

**TESTIMONY  
OF  
VINCENT G. LOGAN  
SPECIAL TRUSTEE FOR AMERICAN INDIANS  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS  
ON THE  
FISCAL YEAR 2016 PRESIDENT'S BUDGET REQUEST FOR THE  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

**MARCH 18, 2015**

Good afternoon, Chairman Young, Ranking Member Ruiz, and Members of the Subcommittee. My name is Vincent Logan and I am the Special Trustee for American Indians. I am pleased to appear before the Subcommittee today to discuss the Department of the Interior (Interior) Fiscal Year (FY) 2016 budget for the Office of the Special Trustee for American Indians (OST).

OST's FY 2016 budget request is consistent with the President's goals to reduce the deficit, to provide the resources to meet our fiduciary responsibilities and to provide quality services to Indian tribes and individual trust beneficiaries.

**Purpose of OST**

OST is charged with general oversight of Indian trust asset reform efforts throughout Interior, with responsibility for the proper and efficient discharge of the Secretary's fiduciary trust responsibilities to federally recognized Indian Tribes, Alaska Natives, and individual Indians. The office enables the Secretary to carry out trust responsibilities to ensure that trust accounts are properly maintained, invested, and reported in accordance with the *American Indian Trust Fund Management Reform Act of 1994*.

**FY 2016 Budget Request**

The FY 2016 budget request for OST totals \$142.9 million and reflects a \$3.9 million increase from the FY 2015 enacted level. While OST represents less than 2% of the overall budget authority you are considering today, it performs a vital mission, affecting the lives of American Indians and Alaskan Natives and tribal nations across the U.S.

Key funding for 2016 includes \$11.1 million for Trust Records, \$5 million for Trust Review and Audit, \$26.9 million for Field Operations, \$12.1 million for Appraisal Services, \$29.3 million for Trust Services, \$22.1 million for Historical Trust Accounting and \$33.8 million for Business Management.

FY 2016 budget request fully funds fixed cost increases and includes three program increases:

- \$1.6 million for Field Operations for additional estate planning opportunities for trust beneficiaries to stem fractionation of interests and the number of estates requiring probate.
- \$1.2 million for Appraisal Services for an appraiser training program to address the shortage of qualified appraisers.
- \$1.02 million for Trust Records to expand the records training program at Haskell Indian Nations University (HINU) and create new records training programs at two additional tribal colleges.

Before I expand on the details of the FY 2016 increases, I would first like to highlight some of OST's FY 2014 activities and accomplishments. More information is available on these in our FY 2014 Annual Report to Congress that is included with our 2016 Presidential Budget Request.

- For the second consecutive year, the independent annual audit of OST administered Individual Indian Money (IIM) trust fund financial statements received an unmodified opinion and no notices of findings and recommendations. When the first full financial statement audit was conducted in 1996, auditors identified 60 deficiencies, of which seven were material weaknesses. Since that time, OST has worked diligently to bring about necessary trust management reforms, which has resulted in OST now receiving the cleanest audit that is possible.
- OST and the U.S. Department of the Treasury successfully teamed up to reduce risks to beneficiaries and OST by transitioned the printing and mailing of trust fund checks from OST to the Treasury.
- OST streamlined and consolidated office space in Albuquerque reducing leased space at that location by 50%.
- OST dramatically improved its service to beneficiaries by adopting the National Change of Address database, reducing the number of returned checks per month from over 800 to about 70.
- In support of plaintiffs' discovery requests, OST searched 9,251 boxes of records and delivered 1,349,470 documents (2,543,737 pages/images) to Interior's Office of the Solicitor and the Department of Justice.
- OST processed and reconciled more than 37,000 transactions daily (over 9.9 million annually).
- OST migrated 100% of servers in applicable field sites to BIA's Storage as a Service environment, increasing capability and enabling the decommissioning of failing or obsolete local servers while increasing file support.
- The Office of Appraisal Services (OAS) successfully appraised over 10,000 tracts across six reservations for the Cobell Land Buy-Back Program.

### **FY 2016 Funding Initiatives**

**Estate Planning.** (\$1.6 million increase for Field Operations for additional estate planning opportunities for trust beneficiaries to stem fractionation of interests and the number of estates requiring probate.)

Decades of efforts to reform Indian trust management have made clear the crucial role that the probate process plays in OST operations; OST productivity and service to our beneficiaries suffers when this process does not operate efficiently. Currently, the Department maintains approximately 400,000 Individual Indian Money (IIM) accounts for Indian Trust beneficiaries. The cost of administering these IIM accounts with highly fractionated real property interests both during lifetime and upon the death of the owner is substantial, both in terms of dollars and time. At present, the estimated cost of probate administration is more than \$3,000 per estate – as much as \$1.2 billion in total – and it can take more than two years to conclude a single case. The cost is independent of the inherent value of the asset and some 52,000 individual accounts are for holdings of \$1 or less, with a combined value of only \$16,000.

The federal process to adjudicate beneficial trust interests imposes an administrative burden that drains resources away from other beneficial Indian programs. The \$1.6 million increase in Field Operations will allow OST to improve our service to beneficiaries as we begin to reduce unnecessary, costly administrative activities, and save money for taxpayers.

We will begin this by collaborating with BIA and the Office of Hearings and Appeals (OHA) to examine the legal requirements and business processes involved in probating Indian trust land, looking for ways to improve the current process and expand estate planning opportunities for Indian trust beneficiaries. Solutions that will make it easier to pass trust assets to the next generation could substantially reduce the number of federal probates that must be adjudicated on an annual basis, reducing the resources currently allocated to that effort

In doing so, we will emphasize *inter vivos* estate planning activities, such as streamlining the gift deed process and developing Transfer on Death beneficiary designations, to provide trust beneficiaries a straightforward way to transfer trust property to heirs free of probate. The ability to designate subsequent beneficiaries to receive trust assets upon death is widely accepted and one of the most common methods by which non-Indian Trust financial assets are transferred to heirs. Examples include life insurance proceeds, retirement assets, payable on death (POD) bank accounts, transfer on death (TOD) securities and brokerage accounts.

OST will also use American Indian Probate Reform Act (AIPRA) Family Limited Partnerships Pilot Project to explore the employment of innovative legal entities to manage interests in Indian trust property. The owner managed trust provisions/pilot project in AIPRA have yet to be implemented. We will establish a BIA/OST working group identify potential pilot sites, a favorable regulatory structure, analyze and recommend appropriate business structures and entities to maximize economic development and self-determination and develop and execute a detailed management plan.

Finally, we will expand the funding of third parties for legal services to facilitate beneficiaries' estate planning. OST recently provided a grant to the Indian Land Tenure Foundation (ILTF) to facilitate the delivery of estate planning services in Indian Country. The grant will provide funding in support of efforts to mitigate and reverse fractionation. ILTF will direct and manage contractors trained and supervised in estate planning who will provide this service to trust beneficiaries. With increased funds in FY 2016, OST will expand this effort to partner with law schools and other entities to provide will-drafting and other legal services.

**Appraiser Trainee Program.** (\$1.2 million increase for Appraisal Services for appraiser training program to address the shortage of qualified appraisers.)

OAS proposes to fill twelve real estate appraiser trainee positions and fund their participation in a three-year training program operated by the Department's Office of Valuation Services (OVS). Funding this directly aligns with the January 2014 Presidential Memorandum on job driven training, which states that: *"It is critical that the Federal Government ensure that its policies and programs in the workforce and training system are designed to equip the Nation's workers with skills matching the needs of employers looking to hire."* Participation in this program will provide graduates with the skills and experience necessary to fill critical positions in OST, while providing long-term employment opportunities in Indian country.

The appraisal industry is experiencing a shortage of fee/private appraisers that hold active State Certified General Appraiser licensing, a fact reflected in the limited applicant pools for vacant appraiser positions by OAS, OVS and other federal agencies. Within the next five years, 28 of OAS's State Certified General Appraisers will be eligible for retirement. Currently OAS is shifting appraisers amongst the OAS regional offices in an attempt to meet the demand for appraisals in regions with insufficient staffing.

Attaining licensing as a State Certified General Appraiser entails intense training, taking candidates as long as five years to achieve the qualification standards set by the Qualifications Standards Board of The Appraisal Foundation, and potential appraisers often face great difficulty in finding mentors to guide them in entering the field. Without a training program to develop new real estate appraisers, OAS and P.L. 93-638 tribal appraisal programs have no source to recruit qualified Native American candidates to fill vacant positions and there are few opportunities for young Native American people to enter the profession.

The trainee program will include approximately 340 hours of classroom instruction per student, with an additional requirement for candidates to complete a minimum of 3,000 hours of on-the-job training. OVS training staff will work with OAS Supervisory staff to ensure that the apprentice appraisers receive specific experience and training over the course of three to five years. Appraiser trainees will be hired into GS 5/7/9 ladder positions.

As the real estate appraiser trainees achieve State Certified General Appraiser licensing, they will be eligible to fill vacancies in Review Appraiser positions. Trainees will also develop interpersonal communication skills by assisting the RSA and Review Appraisers in maintaining contact with contracted fee appraisers, individual Indian landowners, BIA, OHA and Tribes.

**Records Training Program.** (\$1.02 million increase for Trust Records to expand records training program at HINU and create new records training programs at two additional tribal colleges.)

The increase will include \$150,000 in new funding for HINU records training, \$600,000 for new records programs at two additional tribal colleges, and \$270,000 to expand the staff performing

records training programs and support for the Department's email Enterprise Records and Document Management System (eERDMS) initiative.

The Office of Trust Records (OTR) currently funds the records management program at HINU in the amount of \$100,000 and proposes to increase this amount by \$150,000. HINU graduates approximately 120 students in this program each year, with students earning a certificate from the Archivist of the United States. This increase will enable HINU to train approximately 80 additional students. The Federal government, Tribes, and tribal members will benefit from the expertise applied to the creation, maintenance, disposition, and preservation of Indian records for future generations. This investment has the potential to result in Native American entrepreneurs establishing their own records management business, as there is a need for this expertise throughout Indian Country. OTR also proposes to fund two additional tribal college records management programs in the amount of \$300,000 each (includes \$50,000 each for start-up costs) for a total of \$600,000. OTR will identify two tribal colleges in different regions of the country to gain a wider base of support for records management.

Before I conclude, I would like to highlight two areas that are particularly important to me. They are financial education and our investment policies and procedures. These provide important context for our request and illustrate the kind of work that it will enable.

**Financial Education.** While OST has been involved in promoting financial literacy and education since its inception, we have placed new emphasis on this function during my tenure as Special Trustee. I brought my own personal conviction about the importance of financial literacy to this position and quickly made the promotion of financial education throughout Indian Country one of my top organizational priorities.

I created a new position to lead the effort in consolidating OST's various financial education programs into one holistic platform. The Director of Financial Education (DFE) position was filled in October of 2014 and is part of OST's Field Operations. The DFE is tasked with empowering Indian Country with financial skills incorporating a life cycle approach, which matches relevant financial topics with the various stages of life. We will look into educational and experiential learning formats for the very young, which research suggests is a time when they are most receptive to adapting good financial habits. Education and skills training will continue through preparation for a post-secondary education, first time home purchase, budgeting, retirement savings and estate planning.

In addition to offering financial literacy and financial capabilities training to tribal communities and beneficiaries, the Special Trustee has arranged for this training internally to both OST staff and other employees of the Department.

**Investment Review.** As Special Trustee, I have a statutory obligation to ensure that OST is fulfilling its fiduciary responsibilities. I have assembled a Regulatory and Investments Policy Review (RIPR) team to conduct a comprehensive examination of OST's policies and procedures related to managing and investing Indian and tribal trust funds. This initiative is guided by OST's existing authority and is intended to ensure that OST remains a high-performing trust and investment management organization.

The RIPR team has engaged a third-party contractor skilled in investment and compliance processes to inventory and assess current trust and investment management operations. The RIPR team has also developed partnerships with other federal agencies experienced in financial management and regulatory oversight, including the Office of the Comptroller of the Currency, the Securities and Exchange Commission and the Office of Natural Resources Revenue. Leveraging these relationships will, in the long term, enable OST to remain the premier public service organization dedicated to the Indian fiduciary trust.

The team will produce a report of their findings. I will evaluate their recommendations and take appropriate action. Once implemented, OST will direct periodic reviews and analyses of project implementation to measure compliance and outcomes.

### **Conclusion**

Mr. Chairman, once again, I would like to thank you for the opportunity to appear before you today. As noted, we recognize that the OST represents a tiny portion of the authority you are considering today. While relatively small in numbers, this amount does, however, have an outsized impact on the lives it affects. These modest investments will yield substantial rewards in terms of efficiency, productivity, and most important, the quality of the service we provide our beneficiaries as we honor the trust for which we have been charged.