

United States General Accounting Office Washington, DC 20548 Accounting and Information Management Division

B-285130

August 14, 2000

The Honorable Ben Nighthorse Campbell Chairman Committee on Indian Affairs United States Senate

Subject: <u>Bureau of Indian Affairs: Use of Highway Trust Fund Resources</u>

Dear Mr. Chairman:

This letter summarizes the information we provided during a July 18, 2000, briefing to your Committee's staff. In your April 4, 2000, letter to the Comptroller General you had asked us to analyze the Bureau of Indian Affairs' (BIA) responses to Committee inquiries regarding BIA's use of federal Highway Trust Fund (HTF) money for Indian reservation roads.

In your letter, you asked us to determine

- what percentage of fiscal years 1999 and 1998 HTF contract authority available to BIA was obligated for (1) management costs directly related to specific projects within a program for construction, repair, and improvement of roads and (2) program management and oversight costs not directly related to specific projects;
- whether BIA spent more than 6 percent of the contract authority allocated to its Midwest and Western Regional Offices¹ on non-project-related program management costs for those offices;
- whether the annual 6 percent statutory limitation on the use of HTF contract authority for road program management costs applies only to non-project-related management costs; and
- whether the project-related costs that BIA bears for individual tribes should be paid from HTF contract authority or from BIA's annual appropriations for managing Indian programs or construction.

The enclosed briefing slides highlight the results of our work and the information we provided during the briefing.

¹In September 1999, BIA changed its field office structure. The Minneapolis Area Office became the Midwest Regional Office and the Phoenix Area Office became the Western Regional Office.

The purpose of the Indian Reservation Roads program is to provide safe and adequate transportation and public road access to and within Indian reservations, Indian lands, and communities for Native Americans and others while contributing to economic development, self-determination, and employment of Native Americans. BIA develops and submits to the Federal Highway Administration (FHWA) a priority listing of projects for approval, and FHWA transfers yearly HTF contract authority to BIA for road projects. BIA's use of HTF resources falls into four categories: project construction, project-related management, non-project-related program management, and tribal transportation planning. The project construction category is used for "on the ground" activities and covers such costs as construction materials, construction labor, and equipment usage. The project-related management category covers nonconstruction costs for activities directly related to a specific project, such as preliminary and construction engineering and contract administration. The nonproject-related program management category is used for costs not directly related to any one project but necessary to the program, such as developing and approving design standards and maintaining the bridge database. The tribal transportation planning category is used for planning by Indian tribal governments, including activities such as the Tribal Transportation Improvement Program and the measurement of traffic.

Summary: BIA's Use of HTF Resources

We found that BIA's use of HTF contract authority was within statutory limitations. Of the HTF contract authority available to BIA in fiscal years 1999 and 1998– approximately \$261 million and \$218 million, respectively–about 5.7 percent in each year was used for program management and oversight costs not directly related to any one project but necessary to the program. About \$43 million in fiscal year 1999 and \$46 million in fiscal year 1998 was used for project management costs, which are nonconstruction costs directly related to specific projects. These costs represented about 17 percent and 21 percent, respectively, of the contract authority available to BIA in those years.

While BIA as a whole used about 5.7 percent of available HTF contract authority for nonproject program management and oversight costs in both fiscal years 1999 and 1998, cost percentages varied at its Midwest and Western Regional Offices, the two BIA offices for which you requested information. The Midwest Regional Office's non-project-related program management costs did not exceed 6 percent of its allocated contract authority in either fiscal year 1999 (4.0 percent) or 1998 (5.1 percent). While this was also the case for the Western Regional Office for fiscal year 1999 (5.2 percent), that office used about 11.5 percent of available contract authority for non-project-related program management costs for fiscal year 1998.

Based on applicable legislative language and the history of the 6-percent provision limiting the use of available federal HTF contract authority for road program management costs, we agree with BIA's interpretation that this limitation applies only to the total amount of the HTF contract authority BIA receives, not separately to each regional office and its allocated contract authority. Further, we agree with BIA's view that the 6-percent limitation applies only to non-project-related costs of road program administration as opposed to any other cost category for which BIA uses HTF resources.

Finally, we agree with BIA's position that it is proper to use HTF budget authority to cover project-related management costs it incurs, rather than using its construction appropriations or Indian program appropriations. We have found no indication in the law or legislative history that the Congress intended otherwise or that the Congress included these costs in calculating BIA's annual appropriations.

Scope and Methodology

In order to analyze BIA's use of HTF resources, we interviewed BIA and FHWA officials and obtained and analyzed program, budget, accounting, and cost information for fiscal years 1999 and 1998. As agreed with your Committee's staff, we relied on the information provided by BIA and FHWA and did not determine the propriety of transactions, verify the validity or reasonableness of cost data, or determine the appropriateness of cost categorizations.

Regarding questions on BIA's interpretation of legal provisions governing its use of HTF contract authority, we requested written responses from the Department of the Interior's Solicitor; researched and analyzed applicable laws; and compared our legal analysis to Interior's responses.

We conducted our work from April 2000 through July 2000 in accordance with generally accepted government auditing standards. We requested comments on our draft briefing slides from BIA officials. They agreed with our findings and offered some clarifying comments that we incorporated into our slides as appropriate.

As agreed with your office, unless you announce the contents of this letter earlier, we plan no further distribution until 10 days from the date of this letter. At that time, we will send copies Senator Daniel K. Inouye, the Ranking Minority Member of your Committee; the Honorable Bruce Babbitt, the Secretary of the Interior; and other interested parties. Copies will be made available to others upon request.

If you have any questions about this letter or the earlier briefing, please contact me at (202) 512-9508, or Mike Koury, Assistant Director, at (202) 512-3405. Key contributors to this assignment were Charles Norfleet, Bert Berlin, and Wendy Albert.

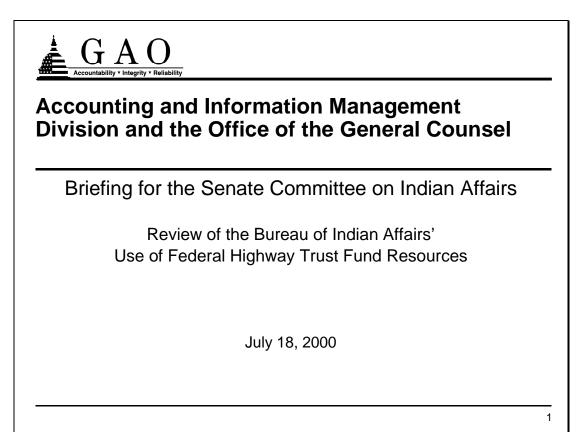
Sincerely yours,

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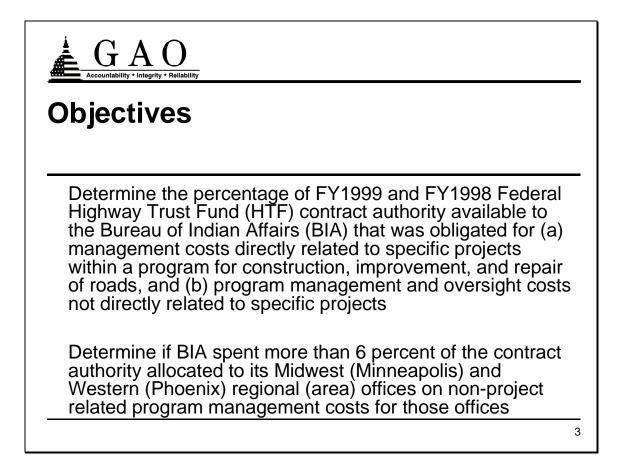
Linda M. Calbom Director, Resources, Community, and Economic Development, Accounting and Financial Management Issues

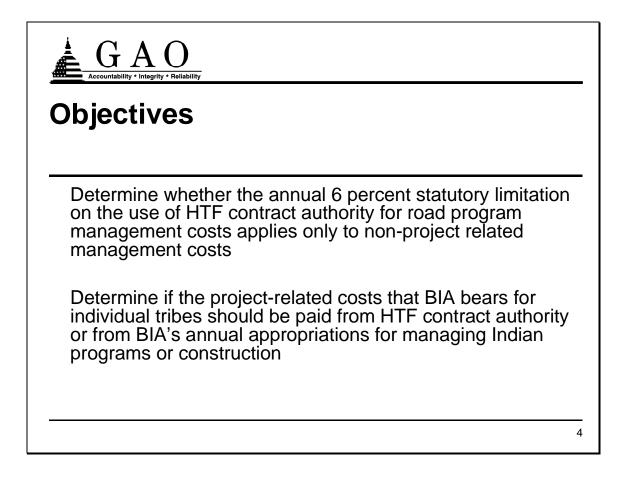
Enclosure

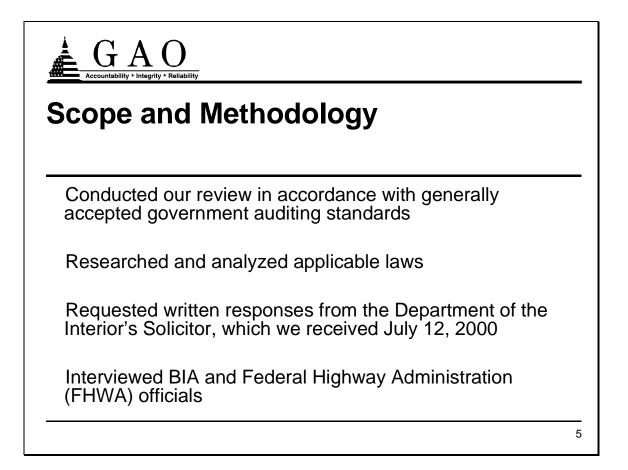
July 18, 2000, Briefing to the Senate Committee on Indian Affairs

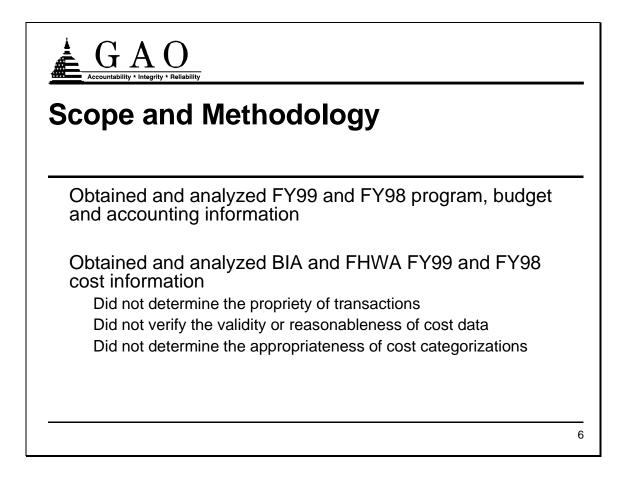


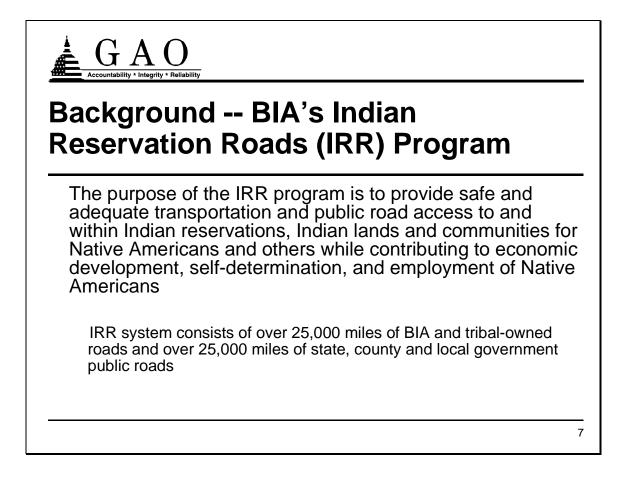
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Contents	
Objectives	—
Scope and Methodology	
Background	
Financial Issues	
Legal Issues	
	2

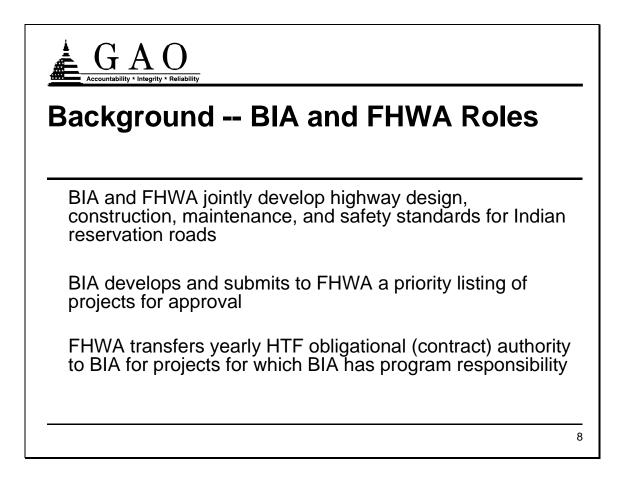


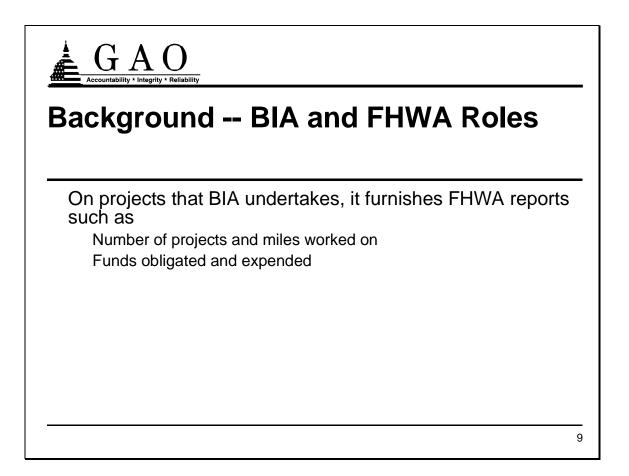


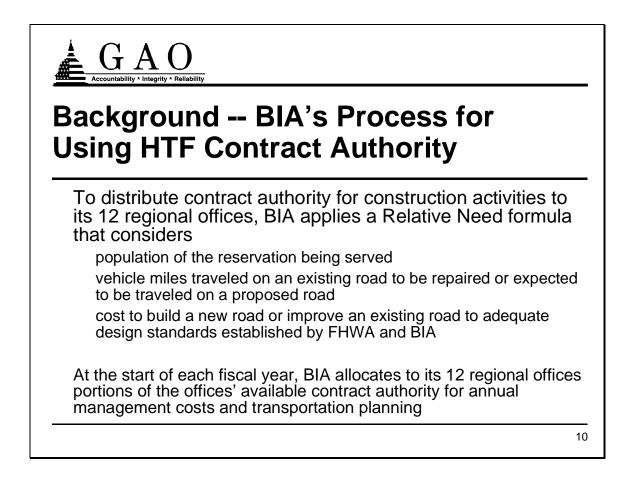


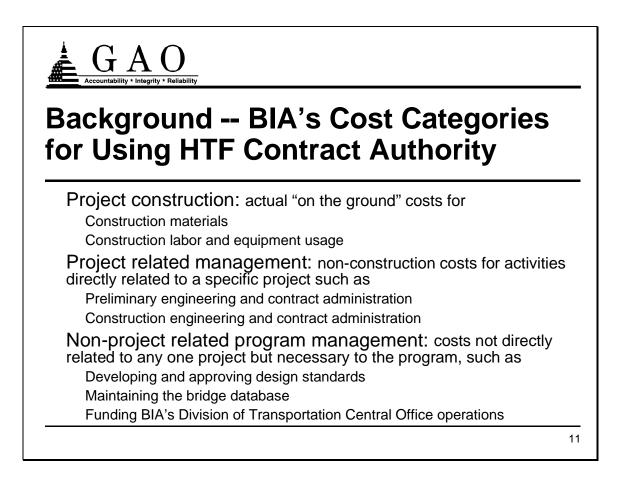


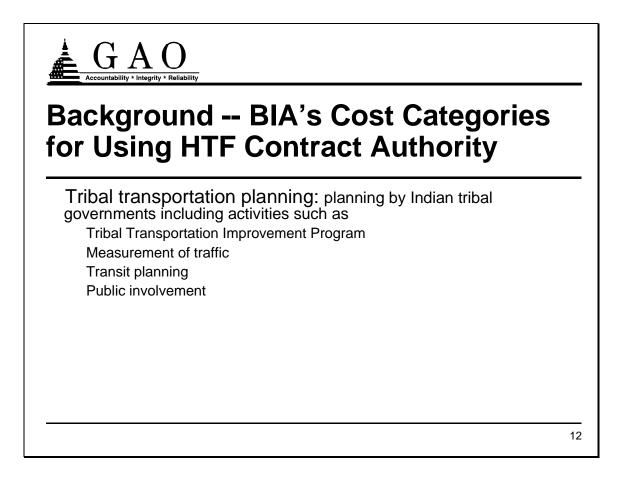


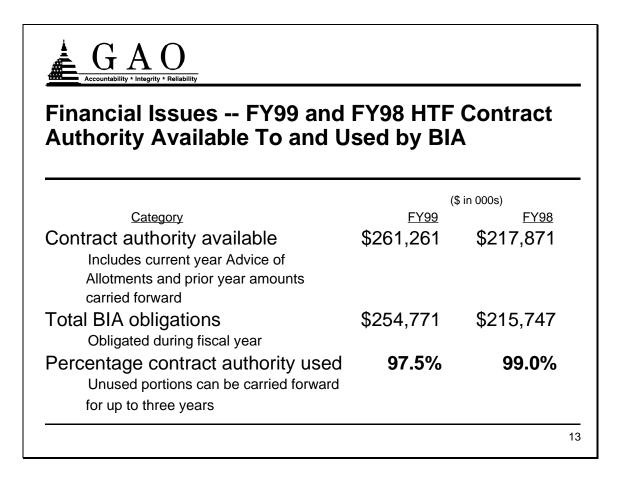








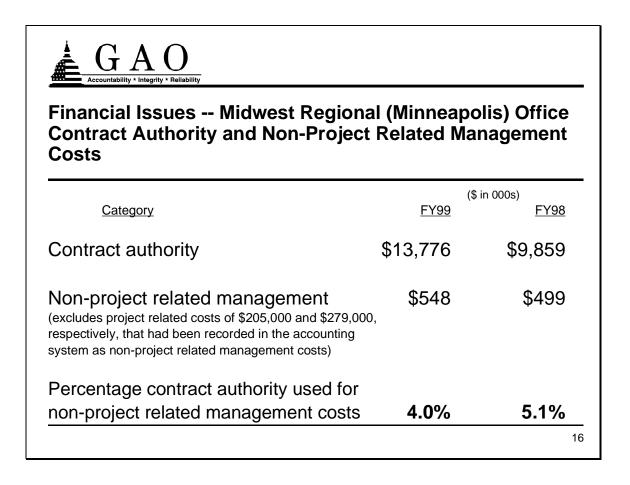


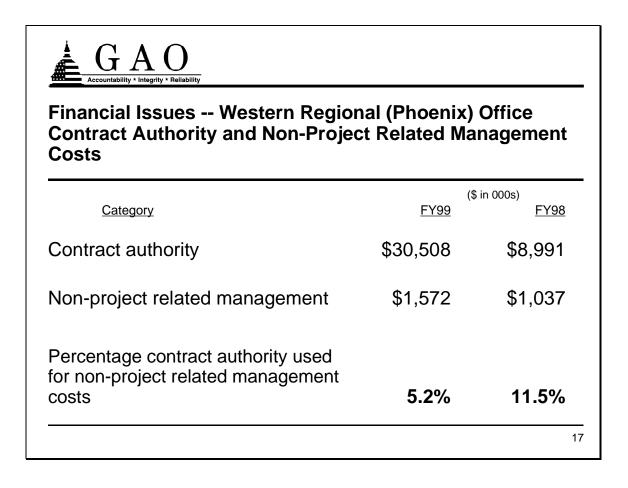


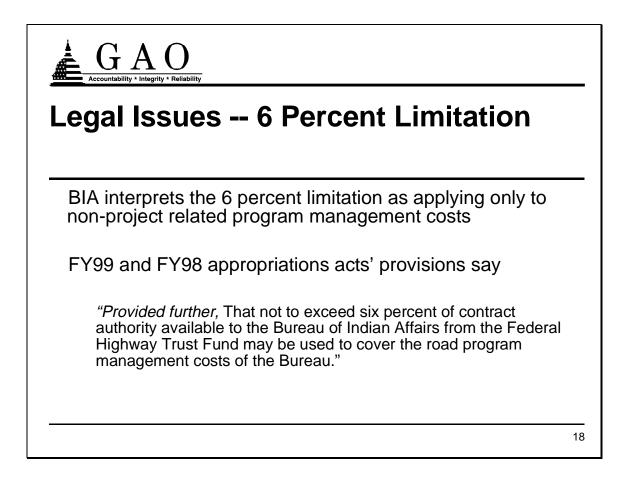
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Financial Issues Breakdown of FY99 BIA Obligations				
Project construction	<u>\$ in 000s</u> \$192,641	% Contract Authority 73.7 %		
Project related management	42,926	16.5		
Non-project related management	15,001	5.7		
Tribal transportation planning	<u>4,203</u>	<u>1.6</u>		
FY99 TOTAL	\$254,771	97.5 %		
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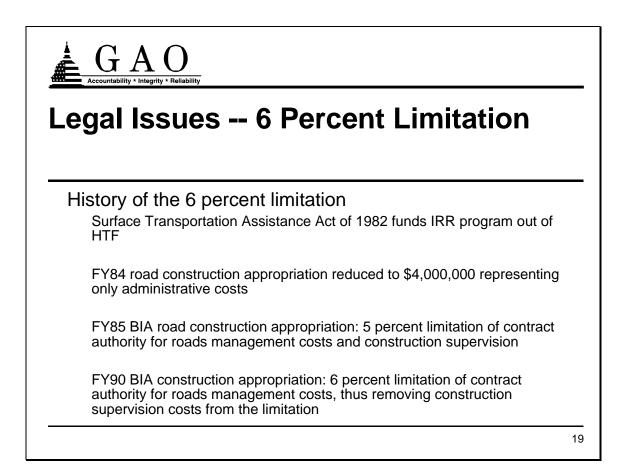
Accountability * Integrity * Reliability				
Financial Issues Breakdown of FY98 BIA Obligations				
Project construction	<u>\$ in 000s</u> \$153,325	% Contract Authority 70.4 %		
Project related management	45,911	21.0		
Non-project related management	12,342	5.7		
Tribal transportation planning	<u>4,169</u>	<u>1.9</u>		
FY98 TOTAL	\$215,747	99.0 %		

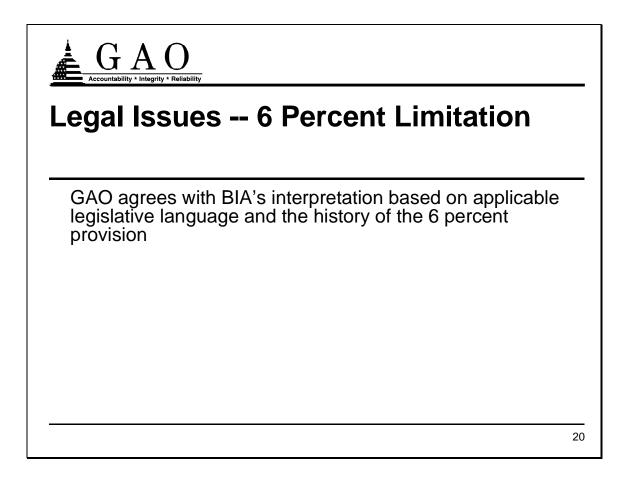
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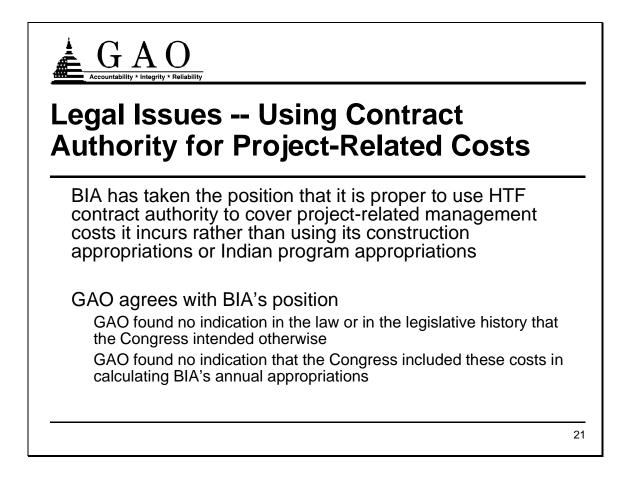


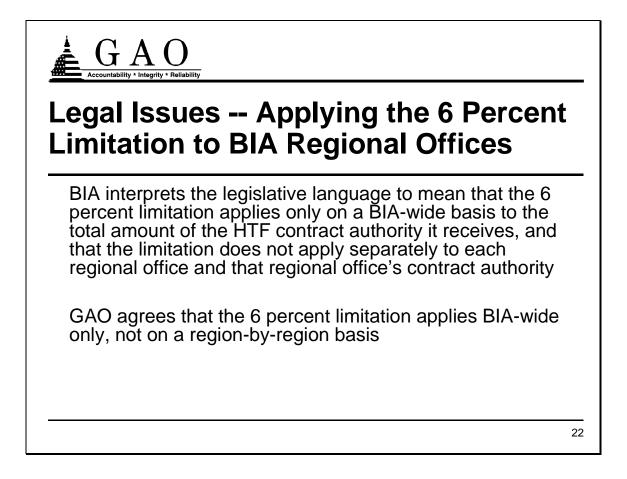












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