

**OPENING STATEMENT**

**OF**

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**ASSISTANT SECRETARY - INDIAN AFFAIRS**

**ON THE**

**FY 2003 BUDGET REQUEST FOR THE BUREAU OF INDIAN AFFAIRS**

**BEFORE THE**

**COMMITTEE ON INDIAN AFFAIRS**

**UNITED STATES SENATE**

**March 14, 2002**

Good morning, Mr. Chairmen and Members of the Committee.

**INTRODUCTION**

The Bureau of Indian Affairs (Bureau) is the primary agency of the Federal Government charged with the responsibility to administer Federal Indian policy and to fulfill the Federal trust responsibility for American Indian Tribes, Alaska Native villages and Tribal organizations. Federal Indian policy and the trust responsibility are derived from the special legal and political relationship between the Tribes and the Federal Government.

This legal and political relationship is rooted in American history. Much of Federal Indian policy evolves around this "special" relationship which is often broadly expressed in terms of legal duties, moral obligations and expectancies that have arisen from the historical dealings between Tribes and the Federal Government. In the narrowest sense, the special relationship is described as a trust relationship between a trustee and the beneficiary.

In 1970, President Nixon called for self-determination of Indian people without the threat of termination of the trust relationship over Indian lands. Since then, self-determination has been the basis of Federal-Indian policy.

Today, the Bureau provides services directly, or through self-determination contract, grant and compact agreements with Tribes, to more than 1.4 million<sup>1</sup> American Indians and Alaska Natives in 31 states. The Bureau administers more than 45 million acres of Tribally-owned land<sup>2</sup>, more than 10 million acres of individually owned land<sup>3</sup> held in trust status and more than 309,000 acres of Federally-owned land<sup>4</sup>. The scope of Bureau programs is extensive and covers virtually the entire range of state and local government services. Tribes look to the Bureau for a broad spectrum of critical and complex programs administered either by the Tribes or the Bureau – from an education system for approximately 48,000 elementary and secondary students; to 25 Tribally Controlled Community Colleges; to the replacement and repair of schools; to law enforcement and detention services on more than 200 reservations; to social services programs for children, families, the elderly and the disabled; to management of the forest, mineral, fishery and farmland resources on trust land; to the maintenance of more than 25,000 miles of roads on rural and isolated reservations; to economic development programs in some of the more depressed areas in the nation; to the implementation of legislated land and water claim settlements; and to the repair of structural deficiencies on high hazard dams.

The Bureau's programs are delivered in a highly decentralized manner with more than 90 percent of all appropriations expended at the local level. Nearly 95 percent of the Bureau's staff work is performed in schools, Regional and Agency offices, and other field locations. A number of Tribes and Tribal organizations operate Bureau programs under self-determination contracts or self-governance compacts.

The Bureau's programs serve communities that face great challenges. On the Indian reservations, poverty is still commonplace, unemployment and violence are more than the national average and infant mortality, alcoholism, and substance abuse are far in excess of the rest of America. More than 40 percent of the workforce in Indian Country remained unemployed – 43 percent in 1999 as compared to 50 percent in 1997. Of the approximately 377,000 adult Indians who were employed in 1999, 33 percent were still living below poverty guidelines established by the Department of Health and Human Services.

### **FY 2003 BUDGET SUMMARY**

As the Trustee for American Indians and Alaska Natives, the Secretary continues to focus on the priority needs in Indian Country that effect the well-being of its citizens for today and tomorrow. The FY 2003 request builds on the Administration's commitment to "leave no child behind" by ensuring a strong education foundation for Indian Country's future leaders as well as continuing

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<sup>1</sup>Source: Indian Labor Force Report, 1999

<sup>2</sup>Source: Annual Report of Indian Lands, 1997

<sup>3</sup>Ibid.

<sup>4</sup>Ibid.

efforts to improve the services and delivery of its programs and trust management responsibilities. The 2003 budget request for the Bureau is \$2.3 billion in current appropriations, including \$22.9 million for a government-wide legislative proposal to shift to agencies the full cost of the CSRS pension system and the Federal employees health benefits program for current employees. Without the legislative proposal, the request is \$2.2 billion, a net increase of \$22.9 million above the 2002 enacted level.

The budget stresses the resources Tribes need to provide basic reservation programs and develop strong and stable governments, ensure accreditation of Bureau and Tribally operated schools, address critical infrastructure needs, and meet the Secretary's trust responsibilities. The Bureau continues to keep administrative costs low. In FY 2003, administrative costs will account for only 8 percent of the requested funds as nine of every 10 dollars appropriated to the Bureau is provided directly to programs on Indian reservations. The request allows the Bureau to attain its goals which are designed to meet the commitment to American Indians and Alaska Natives as outlined in its Annual Performance Plan.

For FY 2003, the total request for Operation of Indian Programs is \$1.9 billion, including \$21.9 million for the government-wide CSRS/Federal health benefits legislative proposal. Without the legislative proposal, the request is \$1.84 billion, a net increase of \$37.3 million over the FY 2002 enacted level.

Tribal Priority Allocations (TPA) comprises the majority of the Bureau's operating budget and provides the principal source of funds for local units of Tribal Government, most of which are small and lack independent resources to meet the increasing costs of Tribal government operations. For FY 2003, the TPA activity is funded at \$775.5 million, an increase of \$23.4 million (3 percent) over the FY 2002 enacted level. Tribes depend on TPA funds for core services such as child welfare, scholarships, Tribal courts, natural resource management, and other programs critical to improving the quality of life and the economic potential of the reservations. The Congress has given the Tribes the flexibility to prioritize funds among most of the TPA programs according to their unique needs and circumstances. TPA supports the goals of Indian self-determination by providing Tribes with the choice of programs provided as well as the means of delivery, either by the Tribe or the Bureau.

### FY 2003 BUDGET INITIATIVES

#### Replacement School Construction

The request for School Construction is \$292.7 million, or 85 percent of the Bureau's total FY 2003 Construction request. The Bureau proposes to fund construction of the next five schools listed on the Education Facilities Replacement Construction Priority List as of January 2001 and the second phase of the Santa Fe Indian School project which began in FY 2002:

Rank	Project	State	Amount
9b	Santa Fe Indian School (Phase II)	NM	15,303,000

13	Kayenta Boarding School	AZ	33,605,000
14	Tiospa Zina Tribal School	SD	13,500,000
15	Wide Ruins Boarding School	AZ	21,215,000
16	Low Mountain Boarding School	AZ	22,500,000
17	St Francis Indian School	SD	14,100,000
<b>TOTAL</b>			<b>120,223,000</b>

The Bureau's request is part of the Department's Five Year Maintenance and Capital Improvement Plan. The Plan continues the President's commitment to eliminate the 2001 reported backlog of \$942 million in deferred maintenance, repair and improvement projects in 2006. The requested funding for replacement school construction will greatly assist in reducing this backlog of construction needs.

The FY 2003 request also includes \$164.4 million for Education Facilities Improvement and Repair (FI&R) to improve the safety and functionality of Bureau facilities. The FI&R program plans to: (1) award 10 major FI&R projects, (2) replace approximately 41 roofs, (3) provide 32 portable classrooms; and (4) demolish 14 buildings (excess space).

In addition, the program plans to accomplish multiple minor improvement projects and environmental projects to address such items as life/safety building code violations, fire safety code violations, leaking natural gas lines, structurally unsound buildings, deteriorated interiors, unhealthy restrooms and locker rooms, and removal of hazardous asbestos material. The Bureau will seek to maximize the use of existing educational facilities by improving, rehabilitating or replacing these facilities in lieu of complete new construction. In addition, annual maintenance needs of education facilities will be funded at 100 percent of the reported need, which will avoid critical projects from becoming backlogged.

### **School Operations**

As the only nationwide school system operated by the Federal Government that provides basic educational programs solely to the American Indian population, the Bureau fully supports the President's call to "leave no child behind." The Bureau operates, either directly or through Tribal grants and contracts, 185 schools serving approximately 48,000 students in 23 states. The Bureau has a special, historic responsibility for educating Indian children. Most Indian schools are located in isolated, remote rural communities, posing greater challenges and requiring greater operational costs than those typically facing public school districts. In support of the President's commitment, the Bureau has requested programmatic increases of \$11.9 million to implement the Administration's School Privatization Initiative and \$3 million to expand early childhood education programs.

The Administration's School Privatization Initiative is focused on improving academic performance

at Bureau schools. A recent report by the General Accounting Office<sup>5</sup> found that further improvement is needed in academic performance in Bureau schools. To address this need, the Administration proposes an aggressive effort to utilize competition to improve the educational foundation of American Indian children. For those schools that the Tribes choose not to operate themselves, the Bureau will solicit partnerships with private entities to manage those schools. Throughout this process, the Bureau will consult with Tribes on the Initiative, realizing the vested interest shared by all parties in ensuring that the leaders of tomorrow have the educational foundation in which to meet the challenges of the 21<sup>st</sup> century. Indian schools and school boards at the local level will be involved in making the final decisions on how best to utilize funds. This is in concert with the recent enactment of Public Law 107-110, No Child Left Behind Act of 2001, that will help strengthen Bureau-funded schools through its support of flexibility and local control of schools.

The FY 2003 budget components of the Privatization Initiative are:

- \$3 million for *Administrative Cost Grants*, to enable schools to convert to grant status without compromising funding for current grant schools.
- \$5 million for *Indian School Equalization Program (Program Adjustments)*, including \$3 million to implement the Privatization Initiative (including contract solicitation, monitoring, and oversight) and \$2 million for potential teacher displacement costs.
- \$2 million for *Student Transportation* to meet the costs of the projected 15,407,600 student mileage. Such costs include fuel, maintenance and vehicle leases.
- \$1.9 million for *Facilities Operations* to increase the level of funds provided to meet the operational needs in education facilities.

In the area of early childhood education, as highlighted in the President's State of the Union Address, an increase of \$3 million is requested for the Family and Child Education (FACE) program to expand the program to seven additional schools. The average funding in FY 2003 for the 39 schools in the program will be \$315,000 per school. FACE involves parents more fully in the critical earliest stages of their children's education, improves adult literacy, and teaches parenting skills that help improve children's readiness for school. Investments in family involvement in the learning process and in the earliest stages of education will pay long-term dividends for Indian children and communities. Program evaluations report that schools with a FACE program have a higher level of parental involvement than other Bureau schools and FACE students scored significantly higher than other students on standardized tests of reading and math skills.

### **Trust Management Improvement Reform**

For FY 2003, the Bureau requests \$34.8 million in trust related program increases. This request is

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<sup>5</sup>Source: General Accounting Office Report 01-934.

based upon the current organizational structure of the Bureau. The Secretary is continuing to hold consultation meetings with Tribes on the reorganization proposal of components of the Bureau and establishment of a separate new organization unit as well as continuing discussions with the Congress concerning the proposed reorganization.

Within Tribal Priority Allocations (TPA), an additional \$18.7 million is requested to improve trust programs services at the local reservation levels. The program increases include \$4 million for Tribal Courts to respond to the increasing responsibilities on Tribal courts to make determinations essential to the use and disposition of trust assets. This shift of responsibility reduces the level of administrative proceedings and controls that otherwise would have to be provided by the Bureau. An additional \$2.054 million for the Social Services program is requested for the increased responsibilities associated with the social services management of Individual Indian Monies (IIM) accounts for minors, adults in need of assistance, adults under legal disability, and adult *non compos mentis*. A \$2 million increase is requested for the Agriculture program to complete soil and range inventories and resultant conservation management plans on an additional one million acres of trust lands per year; this will improve the Bureau's inventory period average of once every 25 years to once every 16 years. For Forestry, an increase of \$1.5 million is requested for the performance of management activities that support the production of the trust funds that result from the harvest of forest products. The increase will begin to close the gap between the annual allowable harvest of 805 million board feet and the current harvest levels.

Other TPA program increases include \$1.5 million requested for Trust Services to replace approximately 500 microcomputers for trust system users (Bureau and Tribal). These users are the field personnel such as real estate specialists, land title examiners, and foresters who are responsible for management of Indian trust assets. For Real Estate Services, a \$2 million increase is requested to hire an additional 8 FTE to take a more pro-active role in Indian mineral leasing which should result in an interest from the mineral industry to explore mineral development. Under Real Estate Appraisals, an additional \$2.125 million is needed to contract the preparation of valuations for the processing of the Bureau's trust transactions. The Bureau's appraisal program prepares about 27,800 valuations per year. This increase will expand the contracting of the valuations and reduce the amount of time required to prepare an appraisal from 60 to 30 days. For Probate, an increase of \$1.5 million is requested to assist in maintaining ongoing probate activities and allow for the funding of positions for Tribes who have compacted or contracted the probate program under *Public Law 93-638*, as amended. Under Environmental Quality Services, a \$1 million increase is requested to allow the Bureau to begin to improve the efficiency of its National Environmental Policy Act (NEPA) program that has an effect on the development of Tribal natural resources which may affect the revenues from those lands and resources.

Within the Non-Recurring Programs, an additional \$1.5 million is requested to reimburse the Bureau of Land Management for expanding the number of cadastral surveys conducted on Indian lands.

Under Central Office Operations, an increase of \$2.2 million is requested to establish a stable base of funds for the Attorney Decision-makers (ADMs) hired in FY 2001 and to hire an additional four

ADMs in FY 2003. The ADMs assist the Office of Hearings and Appeals with processing pending probate cases. The ADMs decide without a hearing certain cases that meet fixed criteria and to which the heirs have no objection. A total increase of \$3.5 million is requested for the establishment of a trust operations center to institutionalize the trust reform improvements being made today. Under Executive Direction, an increase of \$1.855 million is requested for the Trust Management Improvement Project office to establish a stable base of funding as it continues to serve as the Bureau's management core for the various offices involved in trust reform. To continue security enhancements, an increase of \$1.1 million is requested for the Bureau's Office of Security for operational requirements and upgrading of equipment to improve its monitoring and oversight of the Bureau's security program on a nationwide basis. A total increase of \$5.5 million is requested for the Office of Information Resources Management to improve and enhance its information technology needs, which the Court found in *Cobell v. Norton* to be lacking.

Under Regional Office Operations, an additional \$1 million is requested for the Minerals and Mining program to support the President's National Energy Plan, as discussed further, below. A \$500,000 increase is requested for the Land Titles and Records Offices to hire eight additional staff to conduct title examinations to assist in the timely processing of all trust transactions.

### **National Energy Plan**

In concert with the President's National Energy Plan, the Bureau developed its Energy Plan to continue to work in partnership with Tribes in aspects of future development and production of energy resources within their reservations in a citizen-centered effort. While the existing production of Indian owned oil, gas and coal has made significant contributions to national energy supplies, it is believed that there is potential for additional energy production from Indian lands which could provide Tribes with substantial economic development opportunities as well as assist the entire Nation in their quest for additional available resources. The contribution from Indian lands to national onshore production from 1937 through 1997 was 14 percent (each) for oil and coal and 11 percent for gas. From 1980 through 1999, the contribution of Indian production was 11 percent (each) for oil, gas and coal. Production of energy minerals from Indian lands remains a significant portion of total Federal onshore production.<sup>6</sup> Production from Indian lands in 2000 was 9.3 million barrels of oil, 299 billion cubic feet of gas, and 21.4 million short tons of coal.

Building on this base further, the Bureau is requesting a total of \$2.062 million for its Energy Plan to assist Tribes with their development and production of energy resources. Within the Tribal Priority Allocations category, funds are requested in the Economic Development line item (\$585,000) to establish work groups to address planning, development and implementation of energy policies, which includes consultation with Tribes concerning trust responsibility and conservation issues. Additionally, funds are requested in the Natural Resources program (\$477,000) to support the infrastructure to supplement the energy leasing expertise and work with Tribes on documenting, cataloging inventory data, and the subsequent geoscientific interpretation. The Bureau will be able to support the NIEMR database and deployment of the National Indian Oil & Gas Management

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<sup>6</sup>Source: MMS Minerals Revenue Reports.

System (NIOGEMS) to more reservations.

Within the Non-Recurring Programs, an additional \$1 million is requested to work with Tribes in assessing energy development opportunities and initiatives for all potential sources of energy available on their Tribal lands, identify and review working business models for consideration by energy resource Tribes, and assist Tribes in the assessment of their undeveloped and under developed energy resources (oil, gas, coal, geothermal, uranium and hydro-power) through the collection and interpretation of exploration data to determine value and location of resources for use by the Tribe in their land use planning, negotiations, and development decisions. The Tribes use information from mineral assessment investigations in lease negotiations and decision processes concerning the development of their resources by outside parties.

New development should significantly contribute to the overall national need for energy as well as economically benefitting the Tribes.

### **Indian Guaranteed Loan Program**

The Indian Guaranteed Loan Program provides capital on a reimbursable basis to Tribes, Alaska Natives, and individual Indian-owned businesses to help develop and utilize Indian resources, both physical and human to a point where Indians will exercise responsibility for the utilization and management of their own resources. The Indian Financing Act of 1974 (*Public Law 93-262*) is the source of the authority for the Loan Guaranty, Insurance, and Interest Subsidy programs. In this legislation, the Congress envisioned two ways of encouraging commercial lenders to lend funds to Indian businesses that might otherwise be denied financing. The loan guaranty part of the program caught on with lenders, but the loan insurance aspect did not in the 1970s. Times have changed however, and the Bureau is reintroducing the insured loan features of the Act. There are now numerous, modest Indian business loan proposals that would make insured loans viable.

The proposed increase of \$500,000 will be utilized to implement the insured loan portion of the Indian Guarantee Loan program into new markets to finance small Indian businesses and to develop equity financing opportunities for Tribes and individual entrepreneurs. This increase is expected to provide approximately \$7 million in additional loan subsidies for FY 2003 above the anticipated \$65 million in loan subsidies provided from the base funds of \$4.5 million for the program.

### **Other Programs**

With new detention centers becoming operational during FY 2003 in Indian Country, the Bureau requires an additional \$3 million for its Facilities Operations line item. Existing detention facilities in Indian Country are overcrowded and in need of many repairs; having additional centers on-line will assist with this situation.

The Bureau's request for the Construction appropriation is \$346.3 million. The Bureau will continue the emphasis on Tribal contracting for projects, providing support from the Bureau's Office of Facilities Management and Construction until the Tribes and Agencies are fully trained to take over the construction contracting challenge.

The Bureau's FY 2003 request for Indian Land and Water Claim Settlements and Miscellaneous Payments is \$57.9 million for payments for settlements resolving longstanding Tribal claims to water and lands. To complete the remaining Federal commitment for the Shivwits Band of Paiute Indian Tribe of Utah water settlement, \$16 million is requested for the Bureau and \$3 million is requested under Departmental Management for water rights and habitat acquisition. For the second of three payments mandated by law for the Santo Domingo settlement, \$3.1 million is requested. The \$5.1 million is requested for the Rocky Boy's Settlement will complete the Federal funding commitment for this settlement. The request maintains funding at \$24.7 million for the Ute Indian Rights and \$8 million for the Colorado Ute/Animas LaPlata Settlement.

#### CONCLUSION

This concludes my statement. I would be happy to take any questions.