

**STATEMENT
OF
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ASSOCIATE DEPUTY SECRETARY
AND
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SPECIAL TRUSTEE FOR AMERICAN INDIANS
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
ON THE
FISCAL YEAR 2006
PRESIDENT'S BUDGET REQUEST FOR INDIAN PROGRAMS**

February 16, 2005

Good morning, Mr. Chairman, Mr. Vice Chairman and Members of the Committee. My name is Jim Cason and I am the Associate Deputy Secretary of the Department of the Interior (Department). With me today is Mr. Ross Swimmer, Special Trustee for American Indians at the Department. I want to take this opportunity to congratulate Senator McCain and Senator Dorgan in taking on their new leadership roles within this Committee. I would also like to take this opportunity to thank the Committee for all of the work it did to achieve the enactment of Public Law 108-374, the American Indian Probate Reform Act of 2004. This new law provides the Department valuable tools to help us stop the growth of fractionated interests.

We are here today to discuss the fiscal year (FY) 2006 budget for Indian programs in the Department. Our budget is consistent with the President's goal to reduce the deficit in half by 2009. Before we get into specifics of our respective budgets, we would like to highlight several accomplishments this Administration has achieved over the past four years. We have:

- Since 2001, built nine new Indian schools, with 25 more currently in design or under construction to replace, improve, or repair schools in poor condition.
- Generated over 5,000 jobs during the past four years through the BIA Loan Guarantee and Insurance Program.
- Invested \$1.7 billion toward managing and improving Indian trust programs between 2001 and 2005, bringing the Department's ten-year investment in these trust programs to \$2.9 billion.
- Reengineered trust business processes to provide efficient, consistent, integrated and fiscally responsible service to beneficiaries.

- Reorganized to better meet fiduciary trust responsibilities, we are more accountable at every level, and operate with staff trained in the principles of fiduciary trust management.
- Expanded our land consolidation program to address the growth of fractionated interests in individual Indian allotted lands.

The Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST) are changing the way we do business by increasing our focus on providing beneficiary trust services that are more responsive and timely than ever before. American Indians in this country look to the BIA for land and natural resource management, education, law enforcement, tribal government assistance, and economic development support. They look to OST for appraisal services and the management of their funds held in trust. The roles BIA and OST play with regard to the management of tribal and individual trust assets are unlike any other the private sector or federal government shares with its citizens and go to the heart of the United States' trust responsibility to members of federally recognized tribes.

The President has proposed a \$10.8 billion budget for the Department. The FY 2006 budget request for the BIA is \$2.2 billion, a decrease of \$108.2 million from the FY 2005 enacted level. Of that total amount, the Operation of Indian Programs account is funded at \$1.9 billion. The budget provides increases for law enforcement and detention centers, a leadership academy pilot program, the National Indian Programs Training center, irrigation operations and maintenance, and economic development.

The OST budget request, which includes funding for the Office of Historical Trust Accounting (OHTA), is \$303.9 million, an increase of \$75.9 million, or 33 percent above the FY 2005 enacted level. The total FY 2006 request will support on-going activities administered by OST, BIA, and OHTA to improve beneficiary services, continue implementation of key components of the Fiduciary Trust Model (FTM), encourage Indian land consolidation efforts, and continue historical accounting activities. Increased funding for OST reflects the efforts to fulfill the historical accounting requirements for Individual Indian Money accounts (IIM) and Tribal accounts as authorized by Congress and directed by the Courts.

The Unified Trust Budget -- Fulfilling Trust Responsibilities

Congress designated the Department of the Interior as the trustee for one of the most complex and diverse governmental land trust ever established. The Department manages approximately 56 million acres of land held in trust. Over ten million acres belong to individual Indians and nearly 46 million acres are held in trust for Indian Tribes. On these lands, Interior manages over 100,000 leases for individual Indians and Tribes. Leasing, use permits, land sale revenues, and interest all of which total approximately \$205 million per year are collected for 245,000 open individual Indian money accounts. About \$414 million per year is collected in 1,400 tribal accounts for 300 Tribes. In addition, the Department manages approximately \$3.0 billion in tribal funds and \$400 million in individual Indian funds.

The \$1.7 billion that we have invested in trust programs over the past four years brings the Department's ten-year investment in trust management, reform and improvement to \$2.9 billion. The 2006 budget

request would provide an additional \$591.4 million investment in these programs, including a net program increase of \$85.7 million over the FY 2005 enacted level. The funding requested by the Secretary is to fulfill her trust responsibilities and meet the requirements of ongoing litigation within a budget that is fiscally responsible reductions have been made in other areas, which has impacted every bureau and office within the Department, indeed perhaps every program. As is apparent from these numbers, the management and litigation costs currently approach the amount of the total revenue from the trust.

The *Cobell v. Norton (Cobell)* litigation has been pending since 1996 and has had a profound effect on the Department, and the budget for Indian programs. We are looking forward to working with this Committee in pursuing a resolution to the litigation. The *Cobell* litigation and the American Indian Trust Fund Management Reform Act of 1994 have shown us the need to examine closely how we manage individual Indian trust land and individual Indian money (IIM) accounts and to make organizational and programmatic changes that reflect a better understanding of the trust responsibility owed to beneficiaries.

Interior is now spending many millions of dollars a year to keep track of individual interests in Indian trust lands and to manage, collect, and distribute revenue from them. This does not include the costs associated with the litigation of the *Cobell* case. The costs of managing accounts that sometimes have as little as one cent in them far exceed the benefits that accrue to the beneficiaries of those accounts. In contrast, this issue does not arise in the private trust banking industry because individuals pay for such services and obviously refuse to pay fees that are significantly higher than the revenues generated by the trust.

The FY 2006 unified trust budget includes funding to support the re-engineering and reorganization of trust programs and for continued progress in eliminating the backlog of unresolved probate cases and consolidating fractioned interests in allotted lands. The budget also proposes funding increases to continue implementation of the *Historical Accounting Plan for Individual Indian Money Accounts*.

- **Historical Accounting** – The 2006 budget request includes \$135 million, an increase of \$77.8 million over the FY 2005 appropriation. This increase will continue efforts to reconcile 30,000 transactions in land-based accounts for individual Indian money account holders, determine the proper ownership of and distribute approximately \$18 million held in administrative accounts, and image approximately 5 million pages of trust records. The funds also will support tribal historical accounting activity and the administration of potential tribal settlements. In FY 2006, OHTA expects to complete a reconciliation of trust accounts for 10 tribes and image three million pages of tribal documents.

This budget request is based on an estimate of the Department's costs to continue implementation of its 5 year plan outlined in the *Historical Accounting Plan for Individual Indian Money Accounts*. This amount may be revised depending on any court rulings in the *Cobell v. Norton* case or congressional action delineating the specific historical accounting obligations of the Department. The Department will continue to work with Congress and our beneficiaries to reach a resolution on the historical accounting and related issues.

- **Land Consolidation** – The OST budget includes \$34.5 million to continue the nationwide purchase of fractionated land interests through BIA’s Indian Land Consolidation Program, mirroring the FY 2005 appropriation. Acquisition of these fractionated interests increases the likelihood that the land can be put to more productive economic use, reduces the large numbers of small dollar financial account transactions, and decreases the number of interests that must be probated by the Department. This program currently is operated on 18 tribal reservations in 7 BIA regions. As of December 31, 2004, the Department has purchased a cumulative total of 117,661 individual interests, the equivalent of 86,565 acres. The Department will use this funding and the new tools provided by Public Law 108-374, the American Indian Probate Reform Act of 2004, to constructively address fractionation.

- **Fiduciary Trust Model (FTM)**– On August 11, 2004, the Secretary approved the “To-Be” Model, which will create a more efficient, consistent, integrated and fiscally responsible business model that will better meet the needs and priorities of the beneficiaries while addressing the duties of the Department as trustee. This is now known as the Fiduciary Trust Model. Implementation of these reengineered business processes has begun and the current organization is being transformed into a more beneficiary-centric operation.

The FTM will allow for:

- The migration from 50+ fragmented data systems to an integrated nationwide system with automated workflow tools.
 - Automatic tracking and accountability for trust funds throughout the process that includes the collection of receipts, disbursement, and reporting to beneficiaries.
 - Standardized procedures, which will allow for the consistent performance of fiduciary duties nationwide.
 - Greater accountability and protection of trust lands and natural resources.
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- **Beneficiary Services:** To date, 44 Fiduciary Trust Officers have been hired nationwide to serve as the primary point of contact for beneficiaries. An additional 8 will be hired by June 30, 2005. Within BIA, additional staffing to provide 12 deputy regional directors and 25 deputy agency superintendents for trust will permit more decisions to be made at the local level and provide for more efficient management of trust assets. In addition, the initial testing phase of the OST toll free Beneficiary Call Center is underway, with full deployment expected by the end of FY 2005. The Call Center provides an additional resource for beneficiaries to ask questions about their trust assets.

 - **National Indian Programs Training Center** - The BIA budget includes funding for the National Indian Programs Training Center located in Albuquerque, New Mexico. The training center will enhance and standardize trust and program-related training for Departmental and tribal employees involved in delivering fiduciary trust services and other programs to Indian tribes. In addition, the Center will provide a range of mission critical, leadership, and career development courses to employees of the BIA and OST.

The facility will be located adjacent to the BIA Southwest Regional Office at the site of the former Albuquerque Indian School and will have modern classrooms and employ state-of-the-art computer hardware. The Center will be operated by the Department's University. The FY 2006 budget includes \$1.5 million for the lease of the building.

Public Safety and Justice in Indian Country

The BIA provides direct assistance to Tribes for law enforcement programs, including uniform patrol, criminal investigations, detention, and dispatch on approximately 56 million acres of Indian Country in 35 States. Since the beginning of this Administration, funding for BIA law enforcement programs has grown by 85 percent, and Justice has provided over \$128 million in funding to construct or expand 21 detention centers serving Indian populations. Justice has also provided multi-year grant money to establish law enforcement positions under the Community Oriented Policing Services program in Indian Country.

Because of the magnitude of challenges that existed in 1999 and that continue to today, law enforcement in Indian Country remains a critical issue in 2006. In September 2004, the Office of the Inspector General (IG) released an assessment of Indian detention facilities that documented poor conditions at many existing BIA and tribal detention centers. The IG report made 25 recommendations to correct deficiencies that impact the safety and security of detention center staff and inmates.

To address the IG's recommendations, we have made management and procedural changes in both our law enforcement and facilities programs. We have developed a strategic plan for detention facilities and are implementing that plan. Over 2,000 identified facilities deficiencies have already been addressed.

To further address several of the recommendations contained in the IG report, the 2006 request includes a \$19.2 million increase for law enforcement in Indian Country. The funding will provide an additional \$4.4 million for detention center facilities improvements and repairs, almost doubling the program and allowing full renovation of three facilities and major rehabilitation at several other sites. The request provides an increase of \$4.1 million for staffing at four new detention centers being built by Tribes with Justice grants that will be certified for occupancy in 2006, and \$3.2 million for facility operations and maintenance funding for the 19 detention centers built with Justice grants since 2001. The proposal also provides \$5.0 million to contract for placement of arrested and convicted individuals, both adult and juvenile, in safe and secure environments that meet national standards for detention facilities when adequate BIA facilities are not available.

To address law enforcement operations, the budget proposes an additional \$2.5 million for 33 law enforcement officers, both BIA and tribal, to improve law enforcement presence in areas with high levels of violent crime in Indian Country along the southwest border and the Pacific northwest.

Indian Education

BIA is one of only two agencies in the federal government that manages a school system, the other being the Department of the Defense. As such, one of BIA's strategic goals is to provide quality educational opportunities for American Indians located on reservations while being cognizant of tribal needs for cultural and economic well-being. Education is the cornerstone of a viable and prosperous future for tribal governments and American Indians. The BIA serves approximately 48,000 students and resident-only boarders in 184 elementary and secondary schools and dormitories located in 23 states. The BIA directly operates one-third of these schools. The remaining two-thirds are operated under contracts or grants to tribes or tribal organizations. In addition, the BIA budget also supports higher education in Indian country. BIA operates two postsecondary institutions and administers operating grants for 26 tribal colleges and universities.

The FY 2006 school operations budget represents a continued commitment to the future of American Indian youth and supports the President's commitment to "leave no child behind." The \$521.6 million request for school operations will support 184 schools and dormitories. Ninety-seven percent of this funding will be passed directly to schools and to the tribal authorities that manage schools through contract and grant programs.

In addition, the BIA will continue to focus on raising academic achievement scores and, consistent with the findings of the 2004 Program Assessment Rating Tool (PART) review, will continue to develop academic performance measures that are comparable to similarly located schools.

In order to keep pace with an ever changing world, the focus of the BIA is to instill a desire for life-long learning. This begins at the earliest stage of educational development and continues on through adulthood. The Family and Child Education (FACE) program provides reading resources to parents or guardians with young children and supports families with one-on-one counseling to improve early reading aptitude and school preparation. FACE is available at 39 pre-K – 3 schools and provides services to almost 1,700 students and 1,800 parents per year. The FY 2006 budget request for FACE is \$12.1 million.

The FY 2006 funding request for post-secondary education totals \$60.9 million. This funding includes grants to 26 Tribal Colleges and Universities, Haskell Indian Nations University, and the Southwest Indian Polytechnic Institute, as well as scholarships for higher education. The budget requests an increase of \$250,000 for the student loan repayment program, first implemented in FY 2005. Modeled after similar Federal programs, this program allows BIA to repay student loans for students who agree to a term of employment with the BIA. This program is expected to help the BIA recruit highly qualified new employees.

BIA and the Department of Education continue to work together to improve service delivery of programs that benefit Indian students. Under the No Child Left Behind Act, each school is required to maintain student and school level performance data for performance assessment purposes. Informative and accurate data collection is central to measuring Adequate Yearly Progress, a central performance measurement of the Act. During FY 2005, the BIA will apply

grant funding and technical assistance from the Department of Education to develop a student-tracking database to meet the requirement of the No Child Left Behind Act.

As a complement to BIA's implementation of the No Child Left Behind Act, BIA is working with Tribes to advance a new learning philosophy under the umbrella of a pilot program to turn BIA schools into leadership academies. Leadership academies will offer a curriculum that helps students gain a positive attitude toward learning and develop skills required to become leaders in Indian communities. Leadership academies will be designed to motivate educators to instill in students a life-long desire for learning and to encourage enrollment in post-secondary schools. Two million dollars is being requested in FY 2006 for this new pilot program.

Indian School Construction

The President made a commitment to provide funding to replace, rebuild, and repair BIA schools in poor condition so Indian children would have safe and nurturing places to learn. With the additional funding provided through 2006, much progress has been made. In 2001, 35 percent of our BIA schools were in good or fair condition, while 65 percent were in poor condition. After FY 2005, we expect those numbers to be reversed, showing marked improvement in the condition of BIA schools and emphasizing this Administration's commitment to Indian children.

In March 2004, a new replacement school construction priority list was published in the *Federal Register*. The priority list identifies 14 schools in need of replacement due to significant health and safety concerns. With funds provided in the FY 2005 appropriations, the remaining five schools from the previous replacement school list will be completed as well as the first school on the new list – Dilcon Boarding School in Arizona. Three cost-share demonstration schools and five major facilities improvement and repair projects are also funded.

The FY 2006 budget request for school construction is \$173.9 million. Of this, \$35.0 million will be used to fund the second school on the priority list, Porcupine Day School in South Dakota, and phase I of the third school on the priority list, Crownpoint Community School in New Mexico. The Budget reflects a slowdown to allow the program to focus on building the schools already in the process of being constructed. Between 2001 and 2005, funding was appropriated for 34 replacement schools. Nine of these schools have been completed and are operating. Another eleven will be completed in 2005 and 2006. We have attached to this statement a chart demonstrating this Administration's overall commitment to BIA school construction.

The education facilities improvement and repair program request is \$128.4 million. This request will fund four major facilities improvement and repair projects, annual maintenance needs, and minor repair projects to address health and safety concerns, code compliance, and program deficiencies at existing education facilities.

In response to the PART findings, BIA has improved efficiency and performance accountability in the school construction program by establishing the following long-term goals:

- By 2008, construct 100 percent of replacement schools in four years, from planning and design through construction with schools to be completed;
- Reduce the average cost per square foot for academic construction projects from \$198 in 2004 to \$161 in 2008, with appropriate adjustments for inflation; and
- Reduce excess space by 300,000 square feet annually.

Evaluating Tribal Priority Allocation Distribution

Tribal Priority Allocations (TPA) fund basic tribal services, such as social services, adult vocational training, child welfare, natural resources management, and contract support. TPA gives tribes the opportunity to advance Indian self-determination by helping them establish their own priorities and allowing tribes the flexibility to move federal funds among programs.

The current distribution of TPA funds is based on historical funding levels, which were established by formula in the early 1970's. In an effort to improve program accountability and to ensure that funding is targeted to the areas of greatest need, the Department will evaluate the allocation of funds within the TPA program and consult with Tribes to examine ways to better distribute TPA funding.

Economic Development

High unemployment on reservations is one of the greatest challenges facing Indian Country. The FY 2006 budget includes a request for \$500,000 to establish an Economic Development Commission to investigate impediments to tribal business creation and develop an operational model for tribal businesses. This increase will help support Indian economic development and the BIA's performance goal to reduce unemployment on Indian reservations.

Resolving Land and Water Claims

The budget includes \$24.8 million for payment of authorized Indian land and water claim settlements in Oklahoma, Nevada, Colorado, and New Mexico. These settlements resolve long-standing claims to water and lands by Indian tribes. They are the result of negotiations between the tribes, the Federal government, and other interested parties that have been ratified by the Congress. While the specific provisions of each settlement differ, most contain multi-year funding commitments.

Conclusion

Mr. Chairman, once again, we would like to thank you for the opportunity of appearing before you today. We are glad to be here and will be happy to answer any questions you may have.

