



April 2023

# TRIBAL PROGRAMS

## Actions Needed to Improve Interior's Management of Trust Services

Accessible Version

# GAO Highlights

Highlights of [GAO-23-105356](#), a report to congressional committees

## Why GAO Did This Study

The federal government holds more than \$8 billion in trust funds for Tribes and Individual Indian Money account holders. Interior faced challenges with managing these trust funds, and the 1994 Reform Act established OST to oversee trust reform efforts. OST subsequently assumed responsibility for managing the trust funds.

The joint explanatory statement accompanying the Consolidated Appropriations Act, 2021, contains a provision for GAO to examine OST. GAO was also asked to examine Interior's transfer of OST's trust functions to BTFA. This report examines the status of OST's termination, Interior's use of selected leading practices for agency reforms during the transfer, and collaboration between BTFA and BIA's Office of Trust Services.

GAO reviewed and analyzed relevant laws and agency data, compared agency actions against leading practices, and interviewed agency and selected tribal officials.

## What GAO Recommends

Congress should consider amending the statutory termination process for OST in section 302(c) of the 1994 Reform Act. GAO is also making four recommendations to Interior, including that it develop a strategic workforce plan for the staff responsible for carrying out trust functions and update agency collaboration guidance for trust operations and services. Interior generally agreed with GAO's recommendations.

View [GAO-23-105356](#). For more information, contact Anna Maria Ortiz at (202) 512-3841 or [OrtizA@gao.gov](mailto:OrtizA@gao.gov).

April 2023

## TRIBAL PROGRAMS

### Actions Needed to Improve Interior's Management of Trust Services

## What GAO Found

In 2020, the Department of the Interior created the Bureau of Trust Funds Administration (BTFA) within Indian Affairs to take over financial management of trust funds and functions from the Office of the Special Trustee for American Indians (OST). Interior transferred OST employees to BTFA and is using OST's appropriations for BTFA. However, to date, congressional appropriations committees continue to make appropriations for OST rather than for BTFA.

OST was established by the American Indian Trust Fund Management Reform Act of 1994 (1994 Reform Act) to oversee and coordinate reform efforts related to Interior's trust responsibilities. Congress needs certain information from Interior to decide whether to continue OST or to approve another office, such as BTFA, to manage the trust funds. However, Interior's interpretation of the act is that providing some of this information risks triggering the act's statutory termination process for OST. Interior officials said terminating OST could leave Interior without a congressionally approved office or available appropriation to manage the trust funds, risking a breach of the federal government's duty to beneficiaries. For the purposes of this report, GAO is not taking a position on Interior's position. Unless Congress amends the statutory termination process in section 302(c), it may not receive the information it needs to make decisions regarding OST and future management of the trust funds.

Interior's transfer of trust functions from OST to BTFA generally followed some, but not all, selected leading practices for agency reforms. For example, Interior established a team responsible for implementing the transfer but did not develop a strategic workforce plan. Developing a strategic workforce plan would help Interior, going forward, to better understand the resources it needs to manage trust funds, especially as demand for beneficiary services continues to increase.

#### GAO's Assessment of Interior's Transfer of Trust Functions from Its Office of the Special Trustee for American Indians to the Bureau of Trust Funds Administration

Leading practice for agency reform category	Extent followed
Goals and Outcomes	Partially followed
Process for Developing Reforms	Partially followed
Implementing the Reforms	Generally followed
Strategically Managing the Federal Workforce	Did not follow

Source: GAO analysis of U.S. Department of the Interior actions. | GAO-23-105356

BTFA and the Bureau of Indian Affairs' (BIA) Office of Trust Services—which manages trust lands and other physical assets—use various collaborative mechanisms to manage overlaps in trust-related operations and services. Because Interior has not updated its collaboration guidance since 2002, the guidance does not reflect the bureaus' current roles and responsibilities or activities. Confusion about each bureau's roles and responsibilities can increase employees' workload and cause delays in providing services to beneficiaries, according to selected tribal and agency officials. Updating Interior's collaboration guidance to clarify current roles and responsibilities would enable BTFA and BIA to better collaborate to serve beneficiaries.

---

# Contents

---

GAO Highlights		ii
	<b>Why GAO Did This Study</b>	ii
	<b>What GAO Recommends</b>	ii
	<b>What GAO Found</b>	ii
Letter		1
	Background	8
	Interior Followed Some, but Not All, Selected Leading Practices for Agency Reforms When It Transferred OST’s Trust Functions to BTFA	14
	Interior Has Not Begun the OST Termination Process or Provided Statutorily Required Information to Congress	22
	The Bureaus Have Not Followed Certain Leading Collaboration Practices, Hampering Their Ability to Manage Overlap in Trust Operations and Services	26
	Conclusions	32
	Matter for Congressional Consideration	33
	Recommendations for Executive Action	33
	Agency Comments and Our Evaluation	33
Appendix I: Objectives, Scope, and Methodology		35
Appendix II: Comments from the Department of the Interior		41
Accessible Text for Appendix II: Comments from the Department of the Interior		44
Appendix III: GAO Contact and Staff Acknowledgments		47
	GAO Contact:	47
	Staff Acknowledgments:	47
Tables		
	Table 1: Assessment of the Department of the Interior’s Actions in Its Transfer of OST’s Trust Functions to BTFA Compared with Categories of Selected Leading Practices for Agency Reforms	15
	Table 2: Statutory Requirements Related to OST’s Termination and the Status of Interior’s Actions	22

---

---

Figures

Figure 1: Selected Leading Practices for Assessing Agency Reforms	6
Figure 2: Department of the Interior Offices and Bureaus Responsible for Trust Operations and Services to Tribes and Individual Indian Money Account Holders since October 2020	12
Figure 3: GAO Definitions of Fragmentation, Overlap, and Duplication	27
Figure 4: Bureau of Trust Funds Administration (BTFA) and Bureau of Indian Affairs (BIA) Trust Responsibilities, Operations, and Services	29
Figure 5: Selected Leading Practices for Assessing Agency Reforms	38

---

---

**Abbreviations**

BIA	Bureau of Indian Affairs
BTFA	Bureau of Trust Funds Administration
IIM	Individual Indian Money
ITARA	Indian Trust Asset Reform Act
1994 Reform Act	American Indian Trust Fund Management Reform Act of 1994
OST	Office of the Special Trustee for American Indians
TAAMS	Trust Asset and Accounting Management System
TFAS	Trust Funds Accounting System

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



April 27, 2023

The Honorable Jeff Merkley  
Chair  
The Honorable Lisa Murkowski  
Ranking Member  
Subcommittee on Interior, Environment, and Related Agencies  
Committee on Appropriations  
United States Senate

The Honorable Mike Simpson  
Chair  
The Honorable Chellie Pingree  
Ranking Member  
Subcommittee on Interior, Environment, and Related Agencies  
Committee on Appropriations  
House of Representatives

As of September 2022, the federal government held more than \$8 billion in trust funds on behalf of hundreds of Tribes and thousands of Individual Indian Money (IIM) account holders (which we refer to collectively as beneficiaries).<sup>1</sup> These funds primarily comprise revenue generated by certain activities, such as leasing for agricultural purposes, or oil and gas production on more than 56 million acres of land that the federal government also holds in trust for Tribes and individuals.<sup>2</sup> The federal government is generally required to deposit the revenue from these trust lands,<sup>3</sup> as well as from restricted fee lands,<sup>4</sup> into trust accounts that the

---

<sup>1</sup>For the purposes of this report, the term “Tribes” refers to Indian Tribes that have been federally recognized. As of March 2023, there were 574 Tribes. Federally recognized Tribes and individuals who meet the applicable statutory and regulatory definitions of “Indian” have a unique political status and are eligible for certain federal programs, benefits, and services because of that status.

<sup>2</sup>Throughout this report, we use the term “individuals” instead of the statutory and regulatory terms “Indian” or “individual Indian.”

<sup>3</sup>See *e.g.*, 25 U.S.C. §§ 161(a), 162a.

<sup>4</sup>Tribes and individuals may own land in restricted fee status. Tribes and individuals hold title to restricted fee land, but the land is subject to restrictions against alienation or encumbrance. For example, the land cannot be sold or conveyed without the approval of the Secretary of the Interior.

government maintains for beneficiaries. In managing these trust accounts, the federal government has a fiduciary trust responsibility.<sup>5</sup> The United States has also undertaken a unique trust responsibility to protect and support Tribes and individuals through treaties, statutes, and historical relations with Tribes.<sup>6</sup>

The Secretary of the Interior discharges the trust responsibilities of the United States by, among other things, assuring the accuracy of the accounts, and is required to invest the funds. The Secretary has delegated responsibility for trust operations and services related to managing these trust funds and lands to various entities within the U.S. Department of the Interior. These trust operations and services include management of trust land, assets, and natural resources, as well as financial management of the trust funds. Throughout this report, we refer to these trust fund financial management functions as “trust functions.”

Over the decades, Interior has faced various challenges with managing the trust funds, which has led to congressional action. For example, when the Bureau of Indian Affairs’ (BIA) Office of Trust Funds Management was responsible for the trust funds, it mismanaged them, including by not having trained personnel and accounting systems to ensure revenue was deposited in the correct accounts and that trust fund balances were accurate, as we previously reported.<sup>7</sup> In response to these challenges, the American Indian Trust Fund Management Reform Act of 1994 (1994 Reform Act) requires, among other things, that the Secretary provide adequate systems for accounting and reporting trust fund balances. The act also established the Office of the Special Trustee for American Indians (OST) within Interior to oversee and coordinate reform efforts

---

<sup>5</sup>The specific fiduciary duties, obligations, and responsibilities that the federal government owes beneficiaries is established by the laws governing the trust accounts.

<sup>6</sup>Indian Trust Asset Reform Act, Pub. L. No. 114-178, § 101(3), 130 Stat. 432 (2016) (codified at 25 U.S.C. § 5601(3)). The fiduciary responsibilities of the United States to Indians are also founded in part on specific commitments made through written treaties and agreements securing peace, in exchange for which Indians have surrendered claims to vast tracts of land, which provided legal consideration for permanent, ongoing performance of federal trust duties. *Id.* at § 101(4). We have previously reported that several tribal leaders have noted that these trust obligations and responsibilities do not exist as welfare but as repayment on a nation-to-nation agreement. See, for example, GAO, *Tribal Funding: Actions Needed to Improve Information on Federal Funds that Benefit Native Americans*, [GAO-22-104602](#) (Washington, D.C.: May 19, 2022).

<sup>7</sup>See, for example, GAO, *Financial Management: Focused Leadership and Comprehensive Planning Can Improve Interior’s Management of Indian Trust Funds*, [GAO/AIMD-94-185](#) (Washington, D.C.: Sept. 22, 1994).

related to the Secretary's trust responsibilities. This office is headed by the Special Trustee, who, as required by the 1994 Reform Act, reports directly to the Secretary. The act also established a process for terminating OST, which begins when the Special Trustee submits a notice regarding the progress of reform implementation to Congress and the Secretary of the Interior. However, when submitting this notice, the Special Trustee can propose the continuation or permanent establishment of the office, and Congress can enact legislation to do so.

Interior has transferred responsibility for managing trust functions within the department several times. For example, in response to the conference report accompanying Interior's fiscal year 1996 appropriations bill, Interior transferred responsibility for trust functions from BIA to OST. BIA's Office of Trust Services maintains responsibility for managing the trust lands, assets, and resources that generate revenues for the trust funds.<sup>8</sup> In October 2020, Interior again transferred responsibility for trust functions to the newly created Bureau of Trust Funds Administration (BTFA) within Indian Affairs to institutionalize management reforms and best practices, according to Interior.<sup>9</sup>

Various entities have raised questions and concerns about Interior's management of these transfers of responsibility and the trust funds themselves. For example, congressional appropriations committees have repeatedly rejected the creation of BTFA and have not made appropriations for it. Congressional appropriations committees also expressed concerns about Interior's actions in establishing BTFA, including its not providing sufficient information to Congress. In addition, some Tribes and tribal organizations have raised questions about whether the multiple transfers of trust functions could affect the quality and timeliness of services to beneficiaries. They also have questioned whether Interior is properly managing the trust funds. Moreover, Tribes

---

<sup>8</sup>U.S. Department of the Interior, *Establishment of the Office of Special Trustee for American Indians and Transfer of Trust Funds Management Functions from the Bureau of Indian Affairs*, Secretarial Order 3197 (Washington, D.C.: Feb. 9, 1996). Secretarial Order 3197 was issued in response to direction in the conference report accompanying Interior's fiscal year 1996 appropriations bill.

<sup>9</sup>U.S. Department of the Interior, *Creation of the Bureau of Trust Funds Administration and Realignment of the Office of the Special Trustee for American Indians, Land Buy-Back Program for Tribal Nations, and Office of Historical Trust Accounting*, Secretarial Order 3384 (Washington, D.C.: Aug. 31, 2020). Indian Affairs is an organization within Interior that is comprised of the Office of the Assistant Secretary—Indian Affairs, BIA, BTFA, and the Bureau of Indian Education.



and other stakeholders have expressed concerns about Interior's transparency and consultation with Tribes before making trust-related organizational changes that affect beneficiaries. For example, although Interior held consultations with Tribes in 2016 and 2017 about the future of OST, Interior did not consult with Tribes specifically about the creation of BTFA or the transfer of OST's trust functions to this new bureau before the transfer took place in 2020, according to agency documentation.<sup>10</sup>

The joint explanatory statement accompanying the Consolidated Appropriations Act, 2021, contains a provision that we examine whether any duties, activities, or functions performed by OST or a successor entity are duplicative, overlap, or result in fragmentation with duties, activities, or functions performed by Indian Affairs.<sup>11</sup> We were also asked to examine Interior's transfer of OST's trust functions to BTFA and the status of OST's termination.

In this report, we examine (1) the extent to which Interior followed selected leading practices for agency reform during the transfer of trust functions from OST to BTFA; (2) the status of OST's termination; and (3) potential duplication, overlap, and fragmentation of roles and responsibilities between BTFA and BIA's Office of Trust Services and the extent to which the bureaus have collaborated to manage any duplication, overlap, or fragmentation.

To address all three objectives, we reviewed agency documents and reports from Interior—including budget justifications and reports to congressional committees—and interviewed senior agency officials in headquarters, including from Interior's Office of the Solicitor, BTFA, and BIA, as well as officials in the field from BTFA and BIA. We also interviewed seven of BTFA's 28 Fiduciary Trust Officers to understand their role in providing trust services to beneficiaries in the field. We selected these trust officers based on geographical dispersion to represent a range of locations. In addition, we interviewed officials from a nongeneralizable sample of seven Tribes and two tribal organizations about their experiences with OST and BTFA and whether the transfer of

---

<sup>10</sup>Interior held these consultations in response to a requirement in the Indian Trust Asset Reform Act (ITARA) for the Secretary of the Interior to consult with Tribes and appropriate Indian organizations before preparing a report required by section 304 of ITARA. 25 U.S.C. § 5634(a). After these consultations, Interior officials proposed that OST's trust functions be transferred from the Secretary to the Assistant Secretary–Indian Affairs. In 2021, Interior held consultations with Tribes about the creation of BTFA.

<sup>11</sup>166 Cong. Rec. H8311, H8537 (Dec. 21, 2020).

trust functions from OST to BTFA affected the beneficiary services they receive. We selected the Tribes based on a range of trust fund account balances and geographical dispersion. We selected the tribal organizations based on their participation in tribal consultations that Interior held in 2017 and 2021 related to OST and BTFA.

To examine the extent to which Interior followed selected leading practices for agency reforms during its transfer of OST's trust functions to BTFA, we reviewed Interior's planning and implementation documents to identify the activities that Interior took leading up to and during the transfer. We compared the activities in these documents with leading practices for agency reforms identified in our prior work.<sup>12</sup> We also reviewed Interior's annual appropriations acts and workforce data for OST and BTFA from Interior's Federal Personnel and Payroll System for calendar years 2016 through 2022 to identify the number of employees working at OST and BTFA. To determine the reliability of these data, we received relevant agency documentation, interviewed agency officials familiar with the data, and conducted manual data testing. We determined that the data were sufficiently reliable for the purposes of this report.





We determined that it was appropriate to assess Interior's activities against the leading practices because, according to our prior work, agency reform includes organizational change, such as major transformations, mergers, consolidations, and other reorganizations, as well as efforts to streamline and improve the efficiency and effectiveness of government operations.<sup>13</sup> We selected and applied leading practices for assessing agency reforms that were relevant to Interior's activities. We chose practices that were most relevant to the transfer of trust functions from OST to BTFA. These leading practices are grouped into categories and selected subcategories, as figure 1 shows. We then determined the extent to which these leading practices were followed at the category level.

---

<sup>12</sup>GAO, *Government Reorganization: Key Questions to Assess Agency Reform Efforts*, [GAO-18-427](#) (Washington, D.C.: June 13, 2018).

<sup>13</sup>[GAO-18-427](#) identifies leading practices and key questions, organized into four categories and 12 subcategories, that Congress, the Office of Management and Budget, and agencies should consider when developing and implementing agency reforms. Reforming and reorganizing the federal government is a major endeavor that can include refocusing, realigning, or enhancing agency missions, as well as taking steps to improve services by identifying and eliminating inefficiencies. Equally important is maintaining or improving effectiveness and examining the effect of such proposed changes on employees, stakeholders, and program customers.

**Figure 1: Selected Leading Practices for Assessing Agency Reforms**

Category	Definition	Selected subcategories of leading practices	Selected leading practices
 <p><b>Goals and Outcomes</b></p>	<i>What is the agency trying to achieve with its reforms?</i>	<ul style="list-style-type: none"> <li>Establishing Goals and Outcomes</li> </ul>	<ul style="list-style-type: none"> <li>To what extent has the agency established clear outcome-oriented goals and performance measures for the proposed reforms?</li> <li>To what extent has the agency shown that the proposed reforms align with the agency's mission and strategic plan?</li> </ul>
 <p><b>Process for Developing Reforms</b></p>	<i>What was the process used to develop the reforms, and what factors were considered?</i>	<ul style="list-style-type: none"> <li>Involving Employees and Key Stakeholders</li> <li>Using Data and Evidence</li> </ul>	<ul style="list-style-type: none"> <li>How and to what extent has the agency consulted with the Congress, and other key stakeholders, to develop its proposed reforms?</li> <li>What data and evidence has the agency used to develop and justify its proposed reforms?</li> <li>How, if at all, were the results of the agency's strategic review process used to help guide the proposed reforms?</li> </ul>
 <p><b>Implementing the Reforms</b></p>	<i>What practices did the agency put in place to support the successful implementation of reforms?</i>	<ul style="list-style-type: none"> <li>Leadership Focus and Attention</li> <li>Managing and Monitoring</li> </ul>	<ul style="list-style-type: none"> <li>Has the agency designated a leader or leaders to be responsible for the implementation of the proposed reforms?</li> <li>Has agency leadership defined and articulated a succinct and compelling reason for the reforms (i.e., a case for change)?</li> <li>How has the agency ensured their continued delivery of services during reform implementation?</li> <li>What implementation goals and a timeline have been set to build momentum and show progress for the reforms? In other words, has the agency developed an implementation plan with key milestones and deliverables to track implementation progress?</li> </ul>
 <p><b>Strategically Managing the Federal Workforce</b></p>	<i>What practices did the agency use to support the development and implementation of its reforms regarding its workforce?</i>	<ul style="list-style-type: none"> <li>Strategic Workforce Planning</li> </ul>	<ul style="list-style-type: none"> <li>To what extent has the agency conducted strategic workforce planning to determine whether it will have the needed resources and capacity, including the skills and competencies, in place for the proposed reforms or reorganization?</li> <li>How has the agency assessed the effects of the proposed agency reforms on the current and future workforce, and what does that assessment show?</li> </ul>

Source: GAO. | GAO-23-105356

To examine the status of OST's termination, we analyzed the 1994 Reform Act and confirmed that the required notice that triggers OST's termination had not been submitted to Congress. We reviewed the Office of the Solicitor's interpretations of the statutory termination process in section 302 of the 1994 Reform Act and OST's appropriation but did not evaluate the merits of these interpretations. We also analyzed the reporting requirement in section 304 of the Indian Trust Asset Reform Act (ITARA) and Interior's response to that reporting requirement.

To examine potential duplication, overlap, or fragmentation between the trust operations and services administered by BTFA and those administered by BIA's Office of Trust Services, we reviewed agency documents—including a departmental manual and budget justification—to identify the roles and responsibilities of offices within BTFA and BIA's Office of Trust Services. We compared these roles and responsibilities with GAO's fragmentation, overlap, and duplication guidance to determine whether duplication, overlap, or fragmentation existed.<sup>14</sup> We interviewed agency and tribal officials to obtain additional information and to confirm our determination.

To examine the extent to which BTFA and BIA's Office of Trust Services collaborated to manage any potential duplication, overlap, or fragmentation, we interviewed agency officials and reviewed documentation, including an interagency operations manual that describes how offices are to collaborate on operations and services. We compared the offices' activities described in these documents with selected leading collaboration practices identified in our previous work.<sup>15</sup> We selected the following collaboration leading practices because they were most relevant to assessing the roles and responsibilities of BTFA and BIA: (1) defining leadership; (2) clarifying roles and responsibilities; (3) including all relevant participants; and (4) documenting collaboration through written guidance and agreements, and routinely monitoring and updating these documents.

Appendix I provides a more detailed description of our scope and methodology.

We conducted this performance audit from August 2021 to April 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

---

<sup>14</sup>GAO, *Fragmentation, Overlap, and Duplication: An Evaluation and Management Guide*, [GAO-15-49SP](#) (Washington, D.C.: Apr. 14, 2015).

<sup>15</sup>GAO, *Managing for Results: Key Considerations for Implementing Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

---

## Background

---

### Interior's Trust Responsibilities

As described above, Interior has a trust responsibility for management of lands and funds held in trust for Tribes and individuals.

- **Trust lands.** The General Allotment Act, enacted in 1887, authorized the division of Indian reservations into allotments for individuals. Allotments made under the act and other implementing laws were to be held in trust for 25 years.<sup>16</sup> In 1934, the Indian Reorganization Act ended the allotment of tribal lands and extended indefinitely the period that the federal government would hold allotted lands in trust. Many of these allotments remain in trust today.
- **Trust funds.** A number of laws require the Secretary of the Interior to establish and administer trust fund accounts for Tribes and individuals who have an interest in trust lands, resources, or assets. As of September 2022, the federal government held more than \$8 billion in trust for hundreds of federally recognized Tribes and thousands of IIM account holders.<sup>17</sup> Tribal trust funds are derived primarily from revenue generated by leasing land and mineral rights held in trust, judgment awards, and settlement of claims. IIM accounts generally only contain revenue from leases.

The Secretary of the Interior is responsible for maintaining Indian land title and ownership records, managing land and natural resource assets held in trust, probating estates of deceased Indians in certain circumstances, assuring the accuracy of tribal and individual accounts, and investing the funds.<sup>18</sup>

---

<sup>16</sup>In 1906, the General Allotment Act was amended to authorize the Secretary of the Interior to issue fee simple patents, which removed the land from trust, before the trust period ended, in certain circumstances.

<sup>17</sup>IIM accounts are interest-bearing accounts for trust funds held by the Secretary of the Interior that belong to a person who has an interest in trust assets. Money in tribal trust accounts also earns interest, returns, or both.

<sup>18</sup>See 25 U.S.C. § 5; 25 C.F.R. pt. 150.

---

---

## Bureau of Indian Affairs

BIA, which reports to the Assistant Secretary–Indian Affairs, comprises several offices that are responsible for a broad spectrum of services to Tribes and individuals. These services include social services, natural resource management, economic development, law enforcement, and housing. BIA’s services are administered by 12 regional offices and 83 agency offices located across the country.

BIA has responsibility for management of trust lands. Specifically, BIA’s Office of Trust Services assists tribal governments and individuals with managing, protecting, and developing their trust lands and natural resources. This assistance includes providing real estate services, land titles and record assistance, and probate services for the estate of certain deceased Indians. BIA’s Trust Asset and Accounting Management System (TAAMS) is an information system that maintains land title and leasing data. BIA’s Office of Trust Services is divided into three divisions responsible for administration, natural resources, and land management. As of December 2022, BIA’s Office of Trust Services had 185 full-time employees who reported to its Central Office and 1,196 full-time employees who reported to BIA’s Field Operations division.<sup>19</sup>

---

## Office of the Special Trustee for American Indians

The 1994 Reform Act established OST to oversee and coordinate Interior’s reform efforts related to the Secretary’s trust responsibilities. OST is led by a Special Trustee, who reports directly to the Secretary, and a Principal Deputy Special Trustee.<sup>20</sup> Interior’s transfer of trust functions from BIA to OST in 1996 effectively expanded OST’s

---

<sup>19</sup>According to agency officials, the Central Office for BIA’s Office of Trust Services is the reporting structure and not a physical location. Central Office employees are located in over 50 locations across the country.

<sup>20</sup>The Special Trustee position has been vacant since January 20, 2017. At that time, the functions and duties of the Special Trustee were delegated to a Deputy Special Trustee. However, on July 9, 2017, a new Principal Deputy Special Trustee was named and, as a result, under the Federal Vacancies Reform Act, became Acting Special Trustee until November 15, 2017.

In addition, a secretarial order and delegation memorandum delegated the functions and duties of the Special Trustee to the new Principal Deputy Special Trustee. However, the Principal Deputy Special Trustee position has been vacant since October 11, 2020. In addition, Interior’s Reorganization Plan No. 3 of 1950 transfers to the Secretary of the Interior all functions of all other officers of the Department of the Interior.

responsibilities to include managing tribal and IIM trust funds. From 1996 to 2020, when OST was responsible for managing the trust funds, OST comprised three divisions responsible for (1) implementing trust reform activities, (2) providing financial trust services, and (3) providing trust fund management and beneficiary services in the field. OST provided services in the field throughout six regions that aligned with BIA's 12 regional field offices.

OST also implemented several trust reforms to help improve the financial management of trust funds, according to Interior documents. Many of these actions relate to integrated data systems or beneficiary services and outreach. For example:

- OST purchased and customized the Trust Funds Accounting System (TFAS), an automated accounting and investment data system for tribal and IIM account holders that can interface with elements of TAAMS, BIA's information system.
- OST created Fiduciary Trust Officer positions to serve as the primary contacts for beneficiaries at the agency level. These officers coordinate as needed with BIA staff to respond to beneficiaries' questions about their trust assets.
- OST established the Trust Beneficiary Call Center, which offers a toll-free telephone number staffed primarily by contractors to provide timely responses to beneficiaries' questions about their trust assets, the status of trust services, requests for disbursement, and updates to their accounts.

---

## Bureau of Trust Funds Administration

BTFA was created by an August 2020 secretarial order that transferred OST's trust functions to it. BTFA became operational in October 2020 when Interior transferred all OST employees, except the Special Trustee and Principal Deputy Special Trustee, to the new bureau. BTFA is managed by a Director who reports to the Assistant Secretary–Indian Affairs. BTFA has 54 field offices around the country that are primarily co-located with BIA's agency offices. As of December 2022, the bureau had 426 full-time equivalents, 121 of whom were in the field. Congressional appropriations committees have rejected BTFA, and Congress had not made appropriations for BTFA as of February 2023.

Within BTFA, the Trust Operations office provides direct trust services and accounting services to beneficiaries, maintains the TFAS data

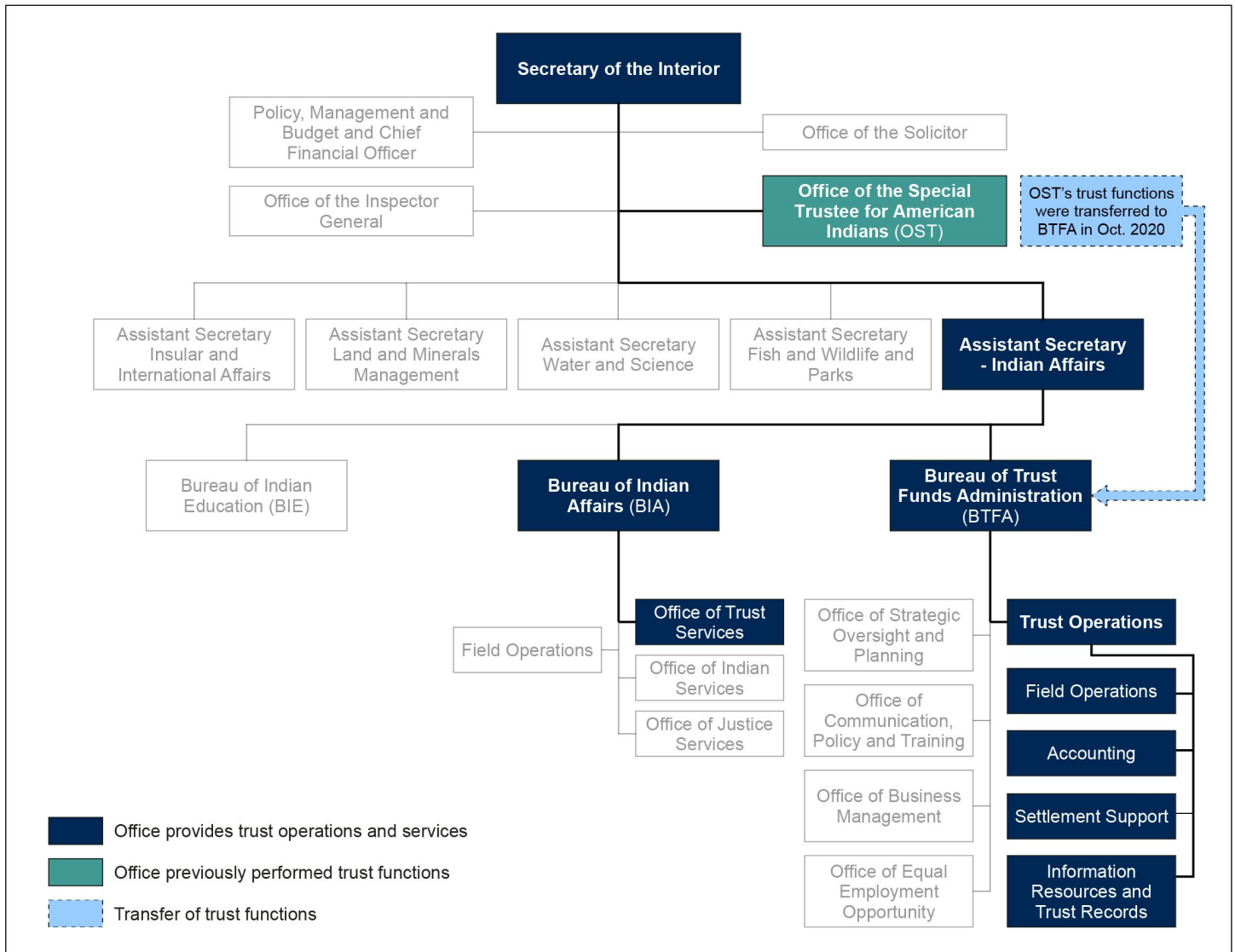
---

system, and manages the Trust Beneficiary Call Center, as well as other responsibilities. The Trust Operations office is divided into four separate divisions responsible for field operations, accounting, settlement support, and information resources and trust records.

Figure 2 shows the offices and bureaus within Interior that have been responsible for trust operations and services, including trust functions, since October 2020.



**Figure 2: Department of the Interior Offices and Bureaus Responsible for Trust Operations and Services to Tribes and Individual Indian Money Account Holders since October 2020**



Source: GAO analysis of U.S. Department of the Interior documents. | GAO-23-105356

Note: For the purposes of this report, we use trust operations and services to refer to the management of trust lands, trust funds (trust functions), assets and natural resources, and other trust-related operations and services. This figure highlights the offices within Interior responsible for various aspects of these trust operations and services.

---

## Relevant Laws

The 1994 Reform Act and ITARA contain several provisions regarding OST, including the following:

- **Strategic plan and proposed termination date for OST.** The 1994 Reform Act required the Special Trustee to prepare a comprehensive strategic plan that, among other things, identified all trust reforms<sup>21</sup> and included a date for the proposed termination of OST.<sup>22</sup> In identifying a proposed termination date in the comprehensive strategic plan, the Special Trustee was required to ensure OST's continuation until all reforms identified in the strategic plan had been implemented to the Special Trustee's satisfaction.<sup>23</sup>
- **Termination process for OST.** Section 302(c) of the 1994 Reform Act establishes the termination process for OST.<sup>24</sup> This process begins when the Special Trustee submits a notice to the Secretary of the Interior and Congress on OST's progress in implementing the reforms identified in the comprehensive strategic plan.<sup>25</sup> OST terminates 180 legislative days after submission of the notice, unless Congress extends the authorities of the Special Trustee.<sup>26</sup>
- **Transition plan and timetable for OST's termination.** Section 304 of ITARA required the Secretary to, among other things, submit a transition plan and timetable for OST's termination to relevant congressional committees by June 22, 2017, and to describe any OST functions that would be transitioned to other Interior bureaus

---

<sup>21</sup>25 U.S.C. § 4043(a)(2)(A). We define trust reforms as reforms to the policies, procedures, practices, and systems of Interior necessary to ensure the proper and efficient discharge of the Secretary's trust responsibilities.

<sup>22</sup>25 U.S.C. § 4043(a)(2)(C).

<sup>23</sup>25 U.S.C. § 4042(c)(1).

<sup>24</sup>We refer to this process as the statutory termination process.

<sup>25</sup>25 U.S.C. § 4042(c)(2). Section 302 requires the Special Trustee to submit this notice 30 days before the proposed termination date in the comprehensive strategic plan. Concurrently with submitting this notice, the Special Trustee may recommend the continuation or permanent establishment of OST, if the Special Trustee concludes that continuation or permanent establishment is necessary for the efficient discharge of the Secretary's trust responsibilities. We refer to this notice as the section 302 notice, which triggers the statutory termination process for OST.

<sup>26</sup>25 U.S.C. § 4042(c)(3).

---

before the OST termination date in the transition plan and timetable.<sup>27</sup> Section 304 of ITARA did not change the statutory termination process in the 1994 Reform Act and provided that, among other things, submission of this report would not cause OST to terminate.<sup>28</sup>

---

## Interior Followed Some, but Not All, Selected Leading Practices for Agency Reforms When It Transferred OST's Trust Functions to BTFA

When Interior created BTFA and transferred OST's trust functions to the new bureau, it followed some, but not all, leading practices for agency reforms, according to our analysis. As we noted above, we determined that it was appropriate to assess Interior's activities against the leading practices for agency reform because our analysis identified organizational changes after the transfer of OST's functions and staff to BTFA. For example, Interior's reporting structure changed; BTFA reports to the Assistant Secretary–Indian Affairs, whereas OST had reported directly to the Secretary of the Interior. Additionally, our analysis identified other organizational changes, including the establishment of an office and merger of other functions into a single office within BTFA.

After determining the appropriateness of comparing these changes to leading practices for assessing agency reforms, we compared Interior's actions during the transfer with leading reform practices we have identified in prior work and found that Interior generally followed selected leading practices related to implementing the reforms. However, Interior only partially followed selected leading practices related to goals and outcomes and the process for developing reforms, and did not follow leading practices related to strategically managing the federal workforce (see table 1).

---

<sup>27</sup>25 U.S.C. § 5634(a)(2),(3). We refer to the report required by ITARA section 304 as the section 304 report. Section 304 also required Interior to identify all functions, other than the collection, management, and investment of Indian trust funds, that OST performs independently or in concert with BIA or other federal agencies, specifically those functions that affect or relate to management of nonmonetary trust resources. 25 U.S.C. § 5634(a)(1).

<sup>28</sup>Section 304 required Interior to submit this report to Congress "notwithstanding sections 302 and 303 of the American Indian Trust Fund Management Reform Act of 1994" and provided that submission of the report would not cause OST to terminate or affect the application of sections 302 and 303 of the 1994 Reform Act. 25 U.S.C. §§ 5634(a), (c).

**Table 1: Assessment of the Department of the Interior’s Actions in Its Transfer of OST’s Trust Functions to BTFA Compared with Categories of Selected Leading Practices for Agency Reforms**

Leading practice category	Extent followed	Summary of analysis
Goals and Outcomes	partially followed	Interior’s secretarial order described how the transfer of OST’s trust functions to BTFA aligned with the agency’s mission and strategic plan.  Interior did not establish outcome-oriented goals or specific performance measures for the transfer.
Process for Developing Reforms	partially followed	Interior consulted Congress by providing some information related to its plans to transfer OST’s trust functions to BTFA.  Interior did not provide to Congress the data and evidence Interior used to justify its decisions on the establishment of the new bureau.
Implementing the Reforms	generally followed	Interior established a team responsible for managing and monitoring the planning and implementation of the transfer.
Strategically Managing the Workforce	Did not follow	Interior did not conduct strategic workforce planning before or during the transfer of OST’s trust functions to BTFA in 2020 or assess the effects of the transfer on the current or future workforce.

Legend:

- = Generally followed - Interior took actions that followed most or all aspects of the selected leading practices
  - ◐ = Partially followed - Interior took actions that followed some, but not most, of the selected leading practices
  - = Did not follow - Interior took no actions to follow selected leading practices
- OST = Office of the Special Trustee for American Indians  
BTFA = Bureau of Trust Funds Administration

Source: GAO analysis of agency actions. | GAO-23-105356

## Goals and Outcomes – Partially Followed

In the secretarial order establishing BTFA, Interior describes how the transfer of OST’s trust functions to BTFA aligns with the agency’s mission and strategic plan, but the agency did not subsequently establish outcome-oriented goals or performance measures specifically related to the transfer.<sup>29</sup> The order states that it “honors America’s trust responsibility to Tribes and individual Indians by creating BTFA” and that the overarching intention was to institutionalize management reforms and best practices and strengthen coordination efforts and management efficiencies by consolidating related functions into a new bureau under the Assistant Secretary–Indian Affairs. The order also notes that Interior sought to maintain the separation between trust fund management

<sup>29</sup>Secretarial Order 3384.

responsibilities and other trust services—the original goal for Interior’s first transfer of its trust functions from BIA to OST in 1996.

However, Interior did not develop outcome-oriented goals and performance measures for the transfer. According to leading practices for agency reforms, an agency should clearly identify what it is trying to achieve by establishing specific outcome-oriented goals and performance measures.<sup>30</sup> Doing so enables the agency to periodically conduct fundamental reviews of programs and policy areas to ensure that they continue to meet current goals and emerging trends. BTFA officials told us they did not create outcome-oriented goals and specific performance measures to evaluate the transfer of OST’s trust functions to BTFA because they did not believe the transfer of functions was a major reform that changed operations or services. However, our analysis shows that the transfer constituted an agency reform, in part because it included an organizational change.

Although Interior did not develop goals and measures specifically for the transfer, it has existing goals and performance measures that could allow it to assess the effects of the transfer on its fiduciary trust responsibilities to its beneficiaries. However, Interior has not evaluated whether the existing goals and performance measures it used for OST would allow it to conduct this assessment. The department has relied primarily on the same overarching goal and three performance measures since at least 2014, when OST was responsible for managing the trust funds. For example, BTFA’s 2022 goal was to fulfill its fiduciary trust responsibility and included the following performance measures and related targets:

- initially process 99.5 percent of beneficiaries’ financial information accurately in trust accounts,
- record 99 percent of oil and gas revenue in BTFA’s accounting system within 24 hours of receipt, and
- provide financial account information to beneficiaries in a timely manner 100 percent of the time.<sup>31</sup>

---

<sup>30</sup>[GAO-18-427](#).

<sup>31</sup>U.S. Department of the Interior, *FY2021-2022 Annual Performance Plan*. BTFA met these three performance measures in 2021, the most recent year assessed as of December 2022, according to Interior’s annual performance report for 2021. U.S. Department of the Interior, *FY2021 Annual Performance Report* (Nov. 16, 2022).

---

However, Interior has not evaluated these goals and performance measures to determine whether they are still appropriate since it transferred OST's fiduciary trust functions to BTFA. BTFA officials stated that they plan to, as part of their strategic planning process, develop goals and review existing performance measures after Congress approves of the new bureau. By doing so now, rather than awaiting congressional approval of BTFA, Interior would be better able to assess any effect of the transfer on its ability to carry out its fiduciary trust responsibilities to beneficiaries.

---

### Process for Developing Reforms – Partially Followed

Interior consulted Congress by providing some information related to its plans to transfer OST's trust functions to BTFA, but it did not provide the data and evidence it used to justify the establishment of the new bureau, according to our analysis and joint explanatory statements accompanying Interior's annual appropriations. Between 2017 and 2020, Interior provided Congress with some documents such as reports explaining Interior's evolving plans for the future of OST's trust functions—these plans eventually included the creation of BTFA. In 2021, Interior also provided congressional committees with a document that it described as a workforce analysis that presented Interior's justification for continuing all OST positions after the creation of BTFA. It stated that there was no duplication with other positions in Interior, such as in BIA. However, we reviewed this document and found that it did not include an analysis of the skills and competencies needed to achieve current and future program goals. It also did not include long-term strategies for recruiting and retaining staff to address decreases in workforce and achieving program goals. Agency officials acknowledged to us that this document was not a full strategic workforce analysis.

Interior also has not provided the data and evidence to justify its decision to Congress, in part because it has not provided certain information and documents that congressional committees requested related to Interior's planning and implementation of BTFA. For example, congressional appropriations committees have repeatedly stated that Interior has not provided them with sufficient information to evaluate the decision to create BTFA and transfer OST's trust functions to the new bureau.<sup>32</sup> In

---

<sup>32</sup>166 Cong. Rec. H8311, H8536-H8537 (Dec. 21, 2020); 168 Cong. Rec. H2477, 2488 (Mar. 9, 2022).

addition to not providing a full strategic workforce analysis, as previously mentioned, Interior has not provided the following information:

- Statutorily required annual reports on OST's progress in implementing reforms, as required by the 1994 Reform Act.<sup>33</sup> Interior has not submitted any of these reports since 2016, when it began taking steps to transfer OST's trust functions.
- A full accounting of expenses associated with the transfer. Interior did not track expenses spent specifically on the creation of BTFA and, therefore, did not have the documentation, according to a letter from Interior to congressional appropriations committees.
- Documentation of the data and evidence that Interior used to develop and justify the transfer. Agency officials told us that most directives were provided verbally and, therefore, they do not have certain planning documentation.

Our prior work has shown that it is important for agencies to consult with Congress and use data and evidence in the development of proposed reforms.<sup>34</sup> Without documentation that contains the data and evidence that Interior used to develop and justify its decisions and proposed changes, Interior faces challenges in providing Congress with the information to support its decision to create BTFA and transfer OST's trust functions, which are essential to the continued and proper discharge of the Secretary's trust responsibility.

---

## Implementing the Reforms – Generally Followed

When Interior officials began planning for the transfer of trust functions from OST to BTFA, they designated leaders responsible for planning and implementing the transfer to manage and monitor the reform. The agency's actions align with leading practices for implementing reforms, which emphasize that an agency should establish a dedicated team that can manage the planning and implementation of the transfer, including developing a case for the transfer and a timeline for implementing the

---

<sup>33</sup>25 U.S.C. § 4043(f).

<sup>34</sup>[GAO-18-427](#).

transfer. The leading practices also call for an agency to ensure continued delivery of services while implementing the reform.<sup>35</sup>

- **Establishing a dedicated team.** In 2017, the Principal Deputy Special Trustee of OST was assigned responsibility for planning the transfer of OST's trust functions to the Assistant Secretary–Indian Affairs, according to a senior agency official.<sup>36</sup> After Interior proposed the trust functions be moved to a new bureau under the Assistant Secretary–Indian Affairs, the Secretary delegated responsibility for OST's trust functions to the current Director of BTFA and responsibility for implementing the transfer to two Assistant Secretaries, according to the secretarial order that established BTFA.<sup>37</sup>
- **Developing a case.** The secretarial order establishing BTFA stated Interior's case for establishing the new bureau and transferring OST's trust functions to BTFA. Specifically, it said the new bureau was created to institutionalize management reforms and best practices, as well as to strengthen coordination efforts and management efficiencies by consolidating related functions under the Assistant Secretary–Indian Affairs.
- **Ensuring continued delivery of services.** The Trust Beneficiary Call Center continues to provide beneficiary services such as updating addresses for accounts, noting when beneficiaries are deceased, and performing routine file maintenance, according to documentation and agency officials.
- **Developing a timeline.** In 2019, agency officials developed a timeline for implementation of the transfer of OST's trust functions to BTFA that included a phased approach for operations, consistent with the agency reforms practice to develop an implementation plan with milestones and time frames. The timeline was used during the transfer in 2020 and, according to agency officials, is still being updated.

---

<sup>35</sup>[GAO-18-427](#).

<sup>36</sup>When BTFA was established, the Principal Deputy Special Trustee became the Director of BTFA.

<sup>37</sup>Secretarial Order 3384.



---

## Strategically Managing the Federal Workforce – Not Followed

Interior did not conduct strategic workforce planning before or during the transfer of OST's trust functions to BTFA in 2020 or assess the effects of the transfer on its current or future workforce. Furthermore, according to agency officials, Interior has not completed a full strategic workforce analysis of OST since it first transferred the trust functions from BIA in 1996. Although Interior provided a document to congressional committees that it described as a workforce analysis, as mentioned above, our review found that it was not a full strategic workforce analysis.

According to BTFA officials, the agency did not conduct strategic workforce planning because the transition of OST's trust functions to BTFA did not change operations or beneficiary services. However, we found that decreases in funding and workforce may have affected some services to beneficiaries both before and after the transition of OST's trust functions to BTFA, according to our review of agency documentation and interviews with agency officials. Specifically, OST's appropriations decreased by about 14 percent (\$20 million) from fiscal year 2017 to 2018, then decreased by about 7 percent (almost \$8 million) from fiscal year 2018 to 2019, according to our analysis of appropriations.<sup>38</sup> In addition, OST's workforce decreased by about 23 percent from January 2017 to January 2020, according to our analysis of Federal Personnel and Payroll System data.<sup>39</sup>

The decrease in the workforce was primarily a result of retirements and buyouts made necessary by funding cuts and was not related to the transfer of trust functions, according to BTFA officials. As a result of the decrease in the workforce, OST reduced financial literacy and other outreach services that it previously provided in person, although BTFA still offers some services virtually. The decrease in OST's funding reduced agency travel budgets, which further limited officials' ability to provide in-person services to beneficiaries, according to BTFA officials. Agency officials considered how to consolidate and more efficiently use

---

<sup>38</sup>The almost \$8 million decrease in OST's fiscal year 2019 appropriation occurred after Interior moved the appraisal function for Indian lands from OST to the Office of the Assistant Secretary–Policy, Management, and Budget in 2018.

<sup>39</sup>This percentage decrease excludes the Office of Appraisals staff who were moved from OST in 2018 to a new office in the Office of the Assistant Secretary–Policy, Management, and Budget.

---

field staff, according to agency documentation. However, they told us that competing priorities prevented them from addressing the effects of this decrease on their workforce.

Furthermore, some tribal officials we interviewed told us about ongoing challenges in accessing OST and BTFA staff for assistance with certain trust services. For example, BTFA provides beneficiaries with some information, such as how to contact the Trust Beneficiary Call Center, through a letter it sends a beneficiary when a new trust account is established, according to agency documents. The call center receives about 13,000 calls a month and continues to be the primary method by which beneficiaries connect with BTFA, according to BTFA officials. However, some tribal officials we spoke with noted that certain trust services should be provided at the local level because beneficiaries are often more comfortable speaking in person with agency officials about their trust accounts. Instead of using the call center, they may approach a BIA official in the field or tribal official for assistance. However, according to agency officials, some BIA officials do not have full access to data from BTFA's call center and, therefore, may not be able to assist them. Agency officials told us that staffing and workload issues continue to be challenges as the demand for beneficiary services continues to increase.

Our prior work shows that strategic workforce planning should precede any staff realignments or downsizing so that any changes in staff levels do not inadvertently produce skills gaps or other adverse effects that could result in increased use of overtime and contracting. For example, it is important to determine whether an agency will have the needed resources and capacity in place for proposed reforms and to assess the effects of the transfer on the current and future workforce. However, Interior has not developed a strategic workforce plan for BTFA, even as staffing and funding for carrying out its trust responsibilities has decreased while beneficiary demand increases. BTFA officials said that as of September 2022, they were conducting internal negotiations to contract out a full workforce analysis of BTFA, which they said they intend to start in 2023. By developing a strategic workforce plan for the staff responsible for carrying out functions related to Interior's management of trust funds, Interior will better understand the resources and workforce it needs to carry out its trust functions and provide services to beneficiaries.

## Interior Has Not Begun the OST Termination Process or Provided Statutorily Required Information to Congress

Interior transferred OST’s trust functions to BTFA but has not submitted either the section 302 notice to Congress that would begin the statutory termination process for OST or the transition plan and timetable required by section 304 of ITARA.<sup>40</sup> Table 2 describes the section 302 notice and section 304 report requirements and the status of Interior’s actions to address those requirements.

**Table 2: Statutory Requirements Related to OST’s Termination and the Status of Interior’s Actions**

Statute	Requirements	Status
Section 302(c)(2) of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. § 4042(c)(2))	Thirty days prior to the proposed termination date in the comprehensive strategic plan, the Special Trustee must notify the Secretary of the Interior and Congress of the progress in implementing the reforms identified in the strategic plan. If the Special Trustee concludes that continuation or permanent establishment of OST is necessary for the efficient discharge of the Secretary’s trust responsibilities, the Special Trustee may recommend the continuation, or permanent establishment, of OST concurrently with submitting this required notice.	Not submitted as of March 2023
Section 304 of Indian Trust Asset Reform Act (25 U.S.C. § 5634(a))	By June 22, 2017, the Secretary of the Interior must identify for relevant congressional committees all functions, other than the collection, management, and investment of Indian trust funds, that OST performs independently or in concert with BIA or other federal agencies, specifically those functions that affect or relate to management of nonmonetary trust resources.	Provided on January 18, 2017

<sup>40</sup>As previously described, section 302(c)(2) of the 1994 Reform Act requires the Special Trustee to submit a notice to the Secretary and Congress 30 days before the proposed termination date in the comprehensive strategic plan that the Special Trustee prepared. 25 U.S.C. § 4042(c)(2). The Special Trustee prepared and submitted a comprehensive strategic plan in 1997 that provided for implementation of reforms over a 2-year period and proposed terminating OST 30 days after trust management responsibilities, duties, and activities were transferred to a new, independent, government-sponsored entity. This proposed termination date was inconsistent with section 302, which required the Special Trustee to propose a termination date for OST in the comprehensive strategic plan that ensured continuation of OST until all reforms identified in the strategic plan have been implemented to the satisfaction of the Special Trustee. 25 U.S.C. § 4042(c)(1). However, this transfer never occurred because Interior did not have the statutory authority to create such an entity. According to agency documentation, the Secretary did not approve the plan, in part because of the lack of statutory authority to implement all the reforms that the plan identified. The 1994 Reform Act did not give the Secretary the authority to approve or disapprove of the plan.

---

Letter

Statute	Requirements	Status
Section 304 of Indian Trust Asset Reform Act (25 U.S.C. § 5634(a))	By June 22, 2017, the Secretary of the Interior must submit to relevant congressional committees a transition plan and timetable for the termination of OST. <sup>a</sup>	Not provided as of March 2023
Section 304 of Indian Trust Asset Reform Act (25 U.S.C. § 5634(a))	By June 22, 2017, the Secretary of the Interior must describe for relevant congressional committees any functions of OST that will be transitioned to other bureaus or agencies within Interior prior to the termination date in the transition plan and timetable.	Provided on March 27, 2020

Legend: BIA=Bureau of Indian Affairs; OST=Office of the Special Trustee for American Indians

Source: Federal statutes and U.S Department of the Interior documents. | GAO 23-105356

<sup>a</sup>Section 304 required the transition plan and timetable to provide for OST's termination not later than 2 years after its submission unless the Secretary of the Interior determines that an orderly transition cannot be accomplished within 2 years. If the Secretary makes such a determination, the report is to include a statement of all reasons why the transition cannot be effected within 2 years and an alternative date for completing the transition.

Interior has not provided the section 302 notice to Congress because, under the Office of the Solicitor's interpretation of section 302, doing so would trigger the statutory termination process, which would leave Interior without a congressionally approved office to manage trust functions.<sup>41</sup>

According to the Office of the Solicitor's interpretation of the 1994 Reform Act:

- the statutory process for terminating OST begins after the Special Trustee determines that the reforms have been satisfactorily implemented and/or when the Special Trustee concludes that the continuation or permanent establishment of OST is necessary for the efficient discharge of the Secretary's trust responsibilities,<sup>42</sup> and

---

<sup>41</sup>In Interior's view, the comprehensive strategic plan has no legal relevance because the Secretary of the Interior did not approve the plan. The 1994 Reform Act did not authorize the Secretary to approve or object to the Special Trustee's comprehensive strategic plan.

<sup>42</sup>If the Special Trustee concludes that continuation or permanent establishment of OST is necessary for the efficient discharge of the Secretary's trust responsibilities, section 302 provides that the Special Trustee may recommend the continuation or permanent establishment of OST concurrently with the submission of the section 302 notice. See 25 U.S.C. § 4042(c)(2).

- once that determination has been made, the Special Trustee is to prepare a notice on the reforms undertaken or overseen by OST that includes a recommendation on whether to continue OST.<sup>43</sup>

According to this interpretation, submission of this notice would trigger the statutory termination process.

Although Interior has indicated that it expects to submit the section 302 notice, it has not done so because of concerns about the lack of congressional approval of BTFA and an appropriation for BTFA. Specifically, Interior stated in a March 2020 letter to congressional appropriations committees that it expected to notify Congress in the near future that the OST-led reforms were complete (i.e., submit the section 302 notice).<sup>44</sup> However, as of March 2023, Interior had not submitted the section 302 notice, and the statutory termination process had not begun.

It is Interior's view that submission of the section 302 notice at this time, absent congressional approval of BTFA and appropriation of funding for BTFA rather than OST, risks triggering the statutory termination process. Congressional committee reports and joint explanatory statements accompanying Interior's annual appropriations for fiscal years 2021 through 2023 have rejected BTFA's creation.<sup>45</sup> If Interior submits the section 302 notice, OST would terminate after 180 legislative days. According to Interior's Office of the Solicitor, once OST is terminated, OST's appropriation may no longer be available for use by BTFA. Without an appropriation for trust fund management, the United States could potentially be in breach of its trust duties to Tribes and individual Indians, according to Interior's Office of the Solicitor.<sup>46</sup>

---

<sup>43</sup>The Special Trustee position has been vacant since January 20, 2017, and the Principal Deputy Special Trustee position has been vacant since October 11, 2020. Interior's Reorganization Plan No. 3 of 1950 transfers to the Secretary of the Interior all functions of all other officers of the Department of the Interior. Under this plan, the Secretary has the authority to submit this section 302 notice if the Special Trustee and Principal Special Deputy Trustee positions are vacant.

<sup>44</sup>Interior submitted its March 2020 letter in response to the reporting requirement in section 304 of ITARA.

<sup>45</sup>H.R. Rep. No. 116-448, at 70 (2020); 166 Cong. Rec. H8311, H8537 (Dec. 21, 2020); H.R. Rep. No. 117-83, at 66 (2021); 168 Cong. Rec. H2477, H2488 (Mar. 9, 2022); H.R. Rep. No. 117-400, at 70 (2022); 168 Cong. Rec. S8553, S8654 (Dec. 20, 2022).

<sup>46</sup>For the purposes of this report, GAO does not take a position with respect to the Solicitor's interpretation of the availability of the OST appropriation.

Interior's interpretation of the statutory termination process has also prevented the agency from submitting the transition plan and timetable for OST's termination required by ITARA section 304 to relevant congressional committees. Specifically, section 304 of ITARA required the Secretary of the Interior to submit a report about OST to relevant congressional committees by June 22, 2017, but Interior's response did not include the required transition plan and timetable for the termination of OST.<sup>47</sup> Section 304 did not change the statutory termination process in section 302 of the 1994 Reform Act, and it specifically provided that submission of this report would not cause OST to terminate.<sup>48</sup>

However, Interior did not submit the transition plan or timetable in any of the three letters it sent to the relevant congressional committees in response to section 304 because of the statutory termination process in section 302 of the 1994 Reform Act, according to Interior documents. Specifically, in its final letter, which it sent in March 2020, Interior stated that it did not include these elements because section 302 mandates a process to terminate OST.<sup>49</sup> The letter stated that ITARA section 304 specifically reaffirms the ongoing application of section 302 of the 1994 Reform Act; therefore, section 302 continues to apply to any proposal to terminate OST.

As long as the statutory termination process in section 302(c) of the 1994 Reform Act remains as it is, Interior may not provide all of the information about BTFA that congressional committees have requested. As a result, Congress may not receive the information from Interior that it needs to make decisions regarding OST and future management of the trust funds.

---

<sup>47</sup>25 U.S.C. § 5634(a)(3). Section 304 required the transition plan and timetable to provide for OST's termination to occur not later than 2 years after submission of the report, unless the Secretary determined that an orderly transition could not be accomplished within 2 years. If the Secretary made such a determination, the report was to include an alternative date for completing the transition and include a statement of all reasons why the transition could not be effected within 2 years.

<sup>48</sup>25 U.S.C. § 5634(c). Section 304 also provided that submission of the section 304 report would not affect the application of sections 302 and 303 of the 1994 Reform Act and required Interior to submit the report to Congress "notwithstanding sections 302 and 303 of the American Indian Trust Fund Management Reform Act of 1994." 25 U.S.C. § 5634(c)(2), (a).

<sup>49</sup>The first letter, sent in January 2017, did not include a transition plan and timetable because it said that OST would continue as a single entity within the Office of the Secretary. The second letter, sent in June 2017, did not contain a transition plan and timetable because it said the agency was considering the appropriate location within Interior for placement of OST's functions.

---

Such decisions include whether OST has completed its trust reforms, whether OST should be terminated, and whether Congress should approve the creation of BTFA to handle trust functions.

---

## The Bureaus Have Not Followed Certain Leading Collaboration Practices, Hampering Their Ability to Manage Overlap in Trust Operations and Services

We identified fragmentation of responsibilities and overlap in operations and services between BTFA's Trust Operations office and BIA's Office of Trust Services, but we did not find evidence of duplication. While the bureaus generally collaborate to carry out overlapping operations and services, Interior has not routinely monitored or updated primary guidance to clarify each bureau's roles and responsibilities. This lack of updated guidance hampers BTFA and BIA's ability to manage overlap in trust operations and services.

---

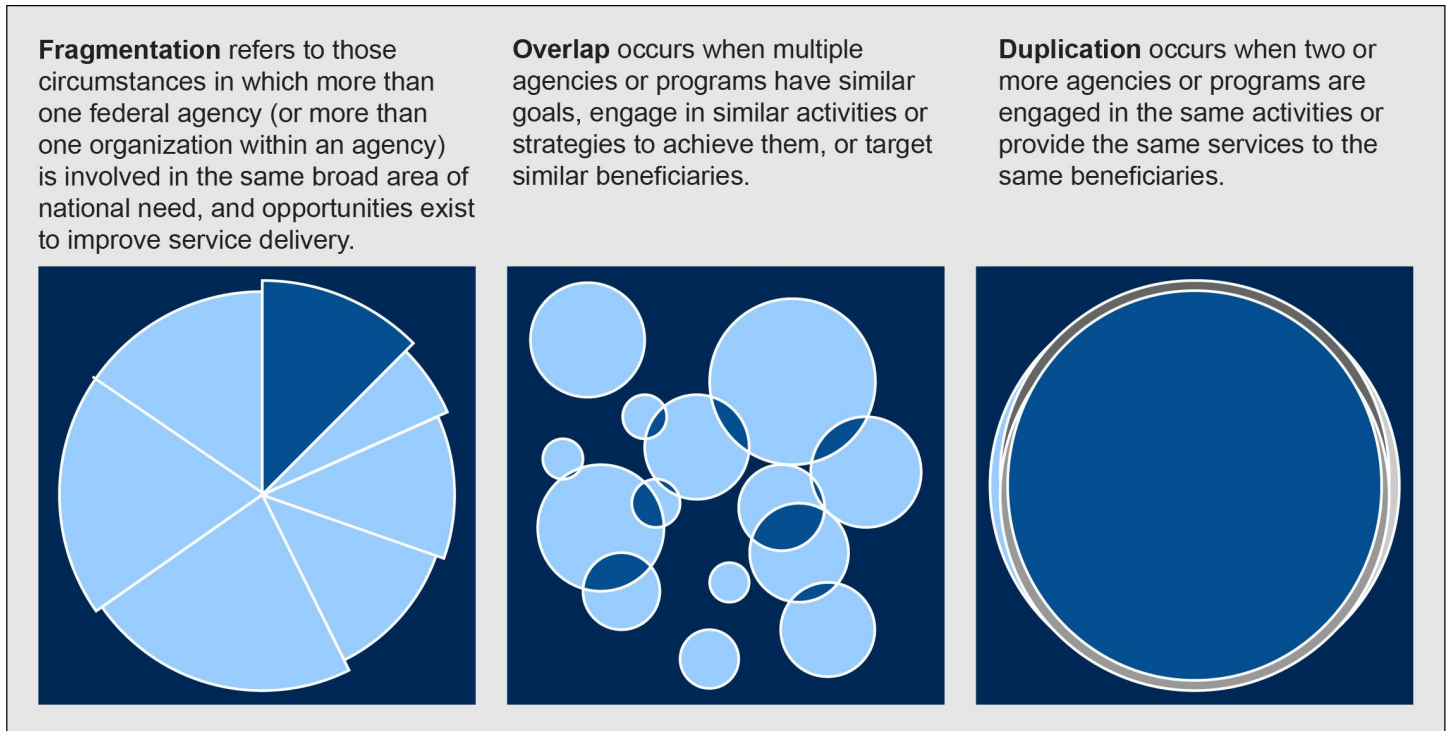
### BTFA and BIA's Office of Trust Services Responsibilities Are Fragmented, and Some Operations and Services Overlap

In our review of BTFA and BIA's Office of Trust Services, we did not find duplication, but we did identify fragmentation of responsibilities and overlap in operations and services, with different potential effects. Figure 3 provides the definitions of fragmentation, overlap, and duplication, according to our prior work.<sup>50</sup>

---

<sup>50</sup>[GAO-15-49SP](#).

**Figure 3: GAO Definitions of Fragmentation, Overlap, and Duplication**



Source: GAO. | GAO-23-105356

We have also previously reported that fragmentation, overlap, and duplication can result in both positive and negative effects, which can be managed through a variety of strategies, including planning and collaboration.<sup>51</sup>

In our review of BTFA and BIA's Office of Trust Services, we found that the fragmentation in responsibilities was deliberate and potentially positive. Specifically, we identified fragmentation in responsibilities for trust operations and services between BTFA and the Office of Trust Services.<sup>52</sup> This fragmentation originated in 1996, when Interior intentionally divided responsibility for these operations and services between BIA and OST in response to congressional direction and to address historic concerns with BIA's management of trust funds. As

<sup>51</sup>GAO-15-49SP.

<sup>52</sup>For the purposes of this report, operations and services refers, collectively, to the management of trust funds (trust functions) and the management of trust lands, which includes processing royalties and payments generated by land held in trust.



described earlier, Interior assigned OST responsibility for trust functions (i.e., managing trust funds), while leaving BIA with responsibility for managing trust lands and processing revenue generated from trust assets.

When Interior transferred OST's trust functions to BTFA in 2020, it did not change BIA's responsibility for land management. This fragmentation of responsibilities had positive effects, according to our review of Interior documentation. A 2017 memorandum from the Solicitor to the Secretary said that OST's independence from other Indian Affairs programs was directly responsible for the significant improvements that OST made to the management of tribal and individual trust fund accounts. In the memorandum, the Secretary agreed with the Solicitor's recommendation to maintain the division between the management of trust funds and the management of physical assets.

We also identified areas of overlap between some of BTFA and BIA's Office of Trust Services' operations and services. For example, both BIA and BTFA are involved in the probate process when a beneficiary dies, with each bureau having distinct roles and responsibilities regarding the process. For example, BIA initiates the probate process, while BTFA is responsible for disbursing trust funds to eligible recipients after Interior probates a deceased Indian's estate.<sup>53</sup> BTFA and BIA officials explained that they understand their roles and responsibilities in instances where the two bureaus' activities overlap when carrying out an operation or service.

We also identified overlapping activities in BTFA and BIA's Office of Trust Services' provision of trust services to the same group of beneficiaries, with potential negative effects, particularly at the field office level. BIA officials told us that staff in the field sometimes resolve beneficiary requests about trust accounts that are the primary responsibility of BTFA, which can increase workload for BIA staff. BTFA and BIA officials explained that they do this in order to better serve beneficiaries by answering their questions more promptly rather than directing the beneficiary to another staff member. However, because this is primarily BTFA's responsibility, some BIA staff do not have full access to data from BTFA's call center and are sometimes unable to effectively resolve a beneficiary's request, according to agency officials. For example, BIA

---

<sup>53</sup>Interior's probate jurisdiction is limited to IIM accounts and trust and restricted fee Indian property. Eligible recipients include those designated in a beneficiary's will.

officials told us that if the call center transfers a beneficiary to them, BIA staff cannot see what information the call center has already provided to the beneficiary, making it more difficult to provide assistance or effectively address a beneficiary’s request.

Figure 4 shows the responsibilities of BIA’s Office of Trust Services and BTFA’s Trust Operations office and identifies operations and services where overlap occurs.

**Figure 4: Bureau of Trust Funds Administration (BTFA) and Bureau of Indian Affairs (BIA) Trust Responsibilities, Operations, and Services**

Bureau of Trust Funds Administration Trust Funds Operations	Bureau of Indian Affairs Office of Trust Services
Responsible for financial management of tribal and Individual Indian Money (IIM) trust fund accounts <ul style="list-style-type: none"> <li>• Receive and invest trust funds</li> <li>• Disburse trust funds and interest to beneficiaries</li> <li>• Provide accounting, oversight, and reporting of trust funds</li> </ul>	Responsible for the management and regulation of trust assets on Indian lands <ul style="list-style-type: none"> <li>• Assist beneficiaries with management, development, and protection of trust lands and resources</li> <li>• Process and transfer royalties and payments from trust lands<sup>a</sup></li> </ul>
<b>Overlapping operations and services</b> <ul style="list-style-type: none"> <li>• Provide beneficiaries with information on trust accounts</li> <li>• Assist beneficiaries with probate process</li> <li>• Manage trust documentation</li> </ul>	

Source: GAO analysis of U.S. Department of the Interior documents. | GAO-23-105356

<sup>a</sup>Interior’s Office of Natural Resources Revenue collects royalties from trust lands, and BIA processes these royalties. In addition, BIA’s Office of Trust Services collects payments from trust lands and transfers these payments to BTFA.

## BTFA and BIA’s Office of Trust Services Followed Some, but Not All, Leading Practices for Collaboration, Hampering Their Management of Overlapping Operations and Services

While BTFA and BIA’s Office of Trust Services have taken some steps to collaborate on areas of overlap in trust operations and services, we found that they followed some, but not all, selected leading practices for collaboration. Leading collaboration practices include defining leadership, including all relevant participants to facilitate collaboration, clarifying roles

and responsibilities of those involved, and documenting collaboration through written guidance and agreements, according to our prior work.<sup>54</sup>

In our analysis of agency documents and interviews with agency officials, we found that BTFA and BIA's Office of Trust Services have followed two of four selected leading practices for collaboration:

- **Defining leadership.** Both bureaus report to the Assistant Secretary–Indian Affairs, which oversees collaboration efforts across Interior.
- **Including all relevant participants.** BIA and BTFA included relevant participants in the various collaborative mechanisms they use to manage fragmented responsibilities and overlapping operations and services. These mechanisms include memorandums of understanding, regular meetings, and participation in intra-agency groups. For example, BTFA recently created a Systems Change Board, which includes senior management from both BTFA and BIA, to coordinate on improving shared access to trust accounting and beneficiary services databases, according to agency officials.<sup>55</sup>

However, our analysis found that the bureaus did not follow the other two selected leading practices: (1) documenting collaboration through written guidance and agreements and routinely monitoring and updating this documentation, and (2) clarifying the roles and responsibilities of those involved.

While Interior has comprehensive written collaboration guidance that outlines OST and BIA's roles and responsibilities, it has not monitored or updated this guidance since 2002. As a result, the written guidance currently in use predates the transfer of trust functions from OST to BTFA and does not reflect the current roles, responsibilities, and activities of BTFA or how BIA and BTFA are to collaborate with one another, according to our analysis of the guidance. For example, the guidance

---

<sup>54</sup>[GAO-12-1022](#).

<sup>55</sup>BTFA also coordinates with other entities within Interior on related matters, including through the Indian Energy Service Center, which includes senior management from BTFA, BIA, the Bureau of Land Management, and the Office of Natural Resources Revenue. The service center is intended to expedite the leasing, permitting, developing, and reporting of mineral, energy, and renewable energy development on Indian trust lands. GAO has previously reported on the service center. For example, see GAO, *Indian Energy Service Center: Support Activities Have Been Provided, but Goals and Performance Measures Should Be Defined*, [GAO-22-103514](#) (Washington, D.C.: Mar. 10, 2022).

does not include important current roles and activities, including the following:

- The administration of the Trust Beneficiary Call Center, which allows beneficiaries to call a toll-free number and request information about their trust assets
- Fiduciary Trust Officers, who are responsible for providing beneficiary services and collaborating with other Interior staff to help ensure that the management of trust assets promotes the interest of beneficiaries.

According to BTFA officials, while updating this collaboration guidance has not been a priority, the bureau has begun the process of updating it. However, the BTFA officials said this process could take years because of the complexity of the guidance. For example, the current guidance spans nearly 200 pages and outlines in specific detail how each bureau is to coordinate with the other regarding trust operations and services.

Interior also has not clarified the roles and responsibilities of BTFA and BIA's Office of Trust Services, leading to confusion among agency officials, particularly regarding BTFA's responsibilities, according to some BIA officials. As described above, Interior's collaboration guidance was last updated in 2002, so it does not reflect the transfer and continuation of OST's trust functions to BTFA in 2020. For example, the guidance outlines OST's responsibility for records management, including establishing records policies, for all records related to trust accounts. However, this responsibility was among those transferred to BTFA in 2020. Because the guidance has not been updated to reflect this change, some BIA officials told us that they were uncertain whether BTFA maintains this responsibility. They also told us that because it is unclear who is responsible for developing records policy, BIA officials have developed their own programs and guidance related to records management. However, BTFA officials raised concerns about BIA's authority to develop and implement its own records policies. BIA officials confirmed that updated or additional guidance from BTFA would be helpful in resolving this confusion.

The resulting confusion and overlap in activities have increased workload for some staff in BIA's Office of Trust Services, according to agency officials, which could affect BIA's ability to perform operations and provide services to beneficiaries for which they are primarily responsible. Furthermore, some tribal officials with whom we spoke expressed concerns about BIA's ability to efficiently provide trust services, which could be affected by BIA officials unnecessarily performing some BTFA

activities. By monitoring and updating its written collaboration guidance for BTFA and BIA's Office of Trust Services, including clarifying the roles and responsibilities of each bureau, Interior would have better assurance that the bureaus are effectively collaborating on trust services to meet their fiduciary trust responsibilities to beneficiaries.

---

## Conclusions

When Interior transferred functions related to managing the more than \$8 billion that Interior holds in trust for Tribes and individuals from OST to BTFA, it followed some, but not all, leading practices for agency reforms. For example, Interior did not provide the data and evidence it used to justify its decision to create BTFA; fully consult with Congress, such as by providing information and documents that congressional committees have requested; develop specific goals and performance measures for the transfer; or conduct strategic workforce planning. Without following these leading practices, Interior faces challenges in providing Congress with information to support its establishment of BTFA, developing the information that Interior needs to assess whether it is meeting its goals for managing trust funds and related services, and ensuring that it has the resources and workforce it needs to carry out its trust responsibilities and to provide services to beneficiaries.

In addition, as of March 2023, Interior had not provided Congress with the section 302 notice that would trigger the statutory termination process for OST. Interior cited the lack of congressional approval for BTFA as the reason for not providing the section 302 notice. Interior also did not provide relevant congressional committees with a statutorily required transition plan and timetable for OST's termination because of the statutory termination process in section 302. Unless Congress amends the statutory termination process in section 302(c) of the 1994 Reform Act, Congress may not receive the information from Interior that it needs to make decisions related to OST's trust reforms, OST's termination, and the creation of BTFA.

Finally, Interior has not routinely monitored and updated its collaboration guidance, which hampers BTFA and BIA's Office of Trust Services' ability to collaborate to manage overlap in their trust operations and services. By updating its written collaboration guidance for BTFA and BIA's Office of Trust Services, including clarifying the roles and responsibilities of each bureau, Interior would better enable the bureaus to collaborate on trust services to meet their fiduciary trust responsibilities to beneficiaries.

---

## Matter for Congressional Consideration

Congress should consider amending section 302(c) of the American Indian Trust Fund Management Reform Act of 1994 to provide that the Department of the Interior's report on OST's reforms does not trigger the statutory termination process for OST. (Matter for Consideration 1)

---

## Recommendations for Executive Action

We are making the following four recommendations to Interior:

The Assistant Secretary–Indian Affairs should review current and planned performance measures for Interior's management of trust funds and establish clearly defined performance measures for fulfilling its fiduciary trust responsibility and managing trust funds and related services to beneficiaries. (Recommendation 1)

The Assistant Secretary–Indian Affairs should collect and document the data and evidence it used in deciding to transfer OST's trust functions to BTFA and provide to Congress a report containing the information and the reasoning behind the decision. (Recommendation 2)

The Assistant Secretary–Indian Affairs should develop a strategic workforce plan for the staff responsible for carrying out functions related to Interior's management of trust funds. (Recommendation 3)

The Assistant Secretary–Indian Affairs should routinely monitor and update BTFA and BIA's Office of Trust Services' collaboration guidance, including clarifying roles and responsibilities. (Recommendation 4)

---

## Agency Comments and Our Evaluation

We provided a draft of this report to Interior for review and comment. In its written comments, reproduced in appendix II, Interior concurred with three of our four recommendations and partially concurred with one. Specifically, Interior partially concurred with our recommendation that Interior collect and document the data and evidence it used in deciding to transfer OST's trust functions to BTFA, and provide to Congress a report containing the information and the reasoning behind the decision. Interior commented that it had provided Congress with the information it was

seeking regarding the transfer and that it believed no further action was warranted. While Interior provided Congress with some information, as we discuss in our report, we found that it did not provide all the information Congress requested. For example, Interior has not provided Congress with the data and evidence used to develop and justify the transfer. In its comments, Interior told us it provided information to congressional appropriations staff on February 15, 2023. We reviewed this information and found that it also did not include the information Congress requested. Since Congress continues to seek information to help it identify the best approach for continuing to provide trust services to Tribes and beneficiaries, we continue to believe that Interior should take steps to implement the recommendation.

Interior also provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the relevant congressional committees; the Secretary of the Interior; and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

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



Anna Maria Ortiz  
Director, Natural Resources and Environment

## Appendix I: Objectives, Scope, and Methodology

The joint explanatory statement accompanying the Consolidated Appropriations Act, 2021, contains a provision that we examine whether any duties, activities, or functions performed by the U.S. Department of the Interior's Office of the Special Trustee (OST) are duplicative, overlap, or result in fragmentation with duties, activities, or functions performed by Indian Affairs.<sup>1</sup> In consultation with congressional committees, we were also asked to examine the transition of OST to the Bureau of Trust Funds Administration (BTFA) and the status of OST's termination. In this report, we examine (1) the extent to which Interior followed selected leading practices for agency reforms during the transition from OST to BTFA; (2) the status of OST's termination; and (3) potential duplication, overlap, or fragmentation of roles and responsibilities between BTFA and the Bureau of Indian Affairs' (BIA) Office of Trust Services and the extent to which the bureaus have collaborated to manage any duplication, overlap, or fragmentation.<sup>2</sup>

To address all three objectives, we reviewed documents and reports from Interior and interviewed senior agency officials. Specifically, we reviewed Interior's Secretarial Orders establishing the offices responsible for carrying out trust functions, as well as the agency's budget justifications, annual reports, and letters provided to congressional committees regarding the status of OST and BTFA. We also reviewed Interior's annual appropriations acts for fiscal years 2016 through 2023 to identify appropriations for OST.

We also interviewed Interior officials and representatives of Tribes and tribal organizations. Specifically, we interviewed senior officials in headquarters, including from Interior's Office of the Solicitor, BTFA, and BIA, as well as officials in the field from BTFA and BIA. We also selected

---

<sup>1</sup>166 Cong. Rec. H8311, H8537 (Dec. 21, 2020). Indian Affairs is an organization within Interior that is comprised of the Office of the Assistant Secretary–Indian Affairs, the Bureau of Indian Affairs (BIA), the Bureau of Trust Funds Administration (BTFA), and the Bureau of Indian Education.

<sup>2</sup>GAO, *Managing for Results: Key Considerations for Implementing Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).



and interviewed seven of the 28 BTFA Fiduciary Trust Officers who are responsible for providing beneficiary services to Tribes to better understand their role in providing trust services to beneficiaries in the field.<sup>3</sup> We selected these agency officials in an attempt to gather perspectives from regions of the United States that we did not meet with in our interviews with tribal officials. Additionally, we interviewed officials from a nongeneralizable sample of seven Tribes and two tribal organizations about their experiences with OST and BTFA and whether the transfer of trust functions from OST to BTFA affected the beneficiary services they receive.<sup>4</sup> We selected the Tribes based on a range of trust fund account balances and geographical dispersion, and the tribal organizations based on their participation in tribal consultations that Interior held related to OST and BTFA in 2017 and 2021. The findings from our interviews with selected Tribes and tribal organizations cannot be generalized to other Tribes and organizations but can provide examples that illustrate tribal experiences in interacting with Interior on matters related to beneficiaries' trust accounts.

To examine the extent to which Interior followed selected leading practices for agency reforms during its transfer of OST's trust functions to BTFA, we reviewed Interior's planning and implementation documents to identify the activities that Interior took leading up to and during the transfer. For example, we reviewed letters that Interior provided to congressional committees, departmental memorandums, and announcements for tribal consultations held by the agency. We also reviewed workforce data for OST and BTFA from Interior's Federal Personnel and Payroll System for calendar years 2016 through 2022 to identify the number of employees working at OST and BTFA at the beginning of each calendar year. To determine the reliability of these data, we reviewed relevant agency documentation, interviewed agency officials familiar with the data, and conducted manual data testing. We

---

<sup>3</sup>We selected these officials to ensure that we spoke with agency officials in the field from multiple BIA regions. These seven officials provide services to the following regions: Alaska, Eastern Oklahoma, Navajo, Northwest, and Rocky Mountain.

<sup>4</sup>We interviewed the following Tribes independently or as part of a group interview with a tribal organization: Agua Caliente Band of Cahuilla Indians, Coeur d'Alene Tribe, Confederated Tribes of the Colville Reservation, Confederated Tribes of the Umatilla Indian Reservation, Squaxin Island Tribe, Mandan, Hidatsa, and Arikara Nation (Three Affiliated Tribes), and the Tulalip Tribes. These Tribes are located in the following BIA regions: Great Plains, Northwest, and Pacific. We also interviewed two tribal organizations: the Affiliated Tribes of Northwest Indians and the Indian Land Tenure Foundation.

determined that the data were sufficiently reliable for the purposes of this report.

We compared the activities we identified with leading practices for agency reforms identified in our prior work.<sup>5</sup> We determined that it was appropriate to assess Interior's activities against these leading practices because, according to our prior work, agency reform includes any organizational change, such as major transformations, mergers, consolidations, and other reorganizations, as well as efforts to streamline and improve the efficiency and effectiveness of government operations.<sup>6</sup>





We used a two-step approach to assess the extent to which Interior followed relevant leading practices for agency reforms when it transferred OST's trust functions to BTFA. First, we determined which categories of leading practices, subcategories of leading practices, and leading practices for effective agency reforms were relevant from our June 2018 report. Specifically, two GAO analysts independently assessed the leading practices and came to an agreement regarding the relevance of each leading practice to our audit objective. For each leading practice that was determined to be relevant, we decided whether the overarching category and subcategory that included that practice was also relevant. We grouped these criteria into categories, subcategories of selected leading practices, and selected leading practices, as shown in figure 5.

---

<sup>5</sup>GAO, *Government Reorganization: Key Questions to Assess Agency Reform Efforts*, [GAO-18-427](#) (Washington, D.C.: June 13, 2018).

<sup>6</sup>[GAO-18-427](#) identifies leading practices and key questions, organized into four categories and 12 subcategories, that Congress, the Office of Management and Budget, and agencies should consider when developing and implementing agency reforms. Reforming and reorganizing the federal government is a major endeavor that can include refocusing, realigning, or enhancing agency missions, as well as taking steps to improve services by identifying and eliminating inefficiencies. Equally important is maintaining or improving effectiveness and examining the impact of such proposed changes on employees, stakeholders, and program customers.

Figure 5: Selected Leading Practices for Assessing Agency Reforms

Category	Definition	Selected subcategories of leading practices	Selected leading practices
 <p>Goals and Outcomes</p>	<p><i>What is the agency trying to achieve with its reforms?</i></p>	<ul style="list-style-type: none"> <li>Establishing Goals and Outcomes</li> </ul>	<ul style="list-style-type: none"> <li>To what extent has the agency established clear outcome-oriented goals and performance measures for the proposed reforms?</li> <li>To what extent has the agency shown that the proposed reforms align with the agency's mission and strategic plan?</li> </ul>
 <p>Process for Developing Reforms</p>	<p><i>What was the process used to develop the reforms, and what factors were considered?</i></p>	<ul style="list-style-type: none"> <li>Involving Employees and Key Stakeholders</li> <li>Using Data and Evidence</li> </ul>	<ul style="list-style-type: none"> <li>How and to what extent has the agency consulted with the Congress, and other key stakeholders, to develop its proposed reforms?</li> <li>What data and evidence has the agency used to develop and justify its proposed reforms?</li> <li>How, if at all, were the results of the agency's strategic review process used to help guide the proposed reforms?</li> </ul>
 <p>Implementing the Reforms</p>	<p><i>What practices did the agency put in place to support the successful implementation of reforms?</i></p>	<ul style="list-style-type: none"> <li>Leadership Focus and Attention</li> <li>Managing and Monitoring</li> </ul>	<ul style="list-style-type: none"> <li>Has the agency designated a leader or leaders to be responsible for the implementation of the proposed reforms?</li> <li>Has agency leadership defined and articulated a succinct and compelling reason for the reforms (i.e., a case for change)?</li> <li>How has the agency ensured their continued delivery of services during reform implementation?</li> <li>What implementation goals and a timeline have been set to build momentum and show progress for the reforms? In other words, has the agency developed an implementation plan with key milestones and deliverables to track implementation progress?</li> </ul>
 <p>Strategically Managing the Federal Workforce</p>	<p><i>What practices did the agency use to support the development and implementation of its reforms regarding its workforce?</i></p>	<ul style="list-style-type: none"> <li>Strategic Workforce Planning</li> </ul>	<ul style="list-style-type: none"> <li>To what extent has the agency conducted strategic workforce planning to determine whether it will have the needed resources and capacity, including the skills and competencies, in place for the proposed reforms or reorganization?</li> <li>How has the agency assessed the effects of the proposed agency reforms on the current and future workforce, and what does that assessment show?</li> </ul>

Source: GAO. | GAO-23-105356

Second, the two GAO analysts then independently compared Interior's activities identified in its planning and implementation documents related to the transfer with selected leading practices, using a three-point scale (e.g., generally, partially, or not followed). For example, to assess the extent to which the agency demonstrated that the reform aligned with its mission, we compared information from the letters that Interior provided to congressional committees, annual performance reports, and announcements for tribal consultations with selected leading practices for this category. The two analysts subsequently reached agreement on all assessments. To report our assessment at the category level, we

averaged the assessments for the leading practices under each category and subcategory, using the same three-point scale.<sup>7</sup>

To examine the status of OST's termination, we analyzed relevant laws and Interior documents. Specifically, we reviewed the American Indian Trust Fund Management Reform Act of 1994 (1994 Reform Act), the reporting requirement in section 304 of the Indian Trust Asset Reform Act (ITARA), and Interior's response to that reporting requirement. We interviewed Interior officials and reviewed Interior documents provided to Congress to confirm whether Interior had submitted the required notice that triggers OST's termination. We also reviewed the Office of the Solicitor of the Interior's interpretation of the statutory termination process in section 302 of the 1994 Reform Act and interpretation of OST's appropriation, but we did not evaluate the merits of these interpretations.

To examine potential duplication, overlap, and fragmentation between the trust operations and services administered by BTFA and BIA's Office of Trust Services and how the bureaus collaborate to manage any potential duplication, overlap, or fragmentation, we reviewed agency documents and interviewed agency and tribal officials. Specifically, to identify any potential duplication, overlap, or fragmentation, we reviewed Interior's departmental manual; BTFA's budget justification for fiscal year 2022 and documents related to the roles and responsibilities of offices within BTFA, such as its Trust Operations office; and BIA's Office of Trust Services. We compared the roles and responsibilities outlined in these documents against GAO's fragmentation, duplication, and overlap guidance to determine whether duplication, overlap, or fragmentation existed.<sup>8</sup> We interviewed agency and tribal officials to obtain additional information and to confirm our determination.

We reviewed additional documentation, including an interagency operations manual that describes how offices are to collaborate on operations and services, to assess BTFA and BIA's collaboration to manage any potential duplication, overlap, or fragmentation. We also interviewed agency officials from BTFA and BIA in headquarters and the

---

<sup>7</sup>The three-point scale is (1) generally followed - Interior took actions that address most or all aspects of the selected leading practices; (2) partially followed - Interior took actions that address some, but not most, of the aspects of the selected leading practices; and (3) did not follow - Interior took no actions to address the selected leading practices.

<sup>8</sup>GAO, *Fragmentation, Duplication, and Overlap: An Evaluation Management Guide*, [GAO-15-49SP](#) (Washington D.C.: Apr. 14, 2015).

field to understand their roles and responsibilities and if they coordinate to perform their operations and services. We compared these documents and efforts with selected leading collaboration practices identified in our previous work.<sup>9</sup> To determine which leading practices were relevant, two GAO analysts independently assessed the issues to consider for effective collaboration and came to an agreement on their relevance to our audit objective. We selected the following categories of collaboration leading practices because they were most relevant to assessing the roles and responsibilities of BTFA and BIA: defining leadership; clarifying roles and responsibilities; including all relevant participants; and documenting collaboration through written guidance and agreements, including routinely monitoring and updating these documents.

The analysts then independently assessed Interior's actions and the documentation provided against the selected issues, using a two-point scale; discussed their assessments with the team; and reached agreement on all assessments.<sup>10</sup> We then determined the extent to which Interior followed leading practices at the category level by averaging the assessments of individual issues, using the same two-point scale.

We conducted this performance audit from August 2021 to April 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

---

<sup>9</sup>[GAO-12-1022](#).

<sup>10</sup>The two-point scale is (1) followed - Interior has taken actions to address a leading practice or key issue and (2) did not follow - Interior has not taken actions to address a leading practice or key issue or has taken minimal action to address a leading practice or key issue.

---

# Appendix II: Comments from the Department of the Interior

Appendix II: Comments from the Department  
of the Interior



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

APR 13 2023

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

Dear Ms. Ortiz:

Thank you for providing the Department of the Interior (Department) the opportunity to review and comment on the draft Government Accountability Office (GAO) report entitled, *Tribal Programs: Actions Needed to Improve Interior's Management of Trust Services* (GAO-23-105356).

The Department provides the following responses to GAO's draft recommendations:

**Recommendation 1: The Assistant Secretary for Indian Affairs should review current and planned performance measures for Interior's management of trust funds and establish clearly defined performance measures for fulfilling its fiduciary trust responsibility and managing trust funds and related services to beneficiaries.**

**Department Response:** Concur. As is the Department's standard practices, the Department agrees to review departmentally and statutorily mandated performance measures. A key part of the Bureau of Trust Funds Administration's (BTFA) review of its existing performance measures will be to ensure that its performance measures are clearly defined and appropriate to fulfill the Secretary's trust principles.

**Recommendation 2: The Assistant Secretary for Indian Affairs should collect and document the data and evidence it used in deciding to transfer OST's trust functions to BTFA and provide Congress a report containing the information and the reasoning behind the decision.**

**Department Response:** Partially concur. The Secretary's Order directed the transfer of the Office of the Special Trustee's (OST) trust functions to BTFA aligned with agency mission and strategic plan. Selected personnel from the Department also consulted Congress by providing information related to plans to transfer OST trust functions to BTFA. The Department believes it has provided Congress with the information it was seeking regarding the transfer. Information was provided to the new Congressional Committee Staff on February 15, 2023. The Department believes this collection of information addressed this Recommendation and no further Department action is warranted. The Department will continue to engage with Congressional requests for information on this matter.

**Recommendation 3:** The Assistant Secretary for Indian Affairs should develop a strategic workforce plan for the staff responsible for carrying out functions related to Interiors management of trust funds.

**Department Response:** Concur. BTFA is in the process of finalizing a statement of work to hire a contractor to assist with the development of a comprehensive workforce plan. BTFA anticipates awarding the contract during the fourth quarter of FY 2023.

**Recommendation 4:** The Assistant Secretary for Indian Affairs should routinely monitor and update BTFA and BIA's Office of Trust Services' collaboration guidance, including clarifying roles and responsibilities.

**Department Response:** Concur. BTFA initiated action on this recommendation through a "Trust Procedures Update" (TPU) initiative. BTFA identified this need in its FY 2021 Enterprise Risk Register as part of its risk identification process and began the planning for corrective action in FY 2022. This initiative is now underway and addresses this Recommendation. This remains a collaborative effort between BTFA and the Bureau of Indian Affairs (BIA) to routinely monitor and update BTFA's and BIA's guidance regarding their respective roles and responsibilities.

Upon receipt of the final report, the Department will submit a written statement of planned or completed actions taken in response to these recommendations. The statement will provide expected completion dates. The attached enclosure contains technical comments for your consideration while finalizing the report.

**Department's Recommended Course of Action:**

As GAO noted in its draft report, GAO "did not find evidence of duplication" of duties, services, or responsibilities between BIA and BTFA. Because GAO did not find any such duplication of duties, the Department encourages Congress to fund BTFA directly in its appropriation bill.

If you have any questions, please contact Jerold Gidner, Director, Bureau of Trust Funds Administration, at (202) 302-9731.

Sincerely,



Bryan Newland  
Assistant Secretary – Indian Affairs

Enclosure



# Accessible Text for Appendix II: Comments from the Department of the Interior

APR 13 2023

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

Dear Ms. Ortiz:

Thank you for providing the Department of the Interior (Department) the opportunity to review and comment on the draft Government Accountability Office (GAO) report entitled, Tribal Programs: Actions Needed to Improve Interior's Management of Trust Services (GAO-23-105356).

The Department provides the following responses to GAO's draft recommendations:

**Recommendation 1:** The Assistant Secretary for Indian Affairs should review current and planned performance measures for Interior's management of trust funds and establish clearly defined performance measures for fulfilling its fiduciary trust responsibility and managing trust funds and related services to beneficiaries.

**Department Response:** Concur. As is the Department's standard practices, the Department agrees to review departmentally and statutorily mandated performance measures. A key part of the Bureau of Trust Funds Administration's (BTFA) review of its existing performance measures will be to ensure that its performance measures are clearly defined and appropriate to fulfill the Secretary's trust principles.

**Recommendation 2:** The Assistant Secretary for Indian Affairs should collect and document the data and evidence it used in deciding to transfer OST's trust functions to BTFA and provide Congress a report containing the information and the reasoning behind the decision.

**Department Response:** Partially concur. The Secretary's Order directed the transfer of the Office of the Special Trustee's (OST) trust functions to BTFA aligned with agency mission and strategic plan. Selected personnel from the Department also

consulted Congress by providing information related to plans to transfer OST trust functions to BTFA. The Department believes it has provided Congress with the information it was seeking regarding the transfer. Information was provided to the new Congressional Committee Staff on February 15, 2023. The Department believes this collection of information addressed this Recommendation and no further Department action is warranted. The Department will continue to engage with Congressional requests for information on this matter.

Recommendation 3: The Assistant Secretary for Indian Affairs should develop a strategic workforce plan for the staff responsible for carrying out functions related to Interiors management of trust funds.

Department Response: Concur. BTFA is in the process of finalizing a statement of work to hire a contractor to assist with the development of a comprehensive workforce plan. BTFA anticipates awarding the contract during the fourth quarter of FY 2023.

Recommendation 4: The Assistant Secretary for Indian Affairs should routinely monitor and update BTFA and BIA's Office of Trust Services' collaboration guidance, including clarifying roles and responsibilities.

Department Response: Concur. BTFA initiated action on this recommendation through a "Trust Procedures Update" (TPU) initiative. BTFA identified this need in its FY 2021 Enterprise Risk Register as part of its risk identification process and began the planning for corrective action in FY 2022. This initiative is now underway and addresses this Recommendation. This remains a collaborative effort between BTFA and the Bureau of Indian Affairs (BIA) to routinely monitor and update BTFA's and BIA's guidance regarding their respective roles and responsibilities.

Upon receipt of the final report, the Department will submit a written statement of planned or completed actions taken in response to these recommendations. The statement will provide expected completion dates. The attached enclosure contains technical comments for your consideration while finalizing the report.

Department's Recommended Course of Action:

As GAO noted in its draft report, GAO "did not find evidence of duplication" of duties, services, or responsibilities between BIA and BTFA. Because GAO did not find any such duplication of duties, the Department encourages Congress to fund BTFA directly in its appropriation bill.

If you have any questions, please contact Jerold Gidner, Director, Bureau of Trust Funds Administration, at (202) 302-9731.

---

**Accessible Text for Appendix II: Comments  
from the Department of the Interior**

---

Sincerely,

Bryan Newland  
Assistant Secretary — Indian Affairs

Enclosure

---

## Appendix III: GAO Contact and Staff Acknowledgments

---

### GAO Contact:

Anna Maria Ortiz, (202) 512-3841 or [ortiza@gao.gov](mailto:ortiza@gao.gov)

---

### Staff Acknowledgments:

In addition to the contact named above, Tammy Conquest (Assistant Director), Amy Ward-Meier (Analyst in Charge), Travis Cady, Tara Congdon, Matthew Ray, and Jeanette Soares made key contributions to this report. Also contributing to this report were Adrian Apodaca, Cindy Gilbert, Susan Murphy, Steven Putansu, and Sarah Veale.

---

---

## GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

---

## Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through our website. Each weekday afternoon, GAO posts on its [website](#) newly released reports, testimony, and correspondence. You can also [subscribe](#) to GAO's email updates to receive notification of newly posted products.

---

## Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <https://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

---

## Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#).  
Subscribe to our [RSS Feeds](#) or [Email Updates](#). Listen to our [Podcasts](#).  
Visit GAO on the web at <https://www.gao.gov>.

---

## To Report Fraud, Waste, and Abuse in Federal Programs

Contact FraudNet:

Website: <https://www.gao.gov/about/what-gao-does/fraudnet>

Automated answering system: (800) 424-5454 or (202) 512-7700

---

---

## Congressional Relations

A. Nicole Clowers, Managing Director, [ClowersA@gao.gov](mailto:ClowersA@gao.gov), (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

---

## Public Affairs

Chuck Young, Managing Director, [youngc1@gao.gov](mailto:youngc1@gao.gov), (202) 512-4800  
U.S. Government Accountability Office, 441 G Street NW, Room 7149  
Washington, DC 20548

---

## Strategic Planning and External Liaison

Stephen J. Sanford, Managing Director, [spel@gao.gov](mailto:spel@gao.gov), (202) 512-4707  
U.S. Government Accountability Office, 441 G Street NW, Room 7814,  
Washington, DC 20548



**Please Print on Recycled Paper.**