

INTERPRETATION OF FEDERAL FINANCIAL ACCOUNTING STANDARDS

INTERPRETATION NUMBER 1

Reporting on Indian Trust Funds
in General Purpose Financial Reports of the
Department of the Interior
and in the Consolidated Financial Statements
of the United States Government:
an interpretation of SFFAS 7

INTRODUCTION

1. The Department of the Interior requested guidance about how to report information on Indian trust funds in the general purpose financial report of the Department. The Indian trust funds are managed by Interior's Office of Special Trustee, Office of the Secretary. (Prior to FY 1996 the trust funds were managed by the Bureau of Indian Affairs.) Some of the funds belong to individual Indians, others belong to tribes. The funds are managed by the federal government in a trust arrangement. While the Government's responsibility for all of these funds is of a fiduciary nature, some portion of the annual flows for some of the funds have been included in the Budget of the United States Government. (Further discussion regarding types of funds involved is provided on page 3.)
2. According to SFFAC 2, *Entity and Display*, inclusion of a program in the section of the budget currently entitled "Federal Programs by Agency and Account" is conclusive evidence that the program should be part of the reporting entity. The question thus arises whether the assets and activities of the Indian trust funds should be reported in the Department of Interior's general purpose financial statements. Also, SFFAS 7, *Accounting for Revenue and Other Financing Sources*, requires certain disclosures regarding "dedicated collections," including fiduciary funds. During discussion of this issue at the FASAB, questions arose about what type of disclosures should be provided regarding the Indian trust funds.

INTERPRETATION

3. The assets, liabilities and operating transactions of the Indian trust funds are not part of the Department of Interior and should not be included in the balance sheet, statement of net cost, and statement of changes in financial position of the Department or of the United States Government. However, the Department does have a fiduciary responsibility for these funds and is required to report on them in footnotes to the financial statements by SFFAS 7, *Accounting for Revenue and Other Financing Sources*, paragraphs 83-87.

SCOPE OF INTERPRETATION

4. This Interpretation deals with what information about Indian trust funds should be included in the general purpose financial report of the Department of Interior and of the United State Government. It does not address issues regarding (1) reporting formats for the footnote disclosure required by SFFAS 7, (2) inclusion or exclusion of other fiduciary funds as components of the federal reporting entity, (3) inclusion or exclusion of any funds or entities in the *Budget of the United States Government*, or (4) reporting on other funds labeled "trust funds" in the federal budget, reporting for trust funds, or reporting on deposit funds generally.¹

EFFECTIVE DATE

5. The interpretation is effective upon implementation of SFFAS 7, which is effective for reporting periods that begin after September 30, 1997. Earlier application of SFFAS 7 is encouraged.

APPENDIX: BASIS FOR CONCLUSIONS

ENTITY CRITERIA

6. In its discussion of the budgetary perspective, SFFAC 2 notes:

18. Care must be taken in determining the nature of all trust funds and their relationship to the entity responsible for them. A few trust funds are truly fiduciary in nature. Most trust funds included in the budget are not of a fiduciary nature and are used in federal financing in a way that differs from the common understanding of trust funds outside the federal government. In many ways, these

¹This restriction on the scope of this interpretation does not imply that this treatment would be inappropriate for other fiduciary funds. Other funds were not included in the research supporting this Interpretation and are therefore excluded.

trust funds can be similar to revolving or special funds in that their spending is financed by earmarked collections.

19. In customary usage, the term "trust fund" refers to money belonging to one party and held "in trust" by another party operating as a fiduciary. The money in a trust must be used in accordance with the trust's terms, which the trustee cannot unilaterally modify, and is maintained separately and not commingled with the trustee's own funds. This is not the case for most federal funds that are included in the budget--the fiduciary relationship usually does not exist. The beneficiaries do not own the funds and the terms in the law that created the trust fund can be unilaterally altered by Congress.

7. Indian trust funds are "true" trust funds in the customary sense, in which there is a legal fiduciary relationship between the Government as trustee and the Indians as trustor. The Government does not own the assets of the funds. In some cases the Government's trustee relationship is with individuals, in other cases with tribes. For many of the funds involved, a tribe or individual can use the funds or dissolve the trust at any time; however, there is a restriction on the use of funds that have been received through legal judgments. Those funds are generally not available until the beneficiaries agree how the funds are to be distributed among them.

8. The budget treats the two types of Indian trust funds differently. Tribal funds are included in the budget. Individuals' funds are not in the budget; they are treated as deposit funds. The Indian tribal trust funds appear to meet *Entity and Display's* conclusive criterion because of their budgetary treatment. The question regarding these funds is whether this implies that these funds should be reported on the face of Interior's financial statements, with the assets, liabilities, revenues and expenses of the Department.

9. Another question arises regarding the Indian trust funds that do not appear to meet the conclusive criterion: would they meet the indicative criteria? The Department of the Interior interprets the indicative criteria in paragraph 44 of SFFAC 2 to mean that the Indian trust funds do not possess any of these characteristics.

10. Some people believe that the sixth indicative criterion does, in fact, apply: "... a fiduciary relationship with a reporting entity ..."

However, they believe that meeting any single indicative criterion is not necessarily sufficient to define the Indian trust funds as part of a reporting entity. *Entity and Display* cautioned expressly that "no single indicative criterion is a conclusive criterion."

11. Other people do not believe that even this indicative criterion applies. They believe that, notwithstanding the use of this terminology, the relationship discussed in the sixth indicative criterion concerns factors relating to committing the component entity financially, controlling the collection and disbursement of funds, or having financial interdependence. They believe that this type of financial control and interdependence does not exist between the Indian trust funds and the federal government.

12. While the Indian tribal funds might appear to meet the criteria for inclusion as a component of the federal reporting entity (by virtue of the budgetary criterion if no other), the sovereignty of the Indian tribes as entities outside the federal government, and the fiduciary relationship between the Government and the Indians, indicate that the criteria stated in *Entity and Display* should not be interpreted to suggest that the assets, liabilities, revenues and expenses of these fiduciary funds should be reported on the face of Interior's financial statements.

13. *Entity and Display's* discussion of the budget perspective cautions that, when defining a reporting entity, care must be taken in determining the nature of all trust funds and their relationship to the entity responsible for them (SFFAC 2, para. 18). This provides some common sense advice relevant to the Indian trust funds.

DISCLOSURES FOR DEDICATED COLLECTIONS

14. As noted, the disclosure requirements for dedicated collections in SFFAS 7, para. 83-87, are applicable to the Indian trust funds. The Department of Interior should include this information in footnotes to its basic financial statements. In addressing the comments received on the exposure draft leading to Statement 7, the Board specifically noted that:

226.1 The proposed standard did not cover funds administered by a federal entity in a fiduciary relationship with beneficiaries that were not included in the entity's financial statement. In addition, it did not cover other funds which are of the same nature as many trust funds. The standard now requires disclosures for these funds also.