



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

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

September 30, 2012



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PO Box 3990
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Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters

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

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

We have audited the statements of assets and trust fund balances – modified cash basis of the Individual Indian Monies Trust Funds (IIM Trust Funds) as of September 30, 2012 and 2011, and the related statements of changes in trust fund balances – modified cash basis for the years then ended, managed by the U.S. Department of the Interior Office of the Special Trustee for American Indians (OST), and have issued our report thereon dated November 9, 2012. The objective of our audit was to express an opinion on the fair presentation of the IIM Trust Funds Financial Statements. In connection with our fiscal year 2012 audit, we also considered internal control over financial reporting for the IIM Trust Funds managed by OST and tested compliance with certain provisions of applicable laws and regulations that could have a direct and material effect on the IIM Trust Funds Financial Statements.

Summary

Our audit report on the IIM Trust Funds Financial Statements was qualified because it was not practicable to extend our auditing procedures sufficiently to satisfy ourselves as to the fairness of trust fund balances in the IIM Trust Funds Financial Statements as of September 30, 2012 and 2011 due to the effects of certain parties for whom OST holds financial assets in trust having filed a class action lawsuit for an accounting of the individuals' trust funds. Trust fund balances enter into the determination of financial position and changes in trust fund balances.

Our audit report states that the IIM Trust Funds Financial Statements are prepared in accordance with a basis of accounting that is a comprehensive basis of accounting other than generally accepted accounting principles, as described in note 2 to the IIM Trust Funds Financial Statements.

Our consideration of internal control over financial reporting resulted in identifying certain deficiencies, one of which we consider to be a significant deficiency as described in the Internal Control over Financial Reporting section of this report.

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

The following sections present an overview of the IIM Trust Funds Financial Statements, and discuss our consideration of internal control over financial reporting for the IIM Trust Funds



managed by OST, our tests of compliance with certain provisions of applicable laws and regulations for the IIM Trust Funds managed by OST, and management's and our responsibilities.

Overview – IIM Trust Funds Financial Statements

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

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

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

Internal Control over Financial Reporting

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A significant deficiency is a deficiency, or combination of deficiencies in internal control, that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. A material weakness is a deficiency, or combination of deficiencies in internal control, such that there is a



reasonable possibility that a material misstatement of the financial statements will not be prevented, or detected and corrected, on a timely basis.

Our consideration of the internal control over financial reporting was for the limited purpose described in the Responsibilities section of this report and was not designed to identify all deficiencies in the internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses.

In our fiscal year 2012 audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. However, we consider the following deficiency in internal control over financial reporting to be a significant deficiency:

Lack of Segregation of Duties over Certain IT Applications

Although a formal process has been implemented to procedurally document changes made to a certain IT application, the developer responsible for making enhancements to the functionality of the system is also responsible for migrating changes to the production environment without those changes being subject to review or monitoring. As such, segregation of duties are not appropriately enforced.

Recommendation

We recommend that management enforce appropriate policies and procedures to ensure segregation of duties within the application, including segregating access permissions between development and production implementation activities and reviewing development and production access rights on a periodic basis to ensure that mission critical applications are appropriately segregated and restricted.

OST Management's Response

Management agrees with the above finding.

Exhibit I of this report presents the status of prior year significant deficiencies.

We noted certain other matters that we have reported to OST management in a separate letter dated November 9, 2012.

Compliance and Other Matters

The results of our tests of compliance as described in the Responsibilities section of this report disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards*.



We did, however, note certain other matters that we have reported to OST management in a separate letter dated November 9, 2012.

Responsibilities

Management's Responsibilities

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

Management is responsible for the IIM Trust Funds Financial Statements, including:

- Preparing the financial statements in conformity with the basis of accounting described in note 2 to the IIM Trust Funds Financial Statements;
- Establishing and maintaining effective internal control over financial reporting; and
- Complying with laws and regulations applicable to the IIM Trust Funds managed by OST.

Auditors' Responsibilities

Our responsibility is to express an opinion on the fiscal year 2012 and 2011 IIM Trust Funds Financial Statements based on our audit. Except as discussed in the fourth paragraph of our auditors' report, we conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control over financial reporting of the IIM Trust Funds managed by OST. Accordingly, we express no such opinion.

An audit also includes:

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

We believe that our audit provides a reasonable basis for our opinion.



In planning and performing our fiscal year 2012 audit, we considered internal control over financial reporting for the IIM Trust Funds managed by OST by obtaining an understanding of the internal controls, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the internal control over financial reporting for the IIM Trust Funds managed by OST. Accordingly, we do not express an opinion on the effectiveness of the internal control over financial reporting for the IIM Trust Funds managed by OST. We did not test all controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.

As part of obtaining reasonable assurance about whether the fiscal year 2012 IIM Trust Funds financial statements are free of material misstatement, we performed tests of the compliance with certain provisions of laws and regulations for the IIM Trust Funds managed by OST, noncompliance with which could have a direct and material effect on the determination of the financial statement amounts, and certain provisions of other laws and regulations. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws and regulations applicable to the IIM Trust Funds managed by OST. However, providing an opinion on compliance with laws and regulations was not an objective of our audit, and accordingly, we do not express such an opinion.

* * * * *

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

KPMG LLP

November 9, 2012

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OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

Status of Prior Year Findings, Reported as of September 30, 2011

September 30, 2012

Reference	Condition	Current year status
DOI-2011-1002	Lack of segregation of duties over certain IT applications	Repeated, with certain modifications in current year report.