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**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS FOR 1985**

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HEARINGS

BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
NINETY-EIGHTH CONGRESS
SECOND SESSION

SUBCOMMITTEE ON THE DEPARTMENT OF THE INTERIOR AND
RELATED AGENCIES

SIDNEY R. YATES, Illinois, Chairman

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NORMAN D. DICKS, Washington
WILLIAM R. RATCHFORD, Connecticut
EDWARD P. BOLAND, Massachusetts
LES AuCOIN, Oregon

JOSEPH M. McDADE, Pennsylvania
RALPH REGULA, Ohio
TOM LOEFFLER, Texas

FREDERICK G. MOHRMAN, D. NEAL SIGMON, KATHLEEN R. JOHNSON, and JOCELYN BUCK, *Staff Assistants*

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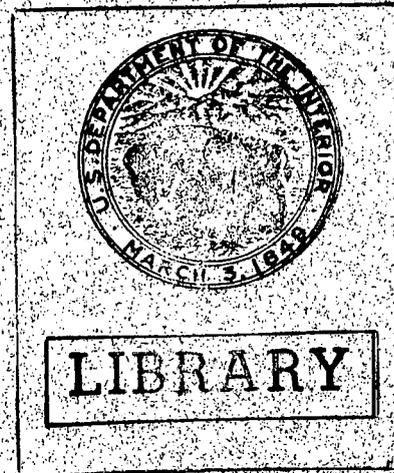
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Questions Submitted by Mr. Les Aucoin

Question: The Cow Creek Band of Umpqua Tribe of Indians in Oregon have requested an expansion in their contract health care service area. Who has the authority to redesignate contract health care service areas and has any tribe been successful in its request to redefine or expand its service area?

Answer: The Secretary has the authority to redesignate CHSDA's pursuant to the regulations at 42 CFR 36.22 (b). There have been no redesignations under this authority. However, with respect to the Cow Creek Band, we have been advised by OGC that their service area is governed by statute, and notwithstanding the regulations, the IHS may, as a matter of administrative discretion, expand the service area. Such a decision would best be effectuated by publication of a notice in the Federal Register, an authority retained by the Administrator, HRSA.

Question: When Equity Health funds are made available to an area office or service unit, are additional staff positions allocated to that area or service unit as well?

Answer: No. During FY 1981-1984, the IHS received \$32.3 million for the equity initiative, but no additional positions. However, in some instances, these funds were utilized to purchase FTEs through the contract mechanism, as well as to support positions within the existing ceiling for which IHS had insufficient funding.

Question: Would elevating the position of Director of the IHS to the level of an Assistant Secretary within HHS (similar to the BIA within Interior) provide for more efficient delivery of services and a more effective decision-making authority within IHS?

Answer: The Department sees no advantages in removing the IHS from the PHS. We believe the IHS should be located within the PHS in order to take advantage of the available health expertise. We, therefore, oppose elevating the position of Director, IHS. The rationale for the 1955 transfer of Indian health responsibility from the Bureau of Indian Affairs to the PHS was that Indian health would be improved if responsibility were located in the PHS. Given the significant improvement in Indian health over the past thirty years, we believe that premise is still valid.

The Director of IHS was chosen by the Secretary of DHHS and the Assistant Secretary for Health. While the current Director has been in office less than two and a half years, his predecessor served more than twelve years, through several changes of Administration. This stability and continuity of leadership is critical to the management of a health care system such as the IHS.

Question: The IHS recently asked several tribes in Oregon to comment on a proposal to treat non-Indians at IHS facilities. What is the status of these proposals?

Answer: The Portland Area Office is still in the process of collecting the responses. All IHS Area Offices have been advised that any decision to serve non-Indians at an IHS facility on a fee-for-service basis must be agreed to by the tribe or tribes served by that facility.

Question: What the treatment of non-Indians at IHS facilities result in reduced health care for Native Americans?

Answer: Prior to an agreement between IHS and a tribe(s) to serve non-Indians, the Director, IHS, must make a determination as to the capacity and the capability of the facility to serve non-Indians without impeding its responsibility to the tribe(s).

TUESDAY, MARCH 13, 1984.

BUREAU OF INDIAN AFFAIRS

WITNESSES

KENNETH L. SMITH, ASSISTANT SECRETARY-INDIAN AFFAIRS
 RICHARD HITE, ACTING ASSISTANT SECRETARY, PBA
 JOHN W. FRITZ, DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS (OPERATIONS)
 RICHARD M. BALSIGER, DIRECTOR, OFFICE OF ADMINISTRATION
 MICHAEL J. O'BANNON, ACTING ASSISTANT DIRECTOR, FINANCIAL MANAGEMENT
 SIDNEY L. MILLS, DIRECTOR, OFFICE OF TRUST RESPONSIBILITIES
 THEODORE C. KRENZKE, DIRECTOR, OFFICE OF INDIAN SERVICES
 KENNETH G. ROSS, ACTING DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS
 NANCY C. GARRETT, COMPTROLLER AND DEPUTY DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS
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 WALTER F. LATTA, ACTING CHIEF, SCHOOL FACILITIES STAFF
 RICHARD J. GLYNN, EXECUTIVE ASSISTANT, DEPUTY ASSISTANT SECRETARY-OPERATIONS
 CHARLES HUGHES, SPECIAL PROJECTS OFFICER
 HAZEL E. ELBERT, DEPUTY DIRECTOR, OFFICE OF INDIAN SERVICES, BUREAU OF INDIAN AFFAIRS
 HOWARD HULBERT
 LEO NOLAN, CHIEF, BRANCH OF MANAGEMENT INFORMATION SYSTEMS, OFFICE OF INDIAN EDUCATION PROGRAMS
 BOB G. MARTIN, PRESIDENT, SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE
 JAMES MARTIN, ASSISTANT DIRECTOR, AREAS AND POST SECONDARY SCHOOLS, OFFICE OF INDIAN EDUCATION PROGRAMS
 SHIRLEY CROSBY, PROGRAM COORDINATION OFFICER, OFFICE OF TRUST TERRITORIES

Mr. YATES: Show the hearing as coming to order, Mr. Reporter. This is the hearing on the appropriation for fiscal year 1985 for the Bureau of Indian Affairs of the Department of Interior. Appearing before us in support of that appropriation is Assistant Secretary for Indian Affairs, Mr. Kenneth L. Smith; the Deputy Assistant Secretary for Indian Affairs Operations, Mr. Fritz. You don't follow the AMA, do you? They have changed the word "operations" to "procedures." Were you aware of that? Every time you talk to a doctor or nurse, they say we will have a "procedure." Mr. Balsiger, Director of the Office of Administration. Mr. O'Bannon, Acting Assistant Director for Financial Management. Mr. Mills, Director of the Office of Trust Responsibilities. Mr.

Mr. SMITH. Well, Mr. Chairman, our objective is to eventually get this function back under the Bureau of Indian Affairs. This move, when made, will make good management sense. As you know, the committees are very interested in the success of that program. We are continuously working on this program to get it back into the Bureau. We think we have made a lot of progress in the last couple of years. I think we are very close to making that move.

Of course, we will keep you involved. I am not sure when we will be able to get the job done. We were shooting for 1985. As I understand, there is concern by the committee. We will continue to carry on our dialogue with you to try to convince you that whether it be 1985 or 1986, we would like to get OCM back into the Bureau of Indian Affairs where it really should be.

Another problem area is the financial system of the Bureau.

FINANCE SYSTEMS IMPROVEMENT

Mr. YATES. Oh, boy, that is a bottomless pit.

Mr. SMITH. It is.

Mr. YATES. Can we find a bottom to it?

Mr. SMITH. I think we can, Mr. Chairman. We are making some headway trying to address that problem. As you know, the accounting system was last certified by the General Accounting Office in 1952. That has been a long, long time. There have been several changes since 1952. But we have to address this, and we are requesting \$750,000 in the 1985 budget to get the project started, although we have started the project already.

We have a team of Treasury people in. They are working with the Department to try and address this issue.

Another problem area we addressed this last year was, Mr. Chairman, as trustee, managing and investing about \$1.7 billion of tribal funds. We wanted to know whether we were, as trustee, doing a good job for them or not. So we had a study done by one of the big eight firms to review and critique on what type of a job we were doing.

This review indicated our performance had exceeded that of many professionally managed funds, but identified weaknesses in the trust fund accounting and our cash management. Mr. Chairman, we will be addressing those two issues in the next few months to try and correct those weaknesses.

INVESTMENT OF TRUST FUNDS

Mr. YATES. That is an interesting—

Mr. SMITH. On the other side, we are doing a pretty good job.

Mr. YATES. That is an interesting statement you make. Who invested your funds?

Mr. SMITH. We have a shop in Albuquerque managed by Johnny Vale. That shop reports to Sid Mills in our trust office. They invest money in CDs and Treasury bills, trying to get the best interest for tribes.

Mr. REGULA. Will the chairman yield?

Mr. YATES. Sure.

Mr. REGULA. As I understand then, revenues the tribes would get from, say, the sale of coal, oil and gas and so on, flow to the Bureau of Indian Affairs for purposes of management.

Mr. SMITH. Yes.

Mr. REGULA. Then the income generated flows back to the tribe.

Mr. SMITH. Yes.

Mr. REGULA. Do you take a fee for doing this?

Mr. SMITH. No, we don't.

Mr. REGULA. One-hundred percent goes back to the tribe. Does the tribe have a voice in this? Are there representatives on your investment board at this time?

Mr. SMITH. Not at this point. This is one of the suggestions the big eight firms make, and we should have a committee—

Mr. REGULA. You are managing how much?

Mr. SMITH. \$1.7 billion.

Mr. REGULA. For how many different tribes?

Mr. SMITH. About 260 or so tribes. I don't know the exact figure. This involves individual money, too.

Mr. REGULA. Individual members.

Mr. SMITH. Individual Indians that have trust fund money coming from one of the leases that they have, like an oil lease.

Mr. REGULA. On their own land.

Mr. SMITH. On their own land.

Mr. YATES. Who did you say was doing the investing?

Mr. SMITH. Mr. John Vale, who works for the Bureau of Indian Affairs.

Mr. YATES. What is his background?

Mr. MILLS. Mr. Vale had been a finance officer several years with the Bureau of Indian Affairs prior to taking this job some 10 years ago.

Mr. YATES. My goodness, that is a big, big job playing around with \$1.7 billion. That is why I asked who Mr. Vale is. What is his special expertise for dealing with this? The fact he has been a finance officer for the Bureau of Indian Affairs for 10 years isn't the most outstanding qualification, is it? I mean, I don't know Mr. Vale and don't mean to demean him.

Mr. MILLS. He does a very good job, Mr. Chairman. In the draft report we have, they commend Mr. Vale for his performance to date.

Mr. FRITZ. He has parameters around his flexibility in terms of what he can invest in.

Mr. YATES. Tell us about that. All of this flows into this one office. I thought the Treasury was handling it.

Mr. SMITH. Mr. Chairman, the Treasury does receive all our money, and we carry our accounts with Treasury. But by statute, the Secretary has the authority to invest those funds for tribes. He can't invest those funds, for instance, buying stocks and bonds and those types of things. But it is pretty much defined in scope, it is very narrow as to what he can invest in.

Mr. YATES. Does the Treasury or Secretary require him to use those funds for investing in Federal Government securities?

Mr. SMITH. Basically, Federal Government securities.

Mr. YATES. Then they don't have much choice. I would think the Secretary of the Treasury would probably want to use that for the government's borrowings.

Mr. SMITH. And for CDs which are guaranteed.

Mr. YATES. How much does—can you give us a breakdown of how much goes for CDs and how much for Treasury?

Mr. SMITH. Yes, I think, Mr. Chairman, I don't know if I have that handy, but we can get that for you this afternoon.

Mr. YATES. Okay. All right.

Mr. SMITH. The report Price-Waterhouse did has all that—

Mr. YATES. It has it right here, and we will review it.

Mr. SMITH. Yes.

Mr. YATES. I think your interchange with Mr. Regula is an important one. I think that it is important that the tribes be represented so that they have a voice in how their money is invested. Perhaps the tribes have been lucky up to now. I don't know.

Mr. SMITH. Tribes are paying more attention to where their money is being invested.

Mr. YATES. Yes, but they don't have a say in it, do they?

Mr. SMITH. I think they have—they advise Mr. Vale where to invest those funds.

Mr. YATES. Can they?

Mr. SMITH. But, of course, he has to make the final decision. But, yes, when I was in Warm Springs, we personally had worked with Mr. Vail and the recommendations to him every time our CDs would come up for reinvestment.

Mr. YATES. Is there a breakdown in the Price-Waterhouse report as to how much of the billion-seven belongs to each tribe?

Mr. SMITH. No, not in that report. But we can get that for you.

Mr. YATES. Yes. I would be interested in knowing whether the tribes have a say in this. Can somebody tell me how much of that money is Navajo?

Mr. MILLS. We can get that.

[The information follows:]

AMOUNTS OF TRIBAL INVESTMENTS

A listing by tribe of amounts, in descending order, that they have invested, as of March 19, 1982 has been provided to the Committee for the files.

TRIBAL INVOLVEMENT IN INVESTMENT PROGRAMS

Mr. YATES. Mr. Mills, assuming a certain portion of it is Navajo and a certain portion of it is Cherokee and a certain portion of it is Sioux, what right do those tribes have in directing Mr. Vale in his investment, if any, other than a request that he doesn't have to follow?

Mr. MILLS. To start off, Mr. Chairman, he discusses this with the tribes, as any investment officer would, prior to the investment. He does have that authority to go ahead and invest. He does consult with the tribes from time to time as the securities are coming due.

Mr. YATES. Has he ever made investments against the recommendations of the tribes? The requests of the tribes?

Mr. MILLS. Not that I am aware of.

Mr. YATES. Maybe we ought to ask the tribes.

Mr. SMITH. Mr. Chairman, I might add that probably we don't have quite the dialogue we should have. We are addressing it because Mr. Vale has a very large job. He is dealing with a lot of customers out there. It is almost impossible for him to really carry on a one-on-one with every tribe he is investing for. That is one of our weaknesses probably.

Mr. REGULA. Is he restricted by law similar to what a trust officer in a bank would be?

Mr. SMITH. Yes.

Mr. REGULA. There are defined areas?

Mr. SMITH. Defined by statute.

Mr. REGULA. Such as CDs or Treasury bills?

Mr. SMITH. Yes.

Mr. REGULA. He could not buy stocks, for example?

Mr. SMITH. No, he cannot take that risk.

Mr. REGULA. It is pretty well constrained.

Mr. SMITH. It is pretty constrained.

Mr. REGULA. To secured investments is what you are saying, I think.

Mr. YATES. Suppose a tribe wants to buy IBM or wants to buy AT&T. I think probably those are permitted by the courts for trustees though, aren't they, for stocks of that type?

Mr. REGULA. Probably depends on state law and the trust charter.

Mr. SMITH. Mr. Chairman.

Mr. YATES. All of a sudden, an alarm flag has gone up.

Mr. REGULA. \$1.7 billion is a lot of money.

Mr. YATES. It is a lot of money. I suspect the Treasury is actually directing his investments.

Mr. REGULA. Into Treasury bills.

Mr. YATES. Yes.

Mr. SMITH. No, the Treasury does not direct.

Mr. FRITZ. He wouldn't be earning the kind of income he is earning on behalf of tribes. I think that is well documented in the record of Price-Waterhouse.

Mr. YATES. It says he has done very well.

Mr. FRITZ. Yes.

Mr. YATES. The question is he may have done well in government bonds. He might have done better had he invested in some of the bigger corporations, too.

Mr. SMITH. Mr. Chairman—

Mr. YATES. I think it is something we will look at, and we don't have to discuss it at length at the moment because we are in a time period now of general questions.

Mr. SMITH. Right.

Mr. YATES. But it struck me as having great significance.

Mr. SMITH. Mr. Chairman, this is one reason why we want to open the thing up and really carry on a discussion.

Mr. YATES. Yes, we want to open it up too. Had you concluded?

Mr. SMITH. No, I have a couple more issues here.

Mr. YATES. Okay.