



## FULFILLING TRUST RESPONSIBILITIES

*Positive and productive trust reform has remained a high priority throughout the Bush Administration. As the trustee for American Indian lands and funds, Interior is committed to protecting trust assets and fulfilling our trust responsibilities to individual and tribal trust beneficiaries.*

*Secretary Gale A. Norton, September 2004*

The Department of the Interior has responsibility for the largest land trust in the world. The Indian trust today encompasses approximately 56 million acres of land. 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 totaling 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 trust manages approximately \$3.0 billion in tribal funds and \$400 million in individual Indian funds.

From 1996 through 2005, the Department invested \$2.9 billion in the management, reform, and improvement of Indian trust programs. Trust business processes have been re-engineered to provide efficient, consistent, integrated, and fiscally responsible service to beneficiaries. The trust organization is being reorganized to meet fiduciary trust responsibilities, provide greater accountability at every level, and operate with staff trained in the principles of fiduciary trust management. The land consolidation program has been expanded to address the growth of fractionated interests in individual Indian allotted lands. An Office of Historical Trust Accounting has been established and is reconciling past transactions in individual and tribal trust accounts.

The 2006 budget request proposes to invest an additional \$591.4 million in Indian trust programs. This amount includes a net program increase of \$80.0 million over the 2005 enacted level.

The 2006 unified trust budget continues support for the re-engineering and reorganization of trust programs and for continued progress in eliminating the backlog of unresolved probate cases and consolidating fractionated interests in allotted lands. The budget also proposes funding increases to continue implementation of 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 and congressional action, which could potentially delineate the specific historical accounting obligations of the Interior Department.

## OPERATION OF TRUST PROGRAMS

In 2002, the Department began a meticulous process to re-engineer trust business processes. In 2003, the Department began to implement a complementary effort to reorganize trust functions in the Bureau of Indian Affairs and the Office of the Special Trustee for American Indians.

The re-engineering effort began with documentation of "As-Is" processes, providing the Department with a comprehensive understanding of trust business operations, an opportunity to identify needs and places for improvement, and an understanding of variances of practice among geographic regions and their causes. A "To-Be" re-engineering phase produced a process redesign for an 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.

## UNIFIED TRUST 2006 BUDGET

(\$ in millions)

Program	2005 Enacted	2006 Budget	Change
Beneficiary Services	15.0	26.3	+11.3
Ownership Information	124.5	125.4	+0.9
Land & Natural Resources	122.2	121.6	-0.6
Trust Fund Assets	40.7	40.2	-0.5
DOI Trust Organization	32.2	32.4	+0.2
Historical Accounting	57.2	135.0	+77.8
Information Technology	80.5	79.8	-0.7
Records Management	21.4	19.8	-1.5
Other	12.0	10.9	-1.1
<b>Total</b>	<b>505.6</b>	<b>591.4</b>	<b>+85.7</b>

Secretary Norton approved the result of the re-engineering effort, now known as the Fiduciary Trust Model, on August 11, 2004.

Examples of improvements to be made in 2005 and 2006 through implementation of the Fiduciary Trust Model include:

- Continuing work to migrate from over 50 fragmented information data systems to an integrated nationwide system with automated workflow tools.
- Providing for improved and coordinated services for beneficiaries through a nationwide call center and local trust officers.
- Standardizing documents to be recorded for approved conveyances and encumbrances in title transactions.
- Providing for more secure fund processing by use of commercial lock boxes for receipt of funds.

The new organization for trust programs places OST trust officers at the regional and agency level to ensure that the Department meets fiduciary trust responsibilities in the management of these trust assets. These trust officers will be the first line of contact for tribal and individual beneficiaries for issues related to their ownership and use of trust

assets. Within BIA, the reorganization separates the management of trust functions at the regional and agency levels, establishing regional and agency deputies for trust operations.

As part of the trust reorganization, OST has hired six Trust Administrators and 41 Trust Officers as of December 31, 2004, with an additional 11 Trust Officers to be hired by June 2005. In addition, BIA will hire 25 deputy agency superintendents in 2005.

The 2006 budget provides an increase of \$12.6 million for trust operations. Of this increase, \$3.0 million will support implementation of the BIA reorganization, providing seven BIA deputy regional directors and 25 deputy agency superintendents for trust at the local level. This additional staffing will significantly advance implementation

## RECORDS REPOSITORY

The dedication on May 14, 2004, of the American Indian Records Repository at the National Archives and Records Administration facility in Lenexa, Kansas marks a new chapter in the Department's undertaking to improve Federal management of Indian records. The repository is part of NARA's underground regional records service facility in Lenexa. It will house the consolidated inactive records of BIA and OST. As of the end of fiscal year 2004, approximately 64,200 indexed boxes had been placed in the Indian Records Repository.

In conjunction with establishment of the Indian Records Repository, Interior and NARA worked with the Haskell Indian Nations University, a BIA-operated, post-secondary institution located in Lawrence, Kansas, to establish a program to train and certify Indian students in archival and records management. Fifteen students were enrolled for the fall 2004 semester in the records management course. The program will eventually help place qualified records management specialists at bureaus and offices throughout Indian country to ensure the proper protection and preservation of Indian records.

## TRAINING CENTER

The Department has established the National Indian Programs Training Center in Albuquerque, New Mexico to enhance and standardize adequate trust and program related training. The Center will be a hub for trust training of all Departmental Indian fiduciary and trust services, and tribal employees involved in trust reform and self-government and determination programs. In addition, the Center will provide a range of mission critical, leadership, and career development courses to BIA and OST employees. The facility, to be located adjacent to the BIA southwest regional office at the site of the former Albuquerque Indian School, will have modern classrooms and employ state-of-the-market computer hardware for consistent training. The Center will be operated by the Department of the Interior University under a contract with BIA and OST. The 2006 budget includes an increase of \$1.5 million for the cost of leasing the building for the Center.

and resource management due to one-time cost savings or management efficiencies.

In addition, the completion of certain trust systems work supporting development of policies and procedures (-\$2.0 million), records management (-\$1.5 million), and risk management (-\$1.1 million) activities are one-time implementation costs not required in the budget going forward.



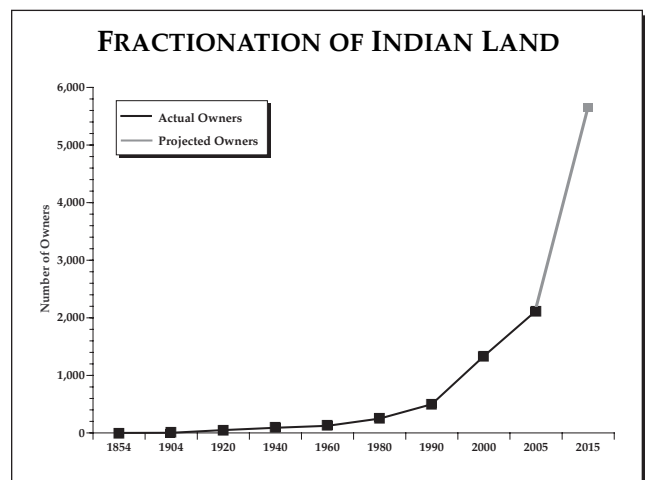
of trust reform. It will permit more decisions to be made at the local level, thus giving beneficiaries timely responses to questions and more efficient management of trust assets.

An increase of \$8.0 million is proposed to contract to complete case preparation of over 23,000 probate cases by the end of 2008. The balance of the increase, \$1.6 million, is for contractual support for land title and records offices to undertake title-related expanding workloads in Indian land consolidation, probate, and Youpee activities.

The budget increases for trust operations are offset by reductions of \$11.7 million, which reflect completion of trust reform activities, allowing funds to be realigned to meet current priorities and program requirements. These realignments include: a reduction of \$950,000 for one-time implementation costs in information technology programs for the virtual trust data warehouse and appraisal system, a \$1.0 million reduction in the appraisal program as a result of economies and efficiencies in conducting reservation-wide rather than individual tract land appraisals, a \$1.8 million decrease to reflect the reduction of budgeted one-time costs for recruitment and the establishment of BIA agency deputy positions in 2005, and a \$3.4 million decrease in BIA real estate services

## INDIAN LAND CONSOLIDATION

The fractionation of individual Indian interests in the land that the Federal government holds in trust remains one of the greatest challenges facing successful fiduciary trust management. Because individual Indian trust lands are subject to a permanent restriction against alienation, they are primarily transferred through inheritance. Beginning with introduction of individual allotments in the 19th Century, each successive generation of individual interests in the land became further divided and



subdivided among heirs, each of whom holds a smaller and smaller interest in the land.

The ownership of many disparate, uneconomic, and small interests benefits no one in Indian country and creates an administrative burden that drains resources away from other Indian programs. Managing all of these fractionated individual interests is expensive. Individual owners often see little benefit because their interests are so small. Most often it is difficult, if not impossible, to put the land to its best economic use because so many ownership interests are involved. As the number of ownership interests has grown, the cost to the Federal government to manage and account for those interests has also grown. In many cases, the cost to account for and probate highly fractionated tracts far exceeds either the owners' receipts or the value of the underlying property.

The American Indian Probate Reform Act, signed by President Bush on October 28, 2004, contains new tools to improve probate and help slow the growth of fractionation. However, 2.3 million land interests and 1.2 million mineral only interests remain the legacy of more than 100 years of fractionated individual interests.

The Indian Land Consolidation program, made permanent by the new legislation, acquires small ownership shares in allotted land from willing sellers. Once interests are purchased, title can be transferred to Tribes. Purchase of fractional interests increases the likelihood of more productive economic use of the land, reduces record keeping and large numbers of small-dollar financial transactions, and decreases the number of interests subject to probate.

Through December 31, 2004, Interior has acquired a cumulative total of 117,661 interests in BIA's Midwest, Northwest, Western, Eastern Oklahoma, and Great Plains regions. Over 90 percent of the interests were interests of less than two percent ownership in the respective tracts of land.

During 2004, acquisition programs operated at a total of 18 reservation locations within seven BIA regions; a national expansion plan was drafted; and a contractor was hired to assist with processing acquisition packages at the field level. Implementation of a case management system was initiated to automate application processing and track program and management information required for acquiring land interests on a nationwide basis.

### AMERICAN INDIAN PROBATE REFORM ACT

On October 27, 2004, the President signed the American Indian Probate Reform Act of 2004, which amends the Indian Land Consolidation Act to provide a means to reduce fractionation of individual Indian land interests and establishes a uniform probate code for Indians.

The Act changes the way trust estates are probated. Additionally, the Act:

- Increases the importance and benefits of writing a will or doing an estate plan.
- Provides greater access to trust asset records.
- Ensures that tribal probate laws are consistent with Federal probate laws.
- Improves individuals' ability to consolidate interests in trust or restricted land.
- Improves individuals' ability to manage parcels of land in which an interest is owned.
- Limits inheritance without a will when ownership is less than five percent of the total.

These and other provisions of the law will enhance the land consolidation effort by providing useful tools to individuals, Tribes, and Interior. The law requires the Secretary to send a notification to Tribes and individuals who might be affected by the law, and to certify that such notice was sent. Most of the provisions of the law will take effect one year from the date of the certification.

As reflected in a 2004 Program Assessment Rating Tool review, the pilot land consolidation efforts have taught valuable lessons about the need to target purchases to maximize return of land to productive use and allow closure of IIM accounts associated with these interests. Targets include purchase of all available interests of individual owners on extremely fractionated tracts.

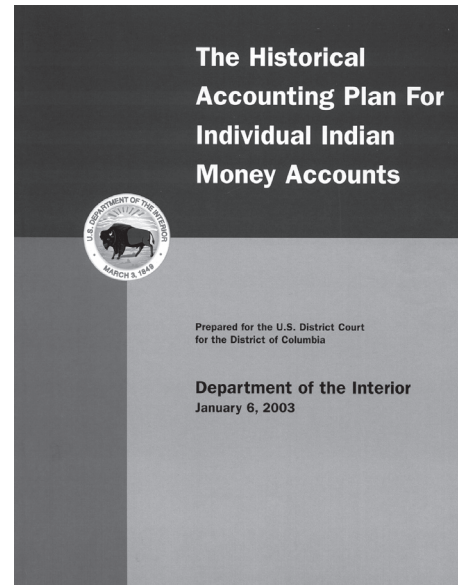
The 2006 budget proposes \$34.5 million for Indian land consolidation, the same as the 2005 enacted level. This funding will provide for a nationwide acquisition program that can acquire an estimated 46,000 highly fractionated interests. These funds will also provide for various acquisition management activities, including program management, contract assistance to acquire interests, data systems, title reconciliation, and appraisals as needed to acquire fractionated interests.

### HISTORICAL ACCOUNTING

In 1994, Congress passed the American Indian Trust Fund Management Reform Act of 1994, which requires the Secretary of the Interior to “account for the daily and annual balance of all funds held in trust by the United States for the benefit of an Indian Tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. §4011 (a)).” The Department is currently involved in a major class action lawsuit, *Cobell v. Norton*, and 24 tribal lawsuits associated with the management of Indian trust.

On January 6, 2003, as ordered by the court in the *Cobell* litigation, the Department filed *The Historical*

*Accounting Plan for Individual Indian Money Accounts*. The Department’s accounting plan provides for a historical accounting for about 260,000 IIM accounts over a five-year period at an estimated cost of \$335 million using both transaction-by-transaction and statistical sampling techniques to develop assurances of the accuracy of the statements of accounts.



The 2006 budget for historical accounting by the Office of Historical Trust Accounting is \$135 million, an increase of \$77.8 million over the 2005 enacted level. This amount will provide \$95.0 million for IIM accounting, an increase of \$50.0 million above the 2005 level, and \$40.0 million for tribal accounting, an increase of \$27.8 million above the 2005 level.

As of December 31, 2004, OHTA had reconciled more than 36,700 judgment accounts with balances totaling more than \$53.0 million and reconciled 7,360 per capita accounts with balances of over \$21.7 million. The OHTA has mailed over 9,500 historical statements of judgment and per capita accounts to individual Indian account holders and former account holders. By the end of 2005, OHTA will reconcile an additional 34,000 judgment accounts and 9,200 per capita accounts.

Through December 31, 2004, OHTA also resolved residual balances in nearly 8,200 special deposit accounts, identifying the proper ownership of more than \$38 million belonging to individual Indians, Tribes, and private entities. By the end of 2005, OHTA expects to resolve the proper ownership of approximately \$51 million (cumulative) in residual special deposit account balances.

The OHTA also has begun using a contractor-developed accounting reconciliation tool to reconcile land-based IIM transactions. By the end of 2005, OHTA will reconcile an additional 7,000 land-based IIM account transactions. In preparation for completion of historical statements of account for land-based IIM accounts, OHTA will verify and fill any gaps in historical transaction data for approximately half of the BIA regions.

The 2006 budget request for IIM accounting is based on an estimate of the Department's costs to continue implementation of 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 and congressional action which could potentially delineate the specific historical accounting obligations of the Interior Department.

With the \$95 million proposed for individual accounts, OHTA will continue to reconcile IIM trust account transactions in accordance with the *Plan for the Historical Accounting*, as modified to recognize lessons learned during the last two years of accounting activities.

Of the total, \$5.0 million will be used to complete the reconciliation of judgment and per capita accounts and \$22.0 million would be used to resolve

and distribute to the proper owners \$17.7 million in residual balances in special deposit accounts.

To address land-based transactions, Interior will use \$26.0 million to reconcile 30,000 land-based IIM account transactions; \$25.0 million to digitize over ten million paper-era transaction records for reconciliation; and \$17.0 million to create 200,000 account statements for reporting historical accounting results. The OHTA will target subgroups of land-based IIM accounts for reconciliation to complete the process of making valid assurances. Historical statements of account would then be prepared for each subgroup.

The \$40.0 million request for tribal accounting will support work by OHTA on potential settlement negotiations with Tribes. It will also provide funding to conduct ten historical accountings for Tribes and present tribal briefings, as requested.

### HISTORICAL ACCOUNTING

	2004	2005	2006
Judgment accounts reconciled .....	13,320	34,000	15,840
Per capita accounts reconciled .....	4,630	9,200	4,570
Special deposit account funds distributed .....	8.5 million	13.0 million	25.0 million
Land-based IIM transactions reconciled.....	4,706	7,000	30,000
Tribal accounts reconciled.....	0	5	10
Historical transaction data validated by BIA region.	1	5	6
Number of historical statements of account mailed to account holders.....	9,537	60,000	200,000
Paper era transactions digitized.....	74,000	400,000	10 million

*Judgment and per capita account reconciliation completed in 2006  
 Historical statements of account includes judgment, per capita and land-based IIM accounts.*