

	<p><b>MONDAY June 11, 2012</b></p>
Morning	<p><b>8:00 – 12:00</b> ( 3 3/4 hours + 15 minute break)</p> <ul style="list-style-type: none"> <li>• <b>Welcome</b>, invocation, introductions, approve today's agenda and May webinar summary (20 min)</li> <li>• <b>Status update on settlement (proposed)</b> (25 min) <ul style="list-style-type: none"> <li>○ Commissioner Q&amp;A</li> <li>○ Audience / Public Q&amp;A</li> </ul> </li> <li>• <b>Review and report on Commission operations (budget, draft outreach plan and outreach activities)</b> (60 minutes) <ul style="list-style-type: none"> <li>○ Commissioner Q&amp;A</li> <li>○ Audience / Public Q&amp;A</li> </ul> </li> <li>• <b>Trust Relationship Subcommittee Report and Panel Session:</b> Presentation, discussion, next steps (60 min) <p>Commission review and panel discussion of subcommittee's draft statement regarding the trust relationship. Possible panel discussion questions in addition to responses to the draft statement:</p> <ul style="list-style-type: none"> <li>➤ <i>In what concrete ways can the trust relationship between tribes and DOI be improved?</i></li> <li>➤ <i>What are the barriers to these improvements? What might it take to implement improvements?</i></li> <li>➤ <i>Do you have any recommendations and/or suggestions that would improve the nation-to-nation relationship between DOI and Tribes with respect to trust administration? (Question 4 from outreach letter)</i></li> </ul> <ul style="list-style-type: none"> <li>○ Commissioner Q&amp;A</li> <li>○ Audience / Public Q&amp;A</li> </ul> </li> <li>• <b>Trust Models Subcommittee Report and Panel Session:</b> Presentation, discussion, next steps (60 min) Possible panel to discuss how other trust models work, how are they organized. <b>See list of possible speakers provided by DOI on pages 5-7.</b> <ul style="list-style-type: none"> <li>○ Commissioner Q&amp;A</li> <li>○ Audience / Public Q&amp;A</li> </ul> </li> </ul>
Lunch	<p><b>12:00 – 1:30</b> Lunch (on your own)</p>
Afternoon	<p><b>1:30 – 5:00</b> (3 1/4 hours + 15 min break)</p> <ul style="list-style-type: none"> <li>• <b>Discussion of comments received to-date in response to questions in Commission outreach letter.</b> Presentation and discussion (60 min) <ul style="list-style-type: none"> <li>○ Commissioner Q&amp;A</li> <li>○ Audience / Public Q&amp;A</li> </ul> </li> <li>• <b>Public round robin session for public to share perspectives regarding any of the previous panel discussion questions and:</b> (120 min) <ul style="list-style-type: none"> <li>➤ <b>Do you have any recommendations and/or suggestions that would improve the nation-to-nation relationship between DOI and Tribes with respect to trust administration?</b></li> <li>➤ <b>Are there any other trust administration models the Commission should examine as it looks towards improving the Department of the Interior's trust administration and management?</b></li> </ul> </li> <li>• <b>Commissioner reflections from round robin</b> (10 min)</li> <li>• <b>Review agreements and action items for the day</b> (5 min)</li> </ul>

	<b>TUESDAY June 12, 2012<sup>1</sup></b>
Morning	<p><b>9:00 – 12:00</b> (2 3/4 hours + 15 min break)</p> <ul style="list-style-type: none"> <li>• <b>Welcome</b>, invocation, introductions, review agenda (15 min)</li> <li>• <b>Status update on BIA consultations, preliminary overview of comments</b> (30 min) <ul style="list-style-type: none"> <li>○ Commissioner Q&amp;A</li> <li>○ Audience Q&amp;A</li> </ul> </li> <li>• <b>Trust Management and Administration Subcommittee Report:</b> Discussion of evaluator scope of work and next steps (60 min) <ul style="list-style-type: none"> <li>○ Commissioner Q&amp;A</li> <li>○ Audience / Public Q&amp;A</li> </ul> </li> <li>• <b>Trust Management and Administration Panel Session Presentation and Discussion</b> (120 min) Possible panel to discuss: <ul style="list-style-type: none"> <li>➤ Recommendations to improve or streamline delivery of services to trust beneficiaries. This includes matters related to financial management and accounting functions, as well as natural resource management functions. (Question 1 Commission outreach letter.)</li> <li>➤ Recommendations to improve or strengthen trust management and/or administration based on lessons learned in the course of litigation and settlement of the recent tribal breach of trust cases. (Question 5 Commission outreach letter)</li> <li>➤ What solutions do they think would improve trust management and administration? <ul style="list-style-type: none"> <li>○ Commissioner Q&amp;A</li> <li>○ Audience / Public Q&amp;A</li> </ul> </li> </ul> </li> </ul>
Lunch	<b>12:00 – 1:30</b> Lunch (on your own)
Afternoon	<p><b>1:30 – 5:00</b> (3 1/4 hours + 15 min break)</p> <ul style="list-style-type: none"> <li>• <b>ITC Work Plan: discuss updates, including updates to subcommittee charges</b> (30 min) <ul style="list-style-type: none"> <li>○ Commissioner Q&amp;A</li> <li>○ Audience/Public Q&amp;A</li> </ul> </li> <li>• <b>Public round robin session for public to share perspectives regarding any of the previous panel discussion questions and:</b> (120 min) <ul style="list-style-type: none"> <li>➤ <b>Do you have any recommendations to improve or streamline delivery of services to trust beneficiaries? This includes matters related to financial management and accounting functions, as well as natural resource management functions.</b></li> <li>➤ <b>Do you have any recommendations to improve or strengthen trust management and/or administration based on information gathered in the course of litigation and settlement of the recent tribal breach of trust cases announced in early April of this year.</b></li> <li>➤ <b>Given that the sunset provision in the American Indian Trust Fund Management Reform Act of 1994 was predicated on OST's oversight and reform responsibilities, and that OST now has additional operational duties, should the Commission recommend sunseting the OST?</b></li> </ul> </li> <li>• <b>Suggested topics for next meetings</b> (20 min) <ul style="list-style-type: none"> <li>○ Summer webinar</li> <li>○ September meeting</li> </ul> </li> <li>• <b>Review action items, meeting accomplishments</b> (15 min)</li> <li>• <b>Closing blessing, adjourn</b> (10 min)</li> </ul>

<sup>1</sup> A field trip for Commissioners to see and learn about the trust services and call center on June 12 is proposed from 8.00-8.45/9.00 AM.

**SUGGESTED PRESENTERS FOR JUNE OR FUTURE MEETINGS/WEBINARS  
MADE ON THE APRIL 10 ITC ADMINISTRATIVE CALL**

**I. Trust relationship with DOI panel or guest speakers:**

FOCUS OF REMARKS:

- Responses to subcommittee draft two sentence statement\* regarding the trust relationship.
- Do you have any recommendations and/or suggestions that would improve the nation-to-nation relationship between DOI and Tribes with respect to trust administration? (Question 4 in Commission outreach letter)
- In what concrete ways can the trust relationship between tribes and DOI be improved?
- What are the barriers to these improvements? What might it take to implement improvements?

\* **Question to Commission:** *On April Administrative call Commissioner Anderson indicated that he would work with Mathew Fletcher and others to prepare a short statement. Will the statement be available in advance of the June webinar?*

WHO (POSSIBLE SPEAKERS):

- **See information provided by DOI on pages 5-7.**

**II. Trust Models panel or guest speakers**

FOCUS OF REMARKS:

- Discuss how other trust models work, how they are organized.
- Question 2 in Commission outreach letter
- Suggestions from Commissioners

WHO (POSSIBLE SPEAKERS):

- Speakers not affiliated to tribal or individual Indian trust
- Treasury, OMB, DOI Insular Affairs, or other agencies that have trust models.

*Note: DOI team is identifying possible speakers from Treasury and OMB and potentially other federal entities*

**III. Trust administration and reform panel or guest speakers:**

FOCUS OF REMARKS:

- Do you have any recommendations to improve or streamline delivery of services to trust beneficiaries? This includes matters related to financial management and accounting functions, as well as natural resource management functions. (Question 1 in Commission outreach letter)
- Do you have any recommendations to improve or strengthen trust management and/or administration based on information gathered in the course of litigation and settlement of the recent tribal breach of trust cases announced in early April of this year. (Question 5 in Commission outreach letter)
- What solutions do they think would improve trust management and administration?

WHO (POSSIBLE SPEAKERS):

- Melody McCoy, NARF to provide a presentation on what she thinks should be done to avoid future litigation through institutional or operations change (can't discuss current, ongoing litigation)
- Mary Zuni Chalan, Executive Director ITMA to provide a presentation about ITMA's perspective about...
- Eric Eberhard, Seattle University School of Law

Possible speakers suggested by Commissioners but not specified for a particular topic. Individuals based in Albuquerque or the southwest are highlighted in yellow.

- Richard Chambers
- Robert N. Clinton, Phoenix, AZ Arizona State University
- Sam Deloria, Director, American Indian Graduate Center need a personal invite from Chair, Stacie Leeds
- John Echohawk, NARF
- Matthew Fletcher, Michigan State University
- Paul Fry – Albuquerque experience in coal litigation –could speak to trust asset systems
- Janie Hipp, USDA
- Cris Stainbrook – Indian Land Tenure Foundation
- Helen Padilla, Director, Native American Law Center at the University of New Mexico?
- Richard Hughes – represented many pueblos -
- Anita Matt, Board member Intertribal Agricultural Council (speak at Bismarck meeting)
- Alan Taradash, Nordhaus Law, Albuquerque
- Rebecca Tsosie, Phoenix, AZ Arizona State University (currently at UNM?)
- Kevin Washburn – Dean of College of Law at UNM

**Question to Commission:** *Who from this list should be invited to speak, and on what topic at the June meeting?*

*Note: It has been suggested that the letters of invite come from Commissioners. On the May 16 Commission webinar please be prepared to suggest speakers for June so that the invitation letters can be sent.*

**Secretarial Commission on Indian Trust Administration and Reform  
Options for Trust Model speakers at the June 11, 12 meeting**

Dear Commissioners,

We need your help in identifying the most appropriate speakers to talk about other trust models for the Indian Trust Commission meeting in June. Currently, the agenda identifies 60 minutes for speaker(s), which includes Q & A and public comments.

We have compiled a preliminary list of potential agencies with different trust models and we need your input. On the upcoming Commissioner webinar (May 16) we ask you to **please rank the following options from 1-7, with 1 being the most preferred organization**. We would recommend the Pension Benefit Guaranty Corporation and a private trust division of a major trust company as the best options based on the reasons described below. However, if we have missed the mark, please let us know and we can work together to identify a more appropriate organization or agency.

## **OVERVIEW OF TRUST MODELS**

We have yet to identify other trust models that are directly comparable to Interior's trust model. However, one public and one private organization have functions that together, represent the breadth of Interior's trust responsibility. We recommend moving forward to have them speak at the June trust commission meeting.

- The Pension Benefit Guaranty Corporation (PBGC) is a U.S. government entity that is structurally and operationally similar to OST.
- The private trust division of a major trust company (e.g., Northern Trust) deals with fiduciary obligations and accounting issues similar to OST.

The Bureau of Public Debt at the US Treasury does invest funds in Treasury Securities for various programs such as Social Security, Medicare, and Highway Trust Fund. This is a very simple trust model, similar only to the trust funds investment side of OST.

We are still researching information about several other trust models i.e., Office of Insular Affairs and Federal Trust Commission. We have reached out to the Office of Management and Budget but have not located one person who can address the full breadth of trust models across the Federal Government.

One of the reputable universities that educate future trust fund managers could provide a "text book" approach to trust management.

## **ADDITIONAL INFORMATION ABOUT EACH OPTION**

**Pension Benefit Guaranty Corporation** – we have a contact in PBGC who is willing to speak/teleconference at the June meeting.

The PBGC performs many functions similar to OST.

- PBGC is trustee of multiple trusts.
- It provides separate beneficiary services and payments.

- It has regional service centers.
- PBGC has fiduciary investment responsibility for trustee assets.
- It is responsible for accounting for individual trusts.
- It is similar in size and structure to OST - about 700 FTE's.
- It is responsible for valuing separate trust assets before they are trustee.
- PBGC has extensive trust accounting operations.
- Trustee assets may be removed from trust under certain circumstances.

PBGC is also dissimilar to OST.

- It is responsible for calculating and paying periodic pension benefits.
- Trust assets are commingled and accounted for on a unitized basis.
- Assets are managed on a commingled basis.
- Assets are managed by outside managers in multiple asset classes.
- Trust assets have a single investment objective.

**Northern Trust (one of largest personal trust management firms)** – we have a contact in Northern Trust who is willing to speak/teleconference at the June meeting. We also have a contact in the Bank of New York who may be willing to speak if Northern Trust is not able to do so. The private trust divisions of major trust companies have fiduciary obligations and accounting responsibilities similar to OST.

- They are responsible for maintaining the corpus (principal) of trust account assets.
- Accounts are managed and accounted for individually.
- Investment objectives of trust accounts are varied and individualized.
- Assets are generally accounted for on cost, as well as market value.
- Trust divisions often manage and account for hard assets.
- They manage both discretionary and non-discretionary trust accounts.
- Trust divisions provide beneficiary reporting and communication, similar to OST.

Private trust divisions are not directly comparable to OST.

- Investment alternatives are broader than OST's legal limitations (U.S.C 162a).

#### **Office of Insular Affairs, Department of the Interior**

- OIA does sit on the three Boards of Directors that manage trust funds for the three Freely Associated States – Palau, Marshall Islands, and the Federated State of Micronesia. The trust model is very simple - one source of funds with one beneficiary. The details are as follows:
  - On an annual basis, funding (mandatory) is deposited by Treasury in each of the three trust fund account.
  - Each of the three funds has a Board of Directors that includes Federal government representation.
  - Each Board hires a private equity firm to invest the funds.
  - Upon request, funds are transferred to the particular Freely Associated State
  - At times, Congress will reduce annual funding, if a particular Freely Associate State withdraws a large amount of funding from the trust
  - The goal of the trust funds is to ultimately provide a corpus so that each of the Freely Associated States is self-sufficient.

#### **Federal Trade Commission**

- We have been given a name but have not made contact.

**Office of Management and Budget**

- We have several points of contact but have yet to locate one person who could speak to the full breadth of trust models across government.

**Bureau of Public Debt within the Department of Treasury - we have a contact in BPD:**

- BPD does invest funds for various programs such as Social Security, Medicare, and the Highway Trust Fund.
- BPD function more as a holding entity, rather than a trustee for beneficiaries.
- Investments options are very limited – only “book entry treasuries.”
- Their similarity with OST is limited to the funds investment arena.
- BPD makes funds available to programs upon their request
- OST’s investment options, while also limited, are broader than that of the BPD.

**Academic Point of View**

- Mike Ferri at George Mason University in the DC area was used as an expert witness in recent litigation and is co-author of a book on fixed income. We have yet to make contact, but could do so.

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