



# SERVICE TO AMERICAN INDIANS

*My Administration will continue to work with tribal governments on a sovereign-to-sovereign basis to provide Native Americans with new economic and educational opportunities. Indian education programs will remain a priority, so that no American child, including no Native American child, is left behind. We will protect and honor tribal sovereignty and help to stimulate economic development in reservation communities. We will work with the American Indians and Alaska Natives to preserve their freedoms, as they practice their religion and culture.*

*President George W. Bush, November 19, 2001*

During his campaign for the presidency and throughout the first year of his Administration, President Bush has recognized and upheld the unique government-to-government relationship existing between the Tribes and United States, honoring our Nation's trust responsibilities to American Indians and Native Alaskans. The Bureau of Indian Affairs and the reform efforts of the Office of the Special Trustee for American Indians are the primary focal point for meeting that commitment within the Department of the Interior. The BIA is responsible for working with the Tribes to provide the full spectrum of services normally provided by State and local governments – economic development, education, housing, public safety, roads, social services, and more.

The 2003 budget provides BIA with \$2.3 billion, including \$22.9 million for the legislative proposal to shift to the agencies the full costs of the CSRS pension system and the Federal employees health benefit program. Without the legislative proposal, the request is \$2.2 billion, a net increase of \$22.9 million over the 2002 level. This represents a one percent increase over 2002, a three percent increase over 2001, and a sustained 20 percent increase over 2000. The budget contains substantial funding for American Indian initiatives and builds upon the levels enacted last year for school construction, Indian education, and trust management improvements. In 2003, Tribal Priority Allocations, which fund the local government responsibilities of the Tribes and are the highest needs identified by the Tribes themselves, receive the greatest proportion of the BIA funding. In this budget, nearly nine out of every 10 dollars requested for BIA will be provided to education, human services, and other on-the-ground programs at the reservation level.

Complementing BIA's operational programs, the Office of the Special Trustee for American Indians funds Department-wide Indian trust reform initiatives and trust fund management programs, and provides oversight of the trust responsibility. In 2003, the request for OST is \$160.6 million, including \$1.6 million for the legislative proposal to shift to the agencies the full costs of

the CSRS pension system and the Federal employees health benefit program. Without the legislative proposal, the request is \$159.0 million, a net increase of \$48.8 million over the 2002 level.

## FULFILLING THE TRUST RESPONSIBILITY

The Secretary and the Administration recognize that managing Indian trust funds accumulated from past activities and administering the leasing activities of current trust resources to produce income for the beneficiaries are important responsibilities of the Federal government and essential to foster future opportunities for Tribes and individual Indians. The 2003 budget continues to uphold this commitment by providing additional resources for asset management and trust services and for activities related to trust oversight and administration. This continued commitment will sustain trust reform and operational improvements made to date to ensure that trust management problems do not recur.

The responsibility for management of trust assets of Tribes and individual Indians encompasses many aspects of the operations of BIA and OST. The Secretary acts as trustee for lands and natural resources of Tribes and individual Indians and for the monetary assets generated by those lands and resources. The Secretary is charged with managing these lands and assets for the benefit of Tribes and individual Indians. With support from the Congress and Administration, progress has been made in implementing planned reforms of trust asset management and making resources available to improve the responsiveness of ongoing trust operations. However, much remains to be



done. Interior is reassessing trust reform efforts to date and is evaluating the management structure needed to facilitate and guide progress.

## STRENGTHENING TRUST ASSET MANAGEMENT

In 1887, the General Allotment Act directed that tribal trust lands be divided into small parcels and given or allotted to individual members of Indian Tribes. Many of the allotted lands soon passed out of Indian ownership. Approximately 27 million acres passed from Indian allottees by sale between 1887 and 1934, when the Indian Reorganization Act stopped the allotment program. An additional 60 million acres of Indian land were ceded or sold to homesteaders and corporations.

For allotted lands that were not sold, the operation of the General Allotment Act resulted in the fractionation of ownership. As original allottees died, their heirs received an equal, undivided interest in the allottee's

lands. In successive generations, smaller undivided interests descended to the next generation. Today, there are approximately four million owner interests in approximately 10 million acres of individually owned trust lands, a situation the magnitude of which makes management of trust assets so difficult.

In 1994, Congress passed the Indian Trust Reform Act, directing Interior to improve the management of Indian trust assets and provide sound fiduciary services to trust beneficiaries. In 1996, individual Indian allottees sought court intervention to require the Department to begin an historical reconciliation of accounts.

Since taking office in February 2001, Secretary

*As the trustee, I clearly recognize the important obligations of the Department to put in place those systems, procedures, and people to fulfill our obligation to the trust beneficiaries, both individual Indians and Tribes. This is an enormous undertaking in correcting the errors and omissions of many decades.*

*Secretary Gale A. Norton, February 28, 2001*

Norton has moved on several fronts to help improve Indian trust management. In July 2001, the Secretary created the Office of Historical Trust Accounting to provide focused efforts to produce a historical accounting for individual Indian allottees. Electronic Data Systems, Inc., a management and systems consultant, was retained to provide an independent evaluation of the trust reform program. The key recommendations from the EDS study call for a new approach, one that is more comprehensive and better coordinated. In November 2001, after reviewing and concurring with the EDS recommendations, the Secretary announced the outline of a proposal to reorganize and consolidate Indian trust management functions into a separate new organizational unit.

The goal of the proposed reorganization is to improve Indian trust assets management by creating clear lines of authority for trust reform and operations and separating trust asset management responsibilities from other BIA activities. The proposed reorganization would provide a single accountable executive for trust reform and management with authority and responsibility to set priorities and the scope of work. Placing these trust functions in a separate organizational unit will facilitate the development of performance measures, processes, controls, and systems designed to meet the government's fiduciary obligations.

The Secretary and senior Departmental leaders met with tribal leaders in consultation meetings all across the country in late 2001 and early 2002 on the proposal. In addition, the Secretary has established a task force, composed of two tribal representatives from



each of the 12 BIA regions, to continue to provide tribal input on the proposal. Interior will continue discussions with the Congress concerning the proposed reorganization. A decision on implementation of the reorganization proposal awaits the results of the ongoing consultation.

## TRUST ASSETS AND OPERATIONS

The 2003 request for trust reform and operations is based upon the current organizational structure of OST and BIA. Depending on the outcome of the

consultation process and discussions between the Administration and the Congress, Interior may propose a revised budget for trust activities that includes a crosswalk between the current structure and any revised organization plan.

The \$48.8 million increase requested for OST in 2003 is a 44 percent increase above the 2002 level. Funding is provided for ongoing trust reform and trust asset management operations. The OST also allocates funds to BIA for trust reform efforts carried out by BIA, to the Office of Hearings and Appeals for adjudication of probates involving ownership of Indian lands, and to OHTA for activities related to historical accounting. The 2003 request will allow continuation of trust operations improvements already implemented, such as the trust fund accounting system, allow BIA and OHA to make progress on reducing probate backlogs, improve risk management activities and oversight of trust and trust-related activities, and undertake other trust reform initiatives.

The budget for OST also includes \$8.0 million for the fifth year of the Indian Land Consolidation program to continue BIA land acquisition activities and continue implementation of the Indian Land Consolidation Act Amendments of 2000. The ILC program prevents further fractionation of Indian trust allotments by consolidating highly

fractionated interests through purchase from willing sellers. The decreased fractionation that results from these efforts aids trust reform by decreasing the number of trust asset management transactions, decreasing the number of interests subject to probate, and returning

land to the control of the Tribes.

Secretary Norton established the Office of Historical Trust Accounting on July 10, 2001, to provide a single focus for this critical task. The Secretary charged OHTA to plan, organize, direct, and execute a historical accounting of individual Indian money accounts. The OHTA has developed a blueprint for its comprehensive plan for this historical accounting. The comprehensive plan will be conveyed to the Congress in June 2002. The OHTA has begun accounting work that can be accomplished while the comprehensive plan is

being developed. The 2003 request includes \$16.5 million for OHTA, an increase of \$9.0 million over the 2003 level. In 2003, OHTA will use expert contractors for work outlined in the comprehensive plan in order to achieve progress on the historical accounting in a cost-effective manner.

In addition to OST's efforts to reform Indian trust asset management, the budget supports enhancements in BIA trust programs. The BIA's trust services programs focus on real property functions, such as land and title records administration, appraisals, and lease management and compliance. The BIA's natural resource programs on trust lands generate revenues through activities such as mining, forestry, and agriculture. Other programs, such as tribal courts and social work programs, support these activities by handling social and legal issues. The budget for BIA includes \$34.8 million in trust-related program increases. The proposal includes program increases of \$20.3 million in trust services and natural resource programs, increasing these core trust programs from \$253.4 million to \$265.1 million net of changes for uncontrollables, decreases to congressional increases and non-recurring programs, and increases to energy programs. Additional increases totaling \$14.5 million are proposed in other programs to support the trust reform effort. Areas receiving increases include tribal courts, social services, and information resources management.

## INDIAN EDUCATION - LEAVE NO CHILD BEHIND

### IMPROVING SCHOOL PERFORMANCE

The BIA is one of only two agencies in the Federal government that manages a school system. Over 48,000 students in 23 States attend the 185 elementary and secondary schools that form the BIA school system. The BIA is committed to the President's promise to improve education in America and "leave no child behind." The BIA directly operates one-third of these schools, while the other two-thirds are operated under contracts or grants to Tribes or other tribal organizations. The BIA has a special, historic responsibility for educating Indian children. Many Indian schools are located in isolated, remote, rural communities, posing greater challenges and requiring greater operational costs than those typically facing public school districts.

One of BIA's strategic goals is to provide quality educational opportunities from early childhood through adulthood, instilling a desire for life-long learning to keep pace with an ever-changing world. The 2003 school operations request is \$522.8 million, including a \$12.9 million program increase and \$5.8 million for teacher pay increases above the 2002 enacted funding level. This funding will help to ensure that Indian schools maintain accreditation, have access to computers and other vital educational tools, and address additional costs for teachers and operational needs such as transportation and updated textbooks.

In January 2002, the President signed into law the "No Child Left Behind Act of 2001," a landmark education bill that will help strengthen BIA-funded schools through several components, such as a provision that extends funding eligibility for Department of Education reading programs to the BIA school system. Flexibility and local control of schools are among the pillars of the President's education reform plan.

The budget encourages Tribes to assume management of their schools or enter into private partnerships to manage the schools. Individual Indian schools and school boards at the local level will be empowered to make the final decisions on how best to initiate this effort. This privatization effort is the centerpiece of the Administration's initiative to improve the performance of the lowest-performing BIA schools. The request includes an increase of \$8.0 million to address costs inherent in the outsourcing of schools, such as administrative cost grants and displacement of teachers. An additional \$2.0 million for student transportation and \$2.2 million for facilities will be available to improve operational problems that might serve as a disincentive or impediment to Tribes wishing to assume school management.



*President Bush and I agree that an Indian child who goes without a quality education has a dream that may never be fulfilled. We are committed to making the dreams of Indian children a reality.*

*Secretary Gale A. Norton, January 9, 2002*

The 2003 budget includes a \$3.0 million increase for expansion of the early childhood development program - specifically to implement the Family And Child Education program at seven additional schools. This funding increase will enable BIA to expand this successful program to over one-quarter of the 146 BIA-funded schools that serve elementary students. The program 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 higher levels of parental involvement than other BIA schools and that FACE students have significantly higher scores than other students on standardized tests of reading and math skills.

### **BUILDING SAFER SCHOOLS IN INDIAN COUNTRY**

During the 2000 presidential campaign, President Bush promised to provide safe and structurally sound schools for Indian students. Of the 185 schools in the BIA school system, one-fifth of the school buildings are more than 50 years old, and half are more than 30 years old. Many schools



have serious deficiencies that pose real threats to the students' health and safety and may make it difficult for them to learn. These concerns include leaking roofs, overcrowded classrooms, peeling paint, and inadequate heating, cooling, and ventilation. Crumbling dormitories, rusty and stuffy portable classrooms, and a lack of modern facilities such as computer and science labs and libraries make it exceedingly difficult for Indian children to get the quality education today that they need to succeed in tomorrow's economy.

The BIA's request for education construction continues the President's initiative to repair and replace unsafe schools. The deferred maintenance backlog, estimated at \$942 million in 2001, has been reduced to an estimated \$636 million. Funding in 2003 is maintained at the 2002 level, \$292.7 million, which will substantially reduce the school repair and maintenance backlog and replace facilities at six schools.

The BIA is making great strides toward improving the learning conditions at BIA schools. Through its Office of Facilities Management and Construction, BIA is a leader in the Department's efforts to improve the management of its construction programs and building maintenance operations. The BIA is the first Interior bureau to develop a computerized facilities management information system. The BIA has also engaged an independent engineering firm to verify work backlogs and cost estimates. The BIA has developed and is now

The Facility Construction Index is a measure used by facility managers to assess relative quality of buildings and other assets. Key factors in determining FCI are replacement costs and backlog maintenance costs. A low FCI indicates a good condition; a high FCI is bad. The BIA is establishing a benchmark to evaluate progress in improving the condition of BIA schools.

*We need to get back to the basics – school buildings that are safe.*

*Secretary Gale A. Norton, October 29, 2001*

*Like their peers, Indian students deserve a good education and must have access to good schools.*

*Assistant Secretary Neal McCaleb, January 9, 2002*

using a facility condition index to determine when it is more cost-effective to repair or replace a facility. The FCI provides a baseline from which the bureau will measure and track improvements in asset conditions. The BIA will use the index, risk assessments, and tribal consultations to aid in budget decisions and priority setting for school maintenance, repair, and replacement.

The BIA budget includes a request to invest \$120.2 million to replace buildings at the six schools determined to be the highest priority based on a priority-ranking list. This funding will provide replacement schools and dormitories for Santa Fe Indian School in New Mexico, Kayenta Boarding School in Arizona, Tiospa Zina Tribal School in South Dakota, Wide Ruins Boarding School in

Arizona, Low Mountain Boarding School in Arizona, and St. Francis Indian School in South Dakota. The funding for the Santa Fe school is the second phase of a two-year project that was begun in 2002.

The education facilities improvement and repair program is funded at \$164.4 million, an increase of \$2.8 million over the 2002 level. The 2003 request will fund deferred and annual maintenance needs, and major and minor repair projects to address critical health and safety concerns, code standards, and program deficiencies at existing education facilities. Continued funding at this level will eliminate the current repair and maintenance backlog in 2006. Funding to address annual maintenance requirements is continued at the 2002 appropriated level, to ensure that regular ongoing maintenance activities do not become part of the backlog and cause the backlog to grow again.

## RESOLVING LAND AND WATER CLAIM DISPUTES

The 2003 Interior budget includes \$60.9 million for installments on authorized Indian land and water claim settlements in Colorado, Montana, New Mexico, and Utah. These settlements resolve long-standing claims to water and lands by Indian Tribes and impact ongoing projects in the Bureau of Reclamation as well as BIA. They are the result of negotiations between the Tribes, Federal government, and other interested parties. While the specific provisions of each settlement differ, most contain multi-year funding commitments. Once an agreement has been reached, the Tribes depend on appropriated funds to implement the agreements, often beginning new water development projects or other economic development initiatives with those funds. Failure to provide funding for a settlement agreement can result in increased costs over time and the payment of interest penalties by the Federal government.



The 2003 budget request maintains funding at the 2002 level, with \$57.9 million included under the BIA land and water claim settlements and miscellaneous payments account, and \$3.0 million included within Departmental Management. While the overall amount remains constant, the mix of projects in 2003 differs from that in 2002 to reflect a shift of funding to ongoing settlements from settlements where the Federal commitment was completed in 2002. The BIA budget request includes an increase of \$11.0 million to complete the remaining Federal commitment for the Shivwits Band of the Paiute Indian Tribe of Utah water rights settlement. An additional \$3.0 million is included within the High Priority Departmental Management Lands account to implement a water rights and habitat acquisition program. Funds for this program are specifically authorized to be drawn from the Land and Water Conservation Fund.



The budget seeks \$3.1 million for the Santo Domingo settlement, a \$1.1 million increase for the second of three payments needed to ensure complete funding by 2004. The \$5.1 million re-

quest for the Rocky Boy's settlement, a \$2.9 million decrease, will complete the Federal funding commitment for this settlement.

The budget maintains funding at \$24.7 million for the Ute Indian rights settlement and \$8.0 million

for the Colorado Ute/ Animas LaPlata settlement. In addition to this settlement funding, the Colorado Ute Settlement Act amendments of 2000 provide for implementation and completion of the development of the Animas-LaPlata project located in southwestern Colorado and northwestern New Mexico. The BOR budget includes \$33.0 million for the second year of funding for the project, pursuant to the Act. The Animas-LaPlata project will fulfill the Federal government's trust responsibility to address the Colorado Ute Tribe's water rights; respect existing water rights held by non-Indian water users

throughout the basin; furnish the Navajo Nation with a water supply; allow for additional municipal and industrial water for non-Indian communities in the Four Corners area; and provide an increased level of certainty for water managers in the San Juan Basin.