

**TESTIMONY
OF
VINCENT G. LOGAN
SPECIAL TRUSTEE FOR AMERICAN INDIANS
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS
ON THE
FISCAL YEAR 2017 PRESIDENT'S BUDGET REQUEST FOR THE
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

MARCH 22, 2016

Good morning, 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) 2017 budget for the Office of the Special Trustee for American Indians (OST).

OST's FY 2017 budget request is consistent with the President's goals to reduce the deficit, to ensure the resources meet our fiduciary responsibilities and continue to provide quality services to Indian tribes and individual Indian beneficiaries.

Purpose of OST

Established by the *American Indian Trust Fund Management Reform Act of 1994* (Public Law 103-412), shortly before the *Cobell* class-action lawsuit was filed, OST is charged with general oversight and coordination 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. Currently, OST manages nearly \$4.9 billion held in about 3,300 trust accounts for more than 250 Indian Tribes and approximately 400,000 open Individual Indian Money accounts. The Office enables the Secretary to ensure that trust accounts are properly maintained, invested, and reported in accordance with the *American Indian Trust Fund Management Reform Act of 1994* and other authorities, and to restore the public trust through twenty years of consistent efforts.

FY 2017 Budget Request

The FY 2017 budget request for OST totals \$140.4 million and reflects a \$1.4 million increase from the FY 2016 enacted level. While OST represents a very small percentage of the overall budget authority you are considering today, it performs a vital mission, affecting the lives of hundreds of thousands of American Indians and Alaskan Natives.

Key funding for 2017 includes \$10.1 million for Trust Records, \$5.0 million for Trust Review and Audit, \$26.6 million for Field Operations, \$12.4 million for Appraisal Services, \$29.3

million for Trust Services, \$19.6 million for Historical Trust Accounting and \$34.6 million for Business Management.

FY 2017 budget request fully funds fixed cost increases and includes six program increases:

- +\$1.5 million increase is requested in Field Operations to create and implement a plan to streamline trust estate administration, provide Investment 101 training to Tribes, and explore and develop new technologies to expand access to financial empowerment tools for Individual Indian Money account holders.
- +\$1.3 million increase is requested in Appraisal Services to provide additional funding for the appraiser training program to address expected vacancies in key appraisal leadership positions due to attrition and shortage of qualified real estate appraisers, along with the resulting delays in completing valuation services to support leasing, conveyances, exchanges and probate transactions for Tribes and individual Indian owned tracts.
- +\$194,000 increase is requested for Trust Services for system enhancement to the Trust Funds Accounting System (TFAS), an essential automated accounting and investment system servicing individual Indians and tribal account holders.
- +\$1.5 million increase is requested in Business Management for Talent Management and Systems Automation and Enhancement. By providing funding for Talent Management, OST will be able to further develop a well-trained workforce. Our goal is to design, develop, implement, manage and evaluate learning solutions and work with managers, supervisors, federal training professionals and contractors to address performance gaps. Providing funding for Systems Automation and Enhancement will allow OST to address the ongoing backlog of requests and develop and enhance key applications that will automate manual processes.
- +\$176,000 increase is requested in Program Management for updated technologies to modernize and improve the efficiency/effectiveness of the business processes for Trust Records, Trust Review and Audit, and Risk Management .

The budget request also calls for a \$3.4 million reduction in Historical Trust Accounting due to anticipated workload reduction in FY 2017 and beyond, as cases reach settlement. This reduction will be absorbed through contract support services.

Before I expand on the details of the FY 2017 programmatic increases, I would first like to highlight some of OST's 2015 activities and accomplishments. More information is available in our 2015 Annual Report to Congress, which is included with our FY 2017 budget request.

- For the third consecutive year, the independent annual audit of OST's Individual Indian Money (IIM) trust fund financial statements received an unmodified opinion and no notice of findings and recommendations. This is especially impressive considering that the first audits, conducted in the mid-1990s, found about 60 significant deficiencies and seven material weaknesses.
- OST developed and implemented enhancements to the Office of Appraisal Services Information System (OASIS) in FY 2014 – FY 2016, enabling the system to function as

the tracking and scheduling system for both routine OAS appraisals and the mass appraisals being performed for the Land Buy-Back Program (LBBP).

- In 2015, the Office of Appraisal Services (OAS) successfully appraised approximately 11,873 tracts, constituting around 2.2 million acres across 11 reservations in support of LBBP, with a total valuation of \$2 billion.
- The Trust Beneficiary Call Center received 229,469 calls with a first-line resolution rate of 98% (compared to an industry average of 49%).

FY 2017 Funding Initiatives

Estate Planning. (\$1.5 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 reforming Indian trust management have made very 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 accounts for Indian Trust beneficiaries. The cost of administering these IIM accounts with highly fractionated real property interests both during the 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 for all the accounts – 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 63,000 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 \$1.5 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 process by collaborating with BIA and the Office of Hearings and Appeals (OHA) to examine all 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. Some of the solutions being considered include new tools that will make it easier to pass trust assets to the next generation.

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

substantially reduce the number of federal probates that must be adjudicated on an annual basis, reducing the resources currently allocated to that effort. The additional funding will be used primarily for an information campaign, outreach and training. There will also be costs associated with updating new forms that are compliant with OMB and statutory requirements.

OST will also use the 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 propose that a BIA/OST working group identify potential pilot sites, determine and implement 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 hope to 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. If funding is provided in FY 2017, OST will expand this effort to partner with law schools and other entities to provide will-drafting and other legal services.

Appraiser Trainee Program. (\$1.3 million increase for Appraisal Services for appraiser training program to address the shortage of qualified appraisers.)

OAS proposes to fill 12 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 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, several 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 therefore little or no opportunity 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-05/07/09 career 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 enhance their interpersonal communication skills by assisting the Regional Supervisory Appraiser and Review Appraisers in maintaining contact with contracted fee appraisers, individual Indian landowners, BIA, and Tribes.

Talent Management. (\$1.5 million increase for Business Management for Talent Management and Systems Automation and Enhancement.)

As noted earlier, by providing funding for Talent Management, OST will be able to further develop a well-trained workforce. Our goal is to design, develop, implement, manage and evaluate learning solutions and work with managers, supervisors, federal training professionals and contractors to address performance gaps.

Providing funding for Systems Automation and Enhancement will allow OST to address the ongoing backlog of requests to develop and enhance key applications that will automate manual processes. For example, the Routine File Maintenance (RFM) Automation system will automate the paper-based transaction request process (such as requesting one-time disbursements, address changes, etc.) and provide real-time updates to the Trust Fund Accounting System (TFAS). Funding for the automation will provide staff opportunities to perform more analytical and strategic oversight activities, as well as ensure that OST is leveraging key technologies to provide sound support to beneficiaries and staff.

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-- currently, OST manages nearly \$4.9 billion held in about 3,300 trust accounts for more than 250 Indian Tribes and approximately 400,000 open Individual Indian Money accounts. The modest investments requested for FY 2017 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.