Office of the Special Trustee for American Indians

Presentation to the Intertribal Monitoring Association

19th Annual Conference Theme
"Indian Trust at a Time of Change"

Luxor Hotel & Casino, Las Vegas, NV
November 12, 2009

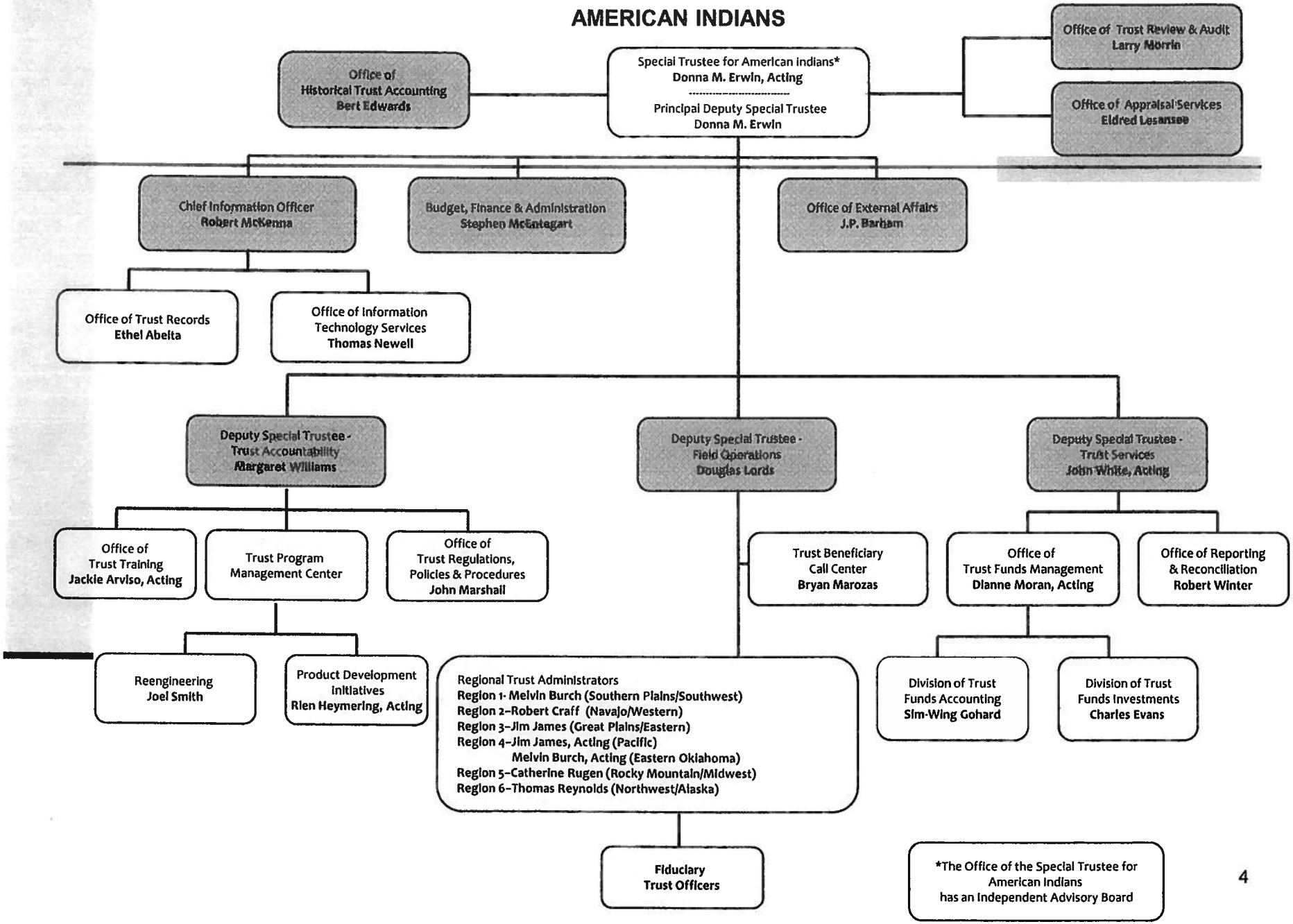
Genesis of the Office of the Special Trustee for American Indians (OST)

- Established within Department of the Interior by the *American Indian Trust Fund Management Reform Act of 1994* ("Reform Act")
- Original statutory responsibility of OST was two-fold:
  - Provide department-wide oversight of Indian trust management reform
  - Ensure implementation of statutory fiduciary and accounting duties prescribed in Reform Act

Genesis of the Office of the Special Trustee for American Indians (OST)

- 1995 – Congress expressed its intention to expand OST's role to include operational functions
  - All fiduciary trust functions to be moved from Bureau of Indian Affairs (BIA) to OST
- Due to tribal input Congress decided that only financial activity would be moved from BIA to OST
- February, 1996 – Transfer effected by Secretarial Order No. 3196
  - Office of Trust Funds Management and BIA fiduciary financial field staff moved to OST
  - BIA retained responsibility for managing non-financial trust assets
- Other functions subsequently transferred to OST by Secretarial Orders
  - 2002 – Office of Appraisal Services
  - 2007 - Office of Historical Trust Accounting

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS



Major Accomplishments in Meeting Statutory Provisions of 25 U.S.C. Chapter 42 and 25 U.S.C. § 162a

25 U.S.C. Chapter 42
25 U.S.C. § 162a.

§ 4011. Responsibility of Secretary to account for daily and annual balances of Indian trust funds

(a) Requirement to account. The Secretary shall 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 section 162a of this title.
§ 162a. (d) (1) Providing adequate systems for accounting for and reporting trust fund balances
§ 162a. (d) (2) Providing adequate controls over receipts and disbursements
§ 162a. (d) (4) Determining accurate cash balances
§ 4043 (b)(2)(C)
(C) Ownership and lease data
The Special Trustee shall ensure that the Bureau establishes policies and practices to maintain complete, accurate, and timely data regarding the ownership and lease of Indian lands.
§ 4043 (c)(3)
(3) Integration of ledger with investment system
The Special Trustee shall ensure that the trust fund investment, general ledger, and subsidiary accounting systems of the Bureau are integrated and that they are adequate to support the trust fund investment needs of the Bureau.

Many of these cross-cut the statutory provisions but are listed in the most prevailing section.

- ***Trust Funds Accounting System (TFAS)***
- ***Trust Asset and Accounting Management System (TAAMS) – Receivable, title, and land management modules***

- *Certification and Accreditation (C&A) Information Technology Systems*

- ***Lockbox (OST implemented a centralized commercial lockbox to receive trust payments)***
- ***Direct Deposit***
- ***Debit Card***

- *Electronic Certification System with Treasury*

Major Accomplishments in Meeting Statutory Provisions of 25 U.S.C. Chapter 42 and 25 U.S.C. § 162a

25 U.S.C. Chapter 42
25 U.S.C. § 162a.

§ 4043 (c)(4)
(4) Integration of land records, trust funds accounting, and asset management systems among agencies
The Special Trustee shall ensure that –
(A) the land records system of the Bureau interfaces with the trust fund accounting system

§ 4011
(b) Periodic statement of performance. Not later than 20 business days after the close of a calendar quarter, the Secretary shall provide a statement of performance to each Indian tribe and individual with respect to whom funds are deposited or invested pursuant to section 162a of this title. The statement, for the period concerned, shall identify -
(1) the source, type, and status of the funds;
(2) the beginning balance;
(3) the gains and losses;
(4) receipts and disbursements; and
(5) the ending balance.
§ 162a. (d) (5) Preparing and supplying account holders with periodic statements of their account performance and with balances of their account which shall be available on a daily basis

Implemented Trust Reform Initiative

- ***Enhanced Statements of Performance are issued periodically (monthly, quarterly, annually) and include all statutorily required elements***
- *Electronic Statements of Performance (provided to tribal beneficiaries upon request)*
- ***Trust Beneficiary Call Center (TBCC) (1-888-678-6836) established a centralized call center that provides timely responses to beneficiaries' questions regarding their trust assets. Information is electronically tracked***
- ***Fiduciary Trust Officers (FTO) 50+ nationwide***

Major Accomplishments in Meeting Statutory Provisions of 25 U.S.C. Chapter 42 and 25 U.S.C. § 162a

25 U.S.C. Chapter 42 25 U.S.C. § 162a.	**Implemented Trust Reform Initiative**
§ 4011 (c) Annual audit. The Secretary shall cause to be conducted an annual audit on a fiscal year basis 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 section 162a of this title, and shall include a letter relating to the audit in the first statement of performance provided under subsection (b) of this section after the completion of the audit.	▪***Balance sheet audit since 1995 and subsequent annual audits*** ▪***Annual Audit (as of FY 2008, no material weakness on tribal audit and only historical material weaknesses remain on IIM, not within the control of OST)*** ▪*Monthly compilation of tribal and IIM financial statements*
SUBCHAPTER II—INDIAN TRUST FUND MANAGEMENT PROGRAM **§ 4021. Purpose** The purpose of this subchapter is to allow tribes an opportunity to manage tribal funds currently held in trust by the United States…	▪*Regulations – Promulgated regulations and established policies and procedures for tribal withdrawal and management of trust funds*

Major Accomplishments in Meeting Statutory Provisions of 25 U.S.C. Chapter 42 and 25 U.S.C. § 162a

25 U.S.C. Chapter 42
25 U.S.C. § 162a.

SUBCHAPTER III—SPECIAL TRUSTEE FOR AMERICAN INDIANS
§ 4043. Authorities and functions of Special Trustee
(a) Comprehensive strategic plan
(1) In general
The Special Trustee shall prepare… a comprehensive strategic plan…
(b) Duties
(1) General oversight of reform efforts
The Special Trustee shall oversee all reform efforts within the Bureau, the Bureau of Land Management, and the Minerals Management Service relating to the trust responsibilities of the Secretary to ensure the establishment of policies, procedures, systems and practices to allow the Secretary to discharge his trust responsibilities in compliance with this chapter.
(2) Bureau of Indian Affairs (Subsequent to the Act this operational duty was moved to OST)
(A) Monitor reconciliation of trust accounts
The Special Trustee shall monitor the reconciliation of tribal and Individual Indian Money trust accounts to ensure that the Bureau provides the account holders, with a fair and accurate accounting of all trust accounts.

Implemented Trust Reform Initiative

- *First Special Trustee's report entitled "Strategic Plan in Response to the American Trust Fund Management Reform Act" submitted to Congress in 1997*
- ***Establishment of Office of Trust Review and Audit (OTRA)***
- ***Established Risk Management Program in accordance with OMB guidance***
- ***Established Trust Reform Office (Reengineering)***
- ***Established American Indian Records Repository (AIRR)***

- *Developed Departmental Comprehensive Trust Management Plan (CTM)*
- *Developed, published and in the process of implementing the Fiduciary Trust Model (FTM)*
- ***Established records management office***

- *Records reviews and training*
- *Reporting of current activity (Treasury, OMB and Beneficiaries)*
- *Establishment of the Office of Historical Trust Accounting (OHTA)*
- *Special deposit cleanup (FY 2003 through current activity)*

Major Accomplishments in Meeting Statutory Provisions of 25 U.S.C. Chapter 42 and 25 U.S.C. § 162a

25 U.S.C. Chapter 42
25 U.S.C. § 162a.

§ 162a. (d) (3) Providing periodic, timely reconciliations to assure the accuracy of accounts

§ 4043 (b)(2)(B)
(B) Investments
The Special Trustee shall ensure that the Bureau establishes appropriate policies and procedures, and develops necessary systems, that will allow it -
(i) properly to account for and invest, as well as maximize, in a
manner consistent with the statutory restrictions imposed on the Secretary's investment options, the return on the investment of all trust fund monies

§ 4043 (3)
(3) Bureau of Land Management
The Special Trustee shall ensure that the Bureau of Land Management establishes policies and practices adequate to enforce compliance with Federal requirements for drilling, production, accountability, environmental protection, and safety with respect to the lease of Indian lands.

Implemented Trust Reform Initiative

- *Reconciliations of current activity (daily, monthly, quarterly; utilizing Treasury's Cash Link System)*

- ***Investments (Established policies, procedures, electronic reconciliation of assets, and electronic performance tools)***
- *Custodian and Investment Accounting Services (Established commercial custodian, utilize commercial off-the-shelf software for security execution, movement and control)*
- *Daily mark-to-market and receipt of income on due date*

- *Established a certification program for private and state surveyors to conduct federal cadastral surveys on Indian trust lands*
- *Established Bureau of Land Management Surveyors at BIA regional offices*

Major Accomplishments in Meeting Statutory Provisions of 25 U.S.C. Chapter 42 and 25 U.S.C. § 162a

25 U.S.C. Chapter 42 25 U.S.C. § 162a.	Implemented Trust Reform Initiative
§ 4043 (4) (4) Minerals Management Service The Special Trustee shall ensure that the Minerals Management Service establishes policies and practices to enforce compliance by lessees of Indian lands with all requirements for timely and accurate reporting of production and payment of lease royalties and other revenues, including the audit of leases to ensure that lessees are accurately reporting production levels and calculating royalty payments.	▪ *Coordinated with Minerals Management Service on development of the FTM*
§ 4043 (c) (c) Coordination of policies (1) In general The Special Trustee shall ensure that – (A) the policies, procedures, practices, and systems of the Bureau, the Bureau of Land Management, and the Minerals Management Service related to the discharge of the Secretary's trust responsibilities are coordinated, consistent, and integrated, and (B) the Department prepares comprehensive and coordinated written policies and procedures for each phase of the trust management business cycle. (2) Standardized procedures The Special Trustee shall ensure that the Bureau imposes standardized trust fund accounting procedures throughout the Bureau.	▪ ***Directives [Policies, Procedures and Desk Operating Procedures (DOP)'s] – Established formal Directives System, electronic fiduciary trust library*** ▪ ***Established a Fiduciary Trust Liaison group representative of Interior's bureaus and offices conducting Indian trust business*** ▪ *Developed and implemented Inter-Agency Procedures Handbook* ▪ *Developed standardized BIA Handbooks for Resource Management Programs; Land Titles & Records Offices; Trust Receipting; Minerals; Rights-of-Way*

Major Accomplishments in Meeting Statutory Provisions of 25 U.S.C. Chapter 42 and 25 U.S.C. § 162a

25 U.S.C. Chapter 42 25 U.S.C. § 162a.	Implemented Trust Reform Initiative
§ 162a. (d) (6) Establishing consistent, written policies and procedures for trust fund management and accounting	
§ 4043 (4)(f) (f) Annual report The Special Trustee shall report to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate each year on the progress of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service in implementing the reforms identified in the comprehensive strategic plan under subsection (a)(1) of this section and in meeting the timetable established in the strategic plan under subsection (a)(2)(C) of this section.	▪*Annual Reports – Most recent reports to Congress entitled, Meeting the Challenge and Restoring Trust: The Reformation of Indian Trust Management (1994-2007)*
§ 4046. Advisory board (a) Establishment and membership Notwithstanding any other provision of law, the Special Trustee shall establish an advisory board to provide advice on all matters within the jurisdiction of the Special Trustee. The advisory board shall consist of nine members, appointed by the Special Trustee after consultation with Indian tribes and appropriate Indian organizations.	▪***Established advisory board in 1995; on-going and meets on a quarterly basis***

Major Accomplishments in Meeting Statutory Provisions of 25 U.S.C. Chapter 42 and 25 U.S.C. § 162a

25 U.S.C. Chapter 42 25 U.S.C. § 162a.	Implemented Trust Reform Initiative
§ 162a. (d) (7) Providing adequate staffing, supervision, and training for trust fund management and accounting	▪ ***Current OST organization is modeled after private sector fiduciary trust organizations with staffing to support trust fund management and accounting*** ▪ ***Training – Interior now has a training program for trust functions, including training conducted by the Cannon Financial Institute. The Cannon Financial Institute Certified Indian Fiduciary Trust Specialist Certification has been awarded to 119 employees*** ▪ ***OST and BIA established the National Indian Programs Training Center (NIPTC)***

OST Financial Trust Fund Management in FY 2009

- Financial trust fund management - As of the end of FY 2009 the financial assets totaled:

  $3.5 billion for 2,700 trust accounts for over 250 Indian tribes, and over 384,000 individual Indian accounts.

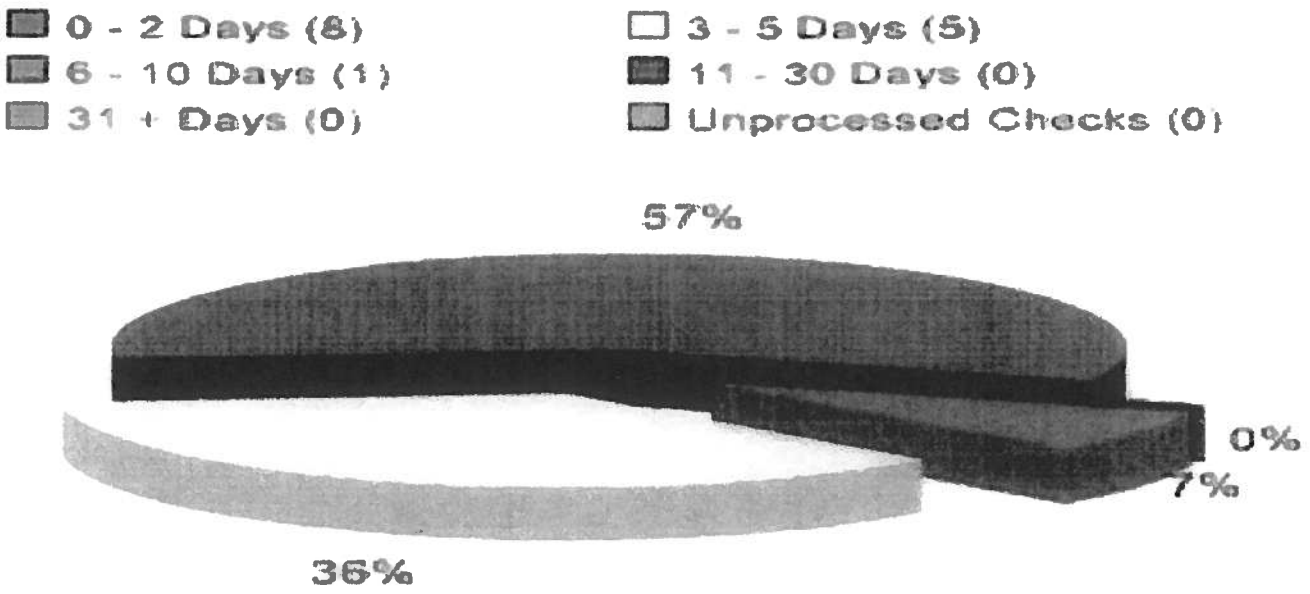
  In FY 2009, OST managed receipts totaling $864 million consisting of:

  - $566 million for about 2,700 tribal accounts for over 250 tribes
  - $298 million for about 384,000 open accounts in the Individual Indian money system

  OST disbursed $756 million to Indian beneficiaries consisting of:

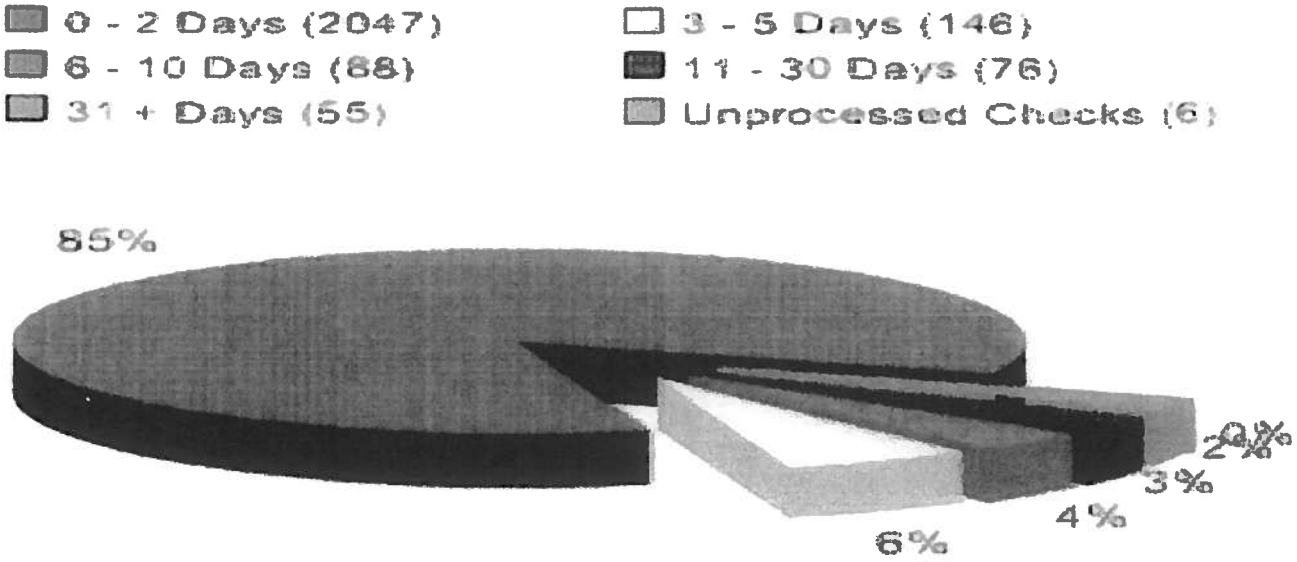
  - $414 million to tribal governments
  - $342 million to Individual Indian account holders

NORTHWEST REGIONAL OFFICE - OLYMPIC PENINSULA
AGENCY TAAMS Check Processing Metrics (Check Counts)



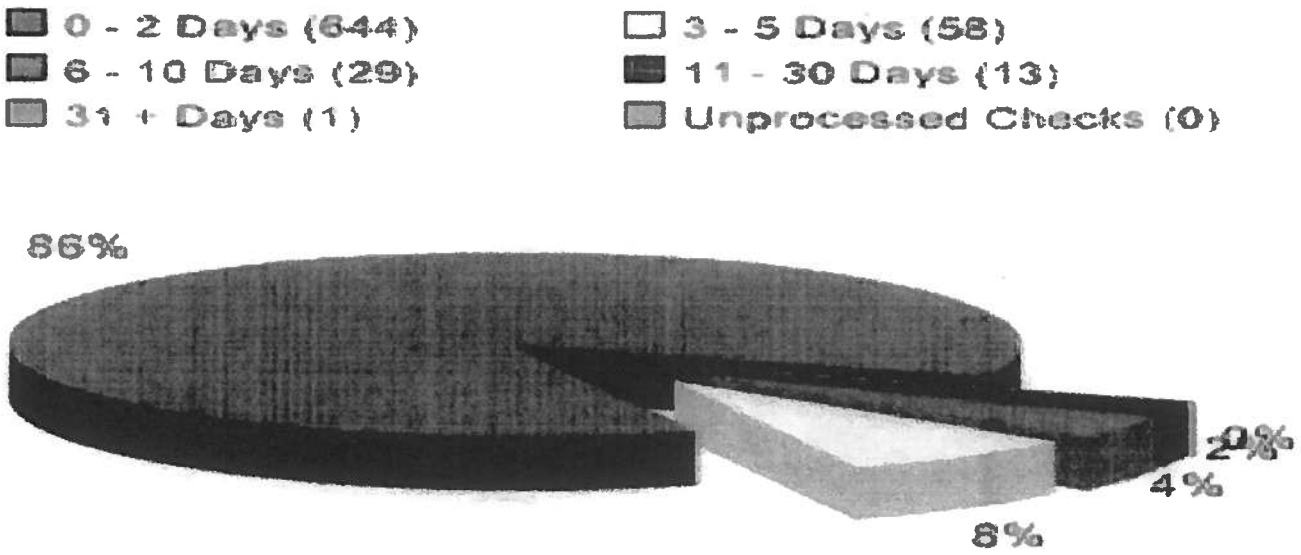
Un-processed Checks	$0.00	0	0.00%
Checks Processed 0 - 2 Days	$148,960.00	8	57.14%
Checks Processed 3 - 5 Days	$332,619.00	5	35.71%
Checks Processed 6 - 10 Days	$196,974.00	1	7.14%
Checks Processed 11 - 30 Days	$0.00	0	0.00%
Checks Processed 31 + Days	$0.00	0	0.00%
Total	$678,553.00	14	

GREAT PLAINS REGIONAL OFFICE - FORT BERTHOLD AGENCY
TAAMS Check Processing Metrics (Check Counts)



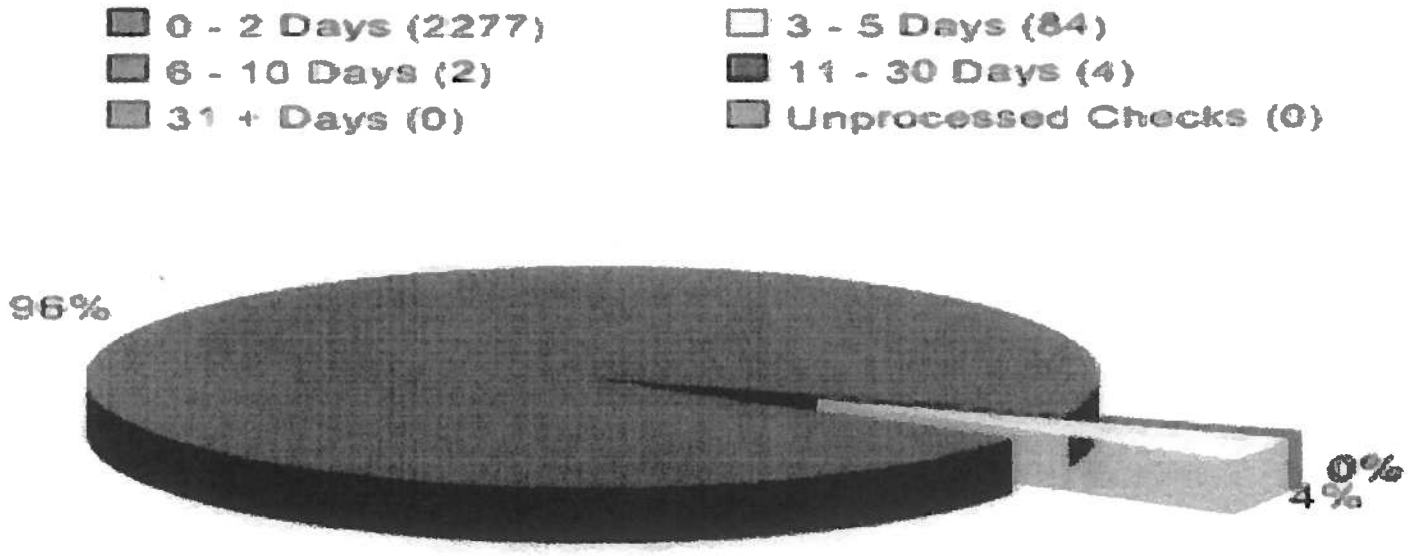
Un-processed Checks	$2,583.67	6	0.25%
Checks Processed 0 - 2 Days	$54,614,110.32	2047	84.66%
Checks Processed 3 - 5 Days	$752,227.45	146	6.04%
Checks Processed 6 - 10 Days	$1,749,352.24	88	3.64%
Checks Processed 11 - 30 Days	$3,644,156.41	76	3.14%
Checks Processed 31 + Days	$9,561,638.76	55	2.27%
Total	$70,324,068.85	2418	

NORTHWEST REGIONAL OFFICE - FLATHEAD AGENCY TAAMS
Check Processing Metrics (Check Counts)



Un-processed Checks	$0.00	0	0.00%
Checks Processed 0 - 2 Days	$17,533,246.95	644	86.44%
Checks Processed 3 - 5 Days	$5,294,317.19	58	7.79%
Checks Processed 6 - 10 Days	$217,497.22	29	3.89%
Checks Processed 11 - 30 Days	$40,244.85	13	1.74%
Checks Processed 31 + Days	$907.00	1	0.13%
Total	$23,086,213.21	745	

OSAGE AGENCY TAAMS Check Processing Metrics (Check Counts)



Un-processed Checks	$0.00	0	0.00%
Checks Processed 0 - 2 Days	$52,289,493.42	2277	96.20%
Checks Processed 3 - 5 Days	$4,588,323.08	84	3.55%
Checks Processed 6 - 10 Days	$300.00	2	0.08%
Checks Processed 11 - 30 Days	$2,238.76	4	0.17%
Checks Processed 31 + Days	$0.00	0	0.00%
Total	$56,880,355.26	2367	

Office of Appraisal Services, Tribal Shares Consultations - Background

In 1995 BIA developed region-by-region formulas used to allocate tribal shares for the Appraisal Program.

When the Appraisal Program was transferred from BIA to OST in 2002, BIA Awarding Officials and OST agreed to continue the region-by-region formulas to maintain continuity.

Office of Appraisal Services, Tribal Shares Consultations - Reasons for Revising

Tribal shares calculated in 1995 have not changed.

Tribal shares have not been recalculated in step with increased regional appraisal budgets.

There may be inequities between tribes that have contracted or compacted at different times.

Office of Appraisal Services, Tribal Shares Consultation - Benefits of Revising

Revised formulas will ensure uniformity and transparency in determining:

- Tribal Shares, and
- Funding Residual for the Inherent Federal Functions

Office of Appraisal Services, Tribal Shares Consultation – Contact Personnel

During the summer of 2009, there were six tribal share consultation meetings held across the country. The OST Tribal Shares Project Team named below are presently reviewing and reconciling comments.

OST Tribal Shares Project Team:
Eldred F. Lesansee, Director, OAS
Debbie Meisner, Deputy Director, Budget, Finance & Administration
Lee Frazier, Management Analyst, OEA
Frank Perniciaro, Management Analyst, OEA
Sally Hernandez, Program Analyst, OEA

Direct Deposit and Debit Card Options

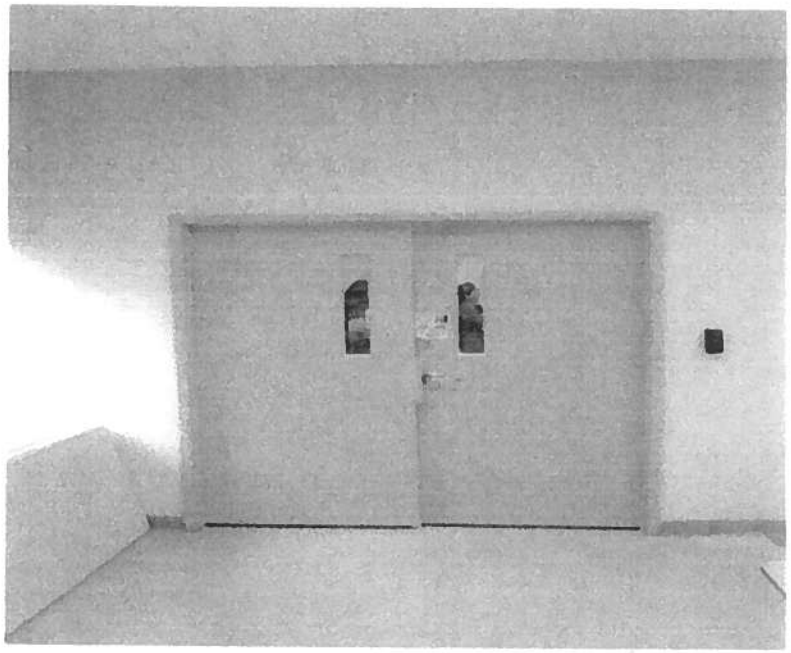
- The direct deposit and debit card options offer IIM account holders (beneficiaries) the convenience and security of receiving their trust funds electronically, rather than by check.
- Contact the Trust Beneficiary Call Center (TBCC) toll-free at 1-888-678-6836 to enroll.
- As of September 30, 2009, a total of 26,500 beneficiary accounts are participating in either the direct deposit or the debit card options.

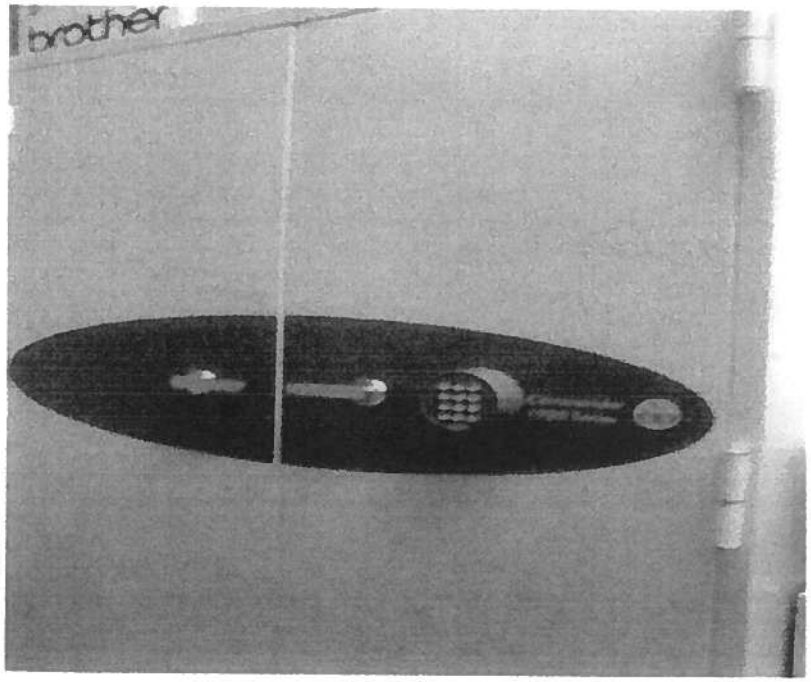
Pay.Gov

- In an effort to enhance beneficiary services, OST, beginning December 21, 2009, will initiate participation in Pay.Gov which offers lessees of Indian Trust land and/or resources, the opportunity to pay their BIA invoices over the Internet by ACH through their checking account or credit card.

Lockbox Update

- The new Lockbox contractor is Data Dash, Inc., from St. Louis, Missouri. Data Dash, Inc., is a 8(a), woman-owned business, and is also in the 8(a) category of "Hub Zone", which is a historically underutilized business, giving Data Dash, Inc., 8(a) priority. The new contract starts February 1, 2010.

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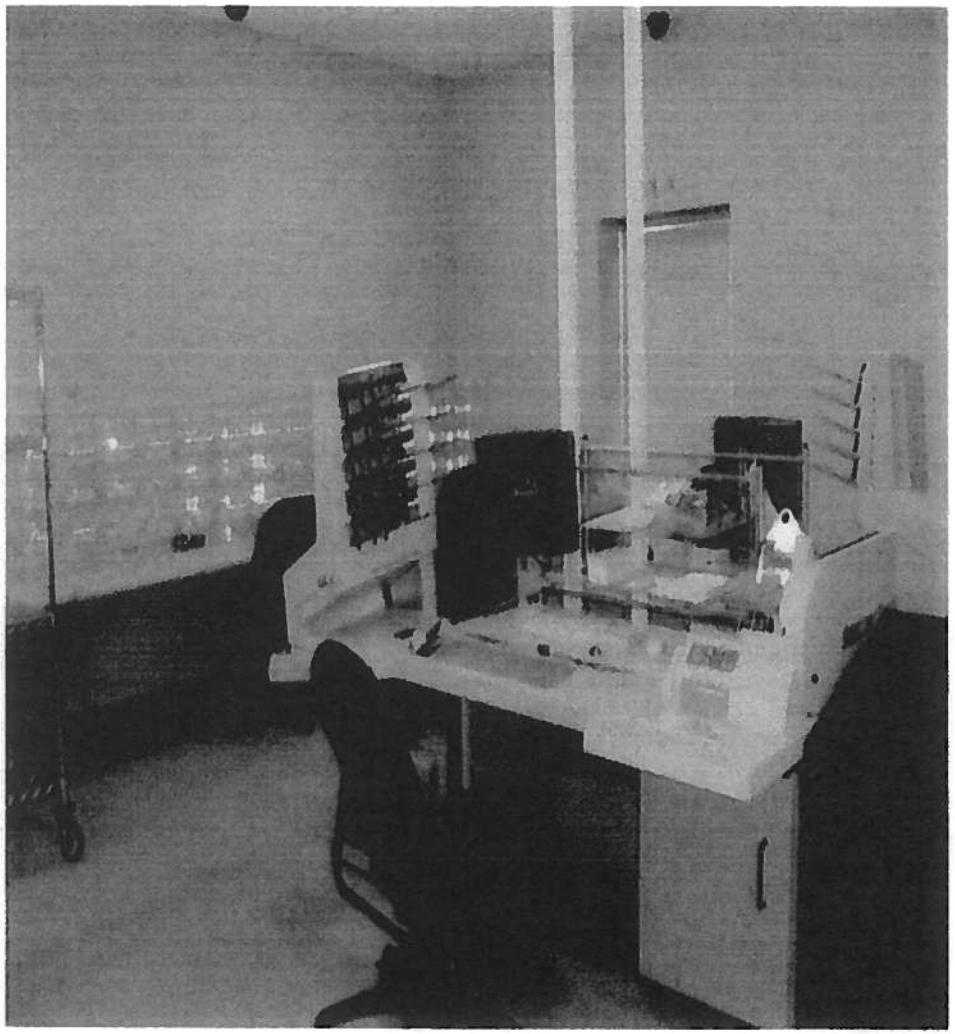


Current Status of Whereabouts Unknown

As of 9/30/09, Field Operations:

- Determined that there were 83,914 beneficiaries whose whereabouts were unknown
- Calculated the value of these accounts at more than $72 million
- Located 26,335 account holders and disbursed more than $26.7 million in fiscal year 2008
- Disbursed $27.5 million and located 26,225 account holders in fiscal year 2009
- Major project to reduce Whereabouts Unknown

OST Risk Management: Three Pronged Approach

Statements of Assurance letters must be supported:

- Annual Assurance Statement on Internal Control over Financial Reporting (as of June 30 of each year)
- Annual Assurance Statement on Internal Control (as of September 30)

⇨ Three-Pronged Approach
- Program Managers Self-Assessments (RM-Plus)
- Office of Trust Review and Audit Program evaluations/internal reviews (internal audits)
- Annual Independent Third-Party Audit (currently KPMG)

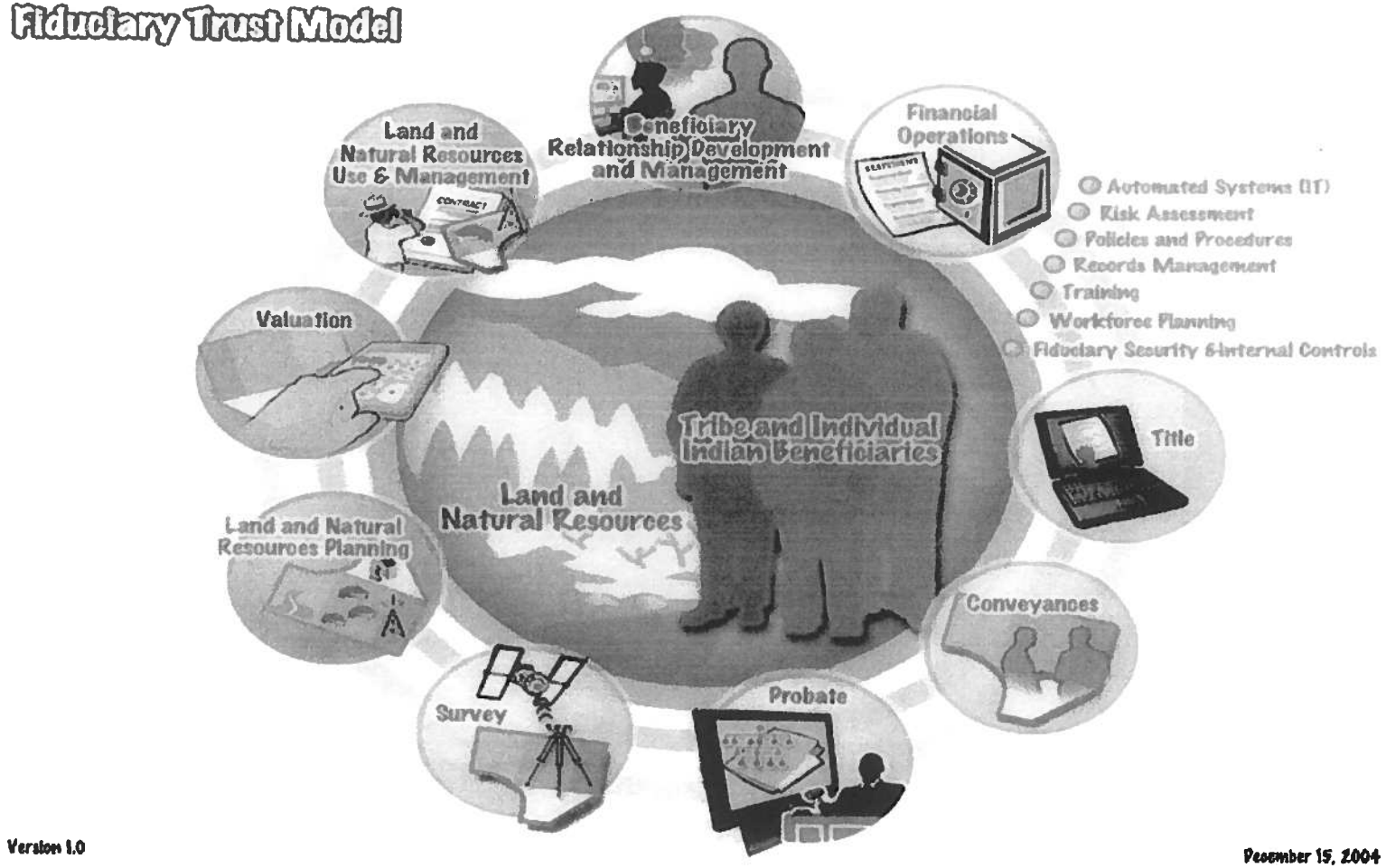
⇨ Automated risk management tool (RM-Plus)

- Trust Senior Management Council and Senior Assessment Team (OMB Circular A-123, Appendix-A)

⇨ Risk Based Management Approach

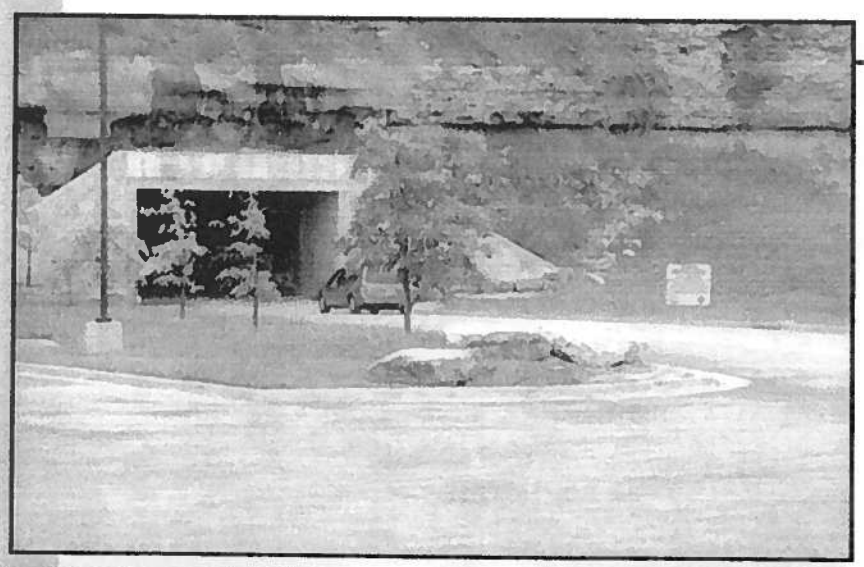
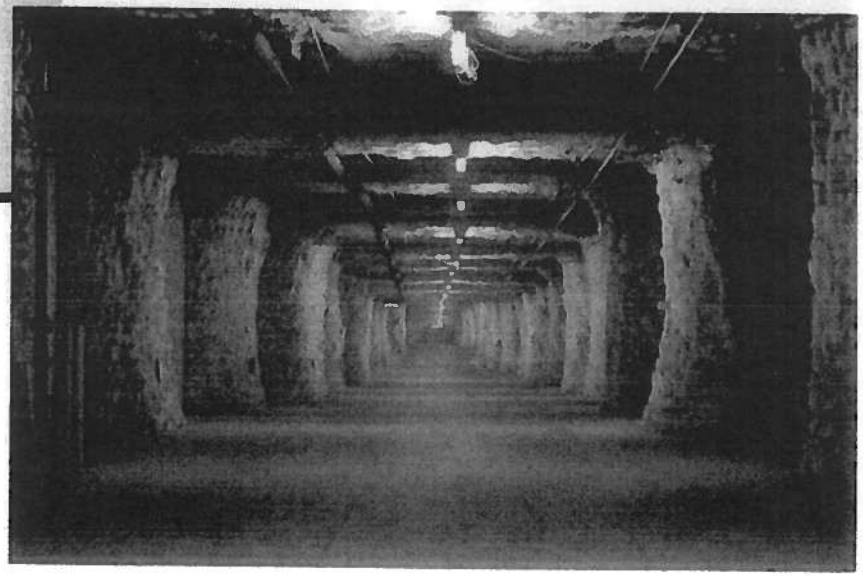
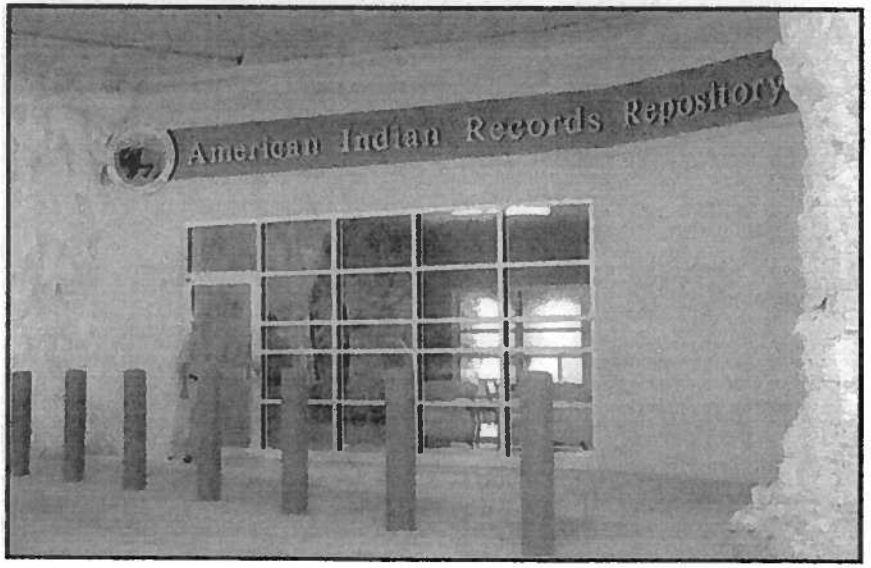
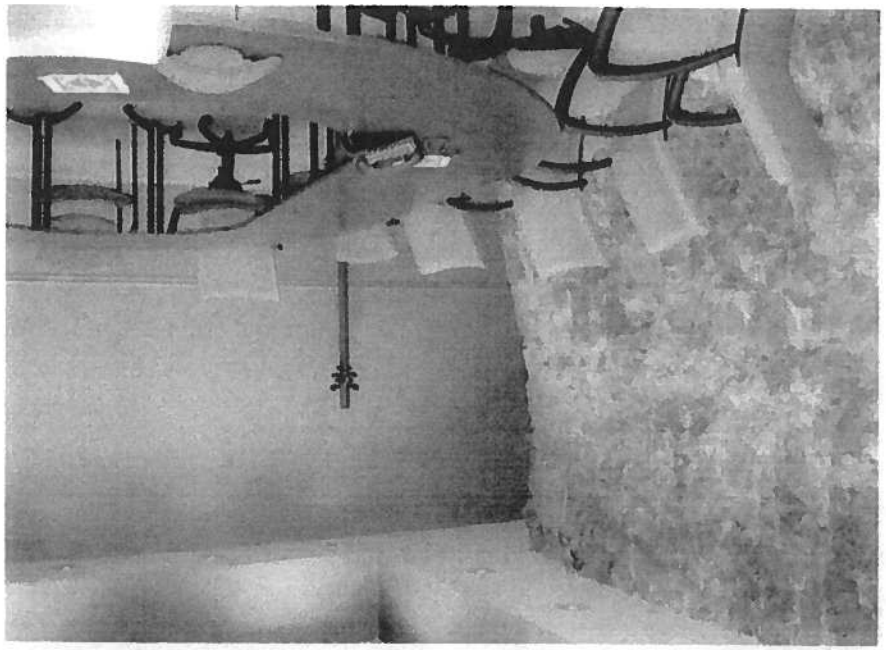
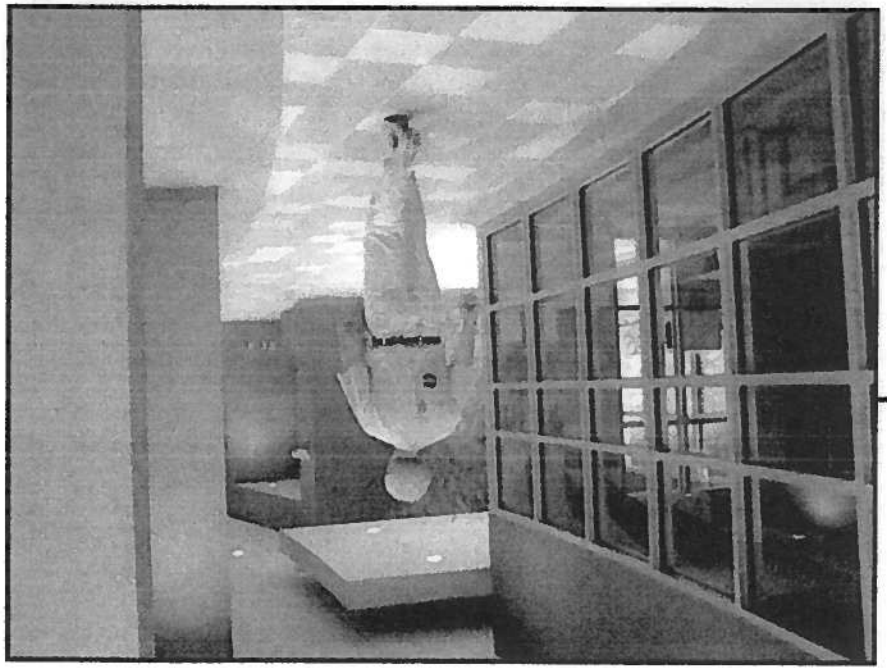
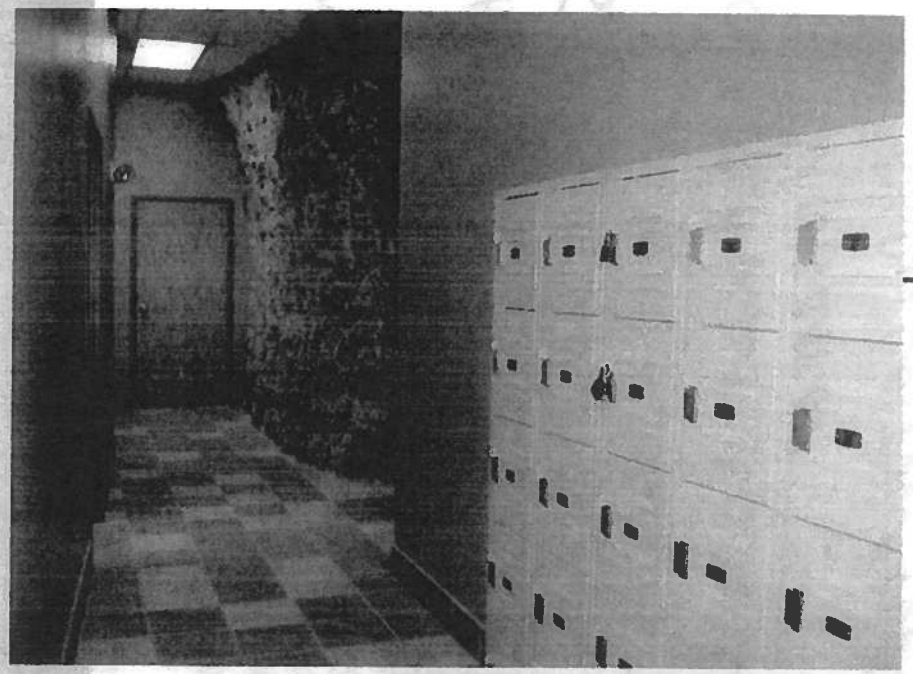
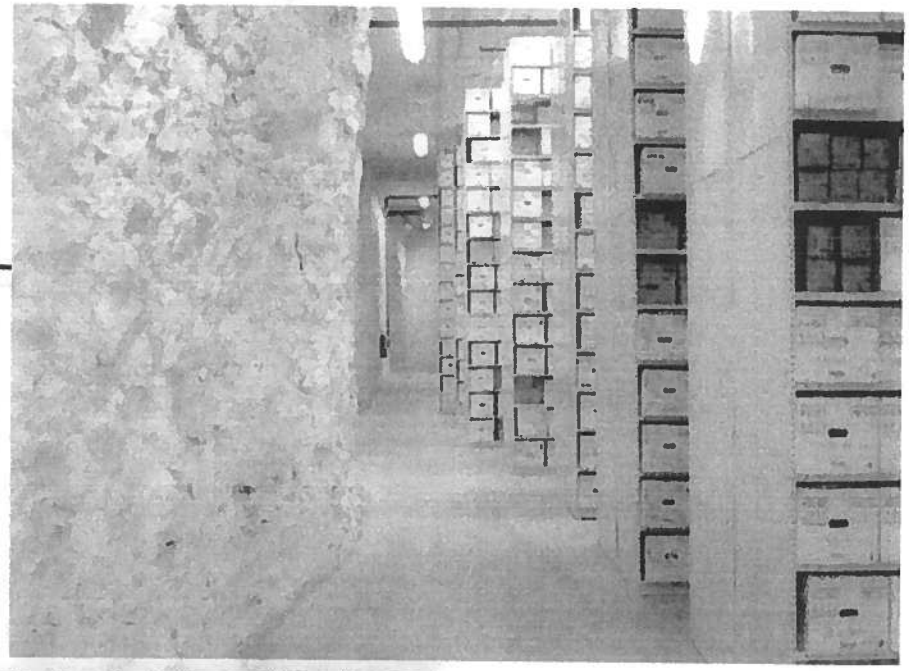
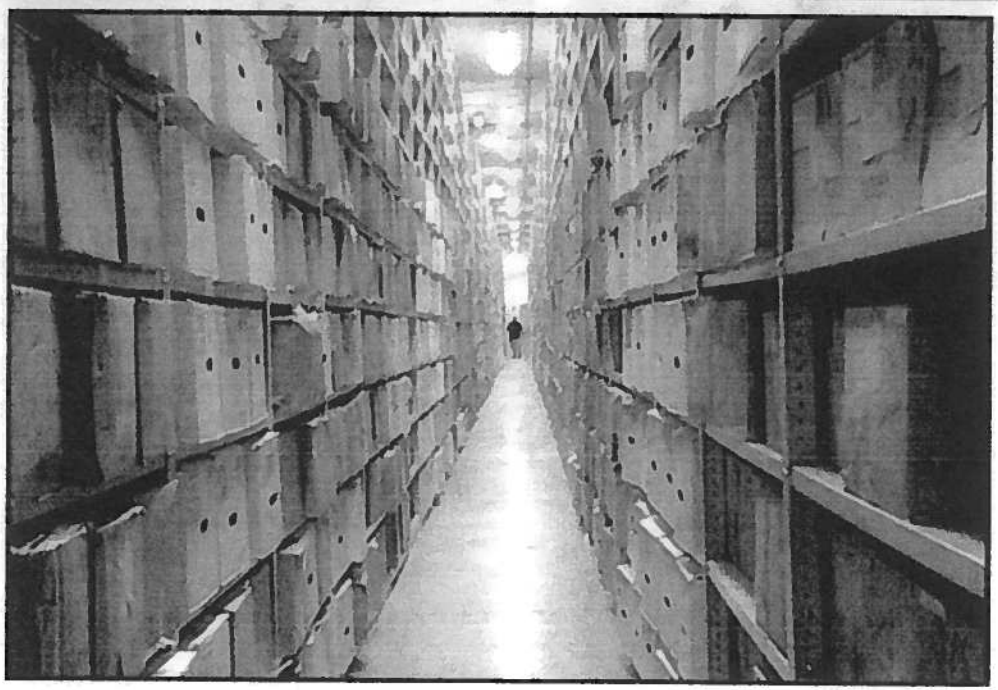
- Intra-Bureau testing (DOI Test Team)

Trust Accountability Fiduciary Trust Model



Office of Trust Records (OTR) and the American Indian Records Repository (AIRR)

Current as of 9/30/09 (since 2002)

- Opened the AIRR in 2004, a state of the art records storage facility, for the centralization of all Indian Affairs records; 195,745 boxes of inactive records are stored at AIRR
- Provided records management training, including Indian fiduciary trust records management, to approximately 6,876 BIA, OST, and Tribal records contacts since 2004
- Established a Records Management Curriculum at Haskell Indian Nations University that trains students on records management requirements; enables them to provide records management services to Federal and Tribal governments
- Assist Tribal governments, upon request, to establish records management programs and provide training for tribal employees

American Indian Records Repository
Lenexa, Kansas